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 3, 2013**

Supernus Pharmaceuticals, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of Incorporation)

0-50440	**20-2590184**
(Commission File Number)	(IRS Employer Identification No.)
1550 East Gude Drive, Rockville MD	**20850**
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: **(301) 838-2500**

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

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

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

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

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

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

Item 1.01 Entry Into a Material Definitive Agreement

On May 3, 2013, Supernus Pharmaceuticals, Inc. (the "Company") issued $90.0 million aggregate principal amount of 7.50% Convertible Senior Secured Notes due 2019 (the "Notes") in a private placement in reliance on Section 4(2) under the Securities Act of 1933, as amended (the "Securities Act"), for resale in transactions exempt from the registration requirements of the Securities Act to persons reasonably believed by the initial purchasers to be "qualified institutional buyers" as defined in Rule 144A under the Securities Act.

The offering generated net proceeds of approximately $86.4 million. Aggregate estimated offering expenses in connection with the transaction, including the initial purchasers' discount of $3.2 million, were approximately $3.6 million. The Company used approximately $19.6 million to repay in full its borrowings under and terminate its secured credit facility. The remainder of the net proceeds will be used to fund the commercialization of the Company's approved and tentatively approved drugs, Oxtellar XR and Trokendi XR, to continue development of the Company's pipeline products and for other general corporate purposes, which may include research and development expenses, capital expenditures, working capital and general administrative expenses.

The Company issued the Notes under an Indenture, dated May 3, 2013 (the "Indenture"), between the Company and U.S. Bank National Association, as Trustee and Collateral Agent, which Indenture is filed hereto as Exhibit 4.1. The Notes provide for 7.50% interest per annum on the principal amount of the Notes, payable semi-annually in arrears on May 1 and November 1 of each year, beginning on November 1, 2013. Interest will accrue on the Notes from and including May 3, 2013, and the Notes will mature on May 1, 2019, unless earlier converted, redeemed or repurchased by the Company. The Notes are convertible into the Company's common stock ("Common Stock") as described below.

The Notes are the Company's senior secured obligations and (i) rank senior in right of payment to any of the indebtedness that is expressly subordinated in right of payment to the Notes; (ii) rank effectively senior to any of the unsecured indebtedness to the extent of the value of the collateral securing the Notes; (iii) rank equal in right of payment with all of the Company's indebtedness that is not subordinated to the Notes; and (iv) are structurally subordinated to all indebtedness and liabilities, including trade payables, of the Company's existing and future subsidiaries.

The Notes are secured by a first-priority lien, other than customary permitted liens, on substantially all of the Company's and its domestic subsidiaries' assets, whether now owned or hereafter acquired, including license agreements, general intangibles, accounts, instruments, investment property, intellectual property and any proceeds of the foregoing pursuant to that certain Security and Pledge Agreement, dated May 3, 2013 (the "Security Agreement"), between the Company and U.S. Bank National Association, as Collateral Agent, which is filed hereto as Exhibit 4.3. The Indenture restricts the Company and its existing and future subsidiaries ability to make investments, including transfers of the Company's assets that constitute collateral securing the Notes, in its existing and future foreign subsidiaries. The Company is entitled to the release of property and other assets constituting collateral from the liens securing the Notes and the obligations thereunder (i) to enable the Company to consummate the sale, transfer, license, monetization or other disposition of such property or assets; (ii) with the consent of the holders of at least 66 2/3% of the aggregate principal amount of the Notes then outstanding and affected; or (iii) pursuant to a modification or amendment of the Indenture, the Notes or the Security Agreement. It will be an event of default under the Indenture governing the Notes if the Notes are not secured by the assets constituting collateral (other than excluded collateral) within 45 days after the closing of the offering of the Notes.

Upon conversion of a Note, if the Company has not received stockholder approval (as defined in the Indenture), a holder of Notes may surrender all or a portion of its Notes for conversion at any time prior to the close of business on the business day immediately preceding the maturity date and the Company will deliver for each $1,000 principal amount of converted Notes a number of shares of Common Stock equal to the conversion rate, together with a cash payment in lieu of any fractional shares of Common Stock issuable upon conversion. If the Company obtains stockholder approval, (i) on and after such date of approval and prior to the close of business on the business day immediately preceding November 1, 2018, a holder of Notes may convert all or a portion of its Notes, in principal amounts equal to $1,000 or an integral multiple thereof, only if one or more of the following conditions has been satisfied: (1) if, for at least 20 trading days (whether or not consecutive) during the 30 consecutive trading day period ending within five trading days prior to a conversion date, the last reported sale price of the Company's Common Stock exceeds the conversion price on each such trading day; (2) during the five consecutive business day period immediately following any five consecutive trading day period (the ''Measurement Period''), in which, for each trading day of that Measurement Period, the trading price (as defined in the Indenture) per $1,000 principal amount of Notes for such trading day was less than 98% of the product of the last reported sale price of the Company's Common Stock on such trading day and the applicable conversion rate on such trading day; (3) upon the occurrence of specified corporate transactions; or (4) if the Company calls the Notes for redemption, at any time prior to the close of business on the business day immediately preceding the redemption date; and (ii) on and after November 1, 2018, a holder of Notes may convert all or a portion of its Notes, in principal amounts equal to $1,000 or an integral multiple thereof, at any time prior to the close of business on the business day immediately preceding the maturity date, regardless of the foregoing circumstances. If stockholder approval has been received, the Company will settle conversion of the Notes through payment or delivery, as the case may be of cash, shares of Common Stock or a combination thereof, at its election. The Company has no obligation to seek stockholder approval and even if it does it cannot be certain that its stockholders will grant the stockholder approval.

The conversion rate for the Notes will initially equal 188.7059 shares of Common Stock per $1,000 principal amount of Notes (which is equivalent to an initial conversion price of approximately $5.30 per share of Common Stock). The conversion rate will be subject to adjustment upon the occurrence of certain specified events but will not be adjusted for accrued and unpaid interest. In addition, upon the occurrence of a ''make-whole fundamental change'' (as defined in the Indenture), the Company will, in certain circumstances, increase the conversion rate by a number of additional shares for a holder that elects to convert its notes in connection with such make-whole fundamental change as described in the Indenture.

On or after November 1, 2013, if, for at least 20 trading days (whether or not consecutive) during the 30 consecutive trading day period ending within five trading days prior to a conversion date, the last reported sale price of the Company's Common Stock exceeds the conversion price on each such trading day, the Company will, in certain circumstances, make an interest make-whole payment to converting holders equal to the sum of the present value of the remaining scheduled payments of interest that would have been made on the Notes to be converted had such Notes remained outstanding until May 1, 2017 computed using a discount rate equal to 2%. The Company may pay an interest make-whole payment either in cash or in Common Stock, at its election. If the Company elects to pay an interest make-whole payment in Common Stock, then the stock will be valued at 95% of the simple average of the daily volume-weighted average price ("VWAP") per share for the 10 trading days ending on and including the trading day immediately preceding the conversion date. Notwithstanding the foregoing, the number of shares the Company may deliver in connection with an interest make-whole payment will not exceed 221.7294 shares per $1,000 principal amount of Notes, subject to adjustment. If, pursuant to its election to deliver Common Stock in connection with the payment of the interest make-whole amount, the Company would be required to deliver a number of shares of Common Stock in excess of such threshold, the Company would deliver cash in lieu of shares otherwise deliverable upon conversions in excess thereof (based on the simple average of the daily VWAP for the 10 trading days ending on and including the trading day immediately preceding the conversion date).

Upon (i) the occurrence of a fundamental change (as defined in the Indenture) or (ii) if the Company calls the Notes for redemption as described below (either event, a ''make-whole fundamental change'') and a holder elects to convert its Notes in connection with such make-whole fundamental change, the Company will, in certain circumstances, increase the conversion rate by a number of additional shares (the ''Additional Shares'') as described below. The Company will notify holders within one business day after the first public announcement by it or a third party of an event or transaction that the Company reasonably determines would, if consummated, constitute a make-whole fundamental change. Upon receiving notice or otherwise becoming aware of a potential make-whole fundamental change described, the Company will use commercially reasonable efforts to announce or cause the announcement of such potential make-whole fundamental change in time to deliver such notice at least 50 scheduled trading days prior to the anticipated effective date for such transaction if stockholder approval has been obtained. The Company will notify the Trustee and holders of the effective date of any make-whole fundamental change no later than one business day after such effective date.

The number of additional shares by which the Company will increase the conversion rate will be determined based on the date on which the make-whole fundamental change occurs or becomes effective (the ''Effective Date'') and the price (the ''Stock Price'') paid (or deemed paid) per share of the Company's Common Stock in the fundamental change. If the holders of the Company's common stock receive only cash in a make-whole fundamental change (i) the Stock Price shall be the cash amount paid per share and (ii) the Company will satisfy its conversion obligation to a holder that converts its Notes any time after such make-whole fundamental change by delivering to such holder, on the third business day immediately following the relevant conversion date, an amount of cash, for each $1,000 principal amount of Notes converted, equal to the product of (x) the conversion rate in effect on the relevant conversion date (as increased by the Additional Shares, if any) and (y) the Stock Price. Otherwise, (i) the Stock Price will equal the average of the last reported sale prices of the Company's Common Stock over the five trading day period ending on, and including, the trading day immediately preceding the Effective Date of the make-whole fundamental change and (ii) the Company will satisfy its conversion obligation to a holder that converts its Notes in connection with such make-whole fundamental change based on the conversion rate as increased by the number of Additional Shares. In connection with a make-whole fundamental change triggered by a redemption of the Notes, the Effective Date of such make-whole fundamental change will be the date on which the Company delivers notice of the redemption. Notwithstanding the foregoing, in no event will the conversion rate exceed the maximum conversion rate, which is 221.7294 shares per $1,000 principal amount of Notes.

If a fundamental change (as defined in the Indenture) occurs at any time, holders will have the right, at their option, to require the Company to purchase for cash any or all of the Notes, or any portion of the principal amount thereof, that is equal to $1,000 or an integral multiple of $1,000 in excess thereof, on a date of the Company's choosing that is not less than 20 calendar days nor more than 35 calendar days after the date on which it delivers a fundamental change notice. The price the Company is required to pay for a Note is equal to 100% of the principal amount of such Note plus accrued and unpaid interest, if any, to, but excluding, the fundamental change purchase date. Any Notes purchased by the Company will be paid for in cash.

The Company may not redeem the Notes prior to May 1, 2017. On or after May 1, 2017, the Company may redeem for cash all, but not less than all, of the Notes if the last reported sale price of the Company's Common Stock equals or exceeds 140% of the applicable conversion price for at least 20 trading days during the 30 consecutive trading day period ending on the trading day immediately prior to the date the Company delivers written notice of the redemption. The redemption price will be equal to 100% of the principal amount of the Notes to be redeemed, plus accrued and unpaid interest to, but excluding, the redemption date. If the Company calls the Notes for redemption, a make-whole fundamental change will be deemed to occur and the Company will, in certain circumstances, increase the conversion rate for holders who convert their notes in connections with such make-whole fundamental change as described in the Indenture.

The description of the Indenture, the Notes and the Security Agreement above is qualified in its entirety by reference to the text of the Indenture, the Form of Note and the Security Agreement, copies of which are attached as Exhibits 4.1, 4.2 and 4.3, respectively, to this Current Report on Form 8-K and incorporated herein by reference.

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 of this Current Report on Form 8-K is incorporated herein by reference.

Item 3.02 Unregistered Sales of Equity Securities

The information set forth in Item 1.01 of this Current Report on Form 8-K is incorporated herein by reference.

The Notes and underlying Company Stock issuable upon conversion of the Notes have not been and will not be registered under the Securities Act, and may not be offered or sold in the United States absent registration or an application exemption from registration requirements.

Item 8.01 Other Events

On May 6, 2013, Supernus issued a press release announcing the closing of its offering of the Notes, a copy of which is furnished hereto as Exhibit 99.1 and incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

4.1 Indenture dated as of May 3, 2013 by and between Supernus Pharmaceuticals, Inc. and U.S. Bank National Association, as Trustee and Collateral Agent.

4.2 Form of 7.50% Convertible Senior Secured Note due 2019 (included in Exhibit 4.1).

4.3 Security and Pledge Agreement dated as of May 3, 2013, between the Company and U.S. Bank National Association, as Collateral Agent.

The following document is furnished as an Exhibit to Item 8.01 hereof:

99.1 Press Release, dated May 6, 2013.

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.

SUPERNUS PHARMACEUTICALS, INC.

DATED: May 9, 2013

By: /s/ Gregory S. Patrick
Gregory S. Patrick
Vice-President and Chief Financial Officer

EXHIBIT INDEX

Number	Description	
4.1	Indenture dated as of May 3, 2013 by and between Supernus Pharmaceuticals, Inc. and U.S. Bank National Association, as Trustee and Collateral Agent.	Attached
4.2	Form of 7.50% Convertible Senior Secured Note due 2019	Included in Exhibit 4.1
4.3	Security and Pledge Agreement dated as of May 3, 2013 between The Company and U.S. Bank National Association, as Collateral Agent.	Attached
99.1	Press Release dated May 6, 2013	Attached

Exhibit 4.1

7.50% CONVERTIBLE SENIOR SECURED NOTES DUE 2019
INDENTURE

between

SUPERNUS PHARMACEUTICALS, INC.,
as Issuer

and

U.S. BANK NATIONAL ASSOCIATION,
as Trustee and Collateral Agent

Dated as of May 3, 2013

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INDENTURE

INDENTURE dated as of May 3, 2013 between SUPERNUS PHARMACEUTICALS, INC., a Delaware corporation, as issuer ("**Company**"), and U.S. BANK NATIONAL ASSOCIATION, as trustee ("**Trustee**") and collateral agent ("**Collateral Agent**").

Each party agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders of the Company's 7.50% Convertible Senior Secured Notes due 2019:

ARTICLE 1

DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.01 Definitions.

"**Additional Interest**" means all amounts that may be payable pursuant to Section 5.02(b), Section 5.02(c) and Section 7.01(c), as applicable.

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

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

"**Attributable Indebtedness**" means on any date, (a) in respect of any Capital Lease of any Person, the capitalized amount of the obligations under such Capital Lease determined in accordance with GAAP, and (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a Capital Lease.

"**Bid Solicitation Agent**" means any Person as may be appointed from time to time by the Company, without prior notice to the Holders, to solicit market bid quotations for the Notes in accordance with Section 11.01(b)(ii) and the definition of "Trading Price" below. The Trustee shall serve as the initial Bid Solicitation Agent.

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

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

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

"**Capital Lease**" means any lease that is required to be capitalized for financial reporting purposes in accordance with GAAP (with the amount of any Indebtedness in respect of a Capital Lease being the capitalized amount of the obligations under such Capital Lease determined in accordance with GAAP).

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

"**Certificated Notes**" means Notes that are in registered definitive form.

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

"**Collateral**" means the rights, property and assets securing the Notes over which a Lien has been granted pursuant to the Collateral Agreements, and any rights, property or assets over which a Lien has been granted to secure the Obligations of the Company under the Notes and this Indenture.

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

"**Collateral Agreements**" means, collectively, the security agreement, each control agreement and all other security agreements, pledge agreements, collateral assignments, deeds of trust, mortgages, patent, copyright and trademark security agreements, and other grants or transfers for security executed and delivered by the Company or any of its Domestic Subsidiaries creating (or purporting to create) a Lien upon Collateral in favor of the Collateral Agent, and all amendments, restatements, modifications or supplements thereof or thereto, by or among the Company, any of its Domestic Subsidiaries, and the Collateral Agent.

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

"**Common Stock**" means the shares of the common stock of the Company, par value $0.001 per share, existing on the Original Issuance Date, subject to Section 11.06 hereof.

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

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

"**Consolidated EBITDA**" means, for any period, an amount equal to Consolidated Net Income for such period plus:

(a) the following to the extent deducted in calculating such Consolidated Net Income:

(i) Consolidated Interest Charges for such period;

(ii) the provision for Federal, state, local and foreign income taxes payable by the Company and itsSubsidiaries for such period;

(iii) depreciation and amortization expense for such period;

(iv) non-cash expenses and amortization related to the granting of stock options and restricted stock grants to employees and directors of the Company and its Subsidiaries for such period; and

(v) other expenses or charges of the Company and its Subsidiaries reducing such Consolidated Net Income which do not represent a cash item in such period or any future period; minus

(b) the following to the extent included in calculating such Consolidated Net Income:

(i) Federal, state, local and foreign income tax credits of the Company and its Subsidiaries for such period; and

(ii) all non-cash items increasing Consolidated Net Income for such period.

In addition, consolidated EBITDA shall be adjusted on a pro forma basis, as of the first day of any applicable period, for any expenses related to acquisitions and dispositions of assets by the Company or its Subsidiaries during or subsequent to the applicable period that the Company determines in good faith are outside the ordinary course of business, calculated consistent with GAAP and Regulation S-X promulgated under the Exchange Act.

"**Consolidated Fixed Charge Coverage Ratio**" means, as of any date of determination, the ratio of (a) Consolidated EBITDA to (b) Consolidated Fixed Charges, in each case, for the four consecutive fiscal quarters most recently ended.

"**Consolidated Fixed Charges**" means, for any period, the sum of the following determined on a consolidated basis, for the Company and its Subsidiaries on a consolidated basis in accordance with GAAP:

(a) Consolidated Interest Charges for such period (excluding amortization or write-off of deferred financing costs and original issue discount);

(b) cash taxes paid during such period;

(c) the amount of scheduled and mandatory principal payments with respect to Indebtedness for such period; and

(d) cash dividends and distributions made with respect to the Company's Capital Stock during such period.

"**Consolidated Funded Indebtedness**" means, as of any date of determination, for the Company and its Subsidiaries on a consolidated basis, the sum of all of the Company's and its Subsidiaries' Indebtedness determined on a consolidated basis; *provided, however,* that Consolidated Funded Indebtedness shall not include any indebtedness of the type referenced in clauses (b), (c) and (g) of the definition of Indebtedness or clauses (e), (f), (g), (i) and (j) of the definition of Permitted Debt.

"**Consolidated Interest Charges**" means, for any period, for the Company and itsSubsidiaries on a consolidated basis, the sum of (a) all interest, premium payments, debt discount, fees, charges and related expenses of the Company and its Subsidiaries in connection with borrowed money (including capitalized interest) or in connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP, and (b) the portion of rent expense of the Company and its Subsidiaries with respect to such period under Capital Leases that is treated as interest in accordance with GAAP.

"**Consolidated Leverage Ratio**" means, as of any date of determination, the ratio of: (a) Consolidated Funded Indebtedness as of such date to (b) Consolidated EBITDA for the period of the four consecutive fiscal quarters most recently ended.

"**Consolidated Net Income**" means, for any period, the consolidated net income (or loss) of the Company and its Subsidiaries for such period as determined in accordance with GAAP, adjusted to the extent included in calculating such net income, by excluding, without duplication:

(a) all extraordinary gains or losses;

(b) any gain or loss realized as a result of the cumulative effect of a change in accounting principles;

(c) any unrealized gains or losses in respect of hedging obligations (including Swap Contracts); and

(d) any gains or losses resulting from non-ordinary course dispositions of assets or discontinued operations.

"**Continuing Director**" means a director who either was a member of the Board of Directors on May 3, 2013 or who becomes a member of the Board of Directors subsequent to such date and whose election, appointment or nomination for election by the stockholders of the Company is duly approved by a majority of the Continuing Directors on the Board of Directors at the time of such approval, either by a specific vote or by approval of the proxy statement issued by the Company on behalf of the entire Board of Directors in which such individual is named as nominee for director. Solely for purposes of this definition, "Board of Directors" means the board of directors of the Company and does not include any committee thereof.

"**Corporate Trust Office**" means the office of the Trustee at which at any particular time its corporate trust business in Massachusetts shall be principally administered, which office as of the date of this instrument is located at One Federal Street, Boston, MA 02110, except that solely with respect to presentation of Notes for payment or for registration of transfer, conversion or exchange, such term shall mean the office or agency of the Trustee at which at any particular time its corporate agency business shall be conducted, which office at the date of this instrument is located at 100 Wall Street, New York, New York 10005; Attention: Corporate Trust Services, or, in the case of any of such offices or agency, such other address as the Trustee may designate from time to time by notice to the Company.

"**Credit Facilities**" means one or more debt facilities with banks or other institutional lenders, accredited investors or institutional investors providing for revolving credit loans or letters of credit, in each case, as amended, restated, modified, renewed, extended, increased, refunded, replaced in any manner (whether upon or after termination or otherwise) or refinanced in whole or in part from time to time.

"**Daily Conversion Value**" means, for each of the 40 consecutive VWAP Trading Days in the Observation Period for a Note, one fortieth (1/40th) of the product of (i) the Conversion Rate on such VWAP Trading Day and (ii) the Daily VWAP on such VWAP Trading Day.

"**Daily Measurement Value**" means, for each of the 40 consecutive VWAP Trading Days in the Observation Period for a Note, the Specified Dollar Amount, if any, *divided* by 40.

"**Daily Settlement Amount**" means, for each of the 40 consecutive VWAP Trading Days in the relevant Observation Period: (a) cash equal to the lesser of (i) the Daily Measurement Value and (ii) the Daily Conversion Value; and (b) if the Daily Conversion Value exceeds the Daily Measurement Value, a number of shares equal to (i) the difference between the Daily Conversion Value and the Daily Measurement Value, *divided by* (ii) the Daily VWAP for such Trading Day.

"**Daily VWAP**" means the per share volume-weighted average price of the Common Stock as displayed under the heading "Bloomberg VWAP" on Bloomberg page "SUPN <equity> AQR" (or any successor thereto if such page it not available) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such VWAP Trading Day (or if such volume-weighted average price is unavailable, the market value of one share of the Common Stock on such VWAP Trading Day, determined, if practicable, using a volume-weighted average method, by an independent, nationally recognized investment banking firm retained by the Company for this purpose). The Daily VWAP shall be

determined without regard to after-hours trading or any other trading outside of the regular trading session trading hours.

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

"**Domestic Subsidiary**" means any Subsidiary of the Company that was formed under the laws of the United States or any state of the United States or the District of Columbia.

"**DTC**" mean The Depository Trust Company.

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

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

"**Foreign Subsidiary**" means any Subsidiary of the Company that is not a Domestic Subsidiary.

"**Fundamental Change**" means an event that shall be deemed to have occurred any time after the Issue Date when any of the following events occurs: (a) a "person" or "group" within the meaning of Section 13(d) of the Exchange Act has become the direct or indirect "beneficial owner," as defined in Rule 13d-3 under the Exchange Act, of the Company's Common Equity representing more than 50% of the voting power of the Company's Common Equity; (b) the consummation of (i) any recapitalization, reclassification or change of the Common Stock (other than changes resulting from a subdivision or combination) pursuant to which the Common Stock would be converted into, or exchanged for, stock, other securities or other property or assets; (ii) any share exchange, consolidation, merger or similar event involving the Company pursuant to which the Common Stock will be converted into, or exchanged for, cash, securities or other property; or (iii) any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, to any Person other than one or more of the Company's wholly owned Subsidiaries (any such consolidation, merger, transaction or series of transactions being referred to for purposes of this clause (b) as an "**event**"); *provided* that any such event described in clause (ii) where the holders of all classes of the Company's Voting Stock immediately prior to such event own, directly or indirectly, more than 50% of the Voting Stock of the continuing or surviving Person or transferee or the parent thereof immediately after such event and such holders' proportional voting power immediately after such event *vis-à-vis* each other with respect to the securities they receive in such event will be in substantially the same proportions as their respective voting power *vis-à-vis* each other immediately prior to such event shall not constitute a Fundamental Change under this clause (2); (c) Continuing Directors cease to constitute at least a majority of the Board of Directors; (d) the holders of the Common Stock approve any plan or proposal for the Company's liquidation or dissolution; or (e) the Common Stock (or other Reference Property into which the Notes are convertible at such time, subject to Section 11.03) ceases to be listed or

admitted for trading on any Permitted Exchange, or the announcement by any Permitted Exchange on which the Common Stock (or such other Reference Property) is then listed or admitted for trading that the Common Stock (or such other Reference Property) will no longer be so listed or admitted for trading, unless the Common Stock (or such other Reference Property) has been accepted for listing or admitted for trading on another Permitted Exchange.

Notwithstanding the foregoing, a transaction or a series of transactions as set forth in clause (a) or clause (b) above shall not constitute a Fundamental Change if at least 90% of the consideration received or to be received by holders of the Common Stock (excluding cash payments for fractional shares) in connection with such transaction or transactions consists of shares of common stock traded on a Permitted Exchange, and as a result of such transaction or transactions, such consideration will constitute Reference Property for the Notes pursuant to Section 11.06.

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

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

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

"**Guarantee**" means a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take or pay or to maintain financial statement conditions or otherwise).

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

"**Indebtedness**" means, as to any Person at a particular time, without duplication, all of the following, whether or not included as Indebtedness or liabilities in accordance with GAAP:

(a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(b) all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments;

(c) net obligations of such Person under any Swap Contract;

(d) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts and accrued expenses payable in the ordinary course of business, obligations in respect of licenses and operating leases, payroll liabilities and deferred compensation and any purchase price adjustments, royalties, earn-out, milestone payment, contingent payment of a similar nature in connection with any acquisition or license or collaboration agreement);

(e) Indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such person (including indebtedness arising under conditional sales or other title retention agreements but excluding trade accounts and accrued expenses payable in the ordinary course of business and licenses and operating leases), whether or not such Indebtedness shall have been assumed by such Person or is limited in recourse;

(f) all Attributable Indebtedness in respect of Capital Leases and Synthetic Lease Obligations;

(g) all obligations in respect of Redeemable Equity; and

(h) all Guarantees of such person in respect of any of the foregoing.

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

"**Interest Make-Whole Payment**" has the meaning specified in Section 11.01(c)(i).

"**Investments**" means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees or other obligations), advances or capital contributions (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, equity interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. The amount of an investment will be determined at the time the investment is made and without giving effect to subsequent changes in value.

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

"**Liens**" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction.

"**Make-Whole Fundamental Change**" means: (a) any Fundamental Change (as defined herein, but without regard to the proviso in clause (b) of such definition but, for the avoidance of doubt, subject to the paragraph immediately following clause (e) of such definition); or(b) any delivery of a Redemption Notice by the Company in accordance with Section 4.02.

"**Maturity Date**" means May 1, 2019.

"**Notes**" means any of the Company's 7.50% Convertible Senior Secured Notes due 2019 issued under this Indenture.

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

"**Observation Period**" means, with respect to any converted Note: (a) if the Conversion Date for such Note occurs prior to the 45th Scheduled Trading Day immediately preceding the Maturity Date, and does not occur during a Redemption Period, the 40 consecutive VWAP Trading Day period beginning on, and including, the second Scheduled Trading Day after such Conversion Date; (b) if the relevant Conversion Date occurs during a Redemption Period, the 40 consecutive Trading Days beginning on, and including, the 42nd Scheduled Trading Day immediately preceding such Redemption Date; and (c) if the Conversion Date for such Note occurs on or after the 45th Scheduled Trading Day immediately preceding the Maturity Date, and does not occur during a Redemption Period, the 40 consecutive VWAP Trading Day period beginning on, and including, the 42nd Scheduled Trading Day immediately preceding the Maturity Date.

"**Offering Memorandum**" means the preliminary offering memorandum for the offering and sale of the Notes dated April 25, 2013, as supplemented and/or amended by the related pricing term sheet.

"**Officer**" means the Chief Executive Officer, the Chief Financial Officerand any Vice President.

"**Officer's Certificate**", when used with respect to the Company, means a written certificate (a) containing the information specified in Sections 14.02 and 14.03, signed in the name of the Company by any Officer, and delivered to the Trustee; or (b) if given pursuant to Section 5.03 or Section 7.01(b), signed by the principal financial or accounting Officer of the Company, which certificate need not contain the information specified in Sections 14.02 and 14.03.

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

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

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

"**Permitted Debt**" means, without duplication, each of the following:

(a) Indebtedness in respect of the Notes;

(b) any unsecured Indebtedness of the Company issued in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace or discharge the Notes; provided that (a) the aggregate principal amount of such Indebtedness does not exceed the aggregate principal amount of the Notes so renewed, refunded, refinanced, replaced or discharged (plus all accrued and unpaid interest and premiums thereon), (b) the Notes are renewed, refunded, refinanced, replaced or discharged substantially concurrently with receipt of the proceeds from such Indebtedness and (c) the scheduled maturity date of such Indebtedness is after the 91st day immediately following the Maturity Date of the Notes;

(c) hedging obligations (including obligations under Swap Contracts) entered into in the ordinary course of business by the Company or its Subsidiaries and not for speculative purposes;

(d) intercompany Indebtedness among the Company and any of its Subsidiaries;

(e) Indebtedness incurred as a result of endorsing negotiable instruments received in the ordinary course of business;

(f) Indebtedness in respect of letters of credit, bank guarantees, surety or performance bonds and similar instruments issued for the Company's account or the account of any of itsSubsidiaries in order to provide security for (A) workers' compensation claims, payment obligations in connection with self-insurance or similar requirements, and (B) bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and obligations of a like nature;

(g) Indebtedness arising from agreements of the Company's or of its Subsidiaries providing for the indemnification, adjustment of purchase price, earn-out, royalty, milestone or similar obligations, in each case assumed with the acquisition or disposition of any business;

(h) Indebtedness incurred by the Company or any of itsSubsidiaries in an aggregate principal amount not to exceed $1.0 million at any one time outstanding in addition to Indebtedness permitted under clause (l) of this definition;

(i) Indebtedness incurred by the Company or any of itsSubsidiaries consisting of the financing of insurance premiums in the ordinary course of business;

(j) Indebtedness incurred by the Company or any of its Subsidiaries in the ordinary course of business arising from treasury, depository, over-draft and cash management services; provided that any such Indebtedness shall be repaid in full within five Business Days of the incurrence thereof;

(k) any Guarantees by the Company or any of its Subsidiaries of Indebtedness of the Company or any of its Subsidiaries not otherwise prohibited under the indenture; and

(l) Indebtedness incurred by the Company or any of its Subsidiaries pursuant to one or more Credit Facilities in an aggregate principal amount not to exceed $10.0 million outstanding at any one time.

In addition, to the extent borrowings are outstanding under the Secured Credit Facility on and after the date of this Indenture, such borrowings shall be considered "Permitted Debt" until the existence of such borrowings constitutes an Event of Default under thisIndenture.

"**Permitted Exchange**" means the New York Stock Exchange, the NASDAQ Global Select Market or the NASDAQ Global Market (or any successor to any of the foregoing).

"**Permitted Liens**" means:

(a) any Liens on Inventory, receivables, and cash and cash equivalents located in the United Statements and all payments and receivables in respect thereof, securing the Credit Facilities;

(b) Liens on property (including Capital Stock) existing at the time of acquisition of the property by any Grantor (plus improvements and accessions to such property or proceeds or distributions thereof); provided that such Liens were in existence prior to such acquisition and not incurred in contemplation of such acquisition;

(c) Liens to secure the performance of tenders, completion guarantees, statutory obligations, surety, environmental or appeal bonds, bids, leases, government contracts, performance bonds or other obligations of a like nature incurred in the ordinary course of business;

(d) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded; provided that any reserve or other appropriate provision as is required in conformity with GAAP has been made therefor;

(e) Liens consisting of carriers', warehousemen's, landlord's and mechanics', suppliers', materialmen's, repairmen's and similar Liens not securing Indebtedness or in favor of customs or revenue authorities or freight forwarders or handlers to secure payment of custom duties, in each case, incurred in the ordinary course of business;

(f) any state of facts an accurate survey would disclose, prescriptive easements or adverse possession claims, minor encumbrances, easements or reservations of, or rights of others for, pursuant to any leases, licenses, rights-of-way or other similar agreements or

arrangements, development, air or water rights, sewers, electric lines, telegraph and telephone lines and other utility lines, pipelines, service lines, railroad lines, improvements and structures located on, over or under any property, drains, drainage ditches, culverts, electric power or gas generating or co-generation, storage and transmission facilities and other similar purposes, zoning or other restrictions as to the use of real property or minor defects in title, which were not incurred to secure payment of Indebtedness and that do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

(g) Liens or leases or licenses or sublicenses or subleases as licensor, lessor, sublicensor or sublessor of any of its property, including intellectual property, in the ordinary course of business;

(h) Liens on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances, tender, bid, judgment, appeal, performance or governmental contract bonds and completion guarantees, surety, standby letters of credit and warranty and contractual service obligations of a like nature, trade letters of credit and documentary letters of credit and similar bonds or guarantees provided by any Grantor;

(i) Liens incurred or pledges or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security and employee health and disability benefits, or casualty-liability insurance or self insurance or securing letters of credit issued in the ordinary course of business;

(j) judgment and attachment Liens not giving rise to an Event of Default and notices of lis pendens and associated rights related to litigation being contested in good faith by appropriate proceedings and for which adequate reserves have been made in conformity with GAAP;

(k) any interest or title of a lessor, licensor or sublicensor under any lease, license or sublicense of the property of any Grantor, including intellectual property, as applicable;

(l) Liens in favor of collecting or payor banks having a right of setoff, revocation, refund or chargeback with respect to money or instruments of any Grantor on deposit with or in possession of such bank;

(m) any obligations or duties affecting any of the property any Grantor to any municipality or public authority with respect to any franchise, grant, license, or permit that do not impair the use of such property for the purposes for which it is held;

(n) Liens on any property in favor of domestic or foreign governmental bodies to secure partial, progress, advance or other payment pursuant to any contract or statute, not yet due and payable;

(o) restrictions on dispositions of assets to be disposed of pursuant to merger agreements, stock or asset purchase agreements and similar agreements;

(p) options, put and call arrangements, rights of first refusal and similar rights relating to Investments in joint ventures, partnerships and the like;

(q) Liens consisting of any law or governmental regulation or permit requiring a Grantor to maintain certain facilities or perform certain acts as a condition of its occupancy of or interference with any public lands or any river or stream or navigable waters;

(r) any netting or set-off arrangements entered into by any Grantor in the ordinary course of its banking arrangements (including, for the avoidance of doubt, cash pooling arrangements) for the purposes of netting debit and credit balances of any Grantor, including pursuant to any cash management agreement;

(s) leases and subleases of real property which do not materially interfere with the ordinary conduct of the business of any Grantor and other Liens incidental to the conduct of the business of any Grantor that do not materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of such Grantor;

(t) Liens arising from UCC financing statement filings regarding operating leases entered into by any Grantor in the ordinary course of business or other precautionary UCC financing statement filings;

(u) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into in the ordinary course of business; and

(v) Liens in an amount not to exceed $750,000.

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

"**QIB**" means a "qualified institutional buyer" (as defined in Rule 144A).

"**Redeemable Equity**" means any Capital Stock of the Company or any of its Subsidiaries that by its terms (or by terms of any security into which it is convertible or for which it is exchangeable), or otherwise (including by the passage of time or the happening of an event), is required to be redeemed, is redeemable at the option of the holder thereof in whole or in part (including by operation of a sinking fund), or is convertible or exchangeable for Indebtedness of such Person (with a scheduled maturity prior to the 91st day immediately following the Maturity Date of the Notes) at the option of the holder thereof, in whole or in part, at any time prior to the 91st day immediately following the Maturity Date of the Notes (other than upon the occurrence of a change of control or asset sale); provided, however, that only the portion of such Capital Stock which is required to be redeemed, is so convertible or exchangeable or is so redeemable at the option of the holder thereof before such date will be deemed to be Redeemable Equity. Redeemable Equity will not include any common stock issued by the Company or its Subsidiaries to their employees or directors that is subject to repurchase by the Company or its Subsidiaries pursuant to the terms of any employment agreement, benefit plan or other arrangement. The amount of Redeemable Equity deemed to be outstanding at any time for purposes of this Indenture will be the maximum amount that the Company or its

Subsidiaries may become obligated to pay upon the maturity of, or pursuant to any mandatory redemption provisions of, such Redeemable Equity or portion thereof, exclusive of accrued dividends.

"**Relevant Stock Exchange**" means the NASDAQ Global Market or, if the Common Stock is not then listed on the NASDAQ Global Market, the principal other 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.

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

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

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

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

"**Scheduled Free Trade Date**" means the one year anniversary of the later of (x) the Original Issuance Date and (y) the last date of issuance of Notes pursuant to the exercise of the initial purchasers' option to purchase additional Notes as described in the Offering Memorandum.

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

"**SEC**" means the Securities and Exchange Commission.

"**Secured Credit Facility**" means that Loan and Security Agreement, dated as of January 26, 2011, by and among the Company, Oxford Finance Corporation, as collateral agent and lender, and Compass Horizon Funding Company LLC, as lender, as amended.

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

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

"**Specified Dollar Amount**" means the maximum cash amount per $1,000 principal amount of Notes to be received upon conversion as specified in the Settlement Method Notice.

"**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 (a) such Person; (b) such Person and one or more Subsidiaries of such Person; or (c) one or more Subsidiaries of such Person.

"**Swap Contract**" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "**master agreement**"), including any such obligations or liabilities under any master agreement.

"Synthetic Lease Obligation" means the monetary obligation of a Person under (a) a so-called synthetic or tax retention lease, or (b) an agreement for the use or possession of property creating obligations that do not appear on the balance sheet of such Person but which are depreciated for tax purposes by such Person. The amount of any Synthetic Lease Obligation as of any date shall be deemed to be the amount of Attributable Indebtedness in respect thereof as of such date.

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

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

"**Trading Price**" per $1,000 principal amount of the Notes on any date of determination means the average (per $1,000 principal amount of Notes) of the secondary market bid quotations obtained by the Bid Solicitation Agent for $2,000,000 principal amount of Notes at approximately 3:30 p.m., New York City time, on such determination date from three independent nationally recognized securities dealers selected by the Company; *provided* that, if three such bids cannot reasonably be obtained by the Bid Solicitation Agent but two such bids are obtained, then the average of the two bids shall be used, and if only one such bid can

reasonably be obtained by the Bid Solicitation Agent, that one bid shall be used; *provided further* that (a) if the Bid Solicitation Agent cannot reasonably obtain at least one bid for $2,000,000 principal amount of the Notes from an independent nationally recognized securities dealer, then the Trading Price per $1,000 principal amount of Notes shall be deemed to be less than 98% of the Intrinsic Value of the Notes for such determination date and (b) if the Company does not instruct the Bid Solicitation Agent to obtain bids when required under Section 11.01(b)(ii) or the Company so instructs the Bid Solicitation Agent but the Bid Solicitation Agent fails to determine the Trading Price, the Trading Price per $1,000 principal amount of the Notes shall be deemed to be less than 98% of the Intrinsic Value of the Notes on each day of such failure.

"**Trust Officer**" means any officer within the Corporate Trust Department of the Trustee (or any successor group of the Trustee) located at the Corporate Trust Office of the Trustee with direct responsibility for the administration of this Indenture and also means, with respect to a particular corporate trust matter hereunder, and for the purposes of Section 8.01(c)(ii) and the proviso in Section 8.05 shall also include any other officer of the Trustee to whom such matter is referred because of his or her knowledge of and familiarity with the particular subject.

