

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549**

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

Colfax Corporation
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

54-1887631
(IRS Employer Identification Number)

**8170 Maple Lawn Boulevard, Suite 180
Fulton, MD 20759
(301) 323-9000**
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Clay H. Kiefaber
President and Chief Executive Officer
Colfax Corporation
8170 Maple Lawn Boulevard, Suite 180
Fulton, MD 20759
(301) 323-9000
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

Andrew L. Fabens, Esq.
Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, New York 10166
(212) 351-4000

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

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

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

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

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

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer Accelerated filer
Non-accelerated filer (Do not check if a smaller reporting company) Smaller reporting company

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered (2)	Amount to be Registered Proposed Maximum Offering Price Per Unit
--	--

	Proposed Maximum Aggregate Offering Price Amount of Registration Fee
Debt Securities	
Common Stock, par value \$0.001 per share	
Preferred Stock, par value \$0.001 per share	
Warrants	(1)
Depository Shares (3)	
Purchase Contracts	
Total	

- (1) Omitted pursuant to General Instructions II.E of Form S-3. An indeterminate aggregate offering price or number of securities of each identified class is being registered as may from time to time be offered at indeterminate prices. Separate consideration may or may not be received for securities that are issuable on exercise, conversion or exchange of other securities. In accordance with Rules 456(b) and 457(r), the registrant is deferring payment of all of the registration fee.
- (2) Any securities registered hereunder may be sold separately or as units with other securities registered hereunder.
- (3) Each depository share will be issued under a deposit agreement and will be evidenced by a depository receipt.

PROSPECTUS

COLFAX

COLFAX CORPORATION

DEBT SECURITIES
COMMON STOCK
PREFERRED STOCK
WARRANTS
DEPOSITARY SHARES
PURCHASE CONTRACTS
UNITS

We may from time to time offer to sell our senior or subordinated debt securities, common stock or preferred stock, either separately or represented by warrants, depositary shares or purchase contracts, as well as units that include any of these securities or securities of other entities. The senior or subordinated debt securities may consist of debentures, notes or other types of debt. Our common stock is listed on the New York Stock Exchange and trades under the ticker symbol “CFX.” The senior or subordinated debt securities, preferred stock, warrants and purchase contracts may be convertible or exercisable or exchangeable for common or preferred stock or other securities of ours or debt or equity securities of one or more other entities.

We may offer and sell these securities to or through one or more underwriters, dealers and agents, or directly to purchasers, on a continuous or delayed basis. These securities also may be resold by security holders. We will provide specific terms of any securities to be offered in supplements to this prospectus. You should read this prospectus and the applicable prospectus supplement carefully before you invest.

Our principal executive offices are located at 8170 Maple Lawn Boulevard, Suite 180, Fulton, Maryland 20759. Our telephone number is (301) 323-9000.

Investing in our securities involves certain risks. See the “Risk Factors” section of our filings with the Securities and Exchange Commission and the applicable prospectus supplement.

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

The date of this prospectus is February 23, 2012

TABLE OF CONTENTS

	<u>Page</u>
WHERE YOU CAN FIND MORE INFORMATION	1
INCORPORATION BY REFERENCE	1
USE OF PROCEEDS	3
RATIO OF EARNINGS TO FIXED CHARGES	3
DESCRIPTION OF SECURITIES	3
SELLING SECURITY HOLDERS	3
LEGAL MATTERS	3
EXPERTS	3

WHERE YOU CAN FIND MORE INFORMATION

We have filed with the Securities and Exchange Commission, or the SEC, a registration statement on Form S-3 with respect to the securities offered hereby. This prospectus does not contain all the information set forth in the registration statement, parts of which are omitted in accordance with the rules and regulations of the SEC. For further information with respect to us and the securities offered hereby, reference is made to the registration statement. You may inspect the registration statement and exhibits without charge at the office of the SEC at 100 F Street, N.E., Washington, DC 20549, and you may obtain copies from the SEC at prescribed rates.

Statements contained in this prospectus, any prospectus supplement and any free writing prospectus that we have authorized, or that are incorporated by reference into this prospectus or a prospectus supplement, about the provisions or contents of any agreement or other document are not necessarily complete. If SEC rules and regulations require that any agreement or document be filed as an exhibit to the registration statement and we file the agreement or document, you should refer to that agreement or document for a complete description of these matters.

We file annual, quarterly and current reports, proxy statements and other information with the SEC. You may inspect and copy these reports, proxy statements and other information at the public reference facilities of the SEC at the SEC's Public Reference Room located at 100 F Street, N.E., Washington, DC 20549. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the Public Reference Room. The SEC also maintains a website that contains reports, proxy and information statements and other information regarding registrants that file electronically with the SEC (<http://www.sec.gov>).

We also make our annual, quarterly and current reports, proxy statements and other information available free of charge on our investor relations website, <http://ir.colfaxcorp.com>, as soon as reasonably practicable after we electronically file these materials with, or furnish them to, the SEC. We use our website as a channel of distribution for material company information. Important information, including financial information, analyst presentations, financial news releases, and other material information about us is routinely posted on and accessible at <http://ir.colfaxcorp.com>. You can also inspect reports and other information we file at the office of the New York Stock Exchange, Inc., 20 Broad Street, New York, NY 10005.

Unless otherwise indicated or the context otherwise requires, references in this prospectus to the "registrant," "we," "us," and "our" refer to Colfax Corporation and its subsidiaries.

INCORPORATION BY REFERENCE

The SEC allows us to "incorporate by reference" information into this prospectus, which means that we can disclose important information to you by referring to those documents. We hereby "incorporate by reference" the documents listed below. The information that we file later with the SEC will automatically update and in some cases supersede this information. Specifically, we incorporate by reference the following documents or information filed with the