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

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

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

"**VWAP Market Disruption Event**" means (a) the Relevant Stock Exchange fails to open for trading or (b) the occurrence or existence prior to 1:00 p.m., New York City time, on any Scheduled Trading Day for the Common Stock for more than a one half-hour period in the aggregate during regular trading hours, of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the Relevant Stock Exchange or otherwise) in the Common Stock or in any options contracts or future contracts relating to the Common Stock.

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

Section 1.02 Other Definitions.

Term Section:	Defined in:
"Act"	1.04
"Action"	15.01(g)
"Additional Shares"	11.07(a)
"Cash Merger"	11.07(e)
"Cash Settlement"	11.03(b)
"Clause A Distribution"	11.05(c)(ii)
"Clause B Distribution"	11.05(c)(ii)
"Clause C Distribution"	11.05(c)(ii)
"Combination Settlement"	11.03(b)
"Company's Filing Obligations"	7.01(c)
"Consummation Time"	11.05(e)
"Conversion Agent"	2.04
"Conversion Date"	11.02(b)
"Conversion Obligation"	11.01(a)
"Conversion Rate"	11.01(a)
"Defaulted Interest"	12.02
"Depositary"	2.02(a)
"Distributed Property"	11.05(c)(i)
"Event of Default"	7.01(a)
"Expiration Date"	11.05(e)
"Fundamental Change Notice"	3.02
"Fundamental Change Notice Date"	3.02
"Fundamental Change Purchase Date"	3.01
"Fundamental Change Purchase Notice"	3.03(a)
"Fundamental Change Purchase Price"	3.01
"Interest Payment Date"	12.01
"Intrinsic Value"	11.01(b)(ii)
"Make-Whole Fundamental Change Effective Date"	11.07(a)
"Maximum Conversion Rate"	11.01(c)(vi)
"Measurement Period"	11.01(b)(ii)

Term Section:	Defined in:
"Notice of Conversion"	11.02(a)
"Optional Redemption"	4.01
"Optional Redemption Make-Whole Fundamental Change Effective Date"	11.07(a)
"Paying Agent"	2.04
"Physical Settlement"	11.03(b)
"Record Date"	12.01
"Redemption Date"	4.02(a)
"Redemption Notice"	4.02(a)
"Redemption Period"	11.03(b)(iii)
"Redemption Price"	4.01
"Reference Property"	11.06(a)(iv)
"Register"	2.04
"Registrar"	2.04
"Resale Restriction Termination Date"	2.06(e)(ii)
"Restricted Notes"	2.06(e)(i)
"Sale Price Condition"	11.01(b)(i)
"Settlement Method"	11.03(b)
"Settlement Method Notice"	11.03(b)(iii)
"Share Exchange Event"	11.06(a)(iv)
"Special Record Date"	12.02(a)
"Specified Corporate Transaction Notice"	11.01(b)(iv)
"Spin-Off"	11.05(c)(ii)
"Stock Price"	11.07(b)
"Stockholder Approval"	11.01(a)
"Successor Company"	6.01(a)
"Temporary Notes"	2.09
"Trading Price Condition"	11.01(b)(ii)
"Transactional Make-Whole Fundamental Change Effective Date"	11.07(a)
"transfer"	2.06(e)(i)
"Trigger Event"	11.05(c)(ii)
"Unit of Reference Property"	11.06(a)(iv)

Term Section:	Defined in:
"Valuation Period"	11.05(c)(ii)

Section 1.03 Rules of Construction.

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

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

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

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

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

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

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

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

(i) unless the context requires otherwise, all references to payments of interest on the Notes shall include Additional Interest, if any, payable in accordance with the terms of Sections 5.02 or 7.01, as applicable.

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

(a) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying

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

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

(c) If the Company shall solicit from the Holders any request, demand, authorization, direction, notice, consent, waiver or other Act, the Company may, at its option, by or pursuant to a Board Resolution, fix in advance a record date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other Act, but the Company shall have no obligation to do so. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other Act may be given before or after such record date, but only the Holders of record at the Close of Business on such record date shall be deemed to be Holders for the purposes of determining whether Holders of the requisite proportion of outstanding Notes have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the outstanding Notes shall be computed as of such record date; *provided* that no such authorization, agreement or consent by the Holders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than six months after the record date.

ARTICLE 2

THE NOTES

Section 2.01 Designation and Amount. The Notes shall be designated as the "7.50% Convertible Senior Secured Notes due 2019." The aggregate principal amount of Notes that may be authenticated and delivered under this Indenture is limited to $75,000,000 (as may be increased by an amount equal to the aggregate principal amount of any additional Notes purchased by the initial purchasers pursuant to the exercise of their option to purchase additional Notes as described in the Offering Memorandum), except for Notes authenticated and delivered upon registration or transfer of, or in exchange for, or in lieu of other Notes to the extent expressly permitted hereunder, including, without limitation, one or more Global Notes that does not bear the Restricted Securities Legend and that is not assigned a restricted CUSIP number as contemplated by Section 2.06.

Section 2.02 Form and Dating. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A, which is a part of this Indenture. To the extent applicable, the Company and the Trustee, by their execution and delivery of this

Indenture, expressly agree to such terms and provisions and to be bound thereby. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage (*provided* that any such notation, legend or endorsement required by usage is in a form acceptable to the Company). The Company shall provide any such notations, legends or endorsements to the Trustee in writing. Each Note shall be dated the date of its authentication. Except as otherwise expressly permitted in this Indenture, all Notes shall be identical in all respects. Notwithstanding any differences among them, all Notes issued under this Indenture shall vote and consent together on all matters as one class.

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

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

Any adjustment of the aggregate principal amount of a Global Note to reflect the amount of any increase or decrease in the amount of outstanding Notes represented thereby shall be made by the Trustee in accordance with instructions given by the Holder thereof as required by Section 2.12 hereof and shall be made on the records of the Trustee and the Depositary. Payment of the principal, accrued and unpaid interest, if any, or payment of the Fundamental Change Purchase Price on the Global Note shall be made to the Holder of such Note on the date of payment, unless a record date or other means of determining Holders eligible to receive payment is provided for herein.

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

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

Section 2.03 Execution and Authentication. The Notes shall be executed on behalf of the Company by any Officer. The signature of the Officer on the Notes may be manual or facsimile.

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

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

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

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

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

Section 2.04 Registrar, Paying Agent and Conversion Agent. The Company shall maintain in the Borough of Manhattan, New York City an office or agency where Notes may be presented for registration of transfer or for exchange ("**Registrar**"), an office or agency in where Notes may be presented for payment ("**Paying Agent**"), an office or agency where Notes may be presented for conversion ("**Conversion Agent**") and an office or agency where notices to or upon the Company in respect of the Notes and this Indenture may be served. The Registrar shall keep a register for the recordation of, and shall record, the names and addresses of Holders of the Notes, the Notes held by each Holder and the transfer, exchange and conversion of Notes (the "**Register**"). The entries in the Register shall be conclusive, and the parties may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Holder hereunder for all purposes of this Indenture. The Company may have one or more co-registrars, one or more additional paying agents and one or more additional conversion agents. The term Paying Agent includes any such additional paying agents. The term Conversion Agent includes any such additional conversion agents.

The Company shall enter into an appropriate agency agreement with any Registrar, Paying Agent, Conversion Agent or co-registrar not a party to this Indenture, which (a) shall implement the provisions of this Indenture relating to such agent and (b) in the case of the Paying Agent, shall include the provisions set forth in Section 5.05. The Company shall promptly notify the Trustee of the name and address of any such agent, and of any change therein. If the Company fails to maintain a Registrar, Paying Agent or Conversion Agent, any presentations, surrenders, notices and demands required to be made by, or at the office of, any such agent may be made or served at the Corporate Trust Office or in accordance with

Section 14.01; *provided* that the Trustee shall be entitled to appropriate compensation therefor pursuant to Section 8.06. The Company may act as Paying Agent, Registrar, Conversion Agent or co-registrar.

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

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

Section 2.06 Transfer and Exchange.

(a) Subject to Section 2.12 hereof, upon surrender for registration of transfer of any Note, together with a written instrument of transfer satisfactory to the Registrar duly executed by the Holder or such Holder's attorney-in-fact duly authorized in writing, at the office or agency of the Company-designated Registrar or co-Registrar pursuant to Section 2.04, (i) the Company shall execute, and the Trustee (or any authenticating agent) shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Notes of any authorized denomination or denominations, of a like aggregate principal amount and bearing such restrictive legends as may be required by this Indenture and (ii) the Registrar shall record the information required pursuant to Section 2.04 regarding the designated transferee or transferees in the Register. No service charge shall be imposed by the Company, the Trustee, the Registrar, any co-Registrar or the Paying Agent for any registration of transfer or exchange of Notes, but the Company may require a Holder to pay a sum sufficient to cover any transfer tax or other similar governmental charge required in connection therewith as a result of the name of the Holder of new Notes issued upon such exchange or registration of transfer being different from the name of the Holder of the old Notes surrendered for registration of transfer or exchange.

At the option of the Holder, Notes may be exchanged for other Notes of any authorized denomination or denominations, of a like aggregate principal amount, upon surrender of the Notes to be exchanged, at such office or agency, together with a written instrument of transfer satisfactory to the Registrar duly executed by the Holder or such Holder's attorney-in-fact duly authorized in writing, and documents of identity and title satisfactory to the Registrar. Whenever any Notes are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Notes that the Holder making the exchange is entitled to receive, bearing registration numbers not contemporaneously outstanding.

The Company shall not be required to make, and the Registrar need not register, transfers or exchanges of any Note (x) surrendered for conversion, (y) in respect of which a Fundamental Change Purchase Notice has been given and not validly withdrawn in accordance with the terms

of this Indenture or (z) after the Company has delivered a Redemption Notice (except, in the case of a Note to be converted or purchased in part by the Company, the portion of such Note not to be so converted or purchased).

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

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

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

(e) Transfer Restrictions.

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

(ii) Except as provided elsewhere in this Indenture, until the later of (x) the date that is one year after the Original Issuance Date (or the last date of issuance of Notes pursuant to the exercise of the initial purchasers' option to purchase additional Notes as described in the Offering Memorandum, if such option is exercised) or such shorter period of time as permitted by Rule 144 or any successor provision thereto and (y) such other date as may be required by applicable law (such date the "**Resale Restriction Termination Date**"), any certificate evidencing such Notes (and all securities issued in exchange therefor or substitution thereof, other than Common Stock, if any, issued upon conversion thereof, which shall bear the Restricted Stock Legend, if applicable) shall bear the Restricted Securities Legend unless (I) such Notes have been

transferred (1) under a registration statement that has been declared effective under the Securities Act, or (2) in accordance with Rule 144, or (II) such requirement is waived by the Company.

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

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

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

(h) Any Note (or security issued in exchange or substitution therefor) as to which such restrictions on transfer shall have expired in accordance with their terms may, upon surrender of such Note for exchange to the Registrar in accordance with the provisions of this Section 2.06, be exchanged for a new Note or Notes, of like tenor and aggregate principal amount, which shall not bear the Restricted Securities Legend and shall not be assigned a restricted CUSIP number. The Company shall be entitled to instruct the custodian for the Depositary (or its nominee) in writing to so surrender any Global Note as to which such restrictions on transfer shall have expired in accordance with their terms for exchange, and, upon such instruction, such custodian shall so surrender such Global Note for exchange; and any new Global Note so exchanged therefor shall not bear the Restricted Securities Legend and shall not be assigned a restricted CUSIP number. The Company shall promptly notify the Trustee upon the occurrence of the Scheduled Free Trade Date and promptly after a registration statement, if any, with respect to the Notes or any Common Stock issued upon conversion of the Notes has been declared effective under the Securities Act.

(i) Upon the removal of such Restricted Stock Legend, the Company shall (i) notify the holders of any such shares that such Restricted Stock Legend has been removed; (ii) notify the transfer agent for the Common Stock to change the CUSIP number for any such shares to the applicable unrestricted CUSIP number, if such shares are in certificated form, and (iii) if such shares are in global form, comply with Applicable Procedures regarding such de-legending and the change from a restricted to unrestricted CUSIP number. Any shares of Common Stock delivered upon the conversion of any Note to any Person that is not, and for at

least three months has not been, an Affiliate of the Company shall be issued without any Restricted Stock Legend if (x) such conversion occurs after the Scheduled Free Trade Date or (y) such Note otherwise does not, or would not be required hereunder to, bear the Restricted Securities Legend.

Notwithstanding anything in this Indenture or the Notes to the contrary, any Person, other than an Affiliate of the Company, who holds shares of Common Stock that were issued upon conversion shall have the right to enforce this Section 2.06(i) notwithstanding that such Person is not a Holder of Notes.

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

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

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

Section 2.08 Outstanding Notes. Notes outstanding at any time include and are limited to all Notes authenticated by the Trustee except (a) Notes cancelled by the Trustee or required to be delivered to the Trustee for cancellation in accordance with Section 2.10, (b) Notes, or portions thereof, the principal of which has become due and payable on the Maturity Date, on a Fundamental Change Purchase Date or otherwise, and in respect of which monies in the necessary amount shall have been deposited in trust with the Trustee or with any Paying Agent (other than the Company) or shall have been set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent), (c) Notes, or portions thereof, that have been converted pursuant to Article 11 and that are required to be cancelled pursuant to Section 2.10 and (d) Notes repurchased by the Company, directly or indirectly, whether by the Company or its Subsidiaries, pursuant to Section 2.14 (other than Notes repurchased pursuant to cash-settled swaps or other derivatives). For the purpose of determining whether the Holders of the requisite principal amount of Notes have given or concurred in any request, demand,

authorization, direction, notice, consent, waiver or other action hereunder (including, without limitation, determinations pursuant to Articles 7 and 10) only outstanding Notes shall be considered in any such determination. In addition, for the purpose of any such determination, Notes that are owned by the Company, by any Subsidiary thereof or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or any Subsidiary thereof shall be disregarded and deemed not to be outstanding for the purpose of any such determination; *provided* that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, consent, waiver or other action only Notes that a Trust Officer knows are so owned shall be so disregarded. Upon request of the Trustee, the Company shall furnish to the Trustee promptly an Officer's Certificate listing and identifying all Notes, if any, known by the Company to be owned or held by or for the account of any of the above described Persons; and, subject to Section 8.01, the Trustee shall be entitled to accept such Officer's Certificate as conclusive evidence of the facts therein set forth and of the fact that all Notes not listed therein are outstanding for the purpose of any such determination.

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

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

Section 2.11 Persons Deemed Owners. Prior to due presentment of a Note for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee

may treat the Person in whose name such Note is registered in the Register as the owner of such Note for the purpose of receiving payment of principal, interest, if any, or payment of the Fundamental Change Purchase Price, for the purpose of conversion and for all other purposes whatsoever, subject to Section 2.06(i), Section 2.08 and Section 2.12(a)(ii), whether or not such Note be overdue, and neither the Company, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

Section 2.12 Transfer of Notes.

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

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

(ii) Restrictions on Exchange of a Beneficial Interest in a Global Note for a Certificated Note.

(A) A Certificated Note will be issued and delivered:

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

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

Notwithstanding anything to the contrary in this Indenture or in the Notes, following the occurrence and during the continuance of an Event of Default, any beneficial owner of a Global Note may directly enforce against the Company, without the consent, solicitation, proxy, authorization or any other action of the Depositary or any other Person, such beneficial owner's right to exchange its beneficial interest in such Global Note for a Certificated Note in accordance with this Section 2.12(a)(ii).

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

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

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

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

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

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

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

(b) None of the Trustee, the Paying Agent, the Registrar or the Conversion Agent shall have any obligation or duty to monitor, determine or inquire as to compliance with

any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among DTC participants, members or beneficial owners in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

(c) None of the Trustee, the Paying Agent, the Registrar or the Conversion Agent shall have any responsibility or obligation to any beneficial owner in a Global Note, a DTC participant or other Person with respect to the accuracy of the records of DTC or its nominee or of any DTC participant, with respect to any ownership interest in the Notes or with respect to the delivery to any DTC participant, beneficial owner or other Person (other than DTC) of any notice (including any notice of redemption) or the payment of any amount, under or with respect to such Notes. All notices and communications to be given to the Holders and all payments to be made to Holders under the Notes and this Indenture shall be given or made only to or upon the order of the registered Holders (which shall be DTC or its nominee in the case of the Global Note). The rights of beneficial owners in the Global Note shall be exercised only through DTC subject to the Applicable Procedures, other than (i) the right of a beneficial owner to exchange its beneficial interest in a Global Note for a Certificated Note during the continuance of an Event of Default pursuant to Section 2.12(a)(ii) and (ii) the right of a holder of Common Stock issued upon conversion to enforce the provisions of Section 2.06(i). The Trustee, the Paying Agent, the Registrar and the Conversion Agent shall be entitled to rely and shall be fully protected in relying upon information furnished by DTC with respect to its members, participants and any beneficial owners. Subject to the exceptions set forth in the second preceding sentence, the Trustee, the Paying Agent, the Registrar and the Conversion Agent shall be entitled to deal with DTC, and any nominee thereof, that is the registered Holder of any Global Note for all purposes of this Indenture relating to such Global Note (including the payment of principal and interest and the giving of instructions or directions by or to the owner or holder of a beneficial ownership interest in such Global Note) as the sole holder of such Global Note and shall have no obligations to the beneficial owners thereof. None of the Trustee, the Paying Agent, the Registrar or the Conversion Agent shall have any responsibility or liability for any acts or omissions of DTC with respect to such Global Note, for the records of any such Depositary, including records in respect of beneficial ownership interests in respect of any such Global Note, for any transactions between the DTC and any DTC participant or between or among DTC, any such DTC participant and/or any holder or owner of a beneficial interest in such Global Note, or for any transfers of beneficial interests in any such Global Note.

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

Section 2.13 CUSIP and ISIN Numbers.

(a) The Company, in issuing the Notes, shall use restricted CUSIP, ISIN or other similar numbers for such Notes (if then generally in use) until such time as the Restricted Securities Legend is removed therefrom. At such time as the legend is removed from such Notes, the Company will use an unrestricted CUSIP number for such Note, but only with respect to the Notes where so removed. The Company and the Trustee may use CUSIP, ISIN or other similar numbers in notices as a convenience to Holders; *provided, however*, that neither the Company nor the Trustee shall have any responsibility for any defect in the CUSIP, ISIN or other similar number that appears on any Note, check, advice of payment or notice, and any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice and that reliance may be placed only on the other identification numbers printed on the Notes, and any action taken in connection with such a notice shall not be affected by any defect in or omission of such numbers. The Company shall promptly notify the Trustee in writing in the event of any change in the CUSIP, ISIN or other similar numbers.

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

Section 2.14 Repurchases. The Company may, to the extent permitted by law, and directly or indirectly (regardless of whether such Notes are surrendered to the Company), repurchase Notes in the open market or otherwise, whether by the Company or its Subsidiaries or through a private or public tender or exchange offer or through counterparties to private agreements, including by cash settled swaps or other derivatives.

ARTICLE 3

FUNDAMENTAL CHANGE PURCHASE RIGHT

Section 3.01 Fundamental Change Permits Holders to Require Company to Purchase Notes. If a Fundamental Change occurs at any time, each Holder shall have the right, at its option, to require the Company to purchase for cash all or any portion of its Note equal in principal amount to $1,000 or an integral multiple of $1,000 in excess thereof, on a date (the "**Fundamental Change Purchase Date**") specified by the Company in the Fundamental Change Purchase Notice for such Fundamental Change and that is not less than 20 calendar days nor more than 35 calendar days immediately following the relevant Fundamental Change Notice Date, at a price (the "**Fundamental Change Purchase Price**") equal to 100% of the principal amount of the Note to be purchased, plus accrued and unpaid interest, if any, to, but excluding, the Fundamental Change Purchase Date; *provided, however*, that if the Fundamental Change Purchase Date occurs after a Record Date for the payment of interest, and on or prior to the corresponding Interest Payment Date, the Company shall pay the full amount of accrued and

unpaid interest payable on such Interest Payment Date to the Holder of record of such Note on such Record Date and the Fundamental Change Purchase Price shall instead be equal to 100% of the principal amount of such Note.

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

(a) the events causing the relevant Fundamental Change;

(b) the effective date of such Fundamental Change;

(c) the last date on which a Holder may exercise its right to require the Company to purchase such Holder's Notes under this Article 3;

(d) the Fundamental Change Purchase Price;

(e) the Fundamental Change Purchase Date;

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

(g) the Conversion Rate in effect on the Fundamental Change Notice Date and, if the relevant Fundamental Change constitutes a Make-Whole Fundamental Change, any adjustment that will be made to the Conversion Rate for a Holder that converts its Note in connection with such Make-Whole Fundamental Change pursuant to Section 11.07;

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

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

(j) the procedures the Holder must follow to exercise its right to require the Company to purchase such Holder's Notes under this Article 3 and the procedures that a Holder must follow to convert its Note pursuant to Article 11;

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

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

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

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

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

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

Section 3.03 Fundamental Change Purchase Notice.

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

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

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

(iii) that such Notes shall be purchased by the Company pursuant to the terms and conditions specified in this Article 3 and the Notes.

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

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

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

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

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

In the case of a Global Note, the beneficial owner of an interest therein who has surrendered such interest for repurchase pursuant to this Article 3 must comply with Applicable Procedures to withdraw such repurchase request.

Section 3.04 Effect of Fundamental Change Purchase Notice.

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

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

(c) If, on the Fundamental Change Purchase Date, the Company, in accordance with Section 3.05 below, has deposited with the Paying Agent money sufficient to pay the Fundamental Change Purchase Price of all of the Notes for which the Holders thereof have tendered and not validly withdrawn a Fundamental Change Purchase Notice in accordance with Section 3.03 above:

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

(ii) all other rights of the Holders with respect to the tendered Notes shall terminate (other than the right to receive payment of the Fundamental Change Purchase Price upon delivery or transfer of the Notes, and previously accrued and unpaid interest, if any).

Section 3.05 Deposit of Fundamental Change Purchase Price. Prior to 10:00 a.m., New York City time, on the Fundamental Change Purchase Date, the Company shall deposit with the Trustee or with the Paying Agent (or, if the Company is acting as the Paying Agent, shall segregate and hold in trust as provided in Section 5.05(b)) an amount of cash (in immediately available funds if deposited on such Business Day), sufficient to pay the aggregate Fundamental Change Purchase Price of all the Notes or portions thereof which are to be purchased as of the Fundamental Change Purchase Date. Subject to receipt of funds and/or Notes by the Trustee (or other Paying Agent appointed by the Company), payment for Notes surrendered for purchase (and not withdrawn prior to the close of business on the Business Day immediately preceding the Fundamental Change Purchase Date) will be made on the later of (a) the Fundamental Change Purchase Date (*provided* the Holder has satisfied the conditions in Section 3.01) and (b) the time of book-entry transfer or the delivery of such Note to the Trustee (or other Paying Agent appointed by the Company) by the Holder thereof in the manner required by Section 3.01 by mailing checks for the amount payable to the Holders of such Notes entitled thereto as they shall appear in the Register; *provided, however*, that payments to the Depositary shall be made by wire transfer of immediately available funds to the account of the Depositary or its nominee.

Section 3.06 Notes Purchased in Part. Any Certificated Note that is to be purchased only in part shall be surrendered at the office of the Paying Agent (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or such Holder's attorney-in-fact duly authorized in writing) and the Company shall execute and the Trustee shall authenticate and deliver to the Holder of such Note, without service charge, a new Note or Notes, of any authorized denomination as requested by such Holder in aggregate principal amount equal to, and in exchange for, the portion of the principal amount of the Note so surrendered which is not purchased, or in the case of a Global Note, the Company shall instruct the Registrar to decrease such Global Note by the principal amount of the purchased portion of the Note surrendered.

Section 3.07 Covenant to Comply with Securities Laws Upon Purchase of Notes. In connection with any offer to purchase Notes under this Article 3, the Company shall, if required, (a) comply with the provisions of the tender offer rules under the Exchange Act that may then be applicable, (b) file a Schedule TO (or any successor thereto) or any other required schedule under the Exchange Act, and (c) otherwise comply with all applicable U.S. federal and state securities laws, in each case so as to permit the rights and obligations under this Article 3 to be exercised in the time and in the manner specified herein.

Section 3.08 Repayment to the Company. To the extent that the aggregate amount of cash deposited by the Company pursuant to Section 3.03 exceeds the aggregate Fundamental Change Purchase Price of the Notes or portions thereof which the Company is obligated to purchase as of the Fundamental Change Purchase Date, then, unless otherwise agreed in writing with the Company, promptly after the Business Day following the Fundamental Change Purchase Date, the Paying Agent shall, subject to Section 8.06, return any such excess to the Company.

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

(a) Notwithstanding anything to the contrary in this Article 3, the Company shall not purchase any Notes under this Article 3 if there has occurred and is continuing an Event of Default with respect to the Notes, unless the payment by the Company of the Fundamental Change Purchase Price will cure such Event of Default.

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

(c) If a Holder tenders a Note for purchase pursuant to this Article 3 and, on the Fundamental Change Purchase Date, pursuant to this Section 3.09, the Company is not permitted to purchase such Note, the Paying Agent will (i) if such Note is a Certificated Note, return such Note to such Holder, and (ii) if such Note is held in book-entry form, in compliance with the Applicable Procedures, deem to be cancelled any instructions for book-entry transfer of such Note.

ARTICLE 4

OPTIONAL REDEMPTION

Section 4.01 Optional Redemption. No sinking fund is provided for the Notes. Prior to May 1, 2017, the Notes shall not be redeemable by the Company. On or after May 1, 2017, the Company may redeem (an "**Optional Redemption**") for cash all, but not less than all, of the Notes, at its option, if the Last Reported Sales Price of the Common Stock equals or exceeds 140% of the Conversion Price in effect on each of at least 20 Trading Days during the 30 consecutive Trading Day period ending on the Trading Day immediately preceding the date on which the Company delivers the Redemption Notice for such redemption pursuant to this Article 4. The Company shall provide notice as set forth in Section 4.02 and the redemption price shall be equal to 100% of the principal amount of the Notes to be redeemed, plus accrued and unpaid interest, if any, to, but excluding, the Redemption Date (the "**Redemption Price**") (unless the Redemption Date falls after a Record Date but on or prior to the immediately succeeding Interest Payment Date, in which case the Company shall pay the full amount of accrued and unpaid interest to the Holder of record as of the Close of Business on such Record Date, and the Redemption Price shall be equal to 100% of the principal amount of the Notes to be redeemed).

Section 4.02 Notice of Optional Redemption.

(a) In case the Company exercises its Optional Redemption right to redeem the Notes pursuant to Section 4.01, it shall fix a date for redemption (each, a "**Redemption Date**"), which must be a Business Day, and it or, at its written request received by a Trust Officer of the Trustee at its Corporate Trust Office not less than 75 calendar days (45 calendar days if the Redemption Notice specifies that the Company elects to satisfy its Conversion

Obligation in respect of such conversion by Physical Settlement or if Stockholder Approval has not been obtained by the Company) prior to the Redemption Date (or such shorter period of time as may be acceptable to the Trustee), the Trustee, in the name of and at the expense of the Company, shall mail or cause to be mailed or deliver electronically a notice of such Optional Redemption (a "**Redemption Notice**") not less than 65 nor more than75 calendar days (not less than 30 nor more than 45 calendar days if the Redemption Notice specifies that the Company elects to satisfy its Conversion Obligation in respect of such conversion by Physical Settlement or if Stockholder Approval has not been obtained by the Company) prior to the Redemption Date to each Holder of Notes at its last address as the same appears on the Register; *provided, however*, that if the Company shall give such notice, it shall also provide a copy of the Redemption Notice to the Trustee, the Paying Agent and the Conversion Agent.

(b) The Redemption Notice, if mailed in the manner herein provided, shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice. In any case, failure to give such Redemption Notice by mail or any defect in the Redemption Notice to the Holder of any Note designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Note.

(c) Each Redemption Notice shall specify:

(i) the Redemption Date;

(ii) the Redemption Price;

(iii) that on the Redemption Date, the Redemption Price will become due and payable upon all outstanding Notes, and that interest thereon shall cease to accrue on and after said date;

(iv) the place or places where such Notes are to be surrendered for payment of the Redemption Price;

(v) that Holders may surrender their Notes for conversion at any time prior to the Close of Business on the Business Day immediately preceding the Redemption Date;

(vi) the procedures a converting Holder must follow to convert its Notes and the Settlement Method (if applicable) and Specified Dollar Amount (if applicable) that will apply to any conversion during the applicable Redemption Period;

(vii) the Conversion Rate and the Observation Period (if applicable) that will apply to any conversion during the Redemption Period;

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

(ix) in case any Note is to be redeemed in part only, the portion of the principal amount thereof to be redeemed; and

(d) A Redemption Notice shall be irrevocable.

Section 4.03 Payment of Notes Called for Redemption.

(a) If any Redemption Notice has been given in respect of the Notes in accordance with Section 4.02, the Notes shall become due and payable on the Redemption Date at the place or places stated in the Redemption Notice and at the applicable Redemption Price. On presentation and surrender of the Notes at the place or places stated in the Redemption Notice, the Notes shall be paid and redeemed by the Company at the applicable Redemption Price.

(b) Prior to the Open of Business on the Redemption Date, the Company shall deposit with the Paying Agent or, if the Company or a Subsidiary of the Company is acting as the Paying Agent, shall segregate and hold in trust as provided in Section 5.05(b) an amount of cash (in immediately available funds if deposited on the Redemption Date), sufficient to pay the Redemption Price of all of the Notes to be redeemed on such Redemption Date. Subject to receipt of funds by the Paying Agent, payment for the Notes to be redeemed shall be made on the later of:

(i) the Redemption Date for such Notes; and

(ii) the time of presentation of such Note to the Trustee (or other Paying Agent appointed by the Company) by the Holder thereof in the manner required by this Section 4.03.

The Paying Agent shall, promptly after such payment and upon written demand by the Company, return to the Company any funds in excess of the Redemption Price.

Section 4.04 Restrictions on Redemption. No Notes may be redeemed if the principal amount of the Notes has been accelerated, and such acceleration has not been rescinded, on or prior to the Redemption Date (except in the case of an acceleration resulting from a Default by the Company in the payment of the Redemption Price with respect to such Notes).

ARTICLE 5

COVENANTS

Section 5.01 Payment of Notes.

(a) The Company shall promptly make all payments on the Notes on the dates, in the manner and as otherwise required under the Notes or this Indenture. If the Company is required to pay any amounts of cash to the Trustee, the Paying Agent or the Conversion Agent, such amounts of cash shall be deposited by the Company with the Trustee, the Paying Agent or the Conversion Agent by 10:00 a.m., New York City time, on the required date. Interest on Certificated Notes shall be payable (i) to a Holder of a Certificated Note having an aggregate principal amount of $5,000,000 or less, by check mailed to such Holder at its address as it appears in the Register and (ii) to a Holder of a Certificated Note having an aggregate principal amount of more than $5,000,000, either by check mailed to such Holder or,

upon written application by such Holder to the Registrar prior to the relevant Record Date, by wire transfer in immediately available funds to such Holder's account within the United States, which application shall remain in effect until the Holder notifies, in writing, the Registrar to the contrary. The Company shall make all payments of principal and interest on Global Notes in immediately available funds to the Depositary or its nominee, in accordance with Applicable Procedures.

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

Section 5.02 SEC and Other Reports; Additional Interest.

(a) The Company shall file with the Trustee within 15 days after the same are required to be filed with the SEC, copies of any documents or reports that the Company is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act (giving effect to any grace period provided by Rule 12b-25 under the Exchange Act). Any such document or report that the Company files with the SEC via the SEC's EDGAR system shall be deemed to be filed with the Trustee for purposes of this Section 5.02(a) at the time such documents are filed via the EDGAR system. Delivery of any such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute actual or constructive knowledge or notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officer's Certificates).

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

(c) In addition, the Company shall pay Additional Interest on the Notes, which shall accrue at a rate of 0.50% per annum, if, and for so long as, the Restricted Securities Legend on the Notes has not been removed, the Notes are assigned a restricted CUSIP or the Notes are not otherwise freely tradable by Holders other than the Company's Affiliates (without restrictions pursuant to U.S. securities laws or the terms of this Indenture or the Notes), in each case, on or after the Scheduled Free Trade Date.

(d) Any Additional Interest payable in accordance with this Section 5.02 shall be in addition to, and not in lieu of, any Additional Interest that may be payable as a result of the Company's election pursuant to Section 7.01.

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

(f) If the Company is required to pay Additional Interest to Holders pursuant to clause (b) or (c) above, the Company shall provide an Officer's Certificate to the Trustee (and if the Trustee is not the Paying Agent, to the Paying Agent) to that effect, which shall be delivered in accordance with Section 14.01 no later than three Business Days prior to the date on which any such Additional Interest is scheduled to be paid and shall make explicit reference to this Indenture, the Notes and the Company. Such Officer's Certificate shall set forth the amount of Additional Interest to be paid by the Company on such payment date and direct the Trustee (or, if the Trustee is not the Paying Agent, to the Paying Agent) to make payment to the extent it receives funds from the Company to do so. Unless and until the Trustee receives such an Officer's Certificate, subject to Article 8, the Trustee may assume without inquiry that no such Additional Interest is payable.

Section 5.03 Compliance Certificate. Within 120 days after the end of each fiscal year (beginning with the fiscal year ending December 31, 2013) of the Company, the Company shall deliver to the Trustee at its Corporate Trust Office in accordance with Section 14.01, making specific reference to this Indenture, the Notes and the Company, an Officer's Certificate indicating whether each signer thereof knows of any Default that occurred during the previous year and, if so, shall specify each such Default and the nature and status thereof of which it may have knowledge and what action the Company is taking or proposes to take in respect thereof.

Section 5.04 Further Instruments and Acts. Upon request of the Trustee, the Company will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purposes of this Indenture.

Section 5.05 Provisions as to Paying Agent.

(a) If the Company shall appoint a Paying Agent other than the Trustee, the Company will cause such Paying Agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section 5.05:

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

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

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

The Company shall, on or before each due date of the principal (including the Fundamental Change Purchase Price, if applicable) of, or accrued and unpaid interest on, the Notes, deposit with the Paying Agent a sum sufficient to pay such principal (including the Fundamental Change Purchase Price, if applicable) or accrued and unpaid interest, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee of any failure to take such action; *provided* that if such deposit is made on the due date, such deposit must be received by the Paying Agent by 10:00 a.m., New York City time, on such date.

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

(c) Anything in this Section 5.05 to the contrary notwithstanding, the Company may, at any time, for the purpose of obtaining a satisfaction and discharge of this Indenture, or for any other reason, pay, cause to be paid or deliver to the Trustee all sums or amounts held in trust by the Company or any Paying Agent hereunder as required by this Section 5.05, such sums or amounts to be held by the Trustee upon the trusts herein contained and upon such payment or delivery by the Company or any Paying Agent to the Trustee, the Company or such Paying Agent shall be released from all further liability but only with respect to such sums or amounts. Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal (including the Fundamental Change Purchase Price, if applicable) of, and accrued and unpaid interest on, any Note and remaining unclaimed for two years after such principal (including the Fundamental Change Purchase Price, if applicable) or interest has become due and payable shall be paid to the Company on request of the Company contained in an Officer's Certificate, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; *provided, however*, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in a newspaper published in the English language, customarily published on each Business Day and of general circulation in The Borough of Manhattan, New York City, notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 calendar days from the date of such publication, any unclaimed balance of such money then remaining will be repaid to the Company.

Section 5.06 Delivery of Certain Information. If, at any time, the Company is not subject to the reporting requirements of the Exchange Act, the Company shall, so long as any of

the Notes or any shares of Common Stock issuable upon conversion thereof will, at such time, constitute "restricted securities" within the meaning of Rule 144(a)(3) under the Securities Act, upon the request of any Holder, beneficial owner or prospective purchaser of the Notes or any shares of Common Stock issuable upon the conversion of Notes, promptly furnish to such Holder, beneficial owner or prospective purchaser the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act to facilitate the resale of the Notes or such shares of Common Stock pursuant to Rule 144A, as such rule may be amended from time to time.

Section 5.07 Limitation on Incurrence of Additional Indebtedness. For so long as any Notes are outstanding, the Company will not, nor will it permit any of its Subsidiaries to, directly or indirectly, incur any Indebtedness other than Permitted Debt; provided, however, that the Company may, and may permit any of its Subsidiaries to, incur Indebtedness if:

(a) no Default or Event of Default shall have occurred and be continuing at the time of such incurrence or would occur as a consequence of such incurrence;

(b) after giving pro forma effect to such incurrence, the Consolidated Leverage Ratio would not exceed 2.75 to 1.00; and

(c) after giving pro forma effect to such incurrence, the Consolidated Fixed Charge Coverage Ratio would not be less than 1.25 to 1.00.

For purposes of determining the Consolidated Leverage Ratio and the Consolidated Fixed Charge Coverage Ratio, pro forma effect will be given to the incurrence of (i) any Indebtedness giving rise to the need to determine the Consolidated Leverage Ratio and the Consolidated Fixed Charge Coverage Ratio and (ii) any other Indebtedness incurred since the end of the applicable period to the date of determination, in each case, as if such Indebtedness was incurred at the beginning of the applicable period. Furthermore, in giving such pro forma effect, interest on any such Indebtedness determined on a fluctuating basis will be deemed to have accrued at a fixed rate per annum equal to the interest rate on the date of determination of the Consolidated Leverage Ratio and the Consolidated Fixed Charge Coverage Ratio (after giving effect to any interest rate Swap Contracts applicable to such Indebtedness and any interest rate elections made by the Company or its Subsidiaries).

Section 5.08 Limitation on Transfer of Assets to Foreign Subsidiaries. The Company will not and will not permit its Domestic Subsidiaries to make an investment in any of the Company's Foreign Subsidiaries other than Investments in an amount that do not exceed $500,000 at any one time outstanding.

Section 5.09 Collateral. Other than as provided in Section 15.05, the Company will, and will cause each of its Domestic Subsidiaries to, at its own expense, execute and take and do any and all such things and actions and provide such assurances as may be required by applicable law or as the Collateral Agent may reasonably require (i) for registering any Collateral Agreements in any required register or public record and for perfecting or protecting the Liens intended to be afforded by such Collateral Agreements to the extent provided in Section 15.09(a); and (ii) if such Collateral Agreements have become enforceable, for facilitating the

realization of all or any part of the assets which are subject to such Collateral Agreements and for facilitating the exercise of all powers, authorities and discretions vested in the Collateral Agent or in any receiver of all or any part of those assets. Subject to the limitations set forth in Section 15.09(a), the Company will, and will cause each of its Domestic Subsidiaries to, execute all transfers, conveyances, assignments and releases of that property whether to the Collateral Agent or to its nominees and give all notices, orders and directions which may be required by applicable law or as the Collateral Agent may reasonably request.

Section 5.10 Existence. Subject to Article 6, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its existence and rights (charter and statutory); provided, however, that the Company shall not be required to preserve any such right if the Company shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company.

Section 5.11 Stay; Extension and Usury Laws. The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law which would prohibit or forgive the Company from paying all or any portion of the principal of or interest on the Notes as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Indenture and the Company (to the extent it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE 6

CONSOLIDATION, MERGER AND SALE OF ASSETS

Section 6.01 Company May Consolidate, Merge or Sell Its Assets on Certain Terms. The Company shall not consolidate with, merge with or into or enter into any similar transaction with, or convey, transfer or lease all or substantially all of its property and assets to, any Person unless:

(a) the resulting, surviving or transferee Person (the "**Successor Company**") is a corporation organized and validly existing under the laws of the United States of America, any State thereof or the District of Columbia, and such Successor Company (if other than the Company) expressly assumes, by executing and delivering to the Trustee a supplemental indenture, all of the Company's obligations under the Notes and under this Indenture, and by such other agreements, executed and delivered to the Trustee or Collateral Agent, as the case may be, all of the Company's obligations under the Collateral Agreements;

(b) if such transaction or event constitutes a Share Exchange Event and the relevant Reference Property includes common stock or other securities issued by a third party,

such third party fully and unconditionally guarantees all obligations of the Company or such Successor Company, as the case may be, under the Notes and under this Indenture;

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

(d) the Company and the Successor Company (if other than the Company) shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel stating that:

(i) each of (x) such consolidation, merger (or similar transaction), conveyance, transfer or lease and (y) such supplemental indenture complies with this Article 6; and

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

For purposes of this Section 6.01, any conveyance, transfer or lease of properties and assets of one or more Subsidiaries of the Company that would, if the Company had held such properties and assets directly, have constituted the conveyance, transfer or lease of substantially all of the Company's properties and assets shall be treated as such hereunder.

Section 6.02 Successor Corporation to be Substituted. Upon any such consolidation, merger (or similar transaction), conveyance or transfer (but not upon a lease) and the assumption by the Successor Company, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the due and punctual payment of the principal of, accrued and unpaid interest, if any, on all of the Notes, the due and punctual delivery or payment, as the case may be, of any consideration due upon conversion of the Notes and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Company, such Successor Company shall succeed to and be substituted for the Company, with the same effect as if it had been named herein as the party of the first part. Such Successor Company thereupon may cause to be signed, and may issue in its own name, any or all of the Notes issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee; and, upon the order of such Successor Company instead of the Company and subject to all the terms, conditions and limitations in this Indenture prescribed, the Trustee shall authenticate and shall deliver, or cause to be authenticated and delivered, any Notes that such Successor Company thereafter shall cause to be signed and delivered to the Trustee for that purpose. All the Notes so issued shall in all respects have the same legal rank and benefit under this Indenture as the Notes theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Notes had been issued at the date of the execution hereof. Upon any such consolidation, merger (or similar transaction), conveyance or transfer (but not upon a lease), the Person named as the "Company" in the first paragraph of this Indenture or any successor that shall thereafter have become such in the manner prescribed in this Article 6 may be dissolved, wound up and liquidated at any time thereafter and, except in the case of a lease, such Person shall be released from its liabilities as obligor and maker of the Notes and from its obligations under this Indenture.

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

ARTICLE 7

DEFAULTS AND REMEDIES

Section 7.01 Events of Default.

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

(i) the Company defaults in the payment of interest on any Note when the same becomes due and payable and such default continues for a period of 30 days;

(ii) the Company defaults in the payment of the principal of any Note when the same becomes due and payable at the Maturity Date, upon declaration of acceleration, upon redemption, upon any Fundamental Change Purchase Date or otherwise;

(iii) the failure by the Company to deliver the consideration due upon the conversion of any Notes, including the Interest Make-Whole Payment, if applicable;

(iv) the failure by the Company to give a Fundamental Change Notice in accordance with Section 3.02, a notice of a potential Make-Whole Fundamental Change in accordance with Section 11.07 or, if Stockholder Approval has been obtained, a Specified Corporate Transaction Notice in accordance with Section 11.01(b)(iv), in each case, at the time, in the manner, and with the contents set forth in, such section;

(v) the failure by the Company to comply with its obligations under Article 6 hereof;

(vi) the default by the Company in the performance of, or the breach of any other covenant or agreement of the Company in, the Notes, this Indenture (other than a covenant or agreement in respect of which a default or breach is specifically addressed in Sections 7.01(a)(i) through 7.01(a)(v) above) or the Collateral Agreements and such default or breach continues for a period of 60 consecutive days after written notice of such default is delivered to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of the Notes then outstanding;

(vii) a default by the Company or any of its Subsidiaries under any mortgage, indenture or instrument under which there may be issued, or by which there may be secured or evidenced, any indebtedness of the Company and/or any of its Subsidiaries for money borrowed in excess of $10.0 million in the aggregate, whether such indebtedness exists as of the Original Issuance Date or is thereafter created, which default (1) results in such indebtedness becoming or being declared due and payable or (2) constitutes a failure to pay the principal or interest of any such indebtedness when due

and payable at its stated maturity, upon required repurchase, upon declaration of acceleration or otherwise;

(viii) a final judgment for the payment of $10.0 million or more (excluding any amounts covered by insurance) rendered against the Company or any Subsidiary of the Company, which judgment is not discharged or stayed within 60 days after (A) the date on which the right to appeal thereof has expired if no such appeal has commenced, or (B) the date on which all rights to appeal have been extinguished;

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

(x) an involuntary case or other proceeding shall be commenced against the Company or any then-current Significant Subsidiary thereof seeking liquidation, reorganization or other relief with respect to the Company or such Significant Subsidiary or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Company or such Significant Subsidiary or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of 30 consecutive days;

(xi) borrowings under the Secured Credit Facility are not repaid or the Secured Credit Facility is not terminated, in each case, within 45 days after the date of this Indenture;

(xii) any Collateral Agreement shall for any reason (other than pursuant to the terms thereof) cease to create a valid security interest in the Collateral purported to be covered thereby or such security interest shall for any reason (other than pursuant to the terms of the Collateral Agreementsor the failure of the Collateral Agent to take any action within its control) cease to be a perfected and first priority security interest (subject only to Permitted Liens), except to the extent the fair market value of such Collateral, either individually or in the aggregate, is less than $1,000,000;or

(xiii) any material provision of any Collateral Agreement shall for any reason cease to be valid and binding on or enforceable against the Company or any of its Domestic Subsidiaries or the Company or any of its Domestic Subsidiaries so states in writing or brings an action to limit its or their obligations or liabilities thereunder.

(b) Within the 10 days immediately following the occurrence of an Event of Default or any Default, the Company shall deliver to the Trustee at its Corporate Trustee Office, in accordance with Section 14.01, written notice thereof in the form of an Officer's Certificate describing each Event of Default or Default that has occurred and is continuing and its status and explaining what action the Company is taking or proposes to take in respect thereof, which notice shall make explicit reference to this Indenture, the Notes and the Company and shall indicate "Notice of Default/Event of Default."

(c) Notwithstanding anything to the contrary in the Notes or elsewhere in this Indenture, except as provided in Section 5.02(b) or (c), at the election of the Company, the sole remedy of Holders for an Event of Default relating to the failure by the Company to comply with its obligation to file reports, information or documents with the Trustee pursuant to Section 5.02(a) (the "**Company's Filing Obligations**") shall, for the first 90 days after the occurrence of such an Event of Default, consist exclusively of the right to receive Additional Interest at a rate equal to 0.50% per annum on the principal amount of the Notes then outstanding. Such Additional Interest shall be in addition to, and not in lieu of, any Additional Interest that the Company is required to pay under Section 5.02(b) or (c). If the Company makes such election to pay Additional Interest, such Additional Interest shall be payable in arrears on each Interest Payment Date following the date on which such Event of Default first occurred in the same manner as stated interest payable on the Notes. On the 91st day following the date on which such Event of Default first occurred (if the failure to comply with the Company's Filing Obligations is not cured or waived prior to such 91st day), the Notes shall be subject to acceleration as provided in Section 7.02. The provisions contained in this Section 7.01(c) shall not affect the rights of Holders in the event of the occurrence of any other Event of Default. If the Company does not elect to pay Additional Interest upon an Event of Default in accordance with this Section 7.01(c), the Notes shall be subject to acceleration as provided in Section 7.02. In order to elect to pay Additional Interest as the sole remedy for the first 90 days after the occurrence of an Event of Default relating to the failure by the Company to comply with the Company's Filing Obligations, the Company must notify, in the manner provided for in Section 14.01, all Holders of the Notes, the Paying Agent and the Trustee of such election at any time on or before the date on which such Event of Default first occurs (which notice shall include a statement as to the date from which Additional Interest is payable and, in the case of the Trustee, shall be delivered to its Corporate Trust Office and shall make explicit reference to this Indenture, the Notes and the Company) and shall indicate "Notice of Default/Event of Default."Unless and until a Trust Officer receives at the Corporate Trust Office such notice, the Trustee may assume without inquiry that no Additional Interest is payable. Upon failure by the Company to timely give such notice to pay such Additional Interest, or if the Company has provided such notice but has failed to pay such Additional Interest, the Notes shall be immediately subject to acceleration as provided in Section 7.02. If Additional Interest has been paid by the Company directly to the Persons entitled to it, the Company shall deliver to the Trustee a certificate setting forth the particulars of such payment.

Section 7.02 Acceleration. If an Event of Default (other than an Event of Default specified in Section 7.01(a)(ix) or 7.01(a)(x) with respect to the Company) occurs and is continuing, and in each and every such case, except for any Notes the principal of which shall have already become due and payable, either the Trustee, by notice to the Company, or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding, by notice to

the Company and the Trustee, may, and the Trustee at the request of such Holders shall, declare 100% of the principal amount of, and accrued and unpaid interest on, all of the Notes then outstanding, to be due and payable immediately, and upon such a declaration, the same shall be immediately due and payable. If an Event of Default specified in Section 7.01(a)(ix) or 7.01(a)(x) occurs with respect to the Company, 100% of the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding shall, automatically and without any notice or other action by the Trustee or any Holder, be and become immediately due and payable, to the fullest extent permitted by applicable law. The Holders of a majority in aggregate principal amount of the Notes at the time outstanding, by written notice to the Trustee and the Company, and without notice to any other Holder, may rescind any acceleration of the Notes if (a) such rescission would not conflict with any judgment or decree of a court of competent jurisdiction and (b) all existing Events of Default, other than the nonpayment of the principal of and interest on the Notes that has become due solely by such acceleration, have been cured or waived. Any such rescission shall not affect any subsequent Default or impair any right consequent thereon.

Section 7.03 Other Remedies. If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, accrued and unpaid interest, if any, or payment of the Fundamental Change Purchase Price on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

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

Section 7.04 Waiver of Past Defaults. The Holders of a majority in aggregate principal amount of the Notes at the time outstanding, by written notice to the Trustee and the Company and without notice to any other Holder, may waive any Default, except with respect to (a) any failure by the Company to pay the principal of or accrued interest on the Notes (including the Fundamental Change Purchase Price or Redemption Price, if applicable), (b) any failure by the Company to comply with its obligations to purchase Notes when required to do so under Article 3, (c) any failure to deliver the consideration due upon the conversion of any Notes or (d) any failure by the Company to comply with any covenant or provision of this Indenture or the Notes that under Section 10.02 cannot be modified or amended without the consent of each Holder. Any such waiver shall not affect any subsequent or other Default or impair any right consequent thereon.

Section 7.05 Control by Majority. The Holders of a majority in aggregate principal amount of the Notes at the time outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee; *provided* that (a) the Trustee may refuse to follow any direction that conflicts with law or this Indenture or that the Trustee determines is unduly prejudicial to the rights of any other Holder or would involve the Trustee in personal liability and (b) for the avoidance of doubt, the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. Subject to Article 8, if an Event of Default has occurred

and is continuing, the Trustee shall be under no obligation to exercise any of its rights or powers hereunder at the request or direction of any of the Holders unless such Holders have offered to the Trustee indemnity or security satisfactory to the Trustee against any loss, liability or expense caused by taking such action.

Section 7.06 Limitation on Suits. Except to enforce its rights as provided in Section 7.07, no Holder may institute any proceeding, judicial or otherwise, with respect to this Indenture or the Notes, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless:

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

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

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

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

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

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

Section 7.07 Rights of Holders to Receive Payment; Suit Therefor; Default Interest. Notwithstanding any other provision of this Indenture, each Holder shall have the right to receive payment or delivery, as the case may be, of (a) the principal (including the Fundamental Change Purchase Price or Redemption Price, if applicable) of, (b) accrued and unpaid interest on and (c) the consideration due upon conversion of, its Notes, on or after the respective due dates expressed or provided for in this Indenture, or to institute suit for the enforcement of any such payment or delivery, as the case may be, and such right to receive such payment or delivery, as the case may be, on or after such respective dates shall not be impaired or affected without the consent of such Holder and shall not be subject to the requirements of Section 7.06. Payments of the Redemption Price, the Fundamental Change Purchase Price, cash due upon conversion (if any), and principal and interest that are not made when due shall accrue interest per annum at the then-applicable interest rate plus one percent from the applicable due date expressed in this Indenture.

Section 7.08 Collection Suit by Trustee. If an Event of Default specified in Section 7.01(a)(i) or 7.01(a)(ii) occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company for the whole amount then due

and owing (together with interest on any unpaid interest, if any, to the extent lawful) and the amounts provided for in Section 8.06.

Section 7.09 Trustee May File Proofs of Claim. The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Company, its creditors or its property and, unless prohibited by law or applicable regulations, may vote on behalf of the Holders in any election of a trustee in bankruptcy or other Person performing similar functions, and any custodian in any such judicial proceeding is hereby authorized by each Holder to make payments to the Trustee and, if the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and its counsel, and any other amounts due the Trustee under Section 8.06.

Section 7.10 Priorities. Any monies collected by the Trustee pursuant to this Article 7 with respect to the Notes and any other monies or property distributable in respect of the Company's obligations under this Indenture following an Event of Default specified in Section 7.01(a)(ix) or Section 7.01(a)(x) with respect to the Company shall be applied in the following order:

FIRST: to the Trustee (including any predecessor trustee) and the Collateral Agent for amounts due under Section 8.06;

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

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

The Trustee may fix a record date and payment date for any payment to Holders pursuant to this Section 7.10.

Section 7.11 Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 7.11 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 7.07 or a suit by Holders of more than 10% in aggregate principal amount of the Notes at the time outstanding.

Section 7.12 Waiver of Stay or Extension Laws. The Company (to the extent it may lawfully do so) shall not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the

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

ARTICLE 8

TRUSTEE

Section 8.01 Duties of Trustee.

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

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

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

(ii) in the absence of bad faith or negligence on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; *provided, however*, that the Trustee will examine the certificates and opinions to determine whether they conform to the requirements set forth in this Indenture (but need not confirm or investigate the accuracy of any mathematical calculations or other facts, statements, opinions or conclusions stated therein).

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

(i) this sub-section (c) does not limit the effect of the remainder of this Section 8.01;

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

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in accordance with a direction received by it pursuant to Section 7.05 hereof, or exercising any trust or power conferred upon the Trustee under this Indenture absent negligence or willful misconduct.

(d) All monies received by the Trustee shall, until delivered to the applicable Holders as herein provided, be held in trust in a non-interest bearing account for the purposes for

which they were received. Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law.

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

(f) Whether herein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Article 8, and the provisions of this Article 8 shall apply to the Trustee, Registrar, Paying Agent, Bid Solicitation Agent and Conversion Agent.

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

Section 8.02 Rights of Trustee.

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

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

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

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

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

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

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

(h) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder, including, without limitation, the Registrar, Paying Agents, Bid Solicitation Agent and Conversion Agent.

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

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

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

Section 8.03 Individual Rights of Trustee. The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee. Any Paying Agent, Registrar, Bid Solicitation Agent (if other than the Company), Conversion Agent or co-registrar may do the same with like rights. However, the Trustee must comply with Section 8.10.

Section 8.04 Trustee's Disclaimer. The Trustee shall not be responsible for and makes no representation as to the validity, sufficiency, priority or adequacy of this Indenture or the Notes, it shall not be accountable for the Company's use of the proceeds from the Notes, and it shall not be responsible for any statement of the Company in this Indenture or in any document issued in connection with the sale of the Notes or in the Notes other than the Trustee's certificate of authentication. The Trustee shall have no duty to monitor or investigate the Company's compliance with or the breach of, or cause to be performed or observed, any representation, warranty, or covenant, or agreement of any Person, other than the Trustee, made in this

Indenture. The Trustee is not the Company's stock transfer agent and shall have no responsibility or liability for the Company's issuance or failure to issue stock consideration in connection with the Holders' conversion rights thereunder.

Section 8.05 Notice of Defaults. If a Default or Event of Default occurs and is continuing and is known to a Trust Officer of the Trustee, the Trustee shall mail to each Holder notice of such Default or Event of Default within 90 days after it occurs; *provided* that except in the case of a Default described in Section 7.01(a)(i), 7.01(a)(ii) or 7.01(a)(iii), the Trustee may withhold the notice if and so long as a committee of Trust Officers of the Trustee in good faith determines that withholding the notice is in the interests of the Holders.

Section 8.06 Compensation and Indemnity.

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

(b) To secure the Company's payment obligations under this Section 8.06, the Trustee shall have a lien prior to the Notes on all money or property held or collected by the Trustee other than money or property held in trust to pay the principal, accrued and unpaid interest, if any, or payment of the Fundamental Change Purchase Price or Redemption Price on particular Notes.

(c) The Company's payment obligations pursuant to this Section 8.06 shall survive the resignation or removal of the Trustee and the discharge of this Indenture. If the Trustee incurs expenses (including the reasonable charges and expenses of its counsel) after the occurrence of a Default specified in Section 7.01(a)(ix) or Section 7.01(a)(x) with respect to the Company, the expenses are intended to constitute expenses of administration under applicable bankruptcy laws.

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

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

Section 8.07 Replacement of Trustee.

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

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

(i) the Trustee shall cease to be eligible in accordance with the provisions of Section 8.10 and shall fail to resign after written request therefor by the Company or by any such Holder, or

(ii) the Trustee shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

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

(c) The Holders of a majority in aggregate principal amount of the Notes at the time outstanding may at any time remove the Trustee and nominate a successor Trustee that shall be deemed appointed as successor Trustee, unless within ten days after notice to the Company of such nomination the Company objects thereto, in which case the Trustee so

removed or any Holder, upon the terms and conditions and otherwise as specified in clause (a) above, may petition any court of competent jurisdiction for an appointment of a successor Trustee.

(d) Any resignation or removal of the Trustee and appointment of a successor Trustee pursuant to any of the provisions of this Section 8.07 shall become effective upon acceptance of appointment by the successor Trustee as provided in Section 8.08.

Section 8.08 Acceptance by Successor Trustee. Any successor Trustee appointed as provided in Section 8.07 shall execute, acknowledge and deliver to the Company and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally named as Trustee herein; but, nevertheless, on the written request of the Company or of the successor Trustee, the Trustee ceasing to act shall, upon payment of any amounts then due it pursuant to the provisions of Section 8.06, execute and deliver an instrument transferring to such successor Trustee all the rights and powers of the Trustee so ceasing to act. Upon request of any such successor Trustee, the Company shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor Trustee all such rights and powers. Any Trustee ceasing to act shall, nevertheless, retain a lien prior to the Notes on all money or property held or collected by the Trustee, other than money or property held in trust to pay the principal, accrued and unpaid interest, if any, or payment of the Fundamental Change Purchase Price or Redemption Price on particular Notes, to secure any amounts then due it pursuant to the provisions of Section 8.06.

No successor Trustee shall accept appointment as provided in this Section 8.08 unless at the time of such acceptance such successor Trustee shall be eligible under the provisions of Section 8.10.

Upon acceptance of appointment by a successor Trustee as provided in this Section 8.08, each of the Company and the successor Trustee, at the written direction and at the expense of the Company shall mail or cause to be mailed notice of the succession of such Trustee hereunder to the Holders at their addresses as they shall appear on the Register. If the Company fails to mail such notice within ten days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be mailed at the expense of the Company.

Section 8.09 Successor Trustee by Merger.

(a) If the Trustee consolidates with, merges or converts into, or transfers all or substantially all its corporate trust business or assets (including administration of this Indenture) to, another corporation or banking association, the resulting, surviving or transferee corporation or banking association without any further act shall be the successor Trustee; *provided* that if such successor Trustee is not eligible to act as Trustee pursuant to Section 8.10, such successor Trustee shall promptly resign pursuant to Section 8.07.

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

Section 8.10 Eligibility; Disqualification. The Trustee must be a Person who is eligible to act as an indenture trustee under the TIA and must have a combined capital and surplus of at least $50,000,000. If such Person publishes reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect specified in this Article.

ARTICLE 9

DISCHARGE OF INDENTURE

Section 9.01 Discharge of Liability on Notes. When (a) the Company delivers to the Registrar all outstanding Notes (other than Notes replaced pursuant to Section 2.07) for cancellation or (b) all outstanding Notes have become due and payable, whether at the Maturity Date, any Fundamental Change Purchase Date, upon conversion, upon redemption or otherwise, and the Company irrevocably deposits with the Trustee or delivers to the Holders, as applicable, cash (and/or, if applicable, shares of Common Stock solely to satisfy outstanding conversions) sufficient to pay, or, if applicable, satisfy the Company's Conversion Obligation with respect to, all amounts due and owing on all outstanding Notes (other than Notes replaced pursuant to Section 2.07), and, in either case, the Company pays all other sums payable hereunder by the Company with respect to the outstanding Notes, then this Indenture shall, subject to Section 8.06, cease to be of further effect with respect to the Notes or any Holders. At the cost and expense of the Company, the Trustee shall acknowledge satisfaction and discharge of this Indenture with respect to the Notes on demand of the Company accompanied by an Officer's Certificate and an Opinion of Counsel.

ARTICLE 10

AMENDMENTS

Section 10.01 Without Consent of Holders. The Company and the Trustee may amend or supplement this Indenture, the Notes or the Collateral Agreements without the consent of any Holder to:

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

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

(c) solely upon the occurrence of a Share Exchange Event, (i) provide that the Notes are convertible into Reference Property, subject to Section 11.03, and (ii) effect the related changes to the terms of the Notes required by Section 11.06, in each case, in accordance with Section 11.06;

(d) provide for the assumption by a Successor Company of the obligations of the Company under this Indenture and the Collateral Agreements pursuant to Article 6;

(e) add guarantees with respect to the Notes;

(f) secure the Notes with additional assets;

(g) modify the Collateral Agreements in any manner not materially adverse to Holders of Notes;

(h) release Collateral in accordance with the terms of this Indenture and the Collateral Agreements;

(i) make, complete or confirm any grant of Collateral permitted or required by this Indenture or any of the Collateral Agreements or any release of Liens in favor of the Collateral Agent in the Collateral in accordance with the terms of this Indenture or the Collateral Agreements;

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

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

Section 10.02 With Consent of Holders. With the written consent of the Holders of at least a majority in aggregate principal amount of the Notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, the Notes), by Act of such Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution, may amend or supplement this Indenture, the Notes or the Collateral Agreements or may prospectively waive compliance with any provisions of this Indenture, the Notes or the Collateral Agreements; *provided, however*, that, without the consent of each Holder of an outstanding Note affected thereby, no amendment or supplement to this Indenture, the Notes or the Collateral Agreements may:

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

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

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

(d) make any change that impairs or adversely affects the conversion rights of any Notes under Article 11 hereof or reduces the consideration due upon conversion;

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

(f) reduce the Redemption Price or amend or modify in any manner adverse to the Holders the provisions set forth in Article 4;

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

(h) change the ranking of the Notes;

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

(j) make any change to this proviso in Section 10.02 or to Section 7.04.

In addition, any amendment to, or waiver of, the provisions of the indenture or any Collateral Agreement that has the effect of releasing all or substantially all of the Collateral from the Liens securing the Notes will require the consent of the Holders of at least 66-2/3% in aggregate principal amount of the Notes then outstanding.

It shall not be necessary for the consent of the Holders under this Section 10.02 to approve the particular form of any proposed amendment, but it shall be sufficient if such consent approves the substance thereof.

Section 10.03 Execution of Supplemental Indentures. Upon the request of the Company, the Trustee shall sign any supplemental indenture authorized pursuant to this Article 10 if the amendment contained therein does not adversely affect the rights, duties, liabilities or immunities under this Indenture of the Trustee. If the supplemental indenture adversely affects the Trustee's rights, duties, liabilities or immunities under this Indenture, then the Trustee may, but need not, sign such supplemental indenture. In executing any supplemental indenture hereto, the Trustee shall be provided with, and (subject to the provisions of Section 8.01) shall be fully protected in relying upon, an Officer's Certificate and an Opinion of Counsel stating that such supplemental indenture is authorized and permitted under this Indenture and constitutes a valid and legally binding obligation of the Company enforceable against the Company in accordance with its terms, which requirements shall be non-waivable by the Trustee.

Section 10.04 Notices of Supplemental Indentures. After an amendment or supplement to this Indenture or the Notes pursuant to Sections 10.01 or 10.02 becomes effective, the Company shall promptly mail to each Holder a notice briefly describing such amendment or supplement to this Indenture. The failure to deliver such notice, or any defect in such notice, shall not impair or affect the validity of such amendment or supplement to this Indenture.

Section 10.05 Effect of Supplemental Indentures. Upon the execution of any supplemental indenture under this Article 10, (a) this Indenture shall be modified in accordance therewith, (b) such supplemental indenture shall form a part of this Indenture for all purposes, and (c) every Holder of Notes theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

Section 10.06 Notation on or Exchange of Notes. Notes authenticated and delivered after the execution of any supplemental indenture pursuant to this Article 10 may, and shall, if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Notes so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for outstanding Notes.

ARTICLE 11

CONVERSIONS

Section 11.01 Conversion Privilege and Consideration.

(a) (i) Unless and until the Company receives the requisite approval from its stockholders in accordance with NASDAQ Stock Market Rule 5635 to issue 20% or more of its Common Stock upon conversion of the Notes (the "Stockholder Approval"), subject to and upon compliance with the provisions of this Indenture, a Holder shall have the right, at such Holder's option, to convert the principal amount of its Notes, or any portion of such principal amount that is equal to $1,000 or an integral multiple of $1,000 in excess thereof at any time prior to the Close of Business on the Business Day immediately preceding the Maturity Date or (ii) if the Company obtains Stockholder Approval, on and after the date Stockholder Approval is obtained, subject to and upon compliance with the provisions of this Indenture, a Holder shall have the right, at such Holder's option, to convert the principal amount of its Notes, or any portion of such principal amount that is equal to $1,000 or an integral multiple of $1,000 in excess thereof, (A) subject to satisfaction of one or more of the conditions described in Section 11.01(b) and prior to the Close of Business on the Business Day immediately preceding November 1, 2018 during the periods set forth in Section 11.01(b), and (B) irrespective of the conditions described in Section 11.01(b), on or after November 1, 2018 and prior to the Close of Business on the Business Day immediately preceding the Maturity Date, in each case, at an initial conversion rate of 188.7059 shares of Common Stock (subject to adjustment as provided in this Article 11, the "**Conversion Rate**") per $1,000 principal amount of Notes (subject to the settlement provisions of Section 11.03, the "**Conversion Obligation**").

(b) The provisions described in this Section 11.01(b) shall have no effect, and the Company shall have no obligation to comply with such provisions (including any requirements to provide notice), unless and until Stockholder Approval is obtained by the Company.

(i) Prior to the close of Business on the Business Day immediately preceding November 1, 2018, a Holder may surrender all or a portion of its Notes for

conversion, if, for at least 20 Trading Days (whether or not consecutive) during the 30 consecutive Trading Day period ending within five Trading Days prior to a Conversion Date the Last Reported Sale Price of the Company'sCommon Stock exceeds the applicable Conversion Price on each such Trading Day (such condition, the "**Sale Price Condition**").

(ii) Prior to the Close of Business on the Business Day immediately preceding November 1, 2018, the Notes may be surrendered for conversion during the five consecutive Business Day period immediately following any five consecutive Trading Day period (the "**Measurement Period**") in which, for each Trading Day of such Measurement Period, the Trading Price per $1,000 principal amount of Notes (as determined following a request by a Holder in accordance with the procedures set forth in this Section 11.01(b)(ii) and the definition of "Trading Price" in Section 1.01), was less than 98% of the product of (x) the Last Reported Sale Price of the Common Stock on such Trading Day and (y) the Conversion Rate on such Trading Day (such product, the "**Intrinsic Value**," and such condition, the "**Trading Price Condition**"). The Trading Prices shall be determined by the Bid Solicitation Agent pursuant to this Section 11.01(b)(ii) and the definition of Trading Price in Section 1.01. The Company shall provide written notice to the Bid Solicitation Agent (if other than the Company) of the three independent nationally recognized securities dealers selected by the Company pursuant to the definition of "Trading Price" in Section 1.01, along with appropriate contact information for each.

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

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

(C) If the Trading Price Condition has been met on any Trading Day, the Company shall notify Holders of its satisfaction and of the resulting right of Holders to convert their Notes on such Trading Day. If, on any Trading Day after the Trading Price Condition has been met, the Bid Solicitation Agent determines that the Trading Price per $1,000 principal amount of Notes for such Trading Day is greater than or equal to 98% of the Intrinsic Value of the Notes for

such Trading Day, the Company shall promptly so notify the Holders that the Trading Price Condition is no longer met.

(iii) If prior to the Close of Business on November 1, 2018, the Company elects to:

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

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

then, in each case, at least 50 Scheduled Trading Days prior to the Ex-Dividend Date for such issuance or distribution, the Company shall mail notice to the Holders describing such issuance or distribution, the Holders' rights to convert their Notes in accordance with this Section 11.01(b)(iii), the Conversion Rate in effect on the date the Company mails such notice, any adjustments to the Conversion Rate that must be made as a result of such issuance or distribution, and the effective date for any such adjustments. Once the Company has given such notice, a Holder may surrender its Notes for conversion at any time until the earlier of (x) the Close of Business on the Business Day immediately preceding such Ex-Dividend Date and (y) the Company's announcement that such issuance or distribution will not take place.

(iv) If, prior to the Close of Business on November 1, 2018, the Company or any third party publicly announces a transaction or event that would, if consummated, constitute a Fundamental Change, a Make-Whole Fundamental Change of the type described in clause (i) of the definition thereof, or Share Exchange Event (regardless of whether the Holders would have the right to require the Company to purchase their Notes pursuant to Article 3), or any such transaction or event occurs without any public announcement, the Company shall mail notice (a "**Specified Corporate Transaction Notice**") of such Specified Corporate Transaction to the Holders within one Business Day of the first public announcement of such transaction or event or, in the case that no public announcement is made, the occurrence of such transaction or event. Upon receiving notice or otherwise becoming aware of a potential Fundamental Change, Make-Whole Fundamental Change of the type described in clause (i) of the definition thereof or Share Exchange Event, the Company shall use commercially reasonable efforts to announce or cause the announcement of such potential transaction or event in time to deliver the related Specified Corporate Transaction Notice at least 50 Scheduled Trading Days prior to the anticipated effective date for such potential

Fundamental Change, Make-Whole Fundamental Change of the type described in clause (i) of the definition thereof or Share Exchange Event. For any such potential Fundamental Change, Make-Whole Fundamental Change or Share Exchange Event, the Specified Corporate Transaction Notice shall describe:

(A) the potential transaction or event;

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

(C) the Holders' right to convert their Notes in accordance with this Section 11.01(b)(iv);

(D) the Conversion Rate in effect on the date the Company mails such notice;

(E) that an adjustment to the Conversion Rate is expected to be made pursuant to Section 11.05 as a result of such transaction or event and the formula for determining such adjustment;

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

(G) whether the relevant transaction or event is expected to constitute a Fundamental Change, and, if so, that Holders will have the right to require the Company to purchase their Notes pursuant to Article 3; and

(H) whether the relevant transaction or event is expected to constitute a Make-Whole Fundamental Change, and, if so, that the Conversion Rate will be increased under Section 11.07 for Notes converted in connection with such Make-Whole Fundamental Change.

Upon the Company's delivery of a Specified Corporate Transaction Notice with respect to any potential Fundamental Change, Make-Whole Fundamental Change of the type described in clause (i) of the definition thereof or Share Exchange Event, a Holder may surrender its Notes for conversion at any time until the 35th Trading Day immediately following the effective date of such transaction or, if such transaction or event constitutes a Fundamental Change, the Business Day immediately preceding the related Fundamental Change Purchase Date.

(v) If the Company calls the Notes for redemption pursuant to Article 4, Holders may convert their Notes at any time on or after the date the Company delivers the relevant Redemption Notice to Holders and prior to the Close of Business on the Business Day prior to the relevant Redemption Date, even if the Notes are not otherwise convertible at such time. After that time, the right of Holders to convert their Notes on account of the Company's delivery of such Redemption Notice shall expire, unless the Company defaults in the payment of the Redemption Price, in which case the Notes will

be convertible under this Section 11.01(b)(v) until the Redemption Price has been paid or duly provided for.

(c) Interest Make-Whole Payment.

(i) In addition, on or after November 1, 2013, if, for at least 20 Trading Days (whether or not consecutive) during the 30 consecutive Trading Day period ending within five Trading Days prior to a Conversion Date the Last Reported Sale Price of the Company'sCommon Stock exceeds the applicable Conversion Price on each such Trading Day, the Company will, in addition to the other consideration payable or deliverable in connection with such conversion, make a payment(an "**Interest Make-Whole Payment**") to such converting Holder equal to the sum of the present value of the remaining scheduled payments of interest that would have been made on the Notes to be converted had such Notes remained outstanding until May 1, 2017 computed using a discount rate equal to 2%. Such present value shall be computed by an internationally recognized independent investment banking firm, which may be one of the initial purchasers described in the Offering Memorandum, retained by us for this purpose.

(ii) If a Conversion Date occurs after the Close of Business on a Record Date for the payment of interest but prior to the Open of Business on the Interest Payment Date corresponding to such Record Date, the Company shall 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 Record Date. In such case, the Interest Make-Whole Payment, if due, 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 May 1, 2017 computed using a discount rate equal to 2%. Such present value shall be computed by an internationally recognized independent investment banking firm, which may be one of the initial purchasers described in the Offering Memorandum, retained by us for this purpose.

(iii) Notwithstanding the foregoing, if in connection with any conversion the Conversion Rate is adjusted pursuant to Section 11.07(d), then such Holder will not be eligible to receive the Interest Make-Whole Payment with respect to such Note.

(iv) The Company may settle any Interest Make-Whole Payment that is due either in cash or in its common stock, at the Company's election. If the Company elects to pay an Interest Make-Whole Payment in itsCommon Stock, then the Common Stock will be valued at 95% of the simple average of the Daily VWAP for the 10 trading days ending on and including the Trading Day immediately preceding the Conversion Date.

(v) To the extent an Interest Make-Whole Payment is due, the Company will notify such converting Holder (with a copy to the Trustee) of such Interest Make-Whole Payment amount and will specify in such notice whether the Company will

settle the Interest Make-Whole Payment in cash or shares of itsCommon Stock no later than one Business Day after the related Conversion Date.

(vi) Notwithstanding the foregoing, in no event will the shares of Common Stock the Company delivers in connection with a conversion, including those delivered in connection with the Interest Make-Whole Amount, exceed 188.7059 shares per $1,000 principal amount of Notes, subject to adjustment at the same time and in the same manner as the Conversion Rate pursuant to Section 11.05 (the "**Maximum Conversion Rate**"). If, pursuant to the Company's election to deliver Common Stock in connection with the settlement of the Interest Make-Whole Amount, it would be required to deliver an aggregate number of shares of Common Stock in excess of such threshold, the Company shall deliver cash in lieu of any shares of its Common Stock otherwise deliverable upon conversions in excess of such limitations (based on the simple average of the Daily VWAP for the 10 Trading Days ending on and including the Trading Day immediately preceding the Conversion Date).

Section 11.02 Conversion Procedure.

(a) To convert a Note or portion thereof, a Holder or beneficial owner, as the case may be, must (i) in the case of a Global Note, (A) comply with the Applicable Procedures of the Depositary then in effect for converting a beneficial interest in a global note and (B) if applicable, pay all funds required under Sections 11.02(g) and 11.02(h) below, and (ii) in the case of a Certificated Note, (A) complete and manually sign the conversion notice in the form attached to such Certificated Note (a "**Notice of Conversion**") or a facsimile of the Notice of Conversion, (B) deliver the Notice of Conversion, which is irrevocable, and the Certificated Note to the Conversion Agent, (C) if required, furnish appropriate endorsements and transfer documents, (D) if applicable, pay all funds required under Section 11.02(h) below, and (E) if applicable, pay all funds required under Section 11.02(g) below.

(b) A Note shall be deemed to have been converted at the Close of Business on the first Business Day (the "**Conversion Date**") on which (i) the Holder thereof satisfies all of the requirements set forth in Section 11.02(a) with respect to such Note and (ii) the conversion of such Note is not otherwise prohibited by Section 3.04(a) hereof.

(c) If the last day during any period on which a Note may be converted is not a Business Day, the Note may be surrendered on the immediately following day that is a Business Day. Upon the conversion of a Note, the Conversion Agent, as promptly as possible, and in no event later than one Business Day immediately following the Conversion Date for the Note, will provide the Company with notice of the conversion of the Note, and the Company, as promptly as possible, and in no event later than two Business Days after such Conversion Date, will notify the Trustee, if other than the Conversion Agent, of the conversion of the Note.

(d) If a Holder converts the entire principal amount of a Note, such Person will no longer be a Holder of such Note, except that (i) such Holder shall have the right hereunder to receive the consideration due upon conversion and (ii) if the relevant Conversion Date occurred between a Record Date and on or prior to the corresponding Interest Payment

Date, the Holder of record of such Note shall have the right to receive the related interest payment on such Interest Payment Date.

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

(f) Prior to obtaining Stockholder Approval, the converting Holder (or its designee) shall be treated as the holder of record of the shares of Common Stock to be delivered upon conversion as of the relevant Conversion Date. After obtaining Stockholder Approval, if any shares of Common Stock are issuable upon the conversion of a Note, the converting Holder (or its designee) shall be treated as the holder of record of such shares as of the relevant Conversion Date (in the case of Physical Settlement) or the last VWAP Trading Day of the relevant Observation Period for such Note (in the case of Combination Settlement).

(g) Notwithstanding Section 11.03(d), if a Holder converts its Note after the Close of Business on a Record Date but prior to the Open of Business on the Interest Payment Date corresponding to such Record Date, the Holder of such Note at the Close of Business on such Record Date shall receive the interest payment payable on such Note on such corresponding Interest Payment Date, notwithstanding the conversion. Any Note converted during the period beginning at the Close of Business on any Record Date and ending at the Open of Business on the Interest Payment Date corresponding to such Record Date must be accompanied by funds equal to the amount of interest payable on such Note on such corresponding Interest Payment Date; *provided, however*, that no such payment need be made: (i) for a Note surrendered for conversion after the Close of Business on the Record Date immediately preceding the Maturity Date, (ii) if the Company has specified a Redemption Date or Fundamental Change Purchase Date that is after such Record Date and on or prior to such corresponding Interest Payment Date, and a Note is surrendered for conversion after such Record Date and prior to such corresponding Interest Payment Date or (iii) to the extent of any Defaulted Interest, if any Defaulted Interest exists at the time of conversion with respect to such Note. For the avoidance of doubt, the Company shall pay interest on the Maturity Date on all Notes converted after the Record Date immediately preceding the Maturity Date, and converting Holders shall not be required to pay to the Company equivalent interest amounts.

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

(i) If the Company mails a notice of communication to the Holders, including any notice to Holders pursuant to Article 2, it shall, at the same time, mail a copy to the Trustee and each of the Registrar, Paying Agent and Conversion Agent.

Section 11.03 Settlement Upon Conversion.

(a) Except as provided in Section 11.07(e), upon conversion of any Note, if the Company has not received Stockholder Approval prior to the relevant Conversion Date, the Company shall deliver to the converting Holder, in respect of each $1,000 principal amount of Notes being converted, a number of shares of Common Stock equal to the Conversion Rate in effect on the Conversion Date, together with a cash payment, if applicable, in lieu of any fractional share of Common Stock equal to the product of (i) such fraction of a share and (ii) the Daily VWAP on the relevant Conversion Date and the Interest Make-Whole Payment, if applicable. The Company shall deliver the consideration due in respect of the Conversion Obligation on the third Business Day immediately following the relevant Conversion Date.

(b) The provisions of this Section 11.03(b), whether or not expressly stated therein, shall only apply to Conversion Dates following the Company's receipt of Stockholder Approval.

(i) Except as provided in Section 11.07(e), upon conversion of any Note, if the Company has received Stockholder Approval prior to the relevant Conversion Date, the Company shall pay or deliver, as the case may be, to the converting Holder cash ("**Cash Settlement**"), shares of Common Stock, together with cash, if applicable, in lieu of any fractional share of Common Stock in accordance with Section 11.03(b)(vii) ("**Physical Settlement**") or a combination of cash and shares of Common Stock, together with cash, if applicable, in lieu of any fractional share of Common Stock in accordance with Section 11.03(b)(vii) ("**Combination Settlement**"), at the Company's election (each of these settlement methods a "**Settlement Method**") and the Interest Make-Whole Payment, if applicable.

(ii) All conversions occurring on or after the 45th Scheduled Trading Day immediately preceding the Maturity Date and all conversions occurring during a Redemption Period, shall be settled using the same Settlement Method. Subject to the foregoing, if the Company has received Stockholder Approval, the Company shall use the same Settlement Method for all conversions occurring on the same Conversion Date, but the Company shall not have any obligation to use the same Settlement Method with respect to conversions that occur on different Conversion Dates, and the Company may elect a Settlement Method with respect to certain Conversion Dates and not with respect to other Conversion Dates.

(iii) The Company shall deliver a notice (the "**Settlement Method Notice**") of the Settlement Method elected by the Company in respect of any Conversion Date or any of the periods described below, as the case may be:

(A) in the applicable Redemption Notice, with respect to any conversion following delivery of a Redemption Notice by the Company and prior

to the Close of Business on the Business Day immediately preceding the related Redemption Date (such period, a "**Redemption Period**");

(B) by written notice to all Holders of Notes, the Trustee and the Conversion Agent on or prior to the 45th Scheduled Trading Day immediately preceding the Maturity Date, in the case of any conversion occurring on or after such date, other than during a Redemption Period; or

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

(iv) Any Settlement Method Notice shall specify the relevant Settlement Method and in the case of an election of Combination Settlement, the relevant Settlement Method Notice shall indicate the Specified Dollar Amount. If the Company has received Stockholder Approval and does not timely deliver a Settlement Method prior to the deadline set forth in this Section 11.03(b)(iv), the Company shall no longer have the right to elect Cash Settlement or Physical Settlement and the Company shall be deemed to have elected Combination Settlement in respect of its Conversion Obligation, and the Specified Dollar Amount per $1,000 principal amount of Notes shall be equal to $1,000. If the Company elects Combination Settlement in respect of its Conversion Obligation but does not indicate a Specified Dollar Amount in the relevant Settlement Method Notice, the Specified Dollar Amount shall be deemed to be $1,000. The Company agrees that it will not seek Stockholder Approval during a Redemption Period or during the period following the 45th Scheduled Trading Day immediately preceding the Maturity Date through the Maturity Date.

(v) The cash, shares of Common Stock or combination of cash and shares of Common Stock in respect of any conversion of Notes (the "**Settlement Amount**") shall be computed as follows:

(A) if the Company elects to satisfy its Conversion Obligation in respect of such conversion by Physical Settlement, the Company shall deliver to the converting Holder in respect of each $1,000 principal amount of Notes being converted a number of shares of Common Stock equal to the Conversion Rate in effect on the Conversion Date, together with cash in lieu of fractional shares pursuant to Section 11.03(b)(vii) and the Interest Make-Whole Payment, if applicable;

(B) if the Company elects to satisfy its Conversion Obligation in respect of such conversion by Cash Settlement, the Company shall pay to the converting Holder in respect of each $1,000 principal amount of Notes being converted cash in an amount equal to the sum of the Daily Conversion Values for each of the 40 consecutive VWAP Trading Days during the related Observation Period and the Interest Make-Whole Payment, if applicable; and

(C) if the Company elects (or is deemed to have elected) to satisfy its Conversion Obligation in respect of such conversion by Combination Settlement, the Company shall pay or deliver, as the case may be, in respect of each $1,000 principal amount of Notes being converted, a Settlement Amount equal to the sum of the Daily Settlement Amounts for each of the 40 consecutive VWAP Trading Days during the related Observation Period and the Interest Make-Whole Payment, if applicable.

(vi) The Daily Settlement Amounts (if applicable) and the Daily Conversion Values (if applicable) shall be determined by the Company promptly following the last day of the Observation Period. Promptly after such determination of the Daily Settlement Amounts or the Daily Conversion Values, as the case may be, and the amount of cash payable in lieu of any fractional share, the Company shall notify the Trustee and the Conversion Agent (if other than the Trustee) of the Daily Settlement Amounts or the Daily Conversion Values, as the case may be, and the amount of cash payable in lieu of fractional shares of Common Stock. The Trustee and the Conversion Agent (if other than the Trustee) shall have no responsibility for any such determination.

(vii) The Company shall not issue any fractional share of Common Stock upon conversion of the Notes and shall instead pay cash in lieu of any fractional share of Common Stock issuable upon conversion based on the Daily VWAP on the relevant Conversion Date (in the case of Physical Settlement) or based on the Daily VWAP on the last VWAP Trading Day of the relevant Observation Period (in the case of Combination Settlement)and, with respect to an Interest Make-Whole Payment satisfied with shares of the Company's Common Stock, based on the simple average of the Daily VWAP for the 10 Trading Days ending on and including the Trading Day immediately preceding the Conversion Date. For each Note surrendered for conversion, if the Company has elected Combination Settlement, the full number of shares that shall be issued upon conversion thereof (exclusive of shares of Common Stock that may be deliverable in connection with an Interest Make-Whole Payment) shall be computed on the basis of the aggregate Daily Settlement Amounts for the applicable Observation Period and any fractional shares remaining after such computation shall be paid in cash.

(viii) The Company shall pay or deliver, as the case may be, the consideration due in respect of the Conversion Obligation and an Interest Make-Whole Payment on the third Business Day immediately following the relevant Conversion Date, if the Company elects Physical Settlement, or on the third Business Day immediately following the last VWAP Trading Day of the Observation Period, in the case of any other Settlement Method.

(c) If a Holder surrenders more than one Note for conversion on a single Conversion Date, the number of shares of Common Stock, if any, that the Company will deliver, and the amount of cash that the Company will pay pursuant to Section 11.03(a) or Section 11.03(b)(vii) in lieu of fractional shares of Common Stock, if any, shall be determined based on the total principal amount of Notes so surrendered by such Holder.

(d) If a Holder converts a Note, except as set forth in Section 11.02(g), (i) such Holder shall not receive any separate cash payment (in addition to the Conversion Obligation) for accrued and unpaid interest on such Note and (ii) the Company's delivery to such converting Holder of the Conversion Obligation shall be deemed to satisfy in full the Company's obligation to pay to such Holder (A) the principal amount of such converted Note and (B) accrued and unpaid interest, if any, to, but excluding, the relevant Conversion Date. As a result, subject to Section 11.02(g), accrued and unpaid interest, if any, on a converted Note to but, excluding, the relevant Conversion Date shall be deemed to be paid in full rather than cancelled, extinguished or forfeited. Upon a conversion of Notes, subject to Section 11.02(g), accrued and unpaid interest, if any, shall be deemed to be paid first out of the cash paid upon such conversion, if any.

(e) Notices.

(i) On the second Business Day immediately following the Conversion Date for any Notes, the Company shall deliver written notice to the Trustee stating (A) the aggregate principal amount of Notes converted on such Conversion Date, (B) whether the Company has made a Settlement Method election with respect to such Conversion Date, and (C) if the Company has made a Settlement Method election for such Conversion Date, the Specified Dollar Amount for such Conversion Date (if applicable).

(ii) On the first Business Day immediately following the last VWAP Trading Day of the Observation Period for each Conversion Date to which Cash Settlement or Combination Settlement applies, the Company shall deliver written notice to the Trustee stating (A) the aggregate principal amount of Notes that were converted on such Conversion Date, (B) the aggregate amount of cash and the aggregate number of Shares that the Company is obligated to deliver to settle all of the Notes converted on such Conversion Date, and (C) the Daily Conversion Values or Daily Settlement Amounts, as the case may be, for each VWAP Trading Day of the Observation Period for such Conversion Date.

(iii) If the Company receives Stockholder Approval on any day, the Company shall so notify Holders, the Trustee and the Conversion Agent prior to the Close of Business on the Business Day immediately following such day that the Stockholder Approval is received.

Section 11.04 Covenants Relating to Underlying Shares.

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

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

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

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

Section 11.05 Adjustments to the Conversion Rate. The Conversion Rate shall be adjusted from time to time by the Company as described in this Section 11.05, except that the Company shall not make any adjustments to the Conversion Rate for any Holder that participates (as a result of holding the Notes, and at the same time as the holders of the Common Stock participate) in any of the transactions described below as if such Holder held, for each $1,000 principal amount of Notes held, a number of shares of the Common Stock equal to the applicable Conversion Rate, without having to convert its Notes.

(a) Dividends, Distributions, Splits and Combinations. If the Ex-Dividend Date occurs for any issuance by the Company of solely shares of the Common Stock as a dividend or distribution on all or substantially all of the shares of the Common Stock, or if the Company effects a share split or a share combination of the Common Stock, the Conversion Rate shall be adjusted based on the following formula:

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

where:

CR_0 = the Conversion Rate in effect immediately prior to the Open of Business on the Ex-Dividend Date of such dividend or distribution, or immediately prior to the Open of Business on the effective date of such share split or combination, as the case may be;

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

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

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

Any adjustment made under this Section 11.05(a) shall become effective immediately after the Open of Business on the Ex-Dividend Date for such dividend or distribution or the effective date for such share split or combination, as the case may be. If any dividend or distribution of the type described in this Section 11.05(a) is declared but not so paid or made, then the Conversion Rate shall immediately be readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution to the Conversion Rate that would then be in effect had such dividend or distribution not been declared or announced. The "effective date," with respect to a share split or combination, means the first date on which the shares of the Common Stock trade in the applicable exchange or in the applicable market, regular way, reflecting the relevant share split or share combination, as applicable.

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

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

where:

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

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

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

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

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

Any adjustment made under this Section 11.05(b) shall be made successively whenever any such rights, options or warrants are issued and shall become effective immediately after the Open of Business on the Ex-Dividend Date for such issuance. To the extent that shares of Common Stock are not delivered after the expiration of such rights, options or warrants, the

Conversion Rate shall be readjusted, as of the date of such expiration, to the Conversion Rate that would then be in effect had the adjustment made upon the issuance of such rights, options or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights, options or warrants are not so issued, the Conversion Rate shall immediately be readjusted, as of the scheduled issuance date, to equal the Conversion Rate that would then be in effect had the relevant adjustment pursuant to this Section 11.05(b) not occurred.

For purposes of this Section 11.05(b) and Section 11.01(b)(iii)(A), in determining whether any issued rights, options or warrants entitle the holders of the Common Stock to subscribe for or purchase shares of the Common Stock at a price per share less than the average of the Last Reported Sale Prices of the Common Stock for each Trading Day in the ten consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of such issuance, and in determining the aggregate offering price of such shares of Common Stock, there shall be taken into account any consideration that the Company receives for such rights, options or warrants and any amount payable on exercise thereof, with the value of such consideration, if other than cash, to be determined by the Board of Directors.

(c) Other Distributions.

(i) If the Ex-Dividend Date occurs for a distribution by the Company of shares of its Capital Stock, evidences of its indebtedness, other assets or property of the Company or rights, options or warrants to acquire its Capital Stock or other securities to all or substantially all holders of the Common Stock, excluding (A) dividends or distributions (including subdivisions) and rights, options or warrants, in each case, for which an adjustment is made pursuant to Sections 11.05(a) or 11.05(b); (B) dividends or distributions paid exclusively in cash for which an adjustment is made pursuant to Section 11.05(d); and (C) Spin-Offs for which an adjustment is made pursuant to Section 11.05(c)(ii) (any of such shares of Capital Stock, evidences of indebtedness, other assets or property or rights, options or warrants to acquire Capital Stock or other securities, the "**Distributed Property**"), then the Conversion Rate shall be adjusted based on the following formula:

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

where:

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

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

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

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

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

Any adjustment made under this Section 11.05(c)(i) shall become effective immediately after the Open of Business on the Ex-Dividend Date for such distribution. If such distribution is not so paid or made, or if any rights, options or warrants are not exercised before their expiration date, the Conversion Rate shall be readjusted, as of the date the Board of Directors determines not to make or pay such distribution or as of such expiration date, as the case may be, to be the Conversion Rate that would then be in effect had such distribution not been declared or to the extent such rights or warrants are not exercised, as applicable.

(ii) With respect to an adjustment pursuant to this Section 11.05(c), if the relevant dividend or other distribution consists of shares of Capital Stock of any class or series, or similar equity interest, of or relating to a Subsidiary or other business unit of the Company that are listed for trading or quoted (or will be listed or quoted upon consummation of the spin-off) on a U.S. national securities exchange (a "**Spin-Off**"), the Conversion Rate shall be increased based on the following formula:

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

where:

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

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

FMV_0 = the average of the Last Reported Sale Prices of the Capital Stock or similar equity interest distributed to a holder of one share of the Common Stock (determined by reference to the definition of Last Reported Sale Price as set forth in Section 1.01 as if references therein to Common Stock were to such Capital Stock or similar equity interest) over the first ten consecutive Trading Day period immediately following, and including, the effective date for the Spin-Off (such period, the "**Valuation**

Period"); and

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

Notwithstanding the foregoing, (A) if the last VWAP Trading Day of the Observation Period for any conversion to which Cash Settlement or Combination Settlement applies occurs on or after the effective date for the Spin-Off, but less than ten Trading Days immediately following, and including, the effective date for the Spin-Off, references within this Section 11.05(c)(ii) to ten Trading Days shall be deemed replaced, for purposes of calculating the affected Daily Conversion Values or Daily Settlement Amounts, as the case may be, in respect of that conversion, with such lesser number of Trading Days as have elapsed from, and including, the effective date for the Spin-Off to, and including, the last VWAP Trading Day of such Observation Period, and (B) for purposes of determining the Conversion Rate applicable to any conversion for which the Conversion Date occurs during the ten Trading Days commencing on the effective date for any Spin-Off, references within this Section 11.05(c)(ii) to ten Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the effective date for such Spin-Off to, but excluding, the relevant Conversion Date.

Any adjustment made pursuant to this Section 11.05(c)(ii) shall become effective as of the Open of Business on the Ex-Dividend Date for the Spin-Off. If such Spin-Off is subsequently cancelled and does not become effective, the Conversion Rate shall be readjusted, as of the date of such cancellation, to be the Conversion Rate that would have been in effect if such Spin-Off had not been declared.

For purposes of this Section 11.05(c) (and subject in all respect to Section 11.05(i)), rights, options or warrants distributed by the Company to all holders of its Common Stock entitling them to subscribe for or purchase shares of the Company's Capital Stock, including Common Stock (either initially or under certain circumstances), which rights, options or warrants, until the occurrence of a specified event or events ("**Trigger Event**"): (A) are deemed to be transferred with such shares of the Common Stock; (B) are not exercisable; and (C) are also issued in respect of future issuances of the Common Stock, shall be deemed not to have been distributed for purposes of this Section 11.05(c) (and no adjustment to the Conversion Rate under this Section 11.05(c) will be required) until the occurrence of the earliest Trigger Event, whereupon such rights, options or warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Conversion Rate shall be made under this Section 11.05(c). If any such right, option or warrant, including any such existing rights, options or warrants distributed prior to the date of this Indenture, are subject to events, upon the occurrence of which such rights, options or warrants become exercisable to purchase different securities, evidences of indebtedness or other assets, then the date of the occurrence of any and each such event shall be deemed to be the date of distribution and Ex-Dividend Date with respect to new rights, options or warrants with such rights (in which case the existing rights, options or warrants shall be deemed to terminate and expire on such date without exercise by any of the holders thereof). In addition, in the event of any distribution (or deemed distribution) of rights, options or warrants, or any Trigger Event or other event (of the type described in the immediately preceding sentence) with respect thereto that was counted for purposes of

calculating a distribution amount for which an adjustment to the Conversion Rate under this Section 11.05(c) was made, (1) in the case of any such rights, options or warrants that shall all have been redeemed or purchased without exercise by any holders thereof, upon such final redemption or purchase (x) the Conversion Rate shall be readjusted as if such rights, options or warrants had not been issued and (y) the Conversion Rate shall then again be readjusted to give effect to such distribution, deemed distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per share redemption or purchase price received by a holder or holders of Common Stock with respect to such rights, options or warrants (assuming such holder had retained such rights, options or warrants), made to all holders of Common Stock as of the date of such redemption or purchase, and (2) in the case of such rights, options or warrants that shall have expired or been terminated without exercise by any holders thereof, the Conversion Rate shall be readjusted as if such rights, options and warrants had not been issued.

For purposes of Section 11.05(a), Section 11.05(b) and this Section 11.05(c), if any dividend or distribution to which this Section 11.05(c) is applicable also includes one or both of:

(A) a dividend or distribution of shares of Common Stock to which Section 11.05(a) is applicable (the "**Clause A Distribution**"); or

(B) a dividend or distribution of rights, options or warrants to which Section 11.05(b) is applicable (the "**Clause B Distribution**"),

then (1) such dividend or distribution, other than the Clause A Distribution and the Clause B Distribution, shall be deemed to be a dividend or distribution to which this Section 11.05(c) is applicable (the "**Clause C Distribution**") and any Conversion Rate adjustment required by this Section 11.05(c) with respect to such Clause C Distribution shall then be made, and (2) the Clause A Distribution and Clause B Distribution shall be deemed to immediately follow the Clause C Distribution and any Conversion Rate adjustment required by Section 11.05(a) and Section 11.05(b) with respect thereto shall then be made, except that, if determined by the Company (I) the "Ex-Dividend Date" of the Clause A Distribution and the Clause B Distribution shall be deemed to be the Ex-Dividend Date of the Clause C Distribution and (II) any shares of Common Stock included in the Clause A Distribution or Clause B Distribution shall be deemed not to be "outstanding immediately prior to the Open of Business on such Ex-Dividend Date or effective date" within the meaning of Section 11.05(a) or "outstanding immediately prior to the Open of Business on such Ex-Dividend Date" within the meaning of Section 11.05(b).

(d) Adjustment for Cash Distributions. If the Ex-Dividend Date occurs for any cash dividend or distribution by the Company to all or substantially all holders of the outstanding Common Stock, the Conversion Rate shall be adjusted based on the following formula:

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

where:

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

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

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

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

If "SP0" (as defined above) minus "C" (as defined above) is less than $1.00, in lieu of the foregoing adjustment, each Holder shall receive, for each $1,000 principal amount of Notes held, at the same time and upon the same terms as holders of the Common Stock, the amount of cash such Holder would have received if such Holder had owned a number of shares of the Common Stock equal to the Conversion Rate in effect on the record date for such distribution.

Any adjustment made under this Section 11.05(d) shall become effective immediately after the Open of Business on the Ex-Dividend Date for such distribution. If such distribution is not so paid or made, the Conversion Rate shall be readjusted, as of the date the Board of Directors determines not to make or pay such distribution, to be the Conversion Rate that would then be in effect had the related Ex-Dividend Date not occurred.

(e) Adjustment for Tender Offers or Exchange Offers. If the Company or any of its Subsidiaries makes a payment to holders of the Common Stock in respect of a tender offer or exchange offer for the Common Stock, to the extent that the cash and value of any other consideration included in the payment per share of Common Stock exceeds the average of the Last Reported Sale Prices of the Common Stock over the ten consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender offer or exchange offer (the "**Expiration Date**"), the Conversion Rate shall be increased based on the following formula:

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

where:

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

CR_1 = the Conversion Rate in effect immediately after the Close of Business on the Expiration Date;

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

exchange offer;

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

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

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

The adjustment to the Conversion Rate under this Section 11.05(e) shall be given effect at the Close of Business on the Expiration Date. If the Expiration Date is less than ten Trading Days prior to, and including, the last VWAP Trading Day of the Observation Period in respect of any conversion to which Cash Settlement or Combination Settlement applies, references within this Section 11.05(e) to ten Trading Days shall be deemed replaced, for purposes of calculating the affected Daily Conversion Values or Daily Settlement Amounts, as the case may be, in respect of that conversion, with such lesser number of Trading Days as have elapsed from, and including, the Trading Day next succeeding the Expiration Date to, and including, the last VWAP Trading Day of such Observation Period. For purposes of determining the Conversion Rate applicable to any conversion during the ten Trading Day period commencing on the Trading Day next succeeding the Expiration Date, references within this Section 11.05(e) to ten Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the Trading Day next succeeding the Expiration Date to, but excluding, the relevant Conversion Date.

(f) Holder Participation in Adjustment Events. Notwithstanding the provisions set forth in clauses (a) through (e) above, if any adjustment to the Conversion Rate pursuant to such provisions becomes effective on any Ex-Dividend Date or effective date and a Holder that has converted its Notes would (i) receive shares of Common Stock based on an adjusted Conversion Rate and (ii) be a record holder of such shares of Common Stock on the record date for the dividend, distribution or event giving rise to such adjustment, then, in lieu of receiving shares of Common Stock at such an adjusted Conversion Rate, such Holder shall receive a number of shares of Common Stock, if any, upon conversion based on an unadjusted Conversion Rate and shall participate in the related dividend, distribution or other event giving rise to such adjustment.

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

(i) the record date for any dividend or distribution, the effective date for any share split or combination or the Expiration Date for any tender or exchange offer by the Company that, in each case, would require an adjustment to the Conversion Rate pursuant to Section 11.05(a), (b), (c), (d) or (e) occurs prior to the Company's delivery of such shares of Common Stock to the converting Holder;

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

(iii) the shares of Common Stock that the Company shall deliver to the converting Holder with respect to such VWAP Trading Day are not entitled to participate in the relevant event (because such shares were not held by such Holder on the related record date, effective date, expiration date or otherwise),

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

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

(i) Rights Plans. To the extent that the Company has a rights plan in effect upon conversion of any Note, each share of Common Stock issued upon such conversion (x) shall be entitled to receive the number of rights, if any, associated with one share of Common Stock under such rights plan, and (y) shall, if issued in certificated form, bear such legends, if any, as may be required under such rights plan; *provided, however*, that if prior to the Conversion Date for such Note, the rights have separated from the Common Stock in accordance with the provisions of the applicable rights plan, the converting Holder shall not be entitled to receive such rights upon conversion, and at the time of such separation, the Conversion Rate shall be adjusted in accordance with Section 11.05(c) as if the Company made a distribution of Distributed Property to the holders of the Common Stock; *provided, further*, that such adjustment shall be subject to readjustment upon the expiration, termination or redemption of such separated rights in accordance with Section 11.05(c).

(j) Deferral of Adjustments. The Company may defer any adjustment to the Conversion Rate unless such adjustment would increase the Conversion Rate by at least 1% of the Conversion Rate in effect at the time the Company would otherwise be required to make such adjustment; *provided, however*, that if the Company defers an adjustment pursuant to this Section 11.05(j), then the Company must carry forward such adjustment and take it into account in any future adjustment. Notwithstanding the foregoing, (i) upon the Conversion Date for any Note and (ii) on each annual anniversary of the date of this Indenture, the Company will give effect to all adjustments that it has otherwise been deferred pursuant to this Section 11.05(j), and

those adjustments will no longer be carried forward and taken into account in any future adjustment.

(k) Voluntary Increases. In addition to those adjustments required by clauses (a), (b), (c), (d) and (e) of this Section 11.05, and to the extent permitted by applicable law and any applicable stock exchange rules, from time to time, (i) the Company may increase the Conversion Rate of the Notes by any amount for a period of at least 20 Business Days if the Board of Directors determines that such increase would be in the best interest of the Company and (ii) the Company may (but is not required to) increase the Conversion Rate to avoid or diminish income tax to holders of the Common Stock or rights to purchase shares of the Common Stock in connection with a dividend or distribution of shares (or rights to acquire shares) or a similar event; *provided* that the Company shall not take any action that would result in adjustment of the Conversion Rate, pursuant to this Section 11.05(k), that would result in a reduction of the Conversion Price to less than the par value per share of the Common Stock or without complying, if applicable, with the stockholder approval rules of the NASDAQ Global Market and any similar rule of any stock exchange on which the Common Stock is listed at the relevant time. In accordance with such listing standards, this restriction shall apply at any time when the Notes are outstanding, regardless of whether the Company then has a class of securities listed on the NASDAQ Global Market.

(l) No Other Adjustments. Except as expressly stated herein, the Conversion Rate shall not be subject to adjustment as a result of any issuance of shares of Common Stock or securities convertible into or exchangeable for shares of Common Stock or the right to purchase shares of Common Stock or such convertible or exchangeable securities.

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

(n) Notice of Certain Potential Events. In connection with any event that will require an adjustment to the Conversion Rate pursuant to this Section 11.05 or any Share Exchange Event or any event or transaction described in Section 6.01 (unless prior notice of such event is otherwise required pursuant to another provision of this Indenture), the Company shall, at least 45 Scheduled Trading Days (or 30 Scheduled Trading Days if Stockholder Approval has not been obtained at such time) prior to the anticipated occurrence or effective date of such event or transaction, mail to the Holders a notice of such transaction or event describing the event, the anticipated occurrence or effective date, as the case may be, the methodology for determining the relevant adjustment (if applicable) to the Conversion Rate or other terms of the Notes and such other information as the Company reasonably determines is appropriate to include.

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

Section 11.06 Effect of Reclassification, Consolidation, Merger or Sale.

(a) In the case of:

(i) any recapitalization, reclassification or change of the Common Stock (other than a change resulting from a subdivision or combination for which an adjustment is provided pursuant to Section 11.05);

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

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

(iv) any statutory share exchange,

in each case, as a result of which the Common Stock will be converted into, or exchanged for, stock, other securities or other property or assets (including cash or any combination thereof) (any such event, a "**Share Exchange Event**" and any such stock, other securities or other property or assets, "**Reference Property**," and the amount of Reference Property that a holder of one share of the Common Stock immediately prior to such Share Exchange Event would have been entitled to receive upon the occurrence of such Share Exchange Event, a "**Unit of Reference Property**"), then the Company or the successor or purchasing company, as the case may be, shall execute a supplemental indenture providing that, at and after the effective time of such Share Exchange Event, the Notes shall become convertible into Units of Reference Property; *provided* that, at and after the effective time of such Share Exchange Event, (x) prior to obtaining Stockholder Approval, for each share of Common Stock that the Company would otherwise be obligated to deliver with respect to such conversion, the Company shall instead deliver a Unit of Reference Property and (y) after obtaining Stockholder Approval prior to the relevant Conversion Date, the amount of cash (if any) and the number of Units of Reference Property (if any) that the Company shall deliver upon conversion of a Note shall be determined pursuant to Section 11.03 (and the definitions referenced therein), except that for any VWAP Trading Day during the relevant Observation Period in the case of Cash Settlement or Combination Settlement (A) the Daily VWAP for such VWAP Trading Day shall be calculated

based on the value of a Unit of Reference Property on such VWAP Trading Day and (B) in lieu of each share of Common Stock that the Company would otherwise be obligated to deliver on such VWAP Trading Day, the Company shall deliver a Unit of Reference Property.

If a Share Exchange Event causes the Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), then (i)the Reference Property shall be deemed to be the weighted average of the types and amounts of consideration received by the holders of Common Stock that affirmatively make such an election, and (ii) the Unit of Reference Property for purposes of the immediately preceding paragraph shall refer to the consideration referred to in clause (i) attributable to one share of Common Stock. The Company shall notify Holders, the Trustee and the Conversion Agent (if other than the Trustee) of such weighted average as soon as practicable after such determination is made.

Such supplemental indenture described in the second immediately preceding paragraph shall provide for anti-dilution and other adjustments that are as nearly equivalent as possible to the adjustments provided for in this Article 11. If the Reference Property in respect of any Share Exchange Event includes shares of stock, securities or other property or assets of a Person other than the Company or, in the case of a transaction described in Article 6, the Successor Company, then such supplemental indenture shall also be executed by such other Person and shall contain such additional provisions to protect the interests of the Holders of the Notes, including the right of Holders to require the Company to purchase their Notes upon a Fundamental Change pursuant to Article 3, as the Board of Directors shall reasonably consider necessary by reason of the foregoing.

(b) If the Company desires that the Trustee execute a supplemental indenture pursuant to this Section 11.06, as promptly as practicable, the Company shall file with the Trustee an Officer's Certificate briefly describing such Share Exchange Event, the composition of a Unit of Reference Property for such Share Exchange Event, any adjustment to be made with respect thereto and that all conditions precedent to such Share Exchange Event under this Indenture have been complied with. The Company shall also issue a press release containing such information and shall make such press release available on its website.

(c) The Company shall not become a party to any Share Exchange Event unless its terms are consistent with this Section 11.06. None of the foregoing provisions shall affect the right of a holder of Notes to convert its Notes as set forth in Section 11.02 and Section 11.01 prior to the effective date of such Share Exchange Event.

(d) The provisions of this Section 11.06 shall apply successively to successive Share Exchange Events.

Section 11.07 Adjustment to Conversion Rate Upon Certain Transactions.

(a) If a Make-Whole Fundamental Change occurs and a Holder elects to convert its Note in connection with such Make-Whole Fundamental Change, the Company shall, in the circumstances described in this Section 11.07, increase the Conversion Rate for such Note by the number of additional shares of Common Stock (the "**Additional Shares**") determined

under this Section 11.07. For the purposes of this Section 11.07, (1) a conversion of Notes shall be deemed to be "in connection with" a Make-Whole Fundamental Change, with respect to clause (i) of the definition thereof, if the Conversion Date occurs during the period beginning on, and including, the date on which such Make-Whole Fundamental Change occurs or becomes effective (such date, the "**Transactional Make-Whole Fundamental Change Effective Date**") and ending on, and including, the Business Day immediately preceding the earliest of (i) the 35th Scheduled Trading Day immediately following the Transactional Make-Whole Fundamental Change Effective Date, (ii) the related Fundamental Change Purchase Date, if such Make-Whole Fundamental Change is also a Fundamental Change, and (iii) the Business Day immediately preceding the Maturity Date and (2) a conversion of Notes shall be deemed to be "in connection with" a Make-Whole Fundamental Change, with respect to clause (ii) of the definition thereof, if the Conversion Date occurs during the period beginning on, and including, the date the Redemption Notice is issued (the "**Optional Redemption Make-Whole Fundamental Change Effective Date**," and together with the Transactional Make-Whole Fundamental Change Effective Date, the "**Make-Whole Fundamental Change Effective Date**") and ending on the Close of Business on the Business Day prior to the Redemption Date. The Company shall notify Holders within one Business Day after the first public announcement by the Company or a third party of an event or transaction that the Company reasonably determines would, if consummated, constitute a Make-Whole Fundamental Change pursuant to clause (i) of the definition thereof. Upon receiving notice or otherwise becoming aware of a potential Make-Whole Fundamental Change pursuant to clause (i) of the definition thereof, the Company shall use commercially reasonable efforts to announce or cause the announcement of such potential Make-Whole Fundamental Change in time to deliver such notice at least 50 Scheduled Trading Days prior to the anticipated Transactional Make-Whole Fundamental Change Effective Date if Stockholder Approval has been obtained The Company will notify Holders and the Trustee of the occurrence of a Transactional Make-Whole Fundamental Change Effective Date no later than one Business Day after such date.

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

(c) The Stock Prices set forth in the column headings of the table in clause (d) below shall be adjusted as of any date on which the Conversion Rate is adjusted pursuant to Section 11.05. The adjusted Stock Prices shall equal the Stock Prices in effect immediately prior to such adjustment, multiplied by a fraction, the numerator of which is the Conversion Rate in effect immediately prior to the adjustment giving rise to the Stock Price adjustment, and the denominator of which is the Conversion Rate in effect immediately after such adjustment. The number of Additional Shares set forth in the table in clause (d) below shall be adjusted at the same time and in the same manner as the Conversion Rate is adjusted pursuant to Section 11.05.

(d) The following table sets forth the number of Additional Shares by which the Conversion Rate will be increased for a Holder that converts its Note in connection with a

Make-Whole Fundamental Change having any Make-Whole Fundamental Change Effective Date and Stock Price set forth therein:

Make-Whole Fundamental Change Effective Date	Stock Price									
	$4.51	$4.90	$5.30	$6.25	$7.42	$9.00	$12.00	$15.00	$20.00	$30.00
May 3, 2013	33.0235	33.0235	33.0235	33.0235	24.0434	15.9830	7.7975	3.7893	0.8374	0.0001
May 1, 2014	33.0235	33.0235	33.0235	32.0189	22.7091	14.9351	7.1834	3.4413	0.7164	0.0000
May 1, 2015	33.0235	33.0235	33.0235	29.8063	20.7821	13.4507	6.3416	2.9773	0.5580	0.0000
May 1, 2016	33.0235	33.0235	33.0235	26.5253	17.9833	11.3572	5.2199	2.3932	0.3778	0.0000
May 1, 2017	33.0235	33.0235	32.8390	21.5594	13.8600	8.4001	3.7500	1.6744	0.1791	0.0000
May 1, 2018	33.0235	31.6847	24.2347	13.6410	7.7135	4.3830	1.9949	0.8778	0.0015	0.0000
May 1, 2019	33.0235	15.3757	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

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

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

(ii) if the Stock Price is greater than $30.00 (subject to adjustment in the same manner and at the same time as the Stock Prices listed in the table), no Additional Shares shall be added to the Conversion Rate; and

(iii) if the Stock Price is less than $4.51 (subject to adjustment in the same manner and at the same time as the Stock Prices listed in the table), no Additional Shares shall be added to the Conversion Rate.

Notwithstanding anything to the contrary in this Section 11.07, in no event shall the Conversion Rate exceed the Maximum Conversion Rate, which is 221.7294 shares per $1,000 principal amount of Notes, subject to adjustment at the same time and in the same manner as the Conversion Rate pursuant to Section 11.05.

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

(i) that is described in clause (2) of the definition Fundamental Change and in which the holders of Common Stock receive only cash in consideration for their shares (a "**Cash Merger**"), notwithstanding anything to the contrary in Section 11.03, the Company shall satisfy its Conversion Obligation with respect to any Note converted at any time following such Cash Merger by delivering to the converting Holder, on the third Business Day immediately following the Conversion Date for such Note, an amount of cash, for each $1,000 principal amount of such Note converted, equal to the product of (A) the Conversion Rate in effect on such Conversion Date (as increased by any Additional Shares pursuant to this Section 11.07) and (B) the "Stock

Price" with respect to such Cash Merger, which shall be the cash amount per share paid to holders of Common Stock in such Cash Merger; or

(ii) that is not a Cash Merger, (A) the "Stock Price" with respect to such Make-Whole Fundamental Change shall equal the average of the Last Reported Sale Prices of the Common Stock over the five Trading Day period ending on, and including, the Trading Day immediately preceding the related Make-Whole Fundamental Change Effective Date, and (B) for the avoidance of doubt, the Company shall satisfy its Conversion Obligation with respect to any Note converted in connection with such Make-Whole Fundamental Change in accordance with Section 11.03, based on the Conversion Rate as increased by any Additional Shares pursuant to this Section 11.07.

Section 11.08 Trustee's Disclaimer. None of the Trustee, Registrar, Paying Agent, Conversion Agent or the Bid Solicitation Agent shall have any duty to determine when an adjustment under this Article 11 should be made, how it should be made or what it should be. None of the Trustee, Registrar, Paying Agent, Conversion Agent or Bid Solicitation Agent shall be responsible for determining whether any of a Fundamental Change, a Make-Whole Fundamental Change, a VWAP Market Disruption Event, a Trigger Event or a Share Exchange Event shall have occurred. None of the Trustee, the Registrar, the Paying Agent, Conversion Agent or the Bid Solicitation Agent shall have any shall be accountable for and makes any representation as to the validity or value (of the kind or amount) of any shares of Common Stock, of any Reference Property or of any other securities, property or assets issued upon conversion of Notes. None of the Trustee, the Registrar, the Paying Agent, Conversion Agent or the Bid Solicitation Agent shall be responsible for (a) any failure of the Company to make any cash payment or to issue, transfer or deliver any shares of Common Stock or stock or share certificates or other securities or property upon the surrender of any Note for the purpose of conversion and (b) the Company's failure to comply with this Article 11.

None of the Trustee, Registrar, Paying Agent, Conversion Agent or Bid Solicitation Agent (except for the Bid Solicitation Agent in respect of the calculation of the Trading Price as and to the extent provided in Section 11.01) shall be responsible for calculating the Trading Price, or determining whether any event contemplated by Section 11.01 has occurred which makes the Notes eligible for conversion, or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed herein, in making the same and shall be entitled to presume that no such event has occurred until the Company has delivered to the Trustee an Officer's Certificate stating that such event has occurred, on which Officer's Certificate the Trustee may conclusively rely, and the Company agrees to deliver such Officer's Certificate to the Trustee and any such agent immediately after the occurrence of any such event.

Without limiting the generality of the foregoing, none of the Trustee, Registrar, Paying Agent, Conversion Agent or Bid Solicitation Agent shall be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture entered into pursuant to Section 10.01(c) relating either to the kind or amount of shares of stock or securities or other property or assets (including cash) receivable for Holders upon the conversion of their Notes after any Share Exchange Event or to any adjustment to be made with respect thereto, but, subject to the provisions of Section 8.01, may accept as conclusive evidence of the correctness of

any such provisions, and shall be protected in relying upon, the Officer's Certificate (which the Company shall be obligated to file with the Trustee prior to the execution of any such supplemental indenture) with respect thereto.

Each Conversion Agent and Bid Solicitation Agent (if other than the Company) shall have the same protection under this Section 11.08 as the Trustee, the Registrar and the Paying Agent.

ARTICLE 12

PAYMENT OF INTEREST

Section 12.01 Payment of Interest. The Company shall pay interest on the Notes at a rate of 7.50% per annum, payable semi-annually in arrears on May 1 and November 1 of each year (each, an "**Interest Payment Date**") or, if any such day is not a Business Day, the immediately following Business Day, commencing November 1, 2013. Interest on the Notes shall accrue from the most recent date to which interest has been paid or duly provided for, or, if no interest has been paid, the Original Issuance Date. Interest on a Note shall be paid to the Holder of record of such Note at the Close of Business on the April 15 or October 15, whether or not a Business Day (each, a "**Record Date**"), immediately preceding the May 1 or November 1 Interest Payment Date, respectively, and shall be computed on the basis of a 360-day year composed of twelve 30-day months. Payments of the Redemption Price, the Fundamental Change Purchase Price, cash due upon conversion (if any), and principal and interest that are not made when due shall accrue interest per annum at the then-applicable interest rate plus one percent from the applicable due date expressed in this Indenture.

Section 12.02 Defaulted Interest. Any installment of interest that is payable, but is not punctually paid or duly provided for on any Interest Payment Date ("**Defaulted Interest**"), shall forthwith cease to be payable to the Holders in whose names the Notes were registered on the Record Date applicable to such installment of interest. Defaulted Interest (including any interest on such Defaulted Interest) may be paid by the Company, at its election, as provided in Sections 12.02(a) or 12.02(b).

(a) The Company may elect to make payment of any Defaulted Interest (including any interest on such Defaulted Interest) to the Holders in whose names the Notes are registered at the Close of Business on a special record date for the payment of such Defaulted Interest (a "**Special Record Date**"), which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest (including any interest on such Defaulted Interest) or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Holders entitled to such Defaulted Interest (including any interest on such Defaulted Interest) as provided in this Section 12.02(a). Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest (including any interest on such Defaulted Interest), which shall be not more than 15 calendar days and not less than ten calendar days prior to the date of the proposed

payment and not less than ten calendar days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest (including any interest on such Defaulted Interest) and the Special Record Date therefor to be sent by first-class mail, postage prepaid, to each Holder at such Holder's address as it appears in the registration books of the Registrar, not less than ten calendar days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest (including any interest on such Defaulted Interest) and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest (including any interest on such Defaulted Interest) shall be paid to the Holders in whose names the Notes are registered at the Close of Business on such Special Record Date and shall no longer be payable pursuant to Section 12.02(b).

(b) Alternatively, the Company may make payment of any Defaulted Interest (including any interest on such Defaulted Interest) in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Notes may be listed, and upon such notice as may be required by such exchange if, after notice given by the Company to the Trustee of the proposed payment pursuant to this Section 12.02(b), such manner of payment shall be deemed practicable by the Trustee.

Section 12.03 Interest Rights Preserved. Subject to the foregoing provisions of this Article 12 and, to the extent applicable, Sections 2.06 and 2.07, each Note delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Note shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note.

ARTICLE 13

MEETINGS OF HOLDERS

Section 13.01 Purpose of Meetings. A meeting of Holders may be called at any time and from time to time pursuant to the provisions of this Article 13 for any of the following purposes:

(a) to give any notice to the Company or to the Trustee or to give any directions to the Trustee permitted under this Indenture, or to consent to the waiving of any Default or Event of Default hereunder or rescind any acceleration, or to take any other action authorized to be taken by Holders pursuant to any of the provisions of Article 7;

(b) to remove the Trustee and nominate a successor Trustee pursuant to the provisions of Article 8;

(c) to consent to the execution of an indenture or indentures supplemental hereto pursuant to the provisions of Article 10; or

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

Section 13.02 Call of Meetings by Trustee. The Trustee may at any time call a meeting of Holders to take any action specified in Section 13.01, to be held at such time and at such place as the Trustee shall determine. Notice of every meeting of the Holders, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting and the establishment of any record date pursuant to Section 1.04, shall be mailed to Holders of such Notes at their addresses as they shall appear on the Register. Such notice may also be mailed to the Company. Such notices shall be mailed not less than twenty nor more than sixty days prior to the date fixed for the meeting.

Any meeting of Holders shall be valid without notice if the Holders of all Notes then outstanding are present in person or by proxy or if notice is waived before or after the meeting by the Holders of all Notes then outstanding, and if the Company and the Trustee are either present by duly authorized representatives or have, before or after the meeting, waived notice (in the case of the Company, to the extent such notice was required hereunder).

Section 13.03 Call of Meetings by Company or Holders. In case at any time the Company, pursuant to a Board Resolution, or the Holders of at least 10% of the aggregate principal amount of the Notes then outstanding, shall have requested the Trustee to call a meeting of Holders, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have mailed the notice of such meeting within 20 days after receipt of such request, then the Company or such Holders may determine the time and the place for such meeting and may call such meeting to take any action authorized in Section 13.01, by mailing notice thereof as provided in Section 13.02.

Section 13.04 Qualifications for Voting. To be entitled to vote at any meeting of Holders a Person shall (a) be a Holder of one or more Notes on the record date pertaining to such meeting or (b) be a Person appointed by an instrument in writing as proxy by a Holder of one or more Notes on the record date pertaining to such meeting. The only Persons who shall be entitled to be present or to speak at any meeting of Holders shall be the Persons entitled to vote at such meeting and their counsel and any representatives of the Trustee and its counsel and any representatives of the Company and its counsel.

Section 13.05 Regulations. Notwithstanding any other provisions of this Indenture, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Holders, in regard to proof of the holding of Notes and of the appointment of proxies, and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall think fit.

The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by Holders as provided in Section 13.03, in which case the Company or the Holders calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent

secretary of the meeting shall be elected by vote of the Holders of a majority in principal amount of the Notes represented at the meeting and entitled to vote at the meeting.

Subject to the provisions of Section 2.08, at any meeting of Holders each Holder or proxyholder shall be entitled to one vote for each $1,000 principal amount of Notes held or represented by him or her; *provided, however*, that no vote shall be cast or counted at any meeting in respect of any Note challenged as not outstanding and ruled by the chairman of the meeting to be not outstanding. The chairman of the meeting shall have no right to vote other than by virtue of Notes held by it or instruments in writing as aforesaid duly designating it as the proxy to vote on behalf of other Holders. Any meeting of Holders duly called pursuant to the provisions of Section 13.02 or Section 13.03 may be adjourned from time to time by the Holders of a majority of the aggregate principal amount of Notes represented at the meeting, whether or not constituting a quorum, and the meeting may be held as so adjourned without further notice.

Section 13.06 Voting. The vote upon any resolution submitted to any meeting of Holders shall be by written ballot on which shall be subscribed the signatures of the Holders or of their representatives by proxy and the outstanding principal amount of the Notes held or represented by them. The permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record in duplicate of the proceedings of each meeting of Holders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more Persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was mailed as provided in Section 13.02. The record shall show the principal amount of the Notes voting in favor of or against any resolution. The record shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one of the duplicates shall be delivered to the Company, if appropriate, and the other to the Trustee to be preserved by the Trustee, the latter to have attached thereto the ballots voted at the meeting.

Any record so signed and verified shall be conclusive evidence of the matters therein stated.

Section 13.07 No Delay of Rights by Meeting. Nothing contained in this Article 13 shall be deemed or construed to authorize or permit, by reason of any call of a meeting of Holders or any rights expressly or impliedly conferred hereunder to make such call, any hindrance or delay in the exercise of any right or rights conferred upon or reserved to the Trustee or to the Holders under any of the provisions of this Indenture or of the Notes.

ARTICLE 14

MISCELLANEOUS

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

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

if to the Company:

Supernus Pharmaceuticals, Inc.
1550 East Gude Drive
Rockville, MD 20850
Attn: Jack A. Khattar

if to the Trustee in any of its roles hereunder or the Collateral Agent:

U.S. Bank National Association
Corporate Trust Services
One Federal Street, 3rd Floor
Boston, MA 02110
Attn: Alison Nadeau (Supernus Conv. Sr. Sec. Notes Due 2019)
Facsimile: (617) 603-6683

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

Any notice or communication given to a Holder shall be mailed to the Holder, by first-class mail, postage prepaid, at the Holder's address as it appears on the registration books of the Registrar and shall be deemed given on the date of such mailing.

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

If the Company mails a notice or communication to the Holders, including any notice to Holders pursuant to Article 11, it shall, at the same time, mail a copy to the Trustee and each of the Registrar, Paying Agent and Conversion Agent.

If the Company is required under this Indenture to give a notice to the Holders, in lieu of delivering such notice to the Holders, the Company may deliver such notice to the Trustee and cause the Trustee to have delivered such notice to the Holders on or prior to the date on which the Company would otherwise have been required to deliver such notice to the Holders. In such a case, the Company shall also cause the Trustee to mail a copy of the notice to each of the Registrar, Paying Agent and Conversion Agent at the same time it mails the notice to the Holders.

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

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

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

Section 14.03 Statements Required in Certificate or Opinion. Each Officer's Certificate or Opinion of Counsel with respect to compliance with a covenant or condition (except for such Officer's Certificate required to be delivered pursuant to Section 5.03 or Section 7.01(b)) provided for in this Indenture shall include:

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

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

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

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

For the avoidance of doubt, in connection with any Opinion of Counsel delivered under this Indenture, delivering counsel may rely with respect to statements of fact on one or more Officer's Certificates.

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

Section 14.05 Rules by Trustee. The Trustee may make reasonable rules for action by or a meeting of Holders.

Section 14.06 Governing Law. THIS INDENTURE AND EACH NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. EACH OF THE COMPANY AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT IT MAY HAVE TO TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

Section 14.07 No Recourse Against Others. A director, officer, employee or stockholder, as such, of the Company shall not have any liability for any obligations of the Company under the Notes or this Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Note, each Holder shall waive and release all such liability. The waiver and release shall be part of the consideration for the issue of the Notes.

Section 14.08 Calculations. Except as otherwise provided in Section 11.01(b)(ii) and the definition of Trading Price in Section 1.01 (with respect to the Trustee acting as Bid Solicitation Agent), the Company shall be responsible for making all calculations called for under this Indenture and under the Notes. These calculations include, but are not limited to, determinations of the Last Reported Sale Prices of the Common Stock, Daily VWAPs, Daily Settlement Amounts, Daily Conversion Values, Daily Measurement Values, Specified Dollar Amounts, Stock Prices, Trading Prices (if the Trustee is not the Bid Solicitation Agent), accrued interest payable on the Notes and the Conversion Rate in effect on any Conversion Date.

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

All calculations shall be made to the nearest cent or to the nearest 1/10,000th of a share, as the case may be, with 5/100,000ths rounded upward (*e.g.*, 0.76545 would be rounded up to 0.7655).

Section 14.09 Successors. All agreements of the Company, the Trustee, the Registrar, the Paying Agent and the Conversion Agent in this Indenture and the Notes shall bind their respective successors.

Section 14.10 Multiple Originals. The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. One signed copy is enough to prove this Indenture. The exchange of copies of this Indenture and of signature pages by facsimile or electronic format (*i.e.*, "pdf" or "tif") transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or electronic format (*i.e.*, "pdf" or "tif") shall be deemed to be their original signatures for all purposes.

Section 14.11 Table of Contents; Headings. The table of contents and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions hereof.

Section 14.12 Force Majeure. The Trustee, Registrar, Paying Agent, Bid Solicitation Agent and Conversion Agent shall not incur any liability for not performing any act or fulfilling

any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of such person (including but not limited to any act or provision of any present or future law or regulation or governmental authority, any act of God or war, civil unrest, local or national disturbance or disaster, any act of terrorism, or the unavailability of the Federal Reserve Bank wire or facsimile or other wire or communication facility).

Section 14.13 Submission to Jurisdiction. The Company (a) agrees that any suit, action or proceeding against it arising out of or relating to this Indenture or the Notes, as the case may be, may be instituted in any U.S. federal court with applicable subject matter jurisdiction sitting in The City of New York; (b) waives, to the fullest extent permitted by applicable law, any objection which it may now or hereafter have to the laying of venue of any such suit, action or proceeding, and any claim that any suit, action or proceeding in such a court has been brought in an inconvenient forum; and (c) submits to the non-exclusive jurisdiction of such courts in any suit, action or proceeding.

Section 14.14 Legal Holidays. If any Interest Payment Date, the Maturity Date or any Fundamental Change Purchase Date occurs on a day that is not a Business Day, the payment required to be made on such day shall be postponed until the immediately following Business Day, and no interest on such payment shall accrue in respect of such delay.

Section 14.15 Benefits of Indenture. Nothing in this Indenture or in the Notes, expressed or implied, shall give to any Person, other than the parties hereto, any Paying Agent, any Conversion Agent, any Bid Solicitation Agent, any authenticating agent, any Registrar and their successors hereunder or the Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture, other than (a) the right of a beneficial owner to exchange its beneficial interest in a Global Note for a Certificate Note during the continuance of an Event of Default pursuant to Section 2.12(a)(ii) and (n) the right of a holder of Common Stock issued upon conversion to enforce the provisions of Section 2.06(i).

ARTICLE 15

Section 15.01 Security Interest; Collateral Agent.

(a) The due and punctual payment of the principal of, premium on, if any, and interest on, the Notes when and as the same shall be due and payable, whether on an interest payment date, at maturity, by acceleration, repurchase, redemption, prepayment, demand or otherwise, and interest on the overdue principal of, premium on, if any, or interest on, the Notes and performance of all other obligations of the Company to the Holders of Notes, the Trustee and the Collateral Agent under this Indenture and the Notes, according to the terms hereunder or thereunder, are secured as provided in the Collateral Agreements.

(b) Each Holder of Notes, by its acceptance thereof, consents and agrees to the terms of the Collateral Agreements (including, without limitation, the provisions providing for foreclosure and release of Collateral and authorizing the Collateral Agent to enter into any Collateral Agreement on its behalf) as the same may be in effect or may be amended or otherwise modified from time to time in accordance with their terms and authorizes and appoints U.S. Bank National Association as theCollateral Agent, and authorizes and directs the Collateral

Agent to enter into the Collateral Agreements and to perform its obligations and exercise its rights thereunder in accordance therewith. The Collateral Agent shall be entitled to all rights, privileges, immunities and protections of the Trustee set forth in this Indenture, including but not limited to the right to be compensated, reimbursed and indemnified under Section 8.06, in the acceptance, execution, delivery and performance of the Collateral Agreements as though fully set forth therein.Notwithstanding any provision to the contrary contained elsewhere in this Indenture and the Collateral Agreements, the Collateral Agent shall not have any duties or responsibilities hereunder nor shall the Collateral Agent have or be deemed to have any fiduciary relationship with the Trustee, any Holder or the Company, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Indenture and the Collateral Agreements or otherwise exist against the Collateral Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" in this Indenture with reference to the Collateral Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties. The Collateral Agent shall act pursuant to the instructions of the Holders and the Trustee with respect to the Collateral Agreements and the Collateral. For the avoidance of doubt, the Collateral Agent shall have no discretion under this Indenture or the Collateral Agreements and, subject to Section 15.05, shall not be required to make or give any determination, consent, approval, request or direction without the written direction of the Holders of a majority in aggregate principal amount of the then outstanding Notes or the Trustee, as applicable. After the occurrence of an Event of Default, the Trustee may direct the Collateral Agent in connection with any action required or permitted by this Indenture or the Collateral Agreements.

(c) The Company consents and agrees to be bound, and, subject to Section 15.05, to cause its Domestic Subsidiaries to consent and agree to be boundby the terms of the Collateral Agreements, as the same may be in effect from time to time, and agrees to perform its, and to cause its Domestic Subsidiaries to perform their, obligations thereunder in accordance therewith. The Company will deliver to the Trustee copies of all documents delivered to the Collateral Agent pursuant to the Collateral Agreements, and the Company will, and, subject to Section 15.05, the Company will cause each of its Domestic Subsidiaries to, do or cause to be done all such acts and things as may be required by the provisions of the Collateral Agreements to assure and confirm to the Trustee that the Collateral Agent holds for the benefit of the Trustee and the Holders duly created, enforceable and perfected Liens as contemplated by the Collateral Agreements or any part thereof, as from time to time constituted.

(d) The Company will take, and, subject to Section 15.05, will cause its Subsidiaries to take (including as may be requested by the Trustee), any and all actions reasonably required to cause the Collateral Agreements to create and maintain, as security for the Obligations of the Company hereunder, in respect of the Collateral, valid and enforceable perfected first-priority Liens in and on all of the Collateral and subject to no other Liens other than as permitted by the terms of this Indenture and the Collateral Agreements.

(e) The Collateral Agent shall not (i) be liable for any action taken or omitted to be taken by it under or in connection with this Indenture or the transactions contemplated hereby (except for its own gross negligence, willful misconduct or bad faith) or under or in

connection with any Collateral Document or the transactions contemplated thereby (except for its own gross negligence, willful misconduct or bad faith), or (ii) be responsible in any manner to any of the Trustee or any Holder for any recital, statement, representation, warranty, covenant or agreement made by the Company or Affiliate of the Company, or any officer or Affiliate thereof, contained in this Indenture, any Collateral Agreement or in any certificate, report, statement or other document referred to or provided for in, or received by the Collateral Agent under or in connection with, this Indenture or the Collateral Agreements, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Indenture or the Collateral Agreements, or for any failure of any other party to this Indenture or the Collateral Agreements to perform its obligations hereunder or thereunder. The Collateral Agent shall not be under any obligation to the Trustee or any Holder to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Indenture or the Collateral Agreements or to inspect the properties, books, or records of the Company or any of its Affiliates.

(f) No provision of this Indenture or any Collateral Agreement shall require the Collateral Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or thereunder or to take or omit to take any action hereunder or thereunder or take any action at the request or direction of Holders or the Trustee if it shall have reasonable grounds for believing that repayment of such funds is not assured to it. Notwithstanding anything to the contrary contained in this Indenture or the Collateral Agreements, in the event the Collateral Agent is entitled or required to commence an action to foreclose or otherwise exercise its remedies to acquire control or possession of the Collateral, the Collateral Agent shall not be required to commence any such action or exercise any remedy or to inspect or conduct any studies of any property under the mortgages or take any such other action if the Collateral Agent has determined that the Collateral Agent may incur personal liability as a result of the presence at, or release on or from, the Collateral or such property, of any hazardous substances unless the Collateral Agent has received security or indemnity from the Holders in an amount and in a form satisfactory to the Collateral Agent in its sole discretion, protecting the Collateral Agent from all such liability. The Collateral Agent shall at any time be entitled to cease taking any action described in this clause if it no longer reasonably deems any indemnity, security or undertaking from the Company or the Holders to be sufficient.

(g) Subject to 15.05 hereof, in each case that the Collateral Agent may or is required hereunder to take any action (an "Action"), including without limitation to make any determination, to give consents, to exercise rights, powers or remedies, to release or sell Collateral or otherwise to act hereunder or under any other Collateral Agreement, the Collateral Agent may seek direction from the Holders of a majority in aggregate principal amount of the then outstanding Notes. The Collateral Agent shall not be liable with respect to any Action taken or omitted to be taken by it in accordance with the direction from the Holders of a majority in aggregate principal amount of the then outstanding Notes. If the Collateral Agent shall request direction from the Holders of a majority in aggregate principal amount of the then outstanding Notes with respect to any Action, the Collateral Agent shall be entitled to refrain from such Action unless and until the Collateral Agent shall have received direction from the Holders of a majority in aggregate principal amount of the then outstanding Notes, and the Collateral Agent shall not incur liability to any Person by reason of so refraining.

(h) The Collateral Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, unless the Collateral Agent shall have received written notice from the Trustee or the Company referring to this Indenture, describing such Default or Event of Default and stating that such notice is a "notice of default." The Collateral Agent shall take such action with respect to such Default or Event of Default as may be requested by the Trustee in accordance with Article 7 or the Holders of a majority in aggregate principal amount of the Notes subject to this Article 15.

(i) Beyond the exercise of reasonable care in the custody thereof, neither the Trustee nor the Collateral Agent shall have any duty as to any Collateral in its possession or control or in the possession or control of any agent or bailee or any income thereon or as to preservation of rights against prior parties or any other rights pertaining thereto and neither the Trustee nor the Collateral Agent shall be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any security interest in the Collateral. Each of the Trustee and the Collateral Agent shall be deemed to have exercised reasonable care in the custody of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which it accords its own property and shall not be liable or responsible for any loss or diminution in the value of any of the Collateral, by reason of the act or omission of any carrier, forwarding agency or other agent or bailee selected by the Trustee or the Collateral Agent, as applicable, in good faith.

Section 15.02 Recording and Opinion. The Company shall furnish to the Trustee and the Collateral Agent (if other than the Trustee), on or within one month of March 15 of each year, commencing March 15, 2014, an Opinion of Counsel either (1) stating that, in the opinion of such counsel, all action necessary to perfect or continue the perfection of the security interests created by the Collateral Agreements have been taken, and reciting the details of such action or referring to prior Opinions of Counsel in which such details are given; or (2) stating that, in the opinion of such counsel, no such action is necessary to perfect or continue the perfection of any security interest created under any of the Collateral Agreements.

Section 15.03 Authorization of Actions to Be Taken by the Trustee Under the Collateral Agreements.

(a) Upon reasonable request of the Trustee, but without any affirmative duty on the Trustee to do so, the Company shall, and shall, subject to Section 15.05, cause its Domestic Subsidiaries to, execute and deliver such further instruments and do such further acts as may be reasonably necessary to carry out more effectively the purposes of this Indenture. Subject to the provisions of Section 8.01 and the terms of the Collateral Agreements, the Trustee may (but shall have no obligation to, subject to Article 7 hereof), in its sole discretion and without the consent of the Holders, direct, on behalf of the Holders of Notes, the Collateral Agent to take all actions it deems necessary or appropriate in order to:

(i) enforce any of the terms of the Collateral Agreement; and

(ii) collect and receive any and all amounts payable in respect of the Obligations of the Company hereunder.

(b) Subject to the provisions hereof, the Collateral Agreements, the Trustee and/or the Collateral Agent will have power to institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Collateral by any acts that may be unlawful or in violation of the Collateral Agreements or this Indenture, and such suits and proceedings as may be necessary to preserve or protect the interests of the Trustee, the Collateral Agent and the interests of the Holders of Notes in the Collateral (including power to institute and maintain suits or proceedings to restrain the enforcement of or compliance with any legislative or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid if the enforcement of, or compliance with, such enactment, rule or order would impair the security interest hereunder or be prejudicial to the interests of the Holders of Notes or of the Trustee and/or the Collateral Agent).

Section 15.04 Authorization of Receipt of Funds by the Trustee under the Collateral Agreements. The Trustee and/or the Collateral Agent is authorized to receive any funds for the benefit of the Holders of Notes distributed under the Collateral Agreements, and to make further distributions of such funds to the Holders of Notes according to the provisions of this Indenture.

Section 15.05 Termination of Security Interest; Release of Collateral.

(a) Collateral will be released automatically from the Liens securing the Obligations without consent of the Holders:

(i) In connection with the consummation of any sale, transfer, license, monetization or other disposition of property or assets (including a disposition resulting from eminent domain, condemnation or similar circumstances) by the Company or a Domestic Subsidiary to the extent not prohibited by Article 5 or Article 6 hereof; provided that if security interests in property or assets (including equity interests) are to be released pursuant to this Section 15.05(a)(i) in connection with a transfer or other disposition of assets and/or property to another Domestic Subsidiary, the Company will certify that such transfer or other disposition will be reasonably necessary to consummate a royalty stream financing (or similar transaction) and the Company will receive fair market value in connection with such royalty stream financing (or similar transaction) contemporaneously with such transfer or other disposition of assets and/or property; or

(ii) upon a modification of the Indenture and/or Collateral Agreements in accordance with Article 10 that identifies assets and/or property to be released from the Liens securing the Obligations.

(b) Neither the Trustee nor the Collateral Agent shall have any duty or liability for determining the Company's compliance with this Section 15.05, but instead may rely on Officer's Certificates issued by the Company under this Section 15.05.

(c) The security interests granted under this Indenture and all Collateral Agreements will terminate upon the full and final payment and performance of all Obligations of the Company and any other obligors, if any and as applicable, under this Indenture, the Notes and the Collateral Agreements.

Section 15.06 Compliance with Trust Indenture Act. The Company will otherwise comply with the provisions of TIA §314. The Company shall deliver to the Trustee an Officer's Certificate and an Opinion of Counsel stating that all conditions precedent under this Indenture and the Collateral Agreements relating to the execution and delivery of each such release have been complied with. To the extent applicable, the Company will cause TIA §313(b), relating to reports, and TIA §314(d), relating to the release of property or securities or relating to the substitution therefor of any property or securities to be subjected to the Lien of the Collateral Agreements, to be complied with. Any certificate or opinion required by TIA §314(d) may be made by an Officer of the Company except in cases where TIA §314(d) requires that such certificate or opinion be made by an independent Person, which Person will be an independent engineer, appraiser or other expert selected or reasonably satisfactory by the Company. The selection of any independent person shall be approved by the Board of Directors of the Company whose resolution with respect thereto shall be delivered to the Trustee. Notwithstanding anything to the contrary in this paragraph, the Company will not be required to comply with all or any portion of TIA §314(d) if it determines, in good faith based on advice of counsel, that under the terms of TIA §314(d) and/or any interpretation or guidance as to the meaning thereof of the SEC, including "no action" letters or exemptive orders, all or any portion of TIA §314(d) is inapplicable to one or a series of released Collateral.

Section 15.07 Collateral Agent.

(a) The Company has appointed U.S. Bank National Association to serve as the Collateral Agent for the benefit of the Holders of the Notes.

(b) The Collateral Agent will hold (directly or through co-trustees, agents or sub-agents), and will be entitled to enforce on behalf of the Holders of the Notes, all Liens on the Collateral.

(c) Neither the Trustee nor the Collateral Agent shall be responsible for and makes no representation as to the existence, genuineness, value or protection of or insurance with respect to any Collateral, for the legality, effectiveness or sufficiency of any Collateral Agreement, or for the creation, perfection, priority, sufficiency or protection of any Liens securing the Notes and Obligations under the Notes. Neither the Trustee nor the Collateral Agent shall be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any Lien or security interest in the Collateral.

(d) Each Holder hereby authorizes and directs the Trustee and Collateral Agent to act pursuant to the Collateral Agreements and all other instruments relating to the Collateral Agreements and (i) to take action and exercise such powers and remedies as are expressly required or permitted hereunder and under the Collateral Agreements and all instruments relating hereto and thereto and (ii) to exercise such powers and perform such duties as are, in each case, expressly delegated to the Collateral Agent by the terms hereof and thereof, together with such other powers as are reasonably incidental hereto and thereto.

Section 15.08 Additional Collateral.

(a) If property of a type constituting Collateral is acquired by the Company or any Domestic Subsidiary that is not automatically subject to a perfected security interest under the Collateral Agreements, then the Company will, or will cause such Domestic Subsidiary to:

(i) grant Liens on such property in favor of the Collateral Agent for the benefit of the Holdersand cause the Liens granted to be duly perfected;and

(ii) comply with the requirements of the Collateral Agreements.

Section 15.09 Further Assurances; Maintenance of Properties and Insurance.

(a) The Company will perfect the security interests in the Collateral for the benefit of the Holders of Notes, to the extent required by the Collateral Agreements, promptly following the date hereof, but in any event shall do, or cause to be done, all such acts and things as may be necessary or proper to have all such security interests perfected by no later than 45 days after the date hereof. The Company will deliver an Officer's Certificate to the Trustee and the Collateral Agent confirming that all of the security interests have been perfected as described in this Section 15.09(a) by no later than 45 days after the date hereof.

(b) The Company shall, at its sole cost and expense, (a) execute and deliver all such agreements and instruments and take all further action as may be required to more fully or accurately describe the property intended to be Collateral or the obligations intended to be secured by the Collateral Agreements and (b) file any such notice filings or other agreements or instruments as may be reasonably necessary or desirable or required under applicable law to perfect the Liens created by the Collateral Agreements within the timeframes set out in Section 15.09(a). The Company will not take or omit to take any action that would adversely affect or impair in any material respect the Liens in favor of the Collateral Agent with respect to the Collateral, except as otherwise permitted or required by the Collateral Agreements or this Indenture.

(c) Subject to the limitations set forth in Section 15.09(a), upon the reasonable request of the Collateral Agent at any time and from time to time, the Company will, and will cause its Domestic Subsidiaries to, promptly execute, acknowledge and deliver such Collateral Agreements, instruments, certificates, notices and other documents, and take such other actions as may be reasonably required, or that the Collateral Agent may reasonably request, to create, perfect, protect, assure or enforce the Liens and benefits intended to be conferred, in each case as contemplated by this Indenture and the Collateral Agreements for the benefit of the Holders of Notes.

(d) The Company shall (a) cause all properties used or useful in the conduct of its business or the business of any of its Subsidiaries to be maintained and kept in good condition, repair and working order as, in the judgment of the Company, may be necessary so that the business of the Company and its Subsidiaries may be properly and advantageously conducted at all times; provided that nothing in this section prevents the Company or any Subsidiary from discontinuing the use, operation or maintenance of any of such properties or disposing of any of them, if such discontinuance or disposal is, in the reasonable judgment of the Company, desirable in the conduct of the business of the Company and its Subsidiaries, taken as

a whole; and (b) provide, or cause to be provided, for itself and its Subsidiaries, insurance (including appropriate self-insurance) against loss or damage of the kinds customarily insured against by corporations similarly situated and owning like properties, including, but not limited to, products liability insurance, physical damage insurance and public liability insurance, with reputable insurers, in such amounts, with such deductibles and by such methods as are customary for corporations similarly situated in the industry in which the Company and its Subsidiaries are then conducting business.

[Remainder of page intentionally left blank]

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

SUPERNUS PHARMACEUTICALS, INC.

By: /s/ Jack A. Khattar
Name: Jack A. Khattar
Title: President and Chief Executive Officer

U.S. BANK NATIONAL ASSOCIATION.,
as Trustee

By: /s/ Alison D.B. Nadeau
Name: Alison D.B. Nadeau
Title: Vice President

U.S. BANK NATIONAL ASSOCIATION.,
as Collateral Agent

By: /s/ Alison D.B. Nadeau
Name: Alison D.B. Nadeau
Title: Vice President

EXHIBIT A

[FORM OF FACE OF NOTE]

NO AFFILIATE (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT) OF THE COMPANY OR PERSON THAT HAS BEEN AN AFFILIATE (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT) OF THE COMPANY DURING THE IMMEDIATELY PRECEDING THREE MONTHS MAY PURCHASE, OTHERWISE ACQUIRE OR HOLD THIS NOTE OR A BENEFICIAL INTEREST HEREIN.

*[Include the following legend for Global Notes only (the "**Global Securities Legend**"):]*

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

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

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

(A) TO SUPERNUS PHARMACEUTICALS, INC. (THE "**COMPANY**") OR ANY SUBSIDIARY THEREOF;

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

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

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

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

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

SUPERNUS PHARMECEUTICALS, INC.

7.50% Convertible Senior Secured Note due 2019

No. [ ] [Initially](1) $[ ]
CUSIP No. [ ]

Supernus Pharmaceuticals, Inc., a corporation duly organized and validly existing under the laws of the State of Delaware (the "**Company**," which term includes any successor corporation or other entity under the Indenture referred to on the reverse hereof), for value received hereby promises to pay to [CEDE & CO.](2) [ ](3), or registered assigns, the principal sum [as set forth in the "Schedule of Exchanges of Notes" attached hereto](4) [of $[ ]] (5), which amount, taken together with the principal amounts of all other outstanding Notes, shall not, unless permitted by the Indenture, exceed $75,000,000 (as may be increased by an amount equal to the aggregate principal amount of any additional Notes purchased by the initial purchasers pursuant to the exercise of their option to purchase additional Notes as described in the Offering Memorandum) in aggregate at any time, on May 1, 2019, and interest thereon as set forth below.

This Note shall bear interest at the rate of 7.50% per year from May 3, 2013, or from the most recent date to which interest had been paid or provided for to, but excluding, the next scheduled Interest Payment Date until May 1, 2019. Interest is payable semi-annually in arrears on each May 1 and November 1, commencing on November 1, 2013, to Holders of record at the close of business on the preceding April 15 and October 15 (whether or not such day is a Business Day), respectively. Additional Interest will be payable under the circumstances set forth in the within-mentioned Indenture, and any reference to interest on, or in respect of, any Note therein shall be deemed to include Additional Interest if, in such context, Additional Interest is, was or would be payable pursuant to the Indenture and any express mention of the payment of Additional Interest in any provision therein shall not be construed as excluding Additional Interest in those provisions thereof where such express mention is not made.

Payments of the Redemption Price, the Fundamental Change Purchase Price, cash due upon conversion, principal and interest that are not made when due shall accrue interest per annum at the then-applicable interest rate plus one percent from the required payment date.

The Company shall pay the principal of and interest on this Note, so long as such Note is a Global Note, in immediately available funds to the Depositary or its nominee, as the case may be, as the registered Holder of such Note. As provided in and subject to the provisions of the Indenture, the Company shall pay the principal of any Notes (other than Notes that are Global Notes) at the office or agency designated by the Company for that purpose. The Company has initially designated U.S. Bank National Association (the "Trustee") as its Paying Agent and

(1) Include if a global note.
(2) Include if a global note.
(3) Include if a physical note.
(4) Include if a global note.
(5) Include if a physical note.

Registrar in respect of the Notes and its agency in the Borough of Manhattan, The City of New York, as a place where Notes may be presented for payment or for registration of transfer.

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

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

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

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

[Remainder of page intentionally left blank]

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

SUPERNUS PHARMACEUTICALS, INC.

By: _____
Name:
Title:

Dated:

TRUSTEE'S CERTIFICATE OF
AUTHENTICATION

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

By: _____
Name:
Authorized Signatory

[FORM OF REVERSE OF NOTE]
SUPERNUS PHARMECEUTICALS, INC.

This Note is one of a duly authorized issue of Notes of the Company, designated as its 7.50% Convertible Senior Secured Notes due 2019 (the "**Notes**"), limited to the aggregate principal amount of $75,000,000 (as may be increased by an amount equal to the aggregate principal amount of any additional Notes purchased by the initial purchasers pursuant to the exercise of their option to purchase additional Notes as described in the Offering Memorandum)all issued or to be issued under and pursuant to an Indenture dated as of May 3, 2013 (the "**Indenture**"), between the Company and U.S. Bank National Association, as Trustee (the "**Trustee**") and Collateral Agent (the "**Collateral Agent**"), to which Indenture and all indentures supplemental thereto reference is hereby made for a description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Trustee, the Company and the Holders of the Notes.

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

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

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

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

The Notes are issuable in registered form without coupons in denominations of $1,000 principal amount and integral multiples thereof. At the office or agency of the Company referred

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

The Notes shall be redeemable at the Company's option in accordance with the terms and conditions specified in the Indenture.

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

Subject to the provisions of the Indenture, the Holder hereof has the right, at its option, during certain periods and upon the occurrence of certain conditions specified in the Indenture, prior to the Close of Business on the Business Day immediately preceding the Maturity Date, to convert any Notes or portion thereof that is $1,000 or an integral multiple thereof, into shares of Common Stock or, following Stockholder Approval, cash, shares of Common Stock or a combination thereof, based on the Conversion Rate specified in the Indenture, as adjusted from time to time as provided in the Indenture.

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

ABBREVIATIONS

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

TEN COM = as tenants in common

UNIF GIFT MIN ACT = Uniform Gifts to Minors Act

CUST = Custodian

TEN ENT = as tenants by the entireties

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

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

SCHEDULE A(6)

SCHEDULE OF EXCHANGES OF NOTES

SUPERNUS PHARMACEUTICALS, INC.
7.50% Convertible Senior Secured Notes due 2019

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

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

(6) Include if a global note.

ATTACHMENT 1

[FORM OF NOTICE OF CONVERSION]

To: Supernus Pharmaceuticals, Inc.

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

Dated: , 20

Signature(s)

Signature Guarantee

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

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

(Name)

(Street Address)

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

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

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

Social Security or Other Taxpayer Identification Number

ATTACHMENT 2

[FORM OF FUNDAMENTAL CHANGE PURCHASE NOTICE]

To: Supernus Pharmaceuticals, Inc.

The undersigned registered owner of this Note hereby acknowledges receipt of a notice from Supernus Pharmaceuticals, Inc. (the "**Company**") as to the occurrence of a Fundamental Change with respect to the Company and specifying the Fundamental Change Purchase Date and requests and instructs the Company to pay to the registered holder hereof in accordance with Article 3 of the Indenture referred to in this Note (1) the entire principal amount of this Note, or the portion thereof (that is $1,000 principal amount or an integral multiple thereof) below designated, and (2) if such Fundamental Change Purchase Date does not fall during the period after a Record Date and on or prior to the corresponding Interest Payment Date, accrued and unpaid interest, if any, thereon to, but excluding, such Fundamental Change Purchase Date.

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

Dated: , 20

Signature(s)

Social Security or Other Taxpayer
Identification Number

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

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

ATTACHMENT 3

[FORM OF TRANSFER CERTIFICATE]

7.50% Convertible Senior Secured Notes due 2019

Transfer Certificate

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

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

☐ To Supernus Pharmaceuticals, Inc. or a subsidiary thereof; or

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

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

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

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

Dated: , 20

_____

_____

Signature(s)

_____

Signature Guarantee

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

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

EXHIBIT B

RESTRICTED STOCK LEGEND

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

(A) TO SUPERNUS PHARMACEUTICALS, INC. (THE "**COMPANY**") OR ANY SUBSIDIARY THEREOF;

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

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

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

THE "**RESALE RESTRICTION TERMINATION DATE**" MEANS THE LATER OF: (1) THE DATE THAT IS ONE YEAR AFTER THE DATE OF ORIGINAL ISSUANCE OF THE COMPANY'S 7.50% CONVERTIBLE SENIOR SECURED NOTES DUE 2019 OR SUCH SHORTER PERIOD OF TIME PERMITTED BY RULE 144 OR ANY SUCCESSOR PROVISION THERETO; AND (2) SUCH OTHER DATE AS MAY BE REQUIRED BY APPLICABLE LAW.

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

Exhibit 4.3

SECURITY AND PLEDGE AGREEMENT

Dated as of May 3, 2013

among

Each Grantor From Time to time Party Hereto

and

U.S. BANK NATIONAL ASSOCIATION

as Collateral Agent for the Secured Parties

7.50% Convertible Senior Secured Notes due 2019

TABLE OF CONTENTS

SECURITY AND PLEDGE AGREEMENT

This **SECURITY AND PLEDGE AGREEMENT** (this "**Agreement**"), is entered into as of May 3, 2013, by and among the Grantors listed on the signature pages hereof and those additional Persons that hereafter become parties hereto by executing a Joinder (as defined below) (each, a "**Grantor**", and collectively, the "**Grantors**"), and **U.S. BANK NATIONAL ASSOCIATION** as collateral agent for the Secured Parties (as defined below) (in such capacity, together with its successors and assigns in such capacity, "**Collateral Agent**").

WITNESSETH:

WHEREAS, pursuant to the Indenture, dated as of May 3, 2013 (the "**Issue Date**") among the Grantors and U.S. Bank National Association, a national banking association, as Trustee and Collateral Agent (as it may be Refinanced (as defined below) from time to time, the "**Indenture**"), **SUPERNUS PHARMACEUTICALS, INC.**, a Delaware corporation (the "**Company**"), has issued to the Holders the 7.50% Convertible Senior Secured Notes due 2019 (the "**Notes**");

WHEREAS, in order to induce the Holders to purchase the Notes, the Grantors have agreed to grant a continuing security interest in and to the Collateral in favor of the Collateral Agent in order to secure the prompt and complete payment, observance and performance of, among other things, the Secured Obligations; and

NOW, **THEREFORE**, for and in consideration of the recitals made above and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. Defined Terms. All initially capitalized terms used herein (including in the preamble and recitals hereof) without definition shall have the meanings ascribed thereto in the Indenture. Any terms (whether capitalized or lower case) used in this Agreement that are defined in the Code shall be construed and defined as set forth in the Code unless otherwise defined herein or in the Indenture; *provided*, *however*, that to the extent that the Code is used to define any term used herein and if such term is defined differently in different Articles of the Code, the definition of such term contained in Article 9 of the Code shall govern. In addition to those terms defined elsewhere in this Agreement, as used in this Agreement, the following terms shall have the following meanings:

(a) "**Account**" means an account (as that term is defined in Article 9 of the Code).

(b) "**Account Debtor**" means an account debtor (as that term is defined in the Code).

(c) "**Agreement**" has the meaning specified therefor in the preamble to this Agreement.

(d) "**Bankruptcy Code**" means title 11 of the United States Code, as in effect from time to time.

(e) "**Books**" means books, records (including each Grantor's Records indicating, summarizing, or evidencing such Grantor's assets (including the Collateral) or liabilities, each Grantor's Records relating to such Grantor's business operations or financial condition, and each Grantor's goods or General Intangibles related to such information), files, correspondence, customer lists, supplier lists and similar items that at any time evidence or contain information relating to any of the Collateral or are otherwise necessary or helpful in the collection thereof or realization thereupon.

(f) "**Capital Stock**" has the meaning specified therefor in the Indenture.

(g) "**Cash Equivalents**" has the meaning specified therefor in the Indenture.

(h) "**Chattel Paper**" means chattel paper (as that term is defined in the Code), and includes tangible chattel paper and electronic chattel paper.

(i) "**Code**" means the New York Uniform Commercial Code, as in effect from time to time; *provided*, *however*, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection, priority, or remedies with respect to Collateral Agent's Lien on any Collateral is governed by the Uniform Commercial Code as enacted and in effect in a jurisdiction other than the State of New York, the term "Code" means the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies.

(j) "**Collateral**" has the meaning specified therefor in Section 2.

(k) "**Collateral Agent**" has the meaning specified therefor in the preamble to this Agreement until a successor replaces it and, thereafter, means the successor.

(l) "**Collateral Agreements**" has the meaning specified therefore in the Indenture.

(m) "**Collateral Release Date**" means the date, which is in any event no later than 45 days following the Issue Date, upon which the Secured Credit Facility shall be terminated and repaid in full.

(n) "**Collateral Support**" means all property (real or personal) assigned, hypothecated or otherwise securing any Collateral and shall include any security agreement or other agreement granting a lien or security interest in such real or personal property.

(o) "**Collections**" means all cash, checks, notes, instruments, and other items of payment (including insurance proceeds, cash proceeds of asset sales, rental proceeds, and tax refunds).

(p) "**Commercial Tort Claims**" means commercial tort claims (as that term is defined in the Code), and includes those commercial tort claims listed on Schedule 2.

(q) "**Commission**" has the meaning specified therefor in the Indenture.

(r) "**Company**" has the meaning specified therefor in the recitals to this Agreement.

(s) "**Control Agreement**" means a control agreement, in form and substance necessary to perfect the security interest in favor of Collateral Agent, executed and delivered by a Grantor, Collateral Agent, and the applicable securities intermediary (with respect to a Securities Account) or bank (with respect to a Deposit Account). The Collateral Agent shall not be required to indemnify any securities intermediary or bank in connection with a Control Agreement.

(t) "**Controlled Account**" has the meaning specified therefor in Section 6(k).

(u) "**Controlled Account Agreements**" means those certain cash management agreements, in form and substance necessary to perfect the security interest in favor of Collateral Agent, each of which is executed and delivered by a Grantor, Collateral Agent, and one of the Controlled Account Banks. The Collateral Agent shall not be required to indemnify any Controlled Account Bank in connection with a Controlled Account Agreement.

(v) "**Controlled Account Bank**" has the meaning specified therefor in Section 6(k).

(w) "**Copyright Security Agreement**" means each Copyright Security Agreement executed and delivered by Grantors, or any of them, and Collateral Agent, in substantially the form of Exhibit A.

(x) "**Copyrights**" means any and all rights in any works of authorship, including (i) copyrights and moral rights, (ii) copyright registrations and recordings thereof and all applications in connection therewith including those listed on Schedule 3, (iii) income, license fees, royalties, damages, and payments now and hereafter due or payable under and with respect thereto, including payments under all licenses entered into in connection therewith and damages and payments for past, present, or future infringements, misappropriations, and violations thereof, (iv) the right to sue for past, present, and future infringements, misappropriations, and violations thereof, and (v) all of each Grantor's rights corresponding thereto throughout the world.

(y) "**Deposit Account**" means a deposit account (as that term is defined in the Code).

(z) "**Documents**" means documents (as that term is defined in the Code).

(aa) "**Equipment**" means any and all equipment (as that term is defined in the Code).

(bb) "**Equity Interests**" means all shares, options, warrants, membership interests, partnership interests or other interests of any kind, participations, or other equivalents (regardless of how designated) of or in a Person, whether voting or nonvoting, including

common stock, preferred stock, any other "equity security" (as such term is defined in Rule3a11-1 of the General Rules and Regulations promulgated by the Commission under the Exchange Act) or any other equity interest of any kind in such Person.

(cc) "**Event of Default**" has the meaning specified therefor in the Indenture.

(dd) "**Excluded Accounts**" means (i) Deposit Accounts or Securities Accounts the balance of which consists exclusively of (a) withheld income taxes and federal, state or local employment taxes in such amounts as are required in such Grantor's reasonable judgment to be paid to the Internal Revenue Service or state or local government agencies within the following two months with respect to the Grantors' employees and (b) amounts required to be paid over to an employee benefit plan on behalf of the Company's employees, and (ii) all segregated Deposit Accounts or Securities Accounts constituting (and the balance of which consists solely of funds set aside in connection with) payroll accounts and trust accounts.

(ee) "**Excluded Assets**" means any of the following: (i) ExcludedSecurities; (ii) any general intangible or permit, lease, license, contract, intellectual property, property right or agreement to which the Company or any of its domestic subsidiaries is a party or any of its rights, title or interests thereunder if and only to the extent that the grant of a Security Interest hereunder (a) is prohibited by or a violation of any law, rule or regulation applicable to such entity or (b) shall constitute or result in a breach of a term or provision of, or the termination of the abandonment, invalidation or unenforceability or a default under the terms of, such permit, lease, license, contract, intellectual property, property right or agreement (other than to the extent that any such law, rule, regulation, term or provision would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC of any relevant jurisdiction or any other applicable law (including any debtor relief law or principle of equity); provided, however, that the Collateral shall include (and such security interest shall attach and the definition of Excluded Assets shall not then include) immediately at such time as the contractual or legal provisions referred to above shall no longer be applicable and to the extent severable, and shall attach immediately to any portion of such permit, lease, license, contract or agreement not subject to the provisions specified in clauses (a) or (b) above; (iii) any letter-of-credit rights to the extent any Grantor is required by applicable law to apply the proceeds of a drawing of such letter of credit for a specified purpose; (iv) Equity Interests in any joint venture with a third party that is not an Affiliate, to the extent a pledge of such Equity Interests is prohibited by the documents covering such joint venture; (v) (1) with respect to any trademarks, applications in the United States Patent and Trademark office to register trademarks on the basis of any of our or any of our domestic subsidiaries' "intent to use" such trademarks will not be deemed to be Collateral unless and until a "statement of use" or "amendment to allege use" has been filed and accepted in the United States Patent and Trademark Office, whereupon such application shall be automatically subject to the Security Interest granted herein and deemed to be included in the Collateral, and (2) with respect to any other trademark or any patents or copyrights, such trademarks, patents or copyrights will not be deemed to be Collateral if the creation of a Security Interest therein will constitute or result in the abandonment, impairment, invalidation or unenforceability thereof any assets to the extent and for so long as the pledge of such assets is prohibited by law and such prohibition is not overridden by the Uniform Commercial Code or other applicable law; (vi) inventory, receivables, and cash and cash equivalents located in the United States and all payments and receivables in respect thereof, to the extent such Collateral secures any Grantor's

obligations under the Credit Facilities; (vii) Vehicles; (viii) the Licensed IP, the License Agreements (each as defined in the Unit Purchase Agreement) or any of Grantor's rights, benefits, interests or title thereto, therein or thereunder, so long as the Unit Purchase Agreement and any survival provisions thereunder remains in effect, and (ix) Excluded Accounts.

(ff) "**Excluded Security**" means:

(i) more than 65% of the issued and outstanding Voting Stock, and more than 65% of all other outstanding Equity Interests, of any Foreign Subsidiary that is a direct subsidiary of a Grantor;

(ii) more than 65% of the issued and outstanding Voting Stock, and more than 65% of all other outstanding Equity Interests, of any Domestic Subsidiary that is a disregarded entity for U.S. federal income tax purposes if substantially all of its assets consist of the stock of one or more Foreign Subsidiaries that are controlled foreign corporations within the meaning of Section 957 of the Code;

(iii) any Equity Interests of any Subsidiary that is not directly held by a Grantor;

(iv) any Equity Interests of any Person that is not a Subsidiary of a Grantor (other than any such Equity Interests held in a securities account);

(v) any interest in a joint venture or non-wholly owned Subsidiary to the extent and for so long as the attachment of the security interest created by the Collateral Agreements therein would violate any joint venture agreement, organization document, shareholders agreement or equivalent agreement relating to such joint venture or non-wholly owned Subsidiary that was entered into for legitimate and customary business reasons; and

(vi) any shares of stock or debt to the extent and for so long as the pledge of such shares of stock or debt is prohibited by law and such prohibition is not overridden by applicable law.

(gg) "**Fixtures**" means fixtures (as that term is defined in the Code).

(hh) "**General Intangibles**" means general intangibles (as that term is defined in the Code), and includes payment intangibles, contract rights, rights to payment, rights arising under common law, statutes, or regulations, choses or things in action, goodwill, Intellectual Property, Intellectual Property Licenses, purchase orders, customer lists, monies due or recoverable from pension funds, route lists, rights to payment and other rights under any royalty or licensing agreements, including Intellectual Property Licenses, infringement claims, pension plan refunds, pension plan refund claims, insurance premium rebates, tax refunds, and tax refund claims, interests in a partnership or limited liability company which do not constitute a security under Article 8 of the Code, and any other personal property other than Commercial Tort Claims, money, Accounts, Chattel Paper, Deposit Accounts, goods, Investment Related Property, Negotiable Collateral, and oil, gas, or other minerals before extraction.

(ii) "**Grantor**" and "**Grantors**" have the respective meanings specified therefor in the preamble to this Agreement.

(jj) "**Holder**" has the meaning specified therefor in the Indenture.

(kk) "**Indenture**" has the meaning specified therefor in the recitals to this Agreement.

(ll) "**Insolvency Proceeding**" means any proceeding commenced by or against any Person under any provision of the Bankruptcy Code or under any other state or federal bankruptcy or insolvency law, assignments for the benefit of creditors, formal or informal moratoria, compositions, extensions generally with creditors, or proceedings seeking reorganization, arrangement, or other similar relief.

(mm) "**Intellectual Property**" means any and all (i) Patents, Copyrights, Trademarks, trade secrets, know-how, inventions (whether or not patentable), algorithms, software programs (including source code and object code), processes, product designs, industrial designs, blueprints, drawings, data, customer lists, URLs and domain names, specifications, documentations, reports, catalogs, literature, and any other forms of technology or proprietary information of any kind, including all rights therein and all applications for registration or registrations thereof, (ii) all copies and embodiments of any of the foregoing (in whatever form or medium), (iii) all income, royalties, damages and payments now and hereafter due or payable under and with respect thereto, including payments under all licenses entered into in connection therewith and damages and payments for past, present, or future infringements, misappropriations, violations thereof, (iv) the right to sue for past, present, and future infringements, misappropriations, and violations thereof, and (v) all rights corresponding thereto throughout the world.

(nn) "**Intellectual Property Licenses**" means, with respect to any Person (the "**Specified Party**"), (i) any licenses or other similar rights provided to the Specified Party in or with respect to Intellectual Property owned or controlled by any other Person, and (ii) any licenses or other similar rights provided to any other Person in or with respect to Intellectual Property owned or controlled by the Specified Party, in each case, including (A) any software license agreements (other than license agreements for commercially available off-the-shelf software that is generally available to the public which have been licensed to a Grantor pursuant to end-user licenses), (B) the license agreements listed on Schedule 3, and (C) the right to use any of the licenses or other similar rights described in this definition in connection with the enforcement of the Secured Parties' rights under the Note Documents and (iii) all income, royalties, damages and payments now and hereafter due or payable under and with respect to clause (i) and (ii) above, including payments there under and damages and payments for past, present, or future infringements, misappropriations, and violations thereof, (iv) the right to sue for past, present, and future breach or violations thereof, and (v) all rights corresponding thereto throughout the world.

(oo) "**Inventory**" means inventory (as that term is defined in the Code).

(pp) "**Investment Related Property**" means (i) any and all investment property (as that term is defined in the Code), and (ii) any and all of the Pledged Interests.

(qq) "**Issue Date**" has the meaning specified therefor in the recitals to this Agreement.

(rr) "**Joinder**" means each Joinder to this Agreement executed and delivered by Collateral Agent and each of the other parties listed on the signature pages thereto, in substantially the form of Annex 1.

(ss) "**Lien**" has the meaning specified therefor in the Indenture.

(tt) "**Material Adverse Change**" means a change that results in or causes, (a) a material adverse change in, or a material adverse effect upon, the financial condition, business, performance, operations or Property of Grantor; (b) a material impairment of the ability of any Grantor to perform its obligations under any Note Document; or (c) a material adverse effect upon the validity or enforceability of any Note Document or the rights and remedies of the Secured Parties.

(uu) "**Mortgage**" means a mortgage, deed of trust, or deed to secure debt, in form and substance necessary to perfect the security interest in favor of the Collateral Agent.

(vv) "**Negotiable Collateral**" means letters of credit, letter-of-credit rights, instruments, promissory notes, drafts and documents (as each such term is defined in the Code) and Pledged Notes.

(ww) "**Note**" or "**Notes**" shall mean any note or notes, as the case may be, authenticated and delivered under the Indenture.

(xx) "**Note Documents**" means the Notes, the Indenture and the Collateral Agreements, as such instruments and agreements may be Refinanced, from time to time.

(yy) "**Patent Security Agreement**" means each Patent Security Agreement executed and delivered by Grantors, or any of them, and Collateral Agent, in substantially the form of Exhibit B.

(zz) "**Patents**" means patents and patent applications, including (i) the patents and patent applications listed on Schedule 3, (ii) all continuations, divisionals, continuations-in- part, re-examinations, reissues, and renewals thereof and improvements thereon, (iii) all income, royalties, damages and payments now and hereafter due or payable under and with respect thereto, including payments under all licenses entered into in connection therewith and damages and payments for past, present, or future infringements, misappropriations, or violations thereof, (iv) the right to sue for past, present, and future infringements, misappropriations, or violations thereof, and (v) all of each Grantor's rights corresponding thereto throughout the world.

(aaa) "**Perfection Certificate**" means a certificate substantially in the form of Exhibit E, completed and supplemented with the schedules and attachments contemplated thereby, and as amended, updated, modified or supplemented from time to time, and duly

executed as of the Issue Date, and as of any subsequent delivery date as required pursuant to the Note Documents, by an Officer of a Grantor.

(bbb) "**Permitted Liens**" means:

(i) any Liens on Inventory, receivables, and cash and cash equivalents located in the United States and all payments and receivables in respect thereof,securing the Credit Facilities;

(ii) Liens on property (including Capital Stock) existing at the time of acquisition of the property by any Grantor (plus improvements and accessions to such property or proceeds or distributions thereof); provided that such Liens were in existence prior to such acquisition and not incurred in contemplation of such acquisition;

(iii) Liens to secure the performance of tenders, completion guarantees, statutory obligations, surety, environmental or appeal bonds, bids, leases, government contracts, performance bonds or other obligations of a like nature incurred in the ordinary course of business;

(iv) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded; provided that any reserve or other appropriate provision as is required in conformity with GAAP has been made therefor;

(v) Liens consisting of carriers', warehousemen's, landlord's and mechanics', suppliers', materialmen's, repairmen's and similar Liens not securing Indebtedness or in favor of customs or revenue authorities or freight forwarders or handlers to secure payment of custom duties, in each case, incurred in the ordinary course of business;

(vi) any state of facts an accurate survey would disclose, prescriptive easements or adverse possession claims, minor encumbrances, easements or reservations of, or rights of others for, pursuant to any leases, licenses, rights-of-way or other similar agreements or arrangements, development, air or water rights, sewers, electric lines, telegraph and telephone lines and other utility lines, pipelines, service lines, railroad lines, improvements and structures located on, over or under any property, drains, drainage ditches, culverts, electric power or gas generating or co-generation, storage and transmission facilities and other similar purposes, zoning or other restrictions as to the use of real property or minor defects in title, which were not incurred to secure payment of Indebtedness and that do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

(vii) Liens or leases or licenses or sublicenses or subleases as licensor, lessor, sublicensor or sublessor of any of its property, including intellectual property, in the ordinary course of business;

(viii) Liens on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances, tender, bid, judgment, appeal, performance or governmental contract bonds and completion guarantees,

surety, standby letters of credit and warranty and contractual service obligations of a like nature, trade letters of credit and documentary letters of credit and similar bonds or guarantees provided by anyGrantor;

(ix) Liens incurred or pledges or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security and employee health and disability benefits, or casualty-liability insurance or self insurance or securing letters of credit issued in the ordinary course of business;

(x) judgment and attachment Liens not giving rise to an Event of Default and notices of lis pendens and associated rights related to litigation being contested in good faith by appropriate proceedings and for which adequate reserves have been made in conformity with GAAP;

(xi) any interest or title of a lessor, licensor or sublicensor under any lease, license or sublicense of the property of any Grantor, including intellectual property, as applicable;

(xii) Liens in favor of collecting or payor banks having a right of setoff, revocation, refund or chargeback with respect to money or instruments of any Grantor on deposit with or in possession of such bank;

(xiii) any obligations or duties affecting any of the property any Grantor to any municipality or public authority with respect to any franchise, grant, license, or permit that do not impair the use of such property for the purposes for which it is held;

(xiv) Liens on any property in favor of domestic or foreign governmental bodies to secure partial, progress, advance or other payment pursuant to any contract or statute, not yet due and payable;

(xv) restrictions on dispositions of assets to be disposed of pursuant to merger agreements, stock or asset purchase agreements and similar agreements;

(xvi) options, put and call arrangements, rights of first refusal and similar rights relating to Investments in joint ventures, partnerships and the like;

(xvii) Liens consisting of any law or governmental regulation or permit requiring a Grantor to maintain certain facilities or perform certain acts as a condition of its occupancy of or interference with any public lands or any river or stream or navigable waters;

(xviii) any netting or set-off arrangements entered into by of any Grantor in the ordinary course of its banking arrangements (including, for the avoidance of doubt, cash pooling arrangements) for the purposes of netting debit and credit balances of any Grantor, including pursuant to any cash management agreement;

(xix) leases and subleases of real property which do not materially interfere with the ordinary conduct of the business of any Grantor and other Liens incidental to

the conduct of the business of any Grantor that do not materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of such Grantor;

(xx) Liens arising from UCC financing statement filings regarding operating leases entered into by any Grantor in the ordinary course of business or other precautionary UCC financing statement filings;

(xxi) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into in the ordinary course of business; and

(xxii) Liens in an amount not to exceed $750,000.

(ccc) "**Person**" has the meaning specified therefor in the Indenture.

(ddd) "**Pledged Companies**" means each Person listed on Schedule 4 as a "Pledged Company", together with each other Person, all or a portion of whose Equity Interests are acquired or otherwise owned by a Grantor after the Issue Date.

(eee) "**Pledged Interests**" means all of each Grantor's right, title and interest in and to all of the Equity Interests listed on Schedule 4 and all other Equity Interests now owned or hereafter acquired by such Grantor, regardless of class or designation, and all substitutions therefor and replacements thereof, all proceeds thereof and all rights relating thereto, also including any certificates representing the Equity Interests, the right to receive any certificates representing any of the Equity Interests, all warrants, options, share appreciation rights and other rights, contractual or otherwise, in respect thereof and the right to receive all dividends, distributions of income, profits, surplus, or other compensation by way of income or liquidating distributions, in cash or in kind, and all cash, instruments, and other property from time to time received, receivable, or otherwise distributed in respect of or in addition to, in substitution of, on account of, or in exchange for any or all of the foregoing.

(fff) "**Pledged Interests Addendum**" means a Pledged Interests Addendum substantially in the form of Exhibit D.

(ggg) "**Pledged Notes**" means all of each Grantor's right, title and interest in and to all of the promissory notes listed on Schedule 4 and all other promissory notes now owned or hereafter acquired by such Grantor, and all substitutions therefor and replacements thereof and all proceeds thereof and all rights relating thereto.

(hhh) "**Proceeds**" has the meaning specified therefor in Section 2.

(iii) "**PTO**" means the United States Patent and Trademark Office.

(jjj) "**Real Property**" means any estates or interests in real property now owned or hereafter acquired by any Grantor and the improvements thereto.

(kkk) "**Records**" means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

(lll) "**Refinance**" means, in respect of any Indebtedness, to extend, renew, defease, amend, modify, supplement, restructure, replace, refund or repay, or to issue other indebtedness, in exchange or replacement for, such Indebtedness, in any case in whole or in part and such term shall include, without limitation, increasing the amount borrowable thereunder, altering the maturity date thereof and adding subsidiaries as borrowers or guarantors thereunder. "**Refinanced**" and "**Refinancing**" shall have correlative meanings.

(mmm) "**Secured Obligations**" means the obligations of any Grantor and any other obligor under the Note Documents (i) to pay principal, premium, if any, and interest (including any interest accruing after the commencement of bankruptcy or insolvency proceedings) when due and payable, and all other amounts due or to become due, in each case, under or in connection with the Indenture, the Notes and any other Note Document, and (ii) to perform all of their other respective obligations to the Trustee, the Collateral Agent and the Holders under the Note Documents, in each case, according to the respective terms thereof (including, in the case of each of clauses (i) and (ii) reasonable and documented attorneys', agents' and professional advisors' fees and expenses and any interest, fees, or expenses that accrue after the filing of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any Insolvency Proceeding).

(nnn) "**Secured Parties**" shall mean the Collateral Agent, the Trustee and Holders of the Notes.

(ooo) "**Securities Account**" means a securities account (as that term is defined in the Code).

(ppp) "**Security Interest**" has the meaning specified therefor in Section 2.

(qqq) "**Specified Party**" has the meaning specified therefor in the definition of Intellectual Property Licenses in this Agreement.

(rrr) "**Supporting Obligations**" means supporting obligations (as such term is defined in the Code), and includes letters of credit and guaranties issued in support of Accounts, Chattel Paper, documents, General Intangibles, instruments or Investment Related Property.

(sss) "**Trademark Security Agreement**" means each Trademark Security Agreement executed and delivered by Grantors, or any of them, and Collateral Agent, in substantially the form of Exhibit C.

(ttt) "**Trademarks**" means any and all trademarks, trade names, registered trademarks, trademark applications, service marks, registered service marks and service mark applications, including (i) the trade names, registered trademarks, trademark applications, registered service marks and service mark applications listed on Schedule 3, (ii) all renewals thereof, (iii) all income, royalties, damages and payments now and hereafter due or payable under and with respect thereto, including payments under all licenses entered into in connection therewith and damages and payments for past or future infringements, misappropriations, violations, or dilutions thereof, (iv) the right to sue for past, present and future infringements and dilutions thereof, (v) the goodwill of each Grantor's business symbolized by the foregoing or

connected therewith, and (vi) all of each Grantor's rights corresponding thereto throughout the world.

(uuu) "**Trustee**" has the meaning specified therefore in the Indenture.

(vvv) "**Unit Purchase Agreement**" means that certain Unit Purchase Agreement, dated as of December 14, 2011, by and between the Company and Royalty Opportunities S.ar.l, as amended or otherwise modified.

(www) "**URL**" means "uniform resource locator," an internet web address.

(xxx) "**Vehicles**" means motor vehicles and other assets subject to a certificate of title statute.

2. Grant of Security.

(a) Effective from and after the Collateral Release Date, each Grantor hereby unconditionally grants to Collateral Agent, for the benefit of the Secured Parties, to secure the Secured Obligations, a continuing security interest (hereinafter referred to as the "**Security Interest**") in all of such Grantor's right, title, and interest in and to the following, whether now owned or hereafter acquired or arising and wherever located (the "**Collateral**"):

(i) all of such Grantor's Accounts;

(ii) all of such Grantor's Books;

(iii) all of such Grantor's Chattel Paper;

(iv) all of such Grantor's Deposit Accounts;

(v) all of such Grantor's Goods, Equipment and Fixtures;

(vi) all of such Grantor's General Intangibles;

(vii) all of such Grantor's Intellectual Property and Intellectual Property Licenses;

(viii) all of such Grantor's Documents;

(ix) all of such Grantor's Inventory;

(x) all of such Grantor's Investment Related Property;

(xi) all of such Grantor's Negotiable Collateral;

(xii) all of such Grantor's Supporting Obligations;

(xiii) all of such Grantor's Commercial Tort Claims;

(xiv) all of such Grantor's money or Cash Equivalents or other assets of such Grantor that now or hereafter comes into existence, whether or not in the possession, custody, or control of Collateral Agent (or its agent or designee) or any other Secured Party; and

(xv) all of the Proceeds (as such term is defined in the Code) and products, whether tangible or intangible, of any of the foregoing, including proceeds of insurance or Commercial Tort Claims covering or relating to any or all of the foregoing, and any and all Accounts, Books, Chattel Paper, Collateral Support, Deposit Accounts, Equipment, Fixtures, General Intangibles, Goods, Intellectual Property, Intellectual Property Licenses, Inventory, Investment Related Property, Negotiable Collateral, Supporting Obligations, Vehicles, money, or other tangible or intangible property resulting from the sale, lease, license, exchange, collection, or other disposition of any of the foregoing, the proceeds of any award in condemnation with respect to any of the foregoing, any rebates or refunds, whether for taxes or otherwise, and all proceeds of any such proceeds, or any portion thereof or interest therein, and the proceeds thereof, and all proceeds of any loss of, damage to, or destruction of the above, whether insured or not insured, and, to the extent not otherwise included, any indemnity, warranty, or guaranty payable by reason of loss or damage to, or otherwise with respect to any of the foregoing (the "**Proceeds**"). Without limiting the generality of the foregoing, the term "Proceeds" also includes whatever is receivable or received when Investment Related Property or proceeds are sold, exchanged, collected, or otherwise disposed of, whether such disposition is voluntary or involuntary, and includes proceeds of any indemnity or guaranty payable to any Grantor or Collateral Agent from time to time with respect to any of the Investment Related Property.

(b) Effective from and after the Issue Date to the Collateral Release Date, each Grantor hereby unconditionally grants to Collateral Agent, for the benefit of the Secured Parties, to secure the Secured Obligations, a Security Interest in all of such Grantor's Collateral; provided, however, that Collateral shall, from and after the Issue Date to the Collateral Release Date, exclude any portion of the Collateral subject to a Lien under the Secured Credit Facility.

Notwithstanding anything contained in this Agreement to the contrary, the term "Collateral" shall not include Excluded Assets. None of the covenants or representations and warranties herein or in any other Collateral Agreements shall be deemed to apply to any property constituting Excluded Assets.

3. Security for Secured Obligations. The Security Interest created hereby secures the payment and performance of the Secured Obligations, whether now existing or arising hereafter. Without limiting the generality of the foregoing, this Agreement also secures the payment of all amounts which constitute part of the Secured Obligations and would be owed by Grantors, or any of them, to Collateral Agent, the Secured Parties or any of them, but for the fact that they are unenforceable or not allowable (in whole or in part) as a claim in an Insolvency Proceeding involving any Grantor due to the existence of such Insolvency Proceeding.

4. Grantors Remain Liable. Anything herein to the contrary notwithstanding, (a) each of the Grantors shall remain liable under the contracts and agreements included in the Collateral, to perform all of the duties and obligations thereunder to the same extent as if this Agreement had not been executed, (b) the exercise by Collateral Agent or any other Secured Party of any of the rights hereunder shall not release any Grantor from any of its duties or

obligations under such contracts and agreements included in the Collateral, and (c) none of the Secured Parties shall have any obligation or liability under such contracts and agreements included in the Collateral by reason of this Agreement, nor shall any of the Secured Parties be obligated to perform any of the obligations or duties of any Grantors thereunder or to take any action to collect or enforce any claim for payment assigned hereunder. Until an Event of Default shall occur and be continuing, except as otherwise provided in this Agreement, the Indenture, or any other Note Document, Grantors shall have the right to possession and enjoyment of the Collateral for the purpose of conducting the ordinary course of their respective businesses, subject to and upon the terms hereof and of the Indenture and the other Note Documents. Without limiting the generality of the foregoing, it is the intention of the parties hereto that record and beneficial ownership of the Pledged Interests, including all voting, consensual, dividend, and distribution rights, shall remain in the applicable Grantor until (i) the occurrence and continuance of an Event of Default and (ii) Collateral Agent has notified the applicable Grantor of Collateral Agent's election to exercise such rights with respect to the Pledged Interests pursuant to Section 15.

5. Representations and Warranties. Each Grantor hereby represents and warrants to Collateral Agent, for the benefit of the Secured Parties, that as of the Issue Date:

(a) The exact legal name of each Grantor, type of entity of each Grantor, its state of organization, the organizational number issued to it by its state of organization and its federal employer identification number are set forth on Schedule 1.

(b) Each Grantor's mailing address and the location of its place of business (if it has only one) or its chief executive office (if it has more than one place of business), are disclosed in Schedule 1.

(c) Schedule 1 sets forth all Real Property owned or leased by any of the Grantors.

(d) Schedule 2 sets forth all Commercial Tort Claims of any Grantor for which the expected amount recoverable exceeds$250,000.

(e) Schedule 3 provides a complete and correct list of (i) all registered Copyrights owned by any Grantor and all applications for registration of Copyrights owned by any Grantor; (ii) all Intellectual Property Licenses entered into by any Grantor pursuant to which (A) any Grantor has provided any license or other rights in Intellectual Property that is material to the business of such Grantor owned or controlled by such Grantor to any other Person other than non-exclusive licenses granted in the ordinary course of business or (B) any Person has granted to any Grantor any exclusive license or other rights in Intellectual Property owned or controlled by such Person that is material to the business of such Grantor, including any Intellectual Property that is incorporated in any Inventory, software, or other product marketed, sold, licensed, or distributed by such Grantor, other than licenses of commercially-available software; (iii) all Patents owned by any Grantor and all applications for Patents owned by any Grantor; and (iv) all registered Trademarks owned by any Grantor, all applications for registration of Trademarks owned by any Grantor, and all other Trademarks owned by any Grantor and material to the conduct of the business of any Grantor.

(f) (i) each Grantor owns exclusively or holds licenses in, or otherwise has the rights to use, all Intellectual Property that is necessary to the conduct of its business;

(ii) to each Grantor's knowledge, no Person has infringed or misappropriated or is currently infringing or misappropriating any Intellectual Property rights owned by such Grantor, in each case, that either individually or in the aggregate could reasonably be expected to result in a Material Adverse Change;

(iii) (A) to each Grantor's knowledge, (1) such Grantor has not in the past six (6) years infringed or misappropriated and is not currently infringing or misappropriating any Intellectual Property rights of any Person, and (2) no product manufactured, used, distributed, licensed, or sold by or service provided by such Grantor has in the past six (6) years infringed or misappropriated or is currently infringing or misappropriating any Intellectual Property rights of any Person, in each case, except where such infringement either individually or in the aggregate could not reasonably be expected to result in a Material Adverse Change, and (B) there are no pending, or to any Grantor's knowledge after reasonable inquiry, threatened infringement or misappropriation claims or proceedings pending against any Grantor, and no Grantor has received any notice or other communication of any actual or alleged infringement or misappropriation of any Intellectual Property rights of any Person, in each case, except where such infringement either individually or in the aggregate could not reasonably be expected to result in a Material Adverse Change;

(iv) to each Grantor's knowledge, all registered Copyrights, registered Trademarks, and issued Patents that are owned by such Grantor and necessary in the conduct of its business are valid, subsisting and enforceable and in compliance with all legal requirements, filings, and payments and other actions that are required to maintain such Intellectual Property in full force and effect; and

(v) each Grantor has taken reasonable steps to maintain the confidentiality of and otherwise protect and enforce its rights in all trade secrets owned by such Grantor that are material to the business of such Grantor.

(g) This Agreement creates a valid security interest in the Collateral of each Grantor, to the extent a security interest therein can be created under the Code, securing the payment of the Secured Obligations. Except to the extent a security interest in the Collateral cannot be perfected by the filing of a financing statement under the Code or the delivery of Control Agreements with respect to Deposit Accounts and Securities Accounts, all filings and other actions necessary to perfect and protect such security interest have been duly taken or will have been taken upon the filing of financing statements listing each applicable Grantor, as a debtor, and Collateral Agent, as secured party, in the jurisdictions listed next to such Grantor's name on Schedule 5, or the delivery of Control Agreements with respect to each of the Deposit Accounts and Securities Accounts listed on Schedule 8. Upon the making of such filings and the delivery of such Control Agreements, Collateral Agent shall have a perfected security interest in and upon the Collateral (subordinate only to Permitted Liens) to the extent such security interest can be perfected by the filing of a financing statement or the delivery of a Control Agreement. Upon filing of the Copyright Security Agreement with the United States Copyright Office, filing of the Patent Security Agreement and the Trademark Security Agreement with the PTO, and the

filing of appropriate financing statements in the jurisdictions listed on Schedule 5, all action necessary to protect and perfect the Security Interest in the United States in and on each Grantor's Patents, Trademarks, or Copyrights has been taken and such perfected Security Interest is enforceable as such as against any and all creditors of and purchasers from any Grantor.

(h) Schedule 4 provides a complete and correct list of all Equity Interests owned by any Grantor and all other investment property owned by any Grantor.

(i) (i) Except for the Security Interest created hereby, each Grantor is and will at all times be the sole holder of record and thelegal and beneficial owner, free and clear of all Liens other than Permitted Liens, of the Pledged Interests indicated on Schedule 4 asbeing owned by such Grantor and, when acquired by such Grantor, any Pledged Interests acquired after the Issue Date; (ii) all of thePledged Interests are duly authorized, validly issued, fully paid, nonassessable, and, to the extent that (x) the such Pledged Interestsare "securities" for purposes of Articles 8 and 9 of the Code or (y) the applicable Pledged Company has elected to have such PledgedInterests treated as "securities" for such purposes, certificated and the Pledged Interests constitute or will constitute the percentage ofthe issued and outstanding Equity Interests of the Pledged Companies of such Grantor identified on Schedule 4as supplemented or modified by any Pledged Interests Addendum or any Joinder to this Agreement; (iii) such Grantor has the right and requisite authority to pledge, the Investment Related Property pledged by such Grantor to Collateral Agent as provided herein; (iv) all actions necessary to perfect and establish, or otherwise protect, Collateral Agent's Liens in the Investment Related Property, and the proceeds thereof, will have been duly taken, upon (A) the execution and delivery of this Agreement; (B) the taking of possession by Collateral Agent (or its agent or designee) of any certificates representing the Pledged Interests, together with undated powers (or other documents of transfer acceptable to Collateral Agent) endorsed in blank by the applicable Grantor; (C) the filing of financing statements in the applicable jurisdiction set forth on Schedule 5 for such Grantor with respect to the Pledged Interests of such Grantor that are not represented by certificates, and (D) with respect to any Securities Accounts, and any securities entitlements or other financial assets credited thereto, the delivery of Control Agreements with respect thereto; and (v) each Grantor has delivered to and deposited with Collateral Agent all certificates representing the Pledged Interests owned by such Grantor to the extent such Pledged Interests are represented by certificates, and undated powers (or other documents of transfer acceptable to Collateral Agent) endorsed in blank with respect to such certificates. None of the Pledged Interests owned or held by such Grantor has been issued or transferred in violation of any securities registration, securities disclosure, or similar laws of any jurisdiction to which such issuance or transfer may be subject.

(j) No consent, approval, authorization, or other order or other action by, and no notice to or filing with, any Governmental Authority or any other Person is required (i) for the grant of a Security Interest by such Grantor in and to the Collateral pursuant to this Agreement or for the execution, delivery, or performance of this Agreement by such Grantor, or (ii) for the exercise by Collateral Agent of the voting or other rights provided for in this Agreement with respect to the Investment Related Property or the remedies in respect of the Collateral pursuant to this Agreement, except as may be required (x) in connection with such disposition of Investment Related Property by laws affecting the offering and sale of securities generally and (y) in connection with the voting or disposition of Pledged Interests or any other Collateral in

order to comply with applicable law and for the Grantors to maintain their qualification as "citizens of the United States" within the meaning of 46 U.S.C. § 50501 (a) and (d), qualified to operate in the coastwise trade of the United States. No Intellectual Property License of any Grantor that is necessary to the conduct of such Grantor's business requires any consent of any other Person in order for such Grantor to grant the security interest granted hereunder in such Grantor's right, title or interest in or to such Intellectual Property License.

(k) Schedule 8 provides a complete and correct list of all of the Deposit Accounts and Securities Accounts owned by anyGrantor.

(l) To each Grantor's knowledge, there is no default, breach, violation, or event of acceleration existing under any Pledged Note and no event has occurred or circumstance exists which, with the passage of time or the giving of notice, or both, would constitute a default, breach, violation, or event of acceleration under any Pledged Note. No Grantor that is an obligee under a Pledged Note has waived any default, breach, violation, or event of acceleration under such Pledged Note.

(m) Schedule 9 provides a complete and correct list of all of the Negotiable Collateral owned by any Grantor.

6. Covenants. Each Grantor, jointly and severally, covenants and agrees with Collateral Agent that from and after the date of this Agreement and until the date of termination of this Agreement in accordance with Section 22 it shall comply with each of the following terms.

(a) Possession of Collateral.

(i) In the event that any Collateral, including Proceeds, is evidenced by or consists of Negotiable Collateral, Investment Related Property, or Chattel Paper, in each case, having an aggregate value or face amount of $250,000 or more, the Grantors shall promptly (and in any event within three (3) Business Days after receipt thereof) notify Collateral Agent in writing thereof, and if and to the extent that perfection or priority of Collateral Agent's Security Interest is dependent on or enhanced by possession, the applicable Grantor, promptly (and in any event within ten (10)Business Days), shall endorse and deliver physical possession of such Negotiable Collateral, Investment Related Property, or Chattel Paper to Collateral Agent, together with such undated powers (or other relevant document of transfer acceptable to Collateral Agent) endorsed in blank and shall execute such other documents and instruments as shall be necessary to protect Collateral Agent's security interest therein.

(ii) Any limited liability company and any limited partnership controlled by any Grantor shall either (a) not include in its operative documents any provision that any Equity Interests in such limited liability company or such limited partnership be a "security" as defined under Article 8 of the Uniform Commercial Code or (b) certificate any Equity Interests in any such limited liability company or such limited partnership. To the extent an interest in any limited liability company or limited partnership controlled by any Grantor and pledged hereunder is certificated or becomes certificated, (i) each such certificate shall be delivered to the Collateral Agent and (ii) such Grantor shall fulfill all other requirements under

Section 2 applicable in respect thereof. Each Grantor hereby agrees that if any of the Pledged Collateral is at any time not evidenced by certificates of ownership, then each applicable Grantor shall, to the extent permitted by applicable law, (i) if necessary to perfect a security interest in such Pledged Collateral, cause such pledge to be recorded on the equityholder register or the books of the issuer, execute any customary pledge forms or other documents necessary or appropriate to complete the pledge and give the Collateral Agent the right to transfer such Pledged Collateral under the terms hereof, and (ii) after the occurrence and during the continuance of any Event of Default, upon request by the Collateral Agent, (A) cause the organization documents of each such issuer that is a Subsidiary of a Grantor to be amended to provide that such Pledged Collateral shall be treated as "securities" for purposes of the Uniform Commercial Code and (B) cause such Pledged Collateral to become certificated and delivered to the Collateral Agent.

(b) Chattel Paper.

(i) Promptly after acquiring any electronic Chattel Paper with an aggregate value or face amount equal to or in excess of $250,000 (and in any event within three (3)Business Days after receipt thereof) each Grantor shall notify Collateral Agent in writing thereof, and shall promptly (and in any event within ten (10)Business Days after delivering notice to the Collateral Agent) take all steps reasonably necessary to grant Collateral Agent control of all electronic Chattel Paper in accordance with the Code and all "transferable records" as that term is defined in Section 16 of the Uniform Electronic Transaction Act and Section 201 of the federal Electronic Signatures in Global and National Commerce Act as in effect in any relevant jurisdiction, to the extent that the aggregate value or face amount of such electronic Chattel Paper equals or exceeds $250,000; and

(ii) If any Grantor retains possession of any Chattel Paper or instruments (which retention of possession shall be subject to the extent permitted hereby and by the Indenture), promptly mark such Chattel Paper and instruments with the following legend: "This writing and the obligations evidenced or secured hereby are subject to the Security Interest of U.S. Bank National Association, as Collateral Agent for the benefit of the Secured Parties (as each such capitalized terms are defined in that certain Security and Pledge Agreement, dated as of May 3, 2013, by and among Supernus Pharmaceuticals, Inc. and the other Grantors identified therein and U.S. Bank National Association as Collateral Agent)".

(c) Control Agreements.

(i) Subject to Section 26, each Grantor shall obtain a Control Agreement (which may include a Controlled Account Agreement) in form reasonably satisfactory to the Collateral Agent, from each bank maintaining a Deposit Account (other than any Excluded Account) for such Grantor, and which will provide the Collateral Agent with "control" (as such term is used in Article 9 of the Code) over each such Deposit Account;

(ii) Except to the extent otherwise excused by the Note Documents and subject to Section 26, each Grantor shall obtain an authenticated Control Agreement in form reasonably satisfactory to the Collateral Agent, from each issuer of uncertificated securities, securities intermediary, or commodities intermediary issuing or holding any financial assets or

commodities to or for any Grantor and which provides the Collateral Agent with "control" (as such term is used in Articles 8 and 9 of the Code) over such uncertificated securities, financial assets or commodities; and

(iii) Except to the extent otherwise excused by the Note Documents, each Grantor shall obtain an authenticated Control Agreement in form reasonably satisfactory to the Collateral Agent with respect to all of such Grantor's investment property and which provides the Collateral Agent with "control" (as such term is used in Articles 8 and 9 of the Code) over such investment property.

(d) Letter-of-Credit Rights. If the Grantors (or any of them) are or become the beneficiary of letters of credit having a face amount or value of $250,000or more in the aggregate, then the applicable Grantor or the Grantors shall promptly (and in any event within three (3) Business Days after becoming a beneficiary), notify Collateral Agent, in writing, thereof and, promptly (and in any event within ten (10) Business Days after delivery of notice to the Collateral Agent), use commercially reasonable efforts to enter into a tri-party agreement with Collateral Agent and the issuer or confirming bank with respect to letter-of-credit rights assigning such letter-of-credit rights to Collateral Agent and directing all payments thereunder to Collateral Agent's Account.

(e) Commercial Tort Claims. If the Grantors (or any of them) obtain Commercial Tort Claims having a value, or involving an asserted claim, in the amount of $250,000or more in the aggregate for all Commercial Tort Claims, then the applicable Grantor or Grantors shall promptly (and in any event within three (3) Business Days of obtaining such Commercial Tort Claim), notify Collateral Agent, in writing, upon incurring or otherwise obtaining such Commercial Tort Claims and, promptly (and in any event within ten (10)Business Days after delivery of notice to the Collateral Agent), amend Schedule 2 to describe such Commercial Tort Claims in a manner that reasonably identifies such Commercial Tort Claims, and file additional financing statements or amendments to existing financing statements describing such Commercial Tort Claims, and agrees to do such other acts or things necessary to protect Collateral Agent's security interest therein.

(f) Government Contracts. If any Account or Chattel Paper arises out of a contract or contracts constituting Collateral with the United States of America or any department, agency, or instrumentality thereof (other than with respect to Excluded Assets), the Grantors shall promptly (and in any event within ten (10) Business Days of the creation thereof) notify Collateral Agent, in writing, thereof and, promptly (and in any event within ten (10)Business Days after delivery of notice to the Collateral Agent), execute an assignment instrument, and take any steps reasonably required in order that all moneys due or to become due under such contract or contracts shall be assigned to Collateral Agent, for the benefit of the Secured Parties.

(g) Intellectual Property.

(i) In order to facilitate filings with the United States Patent and Trademark Office and the United States Copyright Office, each Grantor shall execute and deliver to Collateral Agent one or more Copyright Security Agreements, Trademark Security Agreements, or Patent Security Agreements, or supplements thereto, to further evidence

Collateral Agent's Lien on such Grantor's Patents, Trademarks, or Copyrights, and the General Intangibles of such Grantor relating thereto or represented thereby, including, commencing on the six-month anniversary hereof and each six-month anniversary hereafter documentation sufficient to perfect Collateral Agent's Liens on such Intellectual Property or Intellectual Property License for all new Patents or Trademarks that are registered or the subject of pending applications for registrations, and of all exclusive Intellectual Property Licenses that are material to the conduct of such Grantor's business, in each case, which were entered into, acquired, registered, or for which applications for registration were filed by any Grantor during the immediately preceding six-month period and any statement of use or amendment to allege use was filed with respect to intent-to-use trademark applications. In the case of such registrations or applications therefor, which were acquired by any Grantor, each such Grantor shall file the necessary documents with the appropriate Governmental Authority identifying the applicable Grantor as the owner (or as a co-owner thereof, if such is the case) of such Intellectual Property.

(ii) Each Grantor shall have the duty, with respect to all Intellectual Property owned by such Grantor (whether now existing or hereafter required) that is material to and necessary in the conduct of such Grantor's business, to take all reasonable and necessary measures to protect and diligently enforce and defend at such Grantor's expense all of such Intellectual Property, in such Grantor's reasonable business judgment, including (A) to diligently enforce and defend, including promptly suing for infringement, misappropriation, or dilution and to recover any and all damages for such infringement, misappropriation, or dilution, and filing for opposition, interference, and cancellation against conflicting Intellectual Property rights of any Person, (B) to prosecute diligently any trademark application or service mark application that is part of the Trademarks pending as of the date hereof or hereafter until the termination of this Agreement, (C) to prosecute diligently any patent application that is part of the Patents pending as of the date hereof or hereafter until the termination of this Agreement, and (D) to take all reasonable and necessary action to preserve and maintain all of such Grantor's Trademarks, Patents, Copyrights, Intellectual Property Licenses, and its rights therein, including paying all maintenance fees and filing of applications for renewal, affidavits of use, and affidavits of noncontestability. Each Grantor further agrees not to abandon any Intellectual Property or terminate any Intellectual Property License that is material to and necessary in the conduct of such Grantor's business. Each Grantor hereby agrees to take the steps described in this Section 6(g)(ii) with respect to all new or acquired Intellectual Property to which it or any of its Subsidiaries is now or later becomes entitled that is material to and necessary in the conduct of such Grantor's business.

(iii) Each Grantor acknowledges and agrees that the Secured Parties shall have no duties with respect to any Intellectual Property or Intellectual Property Licenses of any Grantor. Without limiting the generality of this Section 6(g)(iii), each Grantor acknowledges and agrees that no member of the Secured Parties shall be under any obligation to take any steps necessary to preserve rights in the Collateral consisting of Intellectual Property or Intellectual Property Licenses against any other Person, but any member of the Secured Parties may do so at its option from and after the occurrence and during the continuance of an Event of Default, and all expenses incurred in connection therewith (including reasonable fees and expenses of attorneys, agents and other professionals) shall be for the sole account of Company.

(iv) Anything to the contrary in this Agreement notwithstanding, in no event shall any Grantor, either itself or through any agent, employee, licensee, or designee, file an application for the registration of any Copyright with the United States Copyright Office or any similar office or agency in another country without giving Collateral Agent written notice thereof within ten (10) days following such filing and complying with Section 6(g)(i). Upon receipt from the United States Copyright Office of notice of registration of any Copyright, each Grantor shall promptly (but in no event later than three (3) Business Days following such receipt) notify Collateral Agent in writing of such registration by delivering, or causing to be delivered, to Collateral Agent, documentation sufficient to perfect Collateral Agent's Liens on such Copyright. If any Grantor acquires from any Person any Copyright registered with the United States Copyright Office or an application to register any Copyright with the United States Copyright Office, such Grantor shall promptly (but in no event later than three (3) Business Days following such acquisition) notify Collateral Agent, in writing, of such acquisition and deliver, or cause to be delivered, to Collateral Agent, documentation sufficient to perfect Collateral Agent's Liens on such Copyright. In the case of such Copyright registrations or applications therefor which were acquired by any Grantor, each such Grantor shall promptly (but in no event later than three (3) Business Days following such acquisition) file the necessary documents with the appropriate Governmental Authority identifying the applicable Grantor as the owner (or as a co-owner thereof, if such is the case) of such Copyrights.

(v) Each Grantor shall take reasonable steps to maintain the confidentiality of, and otherwise protect and enforce its rights in, the Intellectual Property that is material to and necessary in the conduct of such Grantor's business, including, as applicable (A) protecting the secrecy and confidentiality of its confidential information and trade secrets by having and enforcing a policy requiring all current employees, consultants, licensees, vendors and contractors with access to such information to execute appropriate confidentiality agreements; (B) taking actions reasonably necessary to ensure that no trade secret falls into the public domain; and (C) protecting the secrecy and confidentiality of the source code of all software programs and applications of which it is the owner or licensee by having and enforcing a policy requiring any licensees (or sublicensees) of such source code to enter into license agreements with commercially reasonable use and non-disclosure restrictions.

(vi) No Grantor shall enter into any Intellectual Property License to receive any license or rights in any Intellectual Property of any other Person unless such Grantor has used commercially reasonable efforts to permit the assignment of or grant of a security interest in such Intellectual Property License (and all rights of Grantor thereunder) to the Collateral Agent (and any transferees of Collateral Agent).

(h) Investment Related Property.

(i) If any Grantor shall acquire, obtain, receive or become entitled to receive any Pledged Interests after the date hereof, it shall promptly (and in any event within three (3) Business Days of acquiring or obtaining such Collateral) deliver to Collateral Agent a duly executed Pledged Interests Addendum identifying such Pledged Interests.

(ii) Upon the occurrence and during the continuance of an Event of Default, following the request of Collateral Agent, all sums of money and property paid or

distributed in respect of the Investment Related Property that are received by any Grantor shall be held by the Grantors in trust for the benefit of Collateral Agent segregated from such Grantor's other property, and such Grantor shall deliver it forthwith to Collateral Agent in the exact form received.

(iii) No Grantor shall make or consent to any amendment or other modification or waiver with respect to any Pledged Interests, or enter into any agreement or permit to exist any restriction with respect to any Pledged Interests if the same is prohibited pursuant to the Indenture.

(iv) Each Grantor agrees that it will cooperate with Collateral Agent in obtaining all necessary approvals and making all necessary filings under federal, state, local, or foreign law to effect the perfection of the Security Interest on the Investment Related Property or to effect any sale or transfer thereof.

(i) Real Property; Fixtures. Each Grantor covenants and agrees that upon the acquisition of any fee interest in Real Property with a fair market value in excess of $250,000 it (i) will promptly notify Collateral Agent, in writing, of the acquisition of such Real Property and (ii) will grant to Collateral Agent, for the benefit of the Secured Parties, a Mortgage on each fee interest in Real Property now or hereafter owned by such Grantor and shall deliver documentation and opinions in connection with the grant of such Mortgage, including title insurance policies, financing statements, fixture filings and environmental audits and such Grantor shall pay all recording costs, intangible taxes and other fees and costs (including reasonable and documented attorneys', agents' and professional advisors' fees and expenses) incurred in connection therewith.

(j) Transfers and Other Liens. No Grantor shall (i) sell, assign (by operation of law or otherwise) or otherwise dispose of, or grant any option with respect to, any of the Collateral, except as expressly permitted by the Indenture, or (ii) create or permit to exist any Lien upon or with respect to any of the Collateral of any Grantor, except for Permitted Liens. The inclusion of Proceeds in the Collateral shall not be deemed to constitute Collateral Agent's consent to any sale or other disposition of any of the Collateral except as expressly permitted in this Agreement or the other Note Documents.

(k) Controlled Accounts.

(i) Each Grantor shall (A) establish and maintain cash management services at one or more of the banks set forth on Schedule 8 (each a "**Controlled Account Bank**"), and shall take reasonable steps to ensure that all of its and its Subsidiaries' Account Debtors forward payment of the amounts owed by them directly to such Controlled Account Bank, and (B) deposit or cause to be deposited promptly, and in any event no later than the first Business Day after the date of receipt thereof, all of their Collections (including those sent directly by their Account Debtors to a Grantor) into one or more bank accounts of such Grantor (each, a "**Controlled Account**") at one of the Controlled Account Banks.

(ii) Subject to Section 26, each Grantor shall establish and maintain Controlled Account Agreements with Collateral Agent and the applicable Controlled Account

Bank granting the Collateral Agent with "control" (as such term is used in Articles 8 and 9 of the Code) over each such Controlled Account.

(iii) So long as no Default or Event of Default has occurred and is continuing, any Grantor may add or replace a Controlled Account Bank or Controlled Account; *provided*, *however*, that prior to, or substantially concurrently with, the time of the opening of such Controlled Account, the applicable Grantor and such prospective Controlled Account Bank shall have executed and delivered to Collateral Agent a Controlled Account Agreement.

(l) Pledged Notes. Upon the occurrence and during the continuance of an Event of Default, Grantors (i) without the prior written consent of Collateral Agent, will not (A) waive or release any obligation of any Person that is obligated under any of the Pledged Notes, (B) take or omit to take any action or knowingly suffer or permit any action to be omitted or taken, the taking or omission of which would result in any right of offset against sums payable under the Pledged Notes, or (C) other than dispositions permitted under the Indenture, assign or surrender their rights and interests under any of the Pledged Notes or terminate, cancel, modify, change, supplement or amend the Pledged Notes, and (ii) shall provide to Collateral Agent copies of all material written notices (including notices of default) given or received with respect to the Pledged Notes promptly after giving or receiving such notice.

(m) Accounts.

(i) No credit, discount, allowance or extension or agreement for any of the foregoing shall be granted to any Account Debtor, except in the ordinary course of a Grantor's business in accordance with practices and policies or as otherwise disclosed to Collateral Agent. So long as no Event of Default has occurred and is continuing, the Grantors may settle, adjust or compromise any claim, offset, counterclaim or dispute with any Account Debtor. At any time that an Event of Default has occurred and is continuing, Collateral Agent shall, at its option, have the exclusive right to settle, adjust or compromise any claim, offset, counterclaim or dispute with Account Debtors or grant any credits, discounts or allowances.

(ii) Collateral Agent shall have the right (but not the obligation) at any time or times, in the name of any applicable Grantor, in Collateral Agent's name or in the name of a nominee of Collateral Agent, to verify the validity, amount or any other matter relating to any Accounts or other Collateral, by mail, telephone, facsimile transmission or otherwise, and each Grantor shall cooperate fully with Collateral Agent in an effort to facilitate and promptly conclude any such verification process.

(n) Inventory. With respect to the Inventory of each Grantor:

(i) Except where the failure to do so could not reasonably be expected to result in a Material Adverse Change, each Grantor shall at all times maintain inventory records by keeping correct and accurate records itemizing and describing the kind, type, quality and quantity of Inventory and such Grantor's cost therefore and monthly withdrawals therefrom and additions thereto;

(ii) Except where the failure to do so could not reasonably be expected to result in a Material Adverse Change, the Grantors shall produce, use, store and maintain the

Inventory with all reasonable care and caution and in accordance with applicable standards of any insurance and in conformity with applicable laws (including the requirements of the Federal Fair Labor Standards Act of 1938, as amended and all rules, regulations and orders related thereto); and

(iii) Each Grantor assumes all responsibility and liability arising from or relating to the production, use, sale or otherdisposition of the Inventory.

(o) Equipment. With respect to the Equipment of each Grantor:

(i) Such Grantor has good and marketable title with respect to owned Equipment (except for minor defects in title to Equipment that do not materially interfere with its ability to conduct its business as currently conducted or to use such Equipment for its intended purpose); and

(ii) All material Equipment that is necessary and useful in the proper conduct of its business is in good working order and condition, ordinary wear, tear, and casualty and condemnation excepted, except where the failure to do so could not reasonably be expected to result in a Material Adverse Change.

(p) Properties. Each Grantor covenants and agrees that, upon entering any real property lease with annual aggregate rent exceeding $250,000in respect of a property or properties at which any Collateral will be located from time to time, it will promptly amend Schedule 1 to reflect such new real property lease.

(q) Perfection Certificate. Each year, at the time of delivery of annual financial statements with respect to the preceding fiscal year pursuant to Section 5.02 of the Indenture, the Grantors shall deliver to the Collateral Agent a certificate executed by the Responsible Officer of each Grantor, setting forth any information required pursuant to the Perfection Certificate that has changed or confirming that there has been no change in such information since the date of the Perfection Certificate or the date of the most recent certificate delivered pursuant to this Section 6(q). Delivery of the Perfection Certificate to the Collateral Agent is for informational purposes only and the Collateral Agent's receipt of such shall not constitute actual or constructive knowledge or notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder or any Collateral Agreement (as to which the Collateral Agent is entitled to rely exclusively on Officer's Certificates and the Company's annual opinion).

(r) Updated Collateral Information.

(i) Such Grantor shall promptly furnish to Collateral Agent from time to time upon Collateral Agent's reasonable request, such updates to the information disclosed pursuant to this Agreement, including any of Schedules 1 through 9 hereto, such that such updated information and exhibits are true and correct as of the date so furnished; *provided* that only one such request may be made per fiscal year unless an Event of Default shall have occurred and be continuing.

(ii) Each Grantor agrees promptly (and in any event within 30 days of such change) to notify the Collateral Agent in writing of any change in (A) legal name of any Grantor, (B) the type of organization of any Grantor, (C) the jurisdiction of organization of any Grantor, or (D) the chief executive office of any Grantor and take all actions necessary to continue the perfection of the security interest created hereunder following any such change with the same priority as immediately prior to such change.

7. Relation to Other Note Documents. The provisions of this Agreement shall be read and construed with the other Note Documents referred to below in the manner so indicated.

(a) Indenture. In the event of any conflict between any one or more provisions in this Agreement and one or more provisions in the Indenture, such provisions of the Indenture shall control.

(b) Patent, Trademark, Copyright Security Agreements. The provisions of the Copyright Security Agreements, Trademark Security Agreements, and Patent Security Agreements are supplemental to the provisions of this Agreement, and nothing contained in the Copyright Security Agreements, Trademark Security Agreements, or the Patent Security Agreements shall limit any of the rights or remedies of Collateral Agent hereunder. In the event of any conflict between any provision in this Agreement and a provision in a Copyright Security Agreement, Trademark Security Agreement or Patent Security Agreement, such provision of this Agreement shall control.

8. Further Assurances.

(a) Other than as permitted by Section 15.05(a)(i) of the Indenture, the Company shall cause each of its Domestic Subsidiaries promptly (but in any event within fifteen (15) Business Days, after formation or acquisition thereof) to grant to Collateral Agent a Security Interest in, subject to the limitations set forth herein and in the Note Documents, all of such Domestic Subsidiary's Collateral to secure the Secured Obligations. Upon the execution and delivery of a Joinder by any such new Domestic Subsidiary, such Domestic Subsidiary shall become a Grantor hereunder with the same force and effect as if originally named as a Grantor herein. The execution and delivery of any instrument adding an additional Grantor as a party to this Agreement shall not require the consent of any Grantor hereunder. The rights and obligations of each Grantor hereunder shall remain in full force and effect notwithstanding the addition of any new Grantor hereunder.

(b) Each Grantor agrees that, from time to time, at its own expense, such Grantor will promptly execute and deliver all further instruments and documents, and take all further action, that is necessary in order to perfect and protect the Security Interest granted hereby, to create, perfect or protect the Security Interest purported to be granted hereby or to enable Collateral Agent to exercise and enforce its rights and remedies hereunder with respect to any of the Collateral.

(c) Each Grantor authorizes the filing by Collateral Agent (with no obligation) of financing or continuation statements, or amendments thereto, and such Grantor will execute and deliver to Collateral Agent such other instruments or notices, as Collateral Agent may

reasonably request, in order to perfect and preserve the Security Interest purported to be granted hereby.

(d) Each Grantor authorizes Collateral Agent (with no obligation) at any time and from time to time to file, transmit, or communicate, as applicable, financing statements and amendments (i) describing the Collateral as "all personal property of debtor" or "all assets of debtor" or words of similar effect, (ii) describing the Collateral as being of equal or lesser scope or with greater detail, or (iii) that contain any information required by part 5 of Article 9 of the Code for the sufficiency or filing office acceptance.

9. Collateral Agent's Right to Perform Contracts, Exercise Rights, etc. Upon the occurrence and during the continuance of anEvent of Default, Collateral Agent (or its designee), without obligation, (a) may (but shall not be obligated to) proceed to perform any and all of the obligations of anyGrantor contained in any contract, lease, or other agreement and exercise any and all rights of any Grantor therein contained as fully assuch Grantor itself could, (b) shall have the right to use any Grantor's rights under Intellectual Property Licenses in connection with theenforcement of Collateral Agent's rights hereunder, including the right to prepare for sale and sell any and all Inventory and Equipmentnow or hereafter owned by any Grantor and now or hereafter covered by such licenses, and (c) shall have the right to request that anyEquity Interests that is pledged hereunder be registered in the name of Collateral Agent or any of its nominees.

10. Collateral Agent Appointed Attorney-in-Fact. Each Grantor hereby irrevocably appoints Collateral Agent its attorney-in-fact,with full authority in the place and stead of such Grantor and in the name of such Grantor or otherwise, at such time as an Event ofDefault has occurred and is continuing under any Note Document, to take any action and to execute any instrument which may benecessary or advisable to accomplish the purposes of this Agreement, including, without limitation:

(a) to ask, demand, collect, sue for, recover, compromise, receive and give acquittance and receipts for moneys due and to become due under or in connection with the Accounts or any other Collateral of such Grantor;

(b) to receive and open all mail addressed to such Grantor and to notify postal authorities to change the address for the delivery of mail to such Grantor to that of Collateral Agent;

(c) to receive, indorse, and collect any drafts or other instruments, documents, Negotiable Collateral or Chattel Paper;

(d) to file any claims or take any action or institute any proceedings which may be necessary to protect Collateral Agent's security interest;

(e) to repair, alter, or supply goods, if any, necessary to fulfill in whole or in part the purchase order of any Person obligated to such Grantor in respect of any Account of such Grantor;

(f) to use any Intellectual Property or exercise any rights under Intellectual Property Licenses of such Grantor, including but not limited to any labels, Patents, Trademarks,

trade names, URLs, domain names, industrial designs, Copyrights, or advertising matter, in preparing for sale, advertising for sale, or selling Inventory or other Collateral and to collect any amounts due under Accounts, contracts or Negotiable Collateral of such Grantor; and

(g) Collateral Agent, on behalf of the Secured Parties, shall have the right, but shall not be obligated, to bring suit in its own name to enforce the Intellectual Property and Intellectual Property Licenses and, if Collateral Agent shall commence any such suit, the appropriate Grantor shall, at the request of Collateral Agent, do any and all lawful acts and execute any and all proper documents reasonably required by Collateral Agent in aid of such enforcement.

To the extent permitted by law, each Grantor hereby ratifies all that such attorney-in-fact shall lawfully do or cause to be done by virtue hereof. This power of attorney is coupled with an interest and shall be irrevocable until this Agreement is terminated.

11. Collateral Agent May Perform. If any Grantor fails to perform any agreement contained herein, Collateral Agent may, but shall not be obligated to, itself perform, or cause performance of, such agreement, and the reasonable expenses of Collateral Agent incurred in connection therewith shall be payable, jointly and severally, by Grantors.

12. Collateral Agent's Duties. The powers conferred on Collateral Agent hereunder are solely to protect Collateral Agent's security interest in the Collateral, for the benefit of the Secured Parties, and shall not impose any duty upon Collateral Agent to exercise any such powers. Except for the safe custody of any Collateral in its actual possession and the accounting for moneys actually received by it hereunder, Collateral Agent shall have no duty as to any Collateral or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to any Collateral. Collateral Agent shall be deemed to have exercised reasonable care in the custody and preservation of any Collateral in its actual possession if such Collateral is accorded treatment substantially equal to that which Collateral Agent accords its own property. The further rights and duties of the Collateral Agent as provided in Section 15 of the Indenture apply under this Agreement and any Collateral Agreement *mutatis mutandis*.

13. Collection of Accounts, General Intangibles and Negotiable Collateral. At any time upon the occurrence and during the continuance of an Event of Default, Collateral Agent or Collateral Agent's designee may (a) notify Account Debtors of any Grantor that the Accounts, General Intangibles, Chattel Paper or Negotiable Collateral of such Grantor have been assigned to Collateral Agent, for the benefit of the Secured Parties, or that Collateral Agent has a security interest therein, and (b) collect the Accounts, General Intangibles and Negotiable Collateral of any Grantor directly, and any collection costs and expenses shall constitute part of such Grantor's Secured Obligations under the applicable Note Documents.

14. Disposition of Pledged Interests by Collateral Agent. None of the Pledged Interests existing as of the date of this Agreement are, and none of the Pledged Interests hereafter acquired on the date of acquisition thereof will be, registered or qualified under the various federal or state securities laws of the United States and disposition thereof after an Event of Default may be restricted to one or more private (instead of public) sales in view of the lack of such registration. Each Grantor understands that in connection with such disposition, Collateral

Agent may approach only a restricted number of potential purchasers and further understands that a sale under such circumstances may yield a lower price for the Pledged Interests than if the Pledged Interests werereregistered and qualified pursuant to federal and state securities laws and sold on the open market. Each Grantor, therefore, agrees that: (a)if Collateral Agent shall, pursuant to the terms of this Agreement, sell or cause the Pledged Interests or any portion thereof to be sold at a private sale, Collateral Agent shall have the right to rely upon the advice and opinion of any nationally recognized brokerage or investment firm (but shall not be obligated to seek such advice and the failure to do so shall not be considered in determining the commercial reasonableness of such action) as to the best manner in which to offer the Pledged Interest or any portion thereof for sale and as to the best price reasonably obtainable at the private sale thereof; and (b) such reliance shall be conclusive evidence that Collateral Agent has handled the disposition in a commercially reasonable manner.

15. Voting and Other Rights in Respect of Pledged Interests.

(a) Upon the occurrence and during the continuation of an Event of Default, (i) Collateral Agent may, at its option, and with three (3) Business Days prior notice to any Grantor, and in addition to all rights and remedies available to Collateral Agent hereunder or under any other agreement, at law, in equity, or otherwise, exercise all voting rights, or any other ownership or consensual rights (including any dividend or distribution rights) in respect of the Pledged Interests owned by such Grantor, but under no circumstances is Collateral Agent obligated by the terms of this Agreement to exercise such rights, and (ii) if Collateral Agent duly exercises its right to vote any of such Pledged Interests, each Grantor hereby appoints Collateral Agent, such Grantor's true and lawful attorney-in-fact and IRREVOCABLE PROXY to vote such Pledged Interests in any manner Collateral Agent deems advisable for or against all matters submitted or which may be submitted to a vote of shareholders, partners or members, as the case may be. The power-of-attorney and proxy granted hereby is coupled with an interest and shall be irrevocable.

(b) Except as otherwise permitted under the Note Documents, for so long as any Grantor shall have the right to vote the Pledged Interests owned by it, such Grantor covenants and agrees that it will not vote or take any consensual action with respect to such Pledged Interests which would materially adversely affect the rights of Collateral Agent, the other members of the Secured Parties, or the value of the Pledged Interests.

16. Remedies. Upon the occurrence and during the continuance of an Event of Default:

(a) Collateral Agent may exercise in respect of the Collateral, in addition to other rights and remedies provided for herein, in the other Note Documents, or otherwise available to it, all the rights and remedies of a secured party on default under the Code or any other applicable law. Without limiting the generality of the foregoing, each Grantor expressly agrees that, in any such event, Collateral Agent without demand of performance or other demand, advertisement or notice of any kind (except a notice specified below of time and place of public or private sale) to or upon any Grantor or any other Person (all and each of which demands, advertisements and notices are hereby expressly waived to the maximum extent permitted by the Code or any other applicable law), may take immediate possession of all or any

portion of the Collateral and (i) require Grantors to, and each Grantor hereby agrees that it will at its own expense and upon request of Collateral Agent forthwith, assemble all or part of the Collateral as directed by Collateral Agent and make it available to Collateral Agent at one or more locations where such Grantor regularly maintains Inventory, and (ii) without notice except as specified below, sell the Collateral or any part thereof in one or more parcels at public or private sale, at any of Collateral Agent's offices or elsewhere, for cash, on credit, and upon such other terms as Collateral Agent may deem commercially reasonable. Each Grantor agrees that, to the extent notice of sale shall be required by law, at least ten (10) days' notice to the applicable Grantor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification and specifically such notice shall constitute a reasonable "authenticated notification of disposition" within the meaning of Section 9-611 of the Code. Collateral Agent shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. Collateral Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. Each Grantor agrees that the internet shall constitute a "place" for purposes of Section 9-610(b) of the Code. Each Grantor agrees that any sale of Collateral to a licensor pursuant to the terms of a license agreement between such licensor and a Grantor is sufficient to constitute a commercially reasonable disposition (including as to method, terms, manner, and time) within the meaning of Section 9-610 of the Code.

(b) Collateral Agent is hereby granted a license or other right to use, without liability for royalties or any other charge, each Grantor's Intellectual Property, including but not limited to, any labels, Patents, Trademarks, trade names, URLs, domain names, industrial designs, Copyrights, and advertising matter, whether owned by any Grantor or with respect to which any Grantor has rights under license, sublicense, or other agreements (including any Intellectual Property License), as it pertains to the Collateral, in preparing for sale, advertising for sale and selling any Collateral, and each Grantor's rights under all licenses and all franchise agreements shall inure to the benefit of Collateral Agent.

(c) Collateral Agent may, in addition to other rights and remedies provided for herein, in the other Note Documents, or otherwise available to it under applicable law and without the requirement of notice to or upon any Grantor or any other Person (which notice is hereby expressly waived to the maximum extent permitted by the Code or any other applicable law), (i) with respect to any Grantor's Deposit Accounts in which Collateral Agent's Liens are perfected by control under Section 9-104 of the Code, instruct the bank maintaining such Deposit Account for the applicable Grantor to pay the balance of such Deposit Account to or for the benefit of Collateral Agent, and (ii) with respect to any Grantor's Securities Accounts in which Collateral Agent's Liens are perfected by control under Section 9-106 of the Code, instruct the securities intermediary maintaining such Securities Account for the applicable Grantor to (A) transfer any cash in such Securities Account to or for the benefit of Collateral Agent, or (B) liquidate any financial assets in such Securities Account that are customarily sold on a recognized market and transfer the cash proceeds thereof to or for the benefit of Collateral Agent.

(d) Any cash held by Collateral Agent as Collateral and all cash proceeds received by Collateral Agent in respect of any sale of, collection from, or other realization upon

all or any part of the Collateral shall be applied against the Secured Obligations in the order set forth in the Indenture. In the event the proceeds of Collateral are insufficient to satisfy all of the Secured Obligations in full, each Grantor shall remain jointly and severally liable for any such deficiency.

(e) Each Grantor hereby acknowledges that the Secured Obligations arise out of a commercial transaction, and agrees that if an Event of Default shall occur and be continuing Collateral Agent shall have the right to an immediate writ of possession without notice of a hearing. Collateral Agent shall have the right to the appointment of a receiver for the properties and assets of each Grantor, and each Grantor hereby consents to such rights and such appointment and hereby waives any objection such Grantor may have thereto or the right to have a bond or other security posted by Collateral Agent.

17. Remedies Cumulative. Each right, power, and remedy of Collateral Agent as provided for in this Agreement or in the other Note Documents or now or hereafter existing at law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power, or remedy provided for in this Agreement or in the other Note Documents or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Collateral Agent, of any one or more of such rights, powers, or remedies shall not preclude the simultaneous or later exercise by Collateral Agent of any or all such other rights, powers, or remedies.

18. Marshaling. Collateral Agent shall not be required to marshal any present or future collateral security (including but not limited to the Collateral) for, or other assurances of payment of, the Secured Obligations or any of them or to resort to such collateral security or other assurances of payment in any particular order, and all of its rights and remedies hereunder and in respect of such collateral security and other assurances of payment shall be cumulative and in addition to all other rights and remedies, however existing or arising. To the extent that it lawfully may, each Grantor hereby agrees that it will not invoke any law relating to the marshaling of collateral which might cause delay in or impede the enforcement of Collateral Agent's rights and remedies under this Agreement or under any other instrument creating or evidencing any of the Secured Obligations or under which any of the Secured Obligations is outstanding or by which any of the Secured Obligations is secured or payment thereof is otherwise assured, and, to the extent that it lawfully may, each Grantor hereby irrevocably waives the benefits of all such laws.

19. Indemnity and Expenses.

(a) Each Grantor agrees to indemnify Collateral Agent to the extent the Company would be required to do so pursuant to the Indenture. This provision shall survive the termination of this Agreement and the Indenture, the resignation or removal of the Collateral Agent and the repayment of the Secured Obligations.

(b) Grantors, jointly and severally, shall, upon written demand therefore and with reasonable detailed documentation thereof, pay to Collateral Agent all the expenses which Collateral Agent may incur in connection with (i) the administration of this Agreement, (ii) the custody, preservation, use or operation of, or, upon an Event of Default, the sale of, collection

from, or other realization upon, any of the Collateral in accordance with this Agreement and the other Note Documents, (iii) the exercise or enforcement of any of the rights of Collateral Agent hereunder or (iv) the failure by any Grantor to perform or observe any of the provisions hereof.

20. Merger, Amendments; Etc. THIS AGREEMENT, TOGETHER WITH THE OTHER NOTE DOCUMENTS, REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN AGREEMENTS BETWEEN THE PARTIES. No waiver of any provision of this Agreement, and no consent to any departure by any Grantor herefrom, shall in any event be effective unless the same shall be in writing and signed by Collateral Agent, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No amendment of any provision of this Agreement shall be effective unless the same shall be in writing and signed by Collateral Agent and each Grantor to which such amendment applies. Collateral Agent shall not by any act, delay, omission or otherwise, be deemed to have waived any of its rights or remedies hereunder, unless such waiver is in writing and signed by Collateral Agent and then only to the extent therein set forth. A waiver by Collateral Agent of any right or remedy which Collateral Agent would otherwise have had on any other occasion. Any waivers, amendments or otherwise occurring under this Agreement or any Collateral Agreement must occur in compliance with the Indenture.

21. Addresses for Notices. All notices and other communications provided for hereunder shall be given in the form and manner and delivered to Collateral Agent at its address specified in the Indenture, and to any of the Grantors at their respective addresses specified in the Indenture, as applicable, or, as to any party, at such other address as shall be designated by such party in a written notice to the other party.

22. Continuing Security Interest; Releases and Assignments.

(a) This Agreement shall create a continuing security interest in the Collateral and shall (i) remain in full force and effect until all Secured Obligations have been paid in full in accordance with the provisions of the Note Documents, (ii) be binding upon each Grantor, and their respective successors and assigns, and (iii) inure to the benefit of, and be enforceable by, Collateral Agent, and its successors, transferees and assigns.

(b) The Security Interests securing the Secured Obligations shall be released with respect to any Collateral, in whole or in part, to the extent the release of such Security Interests in such Collateral is permitted by and in accordance with the terms of the Indenture and any other Note Document (other than this Agreement) governing such Secured Obligations.

(c) At the time of any release pursuant to clause (b) above, all rights to the Collateral released shall revert to the Grantors or any other Person entitled thereto, and Collateral Agent shall return to the Grantors any such released Collateral in its possession.

(d) No transfer or renewal, extension, assignment, or termination of this Agreement or of the Indenture or any other Note Document or any other instrument or document executed and delivered by any Grantor to Collateral Agent nor the taking of further security, nor

the retaking or re-delivery of the Collateral to any Grantor by Collateral Agent, nor any other act of the Secured Parties, or any of them, shall release any Grantor from any obligation, except a release in accordance with this Section 22.

23. Governing Law.

(a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. EACH GRANTOR AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT IT MAY HAVE TO TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

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

24. Collateral Agent. Each reference herein to any right granted to, benefit conferred upon or power exercisable by the "Collateral Agent" shall be a reference to Collateral Agent, for the benefit of each member of the Secured Parties.

25. Miscellaneous.

(a) This Agreement is a Note Document. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Agreement. Delivery of an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission shall be equally as effective as delivery of an original executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission also shall deliver an original executed counterpart of this Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement. The foregoing shall apply to each other Note Document *mutatis mutandis*.

(b) Any provision of this Agreement which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof in that jurisdiction or affecting the validity or enforceability of such provision in any other jurisdiction. Each provision of this Agreement shall be severable from every other provision of this Agreement for the purpose of determining the legal enforceability of any specific provision.

(c) Headings and numbers have been set forth herein for convenience only. Unless the contrary is compelled by the context, everything contained in each Section applies equally to this entire Agreement.

(d) Neither this Agreement nor any uncertainty or ambiguity herein shall be construed against any Collateral Agent or any Grantor, whether under any rule of construction or otherwise. This Agreement has been reviewed by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to accomplish fairly the purposes and intentions of all parties hereto.

(e) The pronouns used herein shall include, when appropriate, either gender and both singular and plural, and the grammatical construction of sentences shall conform thereto.

(f) Unless the context of this Agreement clearly requires otherwise, references to the plural include the singular, references to the singular include the plural, the terms "includes" and "including" are not limiting, and the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or". The words "hereof", "herein", "hereby", "hereunder", and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. Section, subsection, clause, schedule, and exhibit references herein are to this Agreement unless otherwise specified. Any reference in this Agreement to any agreement, instrument, or document shall include all alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements, thereto and thereof, as applicable (subject to any restrictions on such alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements set forth herein). The words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts, and contract rights. Any reference herein to the satisfaction, repayment, or payment in full of the Secured Obligations shall mean the repayment in full in cash of all Secured Obligations other than unasserted contingent indemnification Secured Obligations. Any reference herein to any Person shall be construed to include such Person's successors and assigns. Any requirement of a writing contained herein shall be satisfied by the transmission of a Record.

(g) All of the annexes, schedules and exhibits attached to this Agreement shall be deemed incorporated herein by reference.

26. Post-Closing Matters. The Grantors hereby agree to deliver to the Collateral Agent, on or prior to the date that is 45 days after the Issue Date:

(a) all documents representing all securities being pledged pursuant to this Agreement and related undated powers or endorsements duly executed in blank;

(b) copies of executedTrademark Security Agreementsand Patent Security Agreements, filed with the PTO;and

(c) a Control Agreement with respect to the Accounts set forth on Schedule 8; *provided*, *however*, that in the event the Grantors fail to obtain such Control Agreements for such

accounts by the date that is 45 days after the Issue Date, the Grantors shall close such accounts and the balances, property or other assets therein shall be transferred within 60 days after the Issue Dateto another Deposit Account or Securities Account of such Grantor in respect of which an authenticated Control Agreement has been obtained and will take such other actions as necessary for the Collateral Agent's security interests in such other Deposit Accounts or Securities Accounts granted hereunder to be perfected by "control" (as such term is defined under Articles 8 and 9 of the Code).

[signature pages follow]

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

GRANTOR:

SUPERNUS PHARMACEUTICALS, INC.

By: /s/ Gregory S. Patrick
Name: Gregory S. Patrick
Title: V.P. and Chief Financial Officer

[*Signature Page to Security and Pledge Agreement*]

COLLATERAL AGENT:

U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent

By: /s/ Alison D.B. Nadeau
Name: Alison D.B. Nadeau
Title: Vice President

[*Signature Page to Security and Pledge Agreement*]

SCHEDULE 1

NOTICE ADDRESS FOR ALL GRANTOR

c/o
Attention:
Facsimile:

INFORMATION AND COLLATERAL LOCATIONS OF
{Insert name of applicable Grantor}

I. Name of Grantor:
II. State of Incorporation or Organization:
III. Type of Entity:
IV. Organizational Number assigned by State of Incorporation or Organization:
V. Federal Identification Number:
VI. Place of Business (if it has only one) orChief Executive Office (if more than one placeof business) and Mailing Address: Attention:

VII. Locations of Collateral:
(a) Properties Owned by the Grantor:
(b) Properties Leased by the Grantor or other related entity (Include Landlord's Name):
(c) Public Warehouses or other Locations pursuant to Bailment or Consignment Arrangements (include name of Warehouse Operator or other Bailee or Consignee):
VIII. Other names used within past five years:

INFORMATION AND COLLATERAL LOCATIONS OF
{Insert name of applicable Grantor}

I. Name of Grantor:
II. State of Incorporation or Organization:
III. Type of Entity:
IV. Organizational Number assigned by State of Incorporation or Organization:
V. Federal Identification Number:
VI. Place of Business (if it has only one) orChief Executive Office (if more than one placeof business) and Mailing Address: Attention:

VII. Locations of Collateral:
(a) Properties Owned by the Grantor:
(b) Properties Leased by the Grantor or other related entity (Include Landlord's Name):
(c) Public Warehouses or other Locations pursuant to Bailment or Consignment Arrangements (include name of Warehouse Operator or other Bailee or Consignee):
VIII. Other names used within past five years:

[NOTE: ADD ADDITIONAL INFORMATION PAGE FOR EACH GRANTOR]

SCHEDULE 2

COMMERCIAL TORT CLAIMS

[include specific case caption or descriptions per Official Code Comment 5 to Section 9-108 of the Code]

SCHEDULE 3

INTELLECTUAL PROPERTY

COPYRIGHT REGISTRATIONS

Grantor	Country	Copyright	Registration No.	Registration Date

Copyright Licenses

Patents

Grantor	Country	Patent	Application/ Patent No.	Filing Date

Patent Licenses

Trademark Registrations/Applications

Grantor	Country	Mark	Application/ Registration No.	App/RegDate

Trade Names

Common Law Trademarks

Trademarks Not Currently In Use

Trademark Licenses

SCHEDULE 4

LIST OF PLEDGED COLLATERAL, SECURITIES AND OTHER INVESTMENT PROPERTY

EQUITY INTERESTS

Name of Grantor	Issuer ("Pledged Companies")	Certificate Number(s)	Number of Shares	Class of Equity Interests	Percentage of Outstanding Shares

BONDS

Name of Grantor	Issuer	Number	Face Amount	Coupon Rate (if applicable)	Maturity

GOVERNMENT SECURITIES

Name of Grantor	Issuer	Number	Type	Face Amount	Coupon Rate	Maturity

OTHER SECURITIES OR OTHER INVESTMENT PROPERTY
(CERTIFICATED AND UNCERTIFICATED)

Name of Grantor	Issuer	Description of Collateral	Percentage Ownership Interest

[Add description of custody accounts or arrangements with securities intermediary, if applicable]

SCHEDULE 5

LIST OF UNIFORM COMMERCIAL CODE FILING JURISDICTIONS

Grantor	Jurisdictions

SCHEDULE 8

DEPOSIT ACCOUNTS

Name of Grantor	Name of Institution	Account Number	Check here if Deposit Account is a Collateral Deposit Account	Check here if Deposit Account is a Collection Account	Description of Deposit Account if not a Collateral Deposit Account or Collection Account

SECURITIES ACCOUNTS

Name of Grantor	Name of Institution	Account Number	Check here if Deposit Account is a Collateral Deposit Account	Check here if Deposit Account is a Collection Account	Description of Deposit Account if not a Collateral Deposit Account or Collection Account

LOCK BOXES

Name of Grantor	Name of Institution	Lock Box Number

SCHEDULE 9

NEGOTIABLE COLLATERAL

ANNEX 1 TO SECURITY AND PLEDGE AGREEMENT
FORM OF JOINDER

Joinder No. (this "**Joinder**"), dated as of , 201 by and among , a (the"**New Subsidiary**") and **U.S. BANK NATIONAL ASSOCIATION**, a national banking association, in its capacity as collateral agent for the Secured Parties (in such capacity, together with its successors and assigns in such capacity, "**Collateral Agent**").

WITNESSETH:

WHEREAS, pursuant to the Indenture, dated as of May 3, 2013 among the Grantors and U.S. Bank National Association, a national banking association, as Trustee and Collateral Agent (as it may be amended, supplemented, extended, renewed, replaced, refunded or modified from time to time, the "**Indenture**"), **SUPERNUS PHARMACEUTICALS, INC.**, a Delaware corporation, (the "**Company**"), has issued to the Holders (as defined in the Indenture) the 7.50% Convertible Senior Secured Notes due 2019 (the "**Notes**");

WHEREAS, pursuant to the Indenture, the New Subsidiary is required to execute, among other documents, a Supplemental Indenture in order to become a Grantor under the Indenture; and

WHEREAS, pursuant to Section 8 of the Security Agreement (as defined in the Indenture) the New Subsidiary may become a Grantor under the Security Agreement and thereby benefit from certain rights granted to the Grantors pursuant to the terms of the Note Documents;

NOW, **THEREFORE**, for and in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each New Subsidiary hereby agrees as follows:

1. All initially capitalized terms used but not otherwise defined herein have the meanings given to them in the Security Agreement or, if not defined therein, in the Indenture.

2. The New Subsidiary, by its signature below, becomes a "Grantor" under the Security Agreement with the same force and effect as if originally named therein as a "Grantor" and the New Subsidiary hereby (a) agrees to all of the terms and provisions of the Security Agreement applicable to it as a "Grantor" thereunder and (b) represents and warrants that the representations and warranties made by it as a "Grantor" thereunder are true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that are already qualified or modified by materiality in the text thereof) on and as of the date hereof. In furtherance of the foregoing, the New Subsidiary does hereby unconditionally grant to Collateral Agent, for the benefit of the Secured Parties, to secure the Secured Obligations, a continuing security interest in and to all of such New Subsidiary's right, title and interest in and to the Collateral. Schedule 2, "Commercial Tort Claims", Schedule 3, "Intellectual Property",Schedule 4, "Pledged Companies", Schedule 5, "List of Uniform Commercial Code Filing Jurisdictions", Schedule 8"Accounts" and

Schedule 9"Negotiable Collateral" to the Security Agreement, attached hereto supplement Schedules 2 through 9, respectively, to the Security Agreement. Each reference to a "Grantor" in the Security Agreement and the other Note Documents shall be deemed to include the New Subsidiary. The Security Agreement is incorporated herein by reference. The New Subsidiary authorizes Collateral Agent at any time and from time to time to file, transmit, or communicate, as applicable, financing statements and amendments thereto (i) describing the Collateral as "all personal property of debtor" or "all assets of debtor" or words of similar effect, (ii) describing the Collateral as being of equal or lesser scope or with greater detail, or (iii) that contain any information required by part 5 of Article 9 of the Code for the sufficiency or filing office acceptance. The New Subsidiary also hereby ratifies any and all financing statements or amendments previously filed by Collateral Agent in any jurisdiction in connection with the Note Documents.

4. The New Subsidiary represents and warrants to Collateral Agent and the Secured Parties that this Joinder has been duly executed and delivered by such New Subsidiary and constitutes its legal, valid, and binding obligation, enforceable against it in accordance with its terms, except as enforceability thereof may be limited by bankruptcy, insolvency, reorganization, fraudulent transfer, moratorium, or other similar laws affecting creditors' rights generally and general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

5. This Agreement is a Note Document. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same agreement. Delivery of an executed counterpart of this Joinder by telefacsimile or other electronic method of transmission shall be equally as effective as delivery of an original executed counterpart of this Joinder. Any party delivering an executed counterpart of this Joinder by telefacsimile or other electronic method of transmission also shall deliver an original executed counterpart of this Joinder but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Joinder.

6. The Security Agreement, as supplemented hereby, shall remain in full force and effect.

7. THE VALIDITY OF THIS JOINDER, THE CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT HEREOF, AND THE RIGHTS OF THE PARTIES HERETO WITH RESPECT TO ALL MATTERS ARISING HEREUNDER OR RELATED HERETO SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

8. THE PARTIES AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS JOINDER SHALL BE TRIED AND LITIGATED ONLY IN THE STATE AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, FEDERAL COURTS LOCATED IN THE COUNTY OF NEW YORK, STATE OF NEW YORK; *PROVIDED*, *HOWEVER*, THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY COLLATERAL OR OTHER PROPERTY MAY BE BROUGHT, AT COLLATERAL

AGENT'S OPTION, IN THE COURTS OF ANY JURISDICTION WHERE COLLATERAL AGENT ELECTS TO BRING SUCH ACTION OR WHERE SUCH COLLATERAL OR OTHER PROPERTY MAY BE FOUND. COLLATERAL AGENT AND EACH NEW SUBSIDIARY WAIVE, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, ANY RIGHT EACH MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION 8.

9. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, COLLATERAL AGENT AND EACH NEW SUBSIDIARY HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS JOINDER OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS. COLLATERAL AGENT AND EACH NEW SUBSIDIARY REPRESENT THAT EACH HAS REVIEWED THIS WAIVER AND EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. IN THE EVENT OF LITIGATION, A COPY OF THIS JOINDER MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Joinder to the Security Agreement to be executed and delivered as of the day and year first above written.

NEW SUBSIDIARY:

[NAME OF NEW SUBSIDIARY]

By: _____
Name: _____
Title: _____

COLLATERAL AGENT:

U.S. BANK NATIONAL ASSOCIATION,as Collateral Agent

By: _____
Name: _____
Title: _____

EXHIBITS

EXHIBIT A

COPYRIGHT SECURITY AGREEMENT

This **COPYRIGHT SECURITY AGREEMENT** (this "**Copyright Security Agreement**") is made this day of ,201 , by and among Grantors listed on the signature pages hereof (each a "**Grantor**", and collectively, jointly and severally, the "**Grantors**"), and **U.S. BANK NATIONAL ASSOCIATION**, in its capacity as collateral agent for the Secured Parties (in such capacity, together with its successors and assigns in such capacity, "**Collateral Agent**").

WITNESSETH:

WHEREAS, pursuant to the Indenture, dated as of May 3, 2013 among the Grantors and U.S. Bank National Association, a national banking association, as Trustee and Collateral Agent (as it may be amended, supplemented, extended, renewed, replaced, refunded or modified from time to time, the "**Indenture**"), **SUPERNUS PHARMACEUTICALS, INC.**, a Delaware corporation, (the "**Company**"), has issued to the Holders (as defined in the Indenture) the 7.50% Convertible Senior Secured Notes due 2019 (the "**Notes**"). Each Grantor is entering into this Copyright Security Agreement in order to induce the Holders (as defined in the Indenture) to purchase the Notes and to secure the Secured Obligations;

WHEREAS, the Collateral Agent is willing to enter into the Indenture and the Holders are willing to purchase the Notes, but only upon the condition, among others, that Grantors shall have executed and delivered to Collateral Agent, for the benefit of the Secured Parties, that certain Security and Pledge Agreement, dated as of May 3, 2013 (including all annexes, exhibits or schedules thereto, as from time to time amended, restated, supplemented or otherwise modified, the "**Security and Pledge Agreement**"); and

WHEREAS, pursuant to the Security and Pledge Agreement, Grantors are required to execute and deliver to Collateral Agent, for the benefit of the Secured Parties, this Copyright Security Agreement;

NOW, **THEREFORE**, in consideration of the premises and mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Grantor hereby agree as follows:

1. DEFINED TERMS. All initially capitalized terms used but not otherwise defined herein have the meanings given to them in the Security and Pledge Agreement or, if not defined therein, in the Indenture.

2. GRANT OF SECURITY INTEREST IN COPYRIGHT COLLATERAL. Each Grantor hereby unconditionally grants to Collateral Agent, for the benefit of each of the Secured Parties, to secure the Secured Obligations, a continuing security interest (referred to in this Copyright Security Agreement as the "**Security Interest**") in all of such Grantor's right, title and

interest in and to the following, whether now owned or hereafter acquired or arising (collectively, the "**Copyright Collateral**"):

(a) all of such Grantor's Copyrights and Copyright Intellectual Property Licenses to which it is a party including those referred to on Schedule I;

(b) all renewals or extensions of the foregoing; and

(c) all products and proceeds of the foregoing, including any claim by such Grantor against third parties for past, present or future infringement of any Copyright or any Copyright exclusively licensed under any Intellectual Property License, including the right to receive damages, or the right to receive license fees, royalties, and other compensation under any Copyright Intellectual Property License.

3. SECURITY FOR SECURED OBLIGATIONS. This Copyright Security Agreement and the Security Interest created hereby secures the payment and performance of the Secured Obligations, whether now existing or arising hereafter. Without limiting the generality of the foregoing, this Copyright Security Agreement secures the payment of all amounts which constitute part of the Secured Obligations and would be owed by Grantors, or any of them, to Collateral Agent, the Secured Parties or any of them, whether or not they are unenforceable or not allowable due to the existence of an Insolvency Proceeding involving any Grantor.

4. SECURITY AND PLEDGE AGREEMENT. The Security Interest granted pursuant to this Copyright Security Agreement is granted in conjunction with the security interests granted to Collateral Agent, for the benefit of the Secured Parties, pursuant to the Security and Pledge Agreement. Each Grantor hereby acknowledges and affirms that the rights and remedies of Collateral Agent with respect to the Security Interest in the Copyright Collateral made and granted hereby are more fully set forth in the Security and Pledge Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. To the extent there is any inconsistency between this Copyright Security Agreement and the Security and Pledge Agreement, the Security and Pledge Agreement shall control.

5. AUTHORIZATION TO SUPPLEMENT. Each Grantor shall give Collateral Agent prior written notice of no less than three (3) Business Days before filing any additional application for registration of any copyright and prompt notice in writing of any additional copyright registrations granted therefor after the date hereof. Without limiting the Grantors' obligations under the Note Documents, each Grantor hereby authorizes Collateral Agent to unilaterally modify this Copyright Security Agreement by amending Schedule I to include any future United States registered copyrights or applications therefor of each Grantor. Notwithstanding the foregoing, no failure to so modify this Copyright Security Agreement or amend Schedule I shall in any way affect, invalidate or detract from Collateral Agent's continuing security interest in all Collateral, whether or not listed on Schedule I.

6. COUNTERPARTS. This Copyright Security Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Copyright Security Agreement. Delivery of an executed

counterpart of this Copyright Security Agreement by telefacsimile or other electronic method of transmission shall be equally as effective as delivery of an original executed counterpart of this Copyright Security Agreement. Any party delivering an executed counterpart of this Copyright Security Agreement by telefacsimile or other electronic method of transmission also shall deliver an original executed counterpart of this Copyright Security Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Copyright Security Agreement.

7. CONSTRUCTION. This Copyright Security Agreement is a Note Document. Unless the context of this Copyright Security Agreement clearly requires otherwise, references to the plural include the singular, references to the singular include the plural, the terms "includes" and "including" are not limiting, and the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or". The words "hereof', "herein", "hereby", "hereunder", and similar terms in this Copyright Security Agreement refer to this Copyright Security Agreement as a whole and not to any particular provision of this Copyright Security Agreement. Section, subsection, clause, schedule, and exhibit references herein are to this Copyright Security Agreement unless otherwise specified. Any reference in this Copyright Security Agreement to any agreement, instrument, or document shall include all alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements, thereto and thereof, as applicable (subject to any restrictions on such alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements set forth herein). The words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts, and contract rights. Any reference herein to the satisfaction, repayment, or payment in full of the Secured Obligations shall mean the repayment in full in cash of all Secured Obligations other than unasserted contingent indemnification Secured Obligations. Any reference herein to any Person shall be construed to include such Person's successors and assigns. Any requirement of a writing contained herein shall be satisfied by the transmission of a Record.

8. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. EACH GRANTOR AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT IT MAY HAVE TO TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

9. Each Grantor (i) agrees that any suit, action or proceeding against it arising out of or relating to this Agreement may be instituted in any U.S. federal court with applicable subject matter jurisdiction sitting in The City of New York; (ii) waives, to the fullest extent permitted by applicable law, any objection which it may now or hereafter have to the laying of venue of any such suit, action or proceeding, and any claim that any suit, action or proceeding in such a court has been brought in an inconvenient forum; and (iii) submits to the non-exclusive jurisdiction of such courts in any suit, action or proceeding.

[*signature page follows*]

IN WITNESS WHEREOF, the parties hereto have caused this Copyright Security Agreement to be executed and delivered as of the day and year first above written.

GRANTORS:

SUPERNUS PHARMACEUTICALS, INC., as Company

By: _____
Name: _____
Title: _____

[OTHER GRANTORS]

COLLATERAL AGENT:

U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent

By: _____
Name: _____
Title: _____

SCHEDULE I
TO
COPYRIGHT SECURITY AGREEMENT

COPYRIGHT REGISTRATIONS

Grantor	Country	Copyright	Registration No.	Registration Date

Copyright Licenses

EXHIBIT B

PATENT SECURITY AGREEMENT

This **PATENT SECURITY AGREEMENT** (this "**Patent Security Agreement**") is made this day of , 201 , byand among Grantors listed on the signature pages hereof (each a "**Grantor**", and collectively, jointly and severally, the "**Grantors**"), and **U.S. BANK NATIONAL ASSOCIATION**, in its capacity as collateral agent for the Secured Parties (in such capacity, together with its successors and assigns in such capacity, "**Collateral Agent**").

WITNESSETH:

WHEREAS, pursuant to the Indenture, dated as of May 3, 2013 among the Grantors and U.S. Bank National Association, a national banking association, as Trustee and Collateral Agent (as it may be amended, supplemented, extended, renewed, replaced, refunded or modified from time to time, the "**Indenture**"), **SUPERNUS PHARMACEUTICALS, INC.**, a Delaware corporation, (the "**Company**"), has issued to the Holders (as defined in the Indenture) the 7.50% Convertible Senior Secured Notes due 2019 (the "**Notes**").Each Grantor is entering into this Patent Security Agreement in order to induce the Holders (as defined in the Indenture) to purchase the Notes and to secure the Secured Obligations;

WHEREAS, the Collateral Agent is willing to enter into the Indenture and the Holders are willing to purchase the Notes, but only upon the condition, among others, that Grantors shall have executed and delivered to Collateral Agent, for the benefit of the Secured Parties, that certain Security and Pledge Agreement, dated as of May 3, 2013 (including all annexes, exhibits or schedules thereto, as from time to time amended, restated, supplemented or otherwise modified, the "**Security and Pledge Agreement**"); and

WHEREAS, pursuant to the Security and Pledge Agreement, Grantors are required to execute and deliver to Collateral Agent, for the benefit of the Secured Parties, this Patent Security Agreement;

NOW, **THEREFORE**, in consideration of the premises and mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Grantor hereby agrees as follows:

1. DEFINED TERMS. All initially capitalized terms used but not otherwise defined herein have the meanings given to them in the Security and Pledge Agreement or, if not defined therein, in the Indenture.

2. GRANT OF SECURITY INTEREST IN PATENT COLLATERAL. Each Grantor hereby unconditionally grants to Collateral Agent, for the benefit of each of the Secured Parties, to secure the Secured Obligations, a continuing security interest (referred to in this Patent Security Agreement as the "**Security Interest**") in all of such Grantor's right, title and interest in and to the following, whether now owned or hereafter acquired or arising (collectively, the "**Patent Collateral**"):

(a) all of its Patents and Patent Intellectual Property Licenses to which it is a party including those referred to on Schedule I;

(b) all divisionals, continuations, continuations-in-part, reissues, reexaminations, or extensions of the foregoing; and

(c) all products and proceeds of the foregoing, including any claim by such Grantor against third parties for past, present or future infringement of any Patent or any Patent exclusively licensed under any Intellectual Property License, including the right to receive damages, or right to receive license fees, royalties, and other compensation under any Patent Intellectual Property License.

3. SECURITY FOR SECURED OBLIGATIONS. This Patent Security Agreement and the Security Interest created hereby secures the payment and performance of the Secured Obligations, whether now existing or arising hereafter. Without limiting the generality of the foregoing, this Patent Security Agreement secures the payment of all amounts which constitute part of the Secured Obligations and would be owed by Grantors, or any of them, to Collateral Agent, the Secured Parties or any of them, whether or not they are unenforceable or not allowable due to the existence of an Insolvency Proceeding involving any Grantor.

4. SECURITY AND PLEDGE AGREEMENT. The Security Interest granted pursuant to this Patent Security Agreement is granted in conjunction with the security interests granted to Collateral Agent, for the benefit of the Secured Parties, pursuant to the Security and Pledge Agreement. Each Grantor hereby acknowledges and affirms that the rights and remedies of Collateral Agent with respect to the Security Interest in the Patent Collateral made and granted hereby are more fully set forth in the Security and Pledge Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. To the extent there is any inconsistency between this Patent Security Agreement and the Security and Pledge Agreement, the Security and Pledge Agreement shall control.

5. AUTHORIZATION TO SUPPLEMENT. If any Grantor shall obtain rights to any new patent application or issued patent or become entitled to the benefit of any patent application or patent for any divisional, continuation, continuation-in-part, reissue, or reexamination of any existing patent or patent application, the provisions of this Patent Security Agreement shall automatically apply thereto. Without limiting the Grantors' obligations under the Note Documents, each Grantor hereby authorizes Collateral Agent to unilaterally modify this Patent Security Agreement by amending Schedule I to include any new patent rights of each Grantor. Notwithstanding the foregoing, no failure to so modify this Patent Security Agreement or amend Schedule I shall in any way affect, invalidate or detract from Collateral Agent's continuing security interest in all Collateral, whether or not listed on Schedule I.

6. COUNTERPARTS. This Patent Security Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Patent Security Agreement. Delivery of an executed counterpart of this

Patent Security Agreement by telefacsimile or other electronic method of transmission shall be equally as effective as delivery of an original executed counterpart of this Patent Security Agreement. Any party delivering an executed counterpart of this Patent Security Agreement by telefacsimile or other electronic method of transmission also shall deliver an original executed counterpart of this Patent Security Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Patent Security Agreement.

7. CONSTRUCTION. This Patent Security Agreement is a Note Document. Unless the context of this Patent Security Agreement clearly requires otherwise, references to the plural include the singular, references to the singular include the plural, the terms "includes" and "including" are not limiting, and the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or". The words "hereof", "herein", "hereby", "hereunder", and similar terms in this Patent Security Agreement refer to this Patent Security Agreement as a whole and not to any particular provision of this Patent Security Agreement. Section, subsection, clause, schedule, and exhibit references herein are to this Patent Security Agreement unless otherwise specified. Any reference in this Patent Security Agreement to any agreement, instrument, or document shall include all alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements, thereto and thereof, as applicable (subject to any restrictions on such alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements set forth herein). The words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts, and contract rights. Any reference herein to the satisfaction, repayment, or payment in full of the Secured Obligations shall mean the repayment in full in cash of all Secured Obligations other than unasserted contingent indemnification Secured Obligations. Any reference herein to any Person shall be construed to include such Person's successors and assigns. Any requirement of a writing contained herein shall be satisfied by the transmission of a Record.

8. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. EACH GRANTOR AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT IT MAY HAVE TO TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

9. Each Grantor (i) agrees that any suit, action or proceeding against it arising out of or relating to this Agreement may be instituted in any U.S. federal court with applicable subject matter jurisdiction sitting in The City of New York; (ii) waives, to the fullest extent permitted by applicable law, any objection which it may now or hereafter have to the laying of venue of any such suit, action or proceeding, and any claim that any suit, action or proceeding in such a court has been brought in an inconvenient forum; and (iii) submits to the non-exclusive jurisdiction of such courts in any suit, action or proceeding.

[*signature page follows*]

IN WITNESS WHEREOF, the parties hereto have caused this Patent Security Agreement to be executed and delivered as of the day and year first above written.

GRANTORS:

SUPERNUS PHARMACEUTICALS, INC., as Company

By: _____
Name: _____
Title: _____

[OTHER GRANTORS]

COLLATERAL AGENT:

U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent

By: _____
Name: _____
Title: _____

SCHEDULE I
TO
PATENT SECURITY AGREEMENT

Patents

Grantor	Country	Patent	Application/ Patent No.	Filing Date

Patent Licenses

EXHIBIT C

TRADEMARK SECURITY AGREEMENT

This **TRADEMARK SECURITY AGREEMENT** (this "**Trademark Security Agreement**") is made this day of ,201 , by and among Grantors listed on the signature pages hereof (each a "**Grantor**", and collectively, jointly and severally, the "**Grantors**"), and **U.S. BANK NATIONAL ASSOCIATION**, in its capacity as collateral agent for the Secured Parties (in such capacity, together with its successors and assigns in such capacity, "**Collateral Agent**").

WITNESSETH:

WHEREAS, pursuant to the Indenture, dated as of May 3, 2013 among the Grantors and U.S. Bank National Association, a national banking association, as Trustee and Collateral Agent (as it may be amended, supplemented, extended, renewed, replaced, refunded or modified from time to time, the "**Indenture**"), **SUPERNUS PHARMACEUTICALS, INC.**, a Delaware corporation, (the "**Company**"), has issued to the Holders (as defined in the Indenture) the 7.50% Convertible Senior Secured Notes due 2019 (the "**Notes**"). Each Grantor is entering into this Trademark Security Agreement in order to induce the Holders (as defined in the Indenture) to purchase the Notes and to secure the Secured Obligations;

WHEREAS, the Collateral Agent is willing to enter into the Indenture and the Holders are willing to purchase the Notes, but only upon the condition, among others, that Grantors shall have executed and delivered to Collateral Agent, for the benefit of the Secured Parties, that certain Security and Pledge Agreement, dated as of May 3, 2013 (including all annexes, exhibits or schedules thereto, as from time to time amended, restated, supplemented or otherwise modified, the "**Security and Pledge Agreement**"); and

WHEREAS, pursuant to the Security and Pledge Agreement, Grantors are required to execute and deliver to Collateral Agent, for the benefit of Secured Parties, this Trademark Security Agreement;

NOW, **THEREFORE**, in consideration of the premises and mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Grantor hereby agrees as follows:

1. DEFINED TERMS. All initially capitalized terms used but not otherwise defined herein have the meanings given to them in the Security and Pledge Agreement or, if not defined therein, in the Indenture.

2. GRANT OF SECURITY INTEREST IN TRADEMARK COLLATERAL. Each Grantor hereby unconditionally grants to Collateral Agent, for the benefit of each Secured Party, to secure the Secured Obligations, a continuing security interest (referred to in this Trademark Security Agreement as the "**Security Interest**") in all of such Grantor's right, title and interest in

and to the following, whether now owned or hereafter acquired or arising (collectively, the "**Trademark Collateral**"):

(a) all of its Trademarks and Trademark Intellectual Property Licenses to which it is a party including those referred to onSchedule I;

(b) all goodwill of the business connected with the use of, and symbolized by, each Trademark and each Trademark Intellectual Property License; and

(c) all products and proceeds (as that term is defined in the Code) of the foregoing, including any claim by such Grantor against third parties for past, present or future (i) infringement or dilution of any Trademark or any Trademarks exclusively licensed under any Intellectual Property License, including right to receive any damages, (ii) injury to the goodwill associated with any Trademark, or (iii) right to receive license fees, royalties, and other compensation under any Trademark Intellectual Property License.

3. SECURITY FOR SECURED OBLIGATIONS. This Trademark Security Agreement and the Security Interest created hereby secures the payment and performance of the Secured Obligations, whether now existing or arising hereafter. Without limiting the generality of the foregoing, this Trademark Security Agreement secures the payment of all amounts which constitute part of the Secured Obligations and would be owed by Grantors, or any of them, to Collateral Agent, the Secured Parties or any of them, whether or not they are unenforceable or not allowable due to the existence of an Insolvency Proceeding involving any Grantor.

4. SECURITY AND PLEDGE AGREEMENT. The Security Interest granted pursuant to this Trademark Security Agreement is granted in conjunction with the security interests granted to Collateral Agent, for the benefit of the Secured Parties, pursuant to the Security and Pledge Agreement. Each Grantor hereby acknowledges and affirms that the rights and remedies of Collateral Agent with respect to the Security Interest in the Trademark Collateral made and granted hereby are more fully set forth in the Security and Pledge Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. To the extent there is any inconsistency between this Trademark Security Agreement and the Security and Pledge Agreement, the Security and Pledge Agreement shall control.

5. AUTHORIZATION TO SUPPLEMENT. If any Grantor shall obtain rights to any new trademarks, the provisions of this Trademark Security Agreement shall automatically apply thereto. Each Grantor shall give prompt notice in writing to Collateral Agent with respect to any such new trademarks or renewal or extension of any trademark registration. Without limiting the Grantors' obligations under the Note Documents, each Grantor hereby authorizes Collateral Agent to unilaterally modify this Trademark Security Agreement by amending Schedule I to include any such new trademark rights of each Grantor. Notwithstanding the foregoing, no failure to so modify this Trademark Security Agreement or amend Schedule I shall in any way affect, invalidate or detract from Collateral Agent's continuing security interest in all Collateral, whether or not listed on Schedule I.

6. COUNTERPARTS. This Trademark Security Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Trademark Security Agreement. Delivery of an executed counterpart of this Trademark Security Agreement by telefacsimile or other electronic method of transmission shall be equally as effective as delivery of an original executed counterpart of this Trademark Security Agreement. Any party delivering an executed counterpart of this Trademark Security Agreement by telefacsimile or other electronic method of transmission also shall deliver an original executed counterpart of this Trademark Security Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Trademark Security Agreement.

7. CONSTRUCTION. This Trademark Security Agreement is a Note Document. Unless the context of this Trademark Security Agreement clearly requires otherwise, references to the plural include the singular, references to the singular include the plural, the terms "includes" and "including" are not limiting, and the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or". The words "hereof', "herein", "hereby", "hereunder", and similar terms in this Trademark Security Agreement refer to this Trademark Security Agreement as a whole and not to any particular provision of this Trademark Security Agreement. Section, subsection, clause, schedule, and exhibit references herein are to this Agreement unless otherwise specified. Any reference in this Trademark Security Agreement to any agreement, instrument, or document shall include all alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements, thereto and thereof, as applicable (subject to any restrictions on such alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements set forth herein). The words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts, and contract rights. Any reference herein to the satisfaction, repayment, or payment in full of the Secured Obligations shall mean the repayment in full in cash of all Secured Obligations other than unasserted contingent indemnification Secured Obligations. Any reference herein to any Person shall be construed to include such Person's successors and assigns. Any requirement of a writing contained herein or in any other Note Document shall be satisfied by the transmission of a Record.

8. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. EACH GRANTOR AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT IT MAY HAVE TO TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

9. Each Grantor (i) agrees that any suit, action or proceeding against it arising out of or relating to this Agreement may be instituted in any U.S. federal court with applicable subject matter jurisdiction sitting in The City of New York; (ii) waives, to the fullest extent permitted by applicable law, any objection which it may now or hereafter

have to the laying of venue of any such suit, action or proceeding, and any claim that any suit, action or proceeding in such a court has been brought in an inconvenient forum; and (iii) submits to the non-exclusive jurisdiction of such courts in any suit, action or proceeding.

[*signature page follows*]

IN WITNESS WHEREOF, the parties hereto have caused this Trademark Security Agreement to be executed and delivered as of the day and year first above written.

GRANTORS:

SUPERNUS PHARMACEUTICALS, INC., as Company

By: _____
Name: _____
Title: _____

[OTHER GRANTORS]

COLLATERAL AGENT:

U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent

By: _____
Name: _____
Title: _____

SCHEDULE I
to
TRADEMARK SECURITY AGREEMENT

Trademark Registrations/Applications

Grantor	Country	Mark	Application/ Registration No.	App/Reg Date

Trade Names

Common Law Trademarks

Trademarks Not Currently In Use

Trademark Licenses

EXHIBIT D

PLEDGED INTERESTS ADDENDUM

This Pledged Interests Addendum, dated as of , 201 (this "**Pledged Interests Addendum**"), is delivered pursuant to Section 6 of the Security and Pledge Agreement referred to below. The undersigned hereby agrees that this Pledged Interests Addendum may be attached to that certain Security and Pledge Agreement, dated as of May 3, 2013, (as amended, restated, supplemented, or otherwise modified from time to time, the "**Security and Pledge Agreement**"), made by the undersigned, together with the other Grantors named therein, to **U.S. BANK NATIONAL ASSOCIATION**, as Collateral Agent. Initially capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Security and Pledge Agreement or, if not defined therein, in the Indenture. The undersigned hereby agrees that the additional interests listed on Schedule I shall be and become part of the Pledged Interests pledged by the undersigned to Collateral Agent in the Security and Pledge Agreement and any pledged company set forth on Schedule I shall be and become a "Pledged Company" under the Security and Pledge Agreement, each with the same force and effect as if originally named therein.

This Pledged Interests Addendum is a Note Document. Delivery of an executed counterpart of this Pledged Interests Addendum by telefacsimile or other electronic method of transmission shall be equally as effective as delivery of an original executed counterpart of this Pledged Interests Addendum. If the undersigned delivers an executed counterpart of this Pledged Interests Addendum by telefacsimile or other electronic method of transmission, the undersigned shall also deliver an original executed counterpart of this Pledged Interests Addendum but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Pledged Interests Addendum.

The undersigned hereby certifies that the representations and warranties set forth in Section 5 of the Security and Pledge Agreement of the undersigned are true and correct as to the Pledged Interests listed herein on and as of the date hereof.

THE VALIDITY OF THIS PLEDGED INTERESTS ADDENDUM, THE CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT HEREOF, AND THE RIGHTS OF THE PARTIES HERETO WITH RESPECT TO ALL MATTERS ARISING HEREUNDER OR RELATED HERETO SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

THE PARTIES AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS PLEDGED INTERESTS ADDENDUM SHALL BE TRIED AND LITIGATED ONLY IN THE STATE, AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, FEDERAL COURTS LOCATED IN THE COUNTY OF NEW YORK, STATE OF NEW YORK; *PROVIDED*, *HOWEVER*, THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY COLLATERAL OR OTHER PROPERTY MAY BE BROUGHT, AT COLLATERAL AGENT'S OPTION, IN THE COURTS OF ANY

JURISDICTION WHERE COLLATERAL AGENT ELECTS TO BRING SUCH ACTION OR WHERE SUCH COLLATERAL OR OTHER PROPERTY MAY BE FOUND. COLLATERAL AGENT AND EACH GRANTOR WAIVE, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, ANY RIGHT EACH MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS PARAGRAPH.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, COLLATERAL AGENT AND EACH GRANTOR HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS PLEDGED INTERESTS ADDENDUM OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS. COLLATERAL AGENT AND EACH GRANTOR REPRESENT THAT EACH HAS REVIEWED THIS WAIVER AND EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. IN THE EVENT OF LITIGATION, A COPY OF THIS PLEDGED INTERESTS ADDENDUM MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned has caused this Pledged Interests Addendum to be executed and delivered as of the day and year first above written.

GRANTORS:

SUPERNUS PHARMACEUTICALS, INC., as Company

By: _____
Name: _____
Title: _____

[OTHER GRANTORS]

COLLATERAL AGENT:

U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent

By: _____
Name: _____
Title: _____

SCHEDULE I
TO
PLEDGED INTERESTS ADDENDUM

Pledged Interests

Name of Grantor	Name of Pledged Company	Number of Shares/Units	Class of Interests	Percentage of Class Owned	Certificate Nos.

Exhibit 99.1

Supernus Announces Closing of $90 Million of 7.50% Convertible Senior Secured Notes Due 2019

Rockville, Maryland — May 6, 2013 — Supernus Pharmaceuticals, Inc. (NASDAQ: SUPN) ("Supernus") announced today the closing of its previously announced private offering of 7.50% Convertible Senior Secured Notes due 2019 (the "Convertible Notes"). Supernus issued $90 million aggregate principal amount of Convertible Notes (which includes $15 million aggregate principal amount of notes issued pursuant to the initial purchasers' exercise in full of their option to purchase additional notes). The offering and sale of the Convertible Notes was made to qualified institutional buyers pursuant to Rule 144A under the Securities Act of 1933, as amended (the "Securities Act").

The net proceeds from this offering were approximately $86.4 million, after deducting discounts to the initial purchasers and estimated offering expenses payable by Supernus. Contemporaneously with the closing of the offering, Supernus used approximately $19.6 million of the net proceeds to repay in full its borrowings under and terminate its secured credit facility. Supernus intends to use the remainder of the net proceeds to fund the commercialization of its approved and tentatively approved drugs, Oxtellar XR and Trokendi XR, to continue development of its pipeline products and for other general corporate purposes.

The Convertible Notes are senior secured obligations of Supernus and will bear interest at a fixed rate of 7.50% per year, payable semi-annually in arrears on May 1 and November 1 of each year, beginning on November 1, 2013. The Convertible Notes will mature on May 1, 2019, unless earlier converted, redeemed or repurchased.

Neither the Convertible Notes nor any shares of Supernus' common stock issuable upon conversion of the Convertible Notes have been or are expected to be registered under the Securities Act or under any state securities laws and, unless so registered, may not be offered or sold in the United States or to U.S. persons except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and applicable state securities laws. This press release does not constitute an offer to sell or a solicitation of an offer to buy any securities, nor shall it constitute an offer, solicitation or sale in any jurisdiction in which such offer, solicitation or sale is unlawful.

Supernus Contacts:

Jack Khattar, President & CEO
Gregory S. Patrick, Vice President and CFO
Supernus Pharmaceuticals, Inc.
301-838-2591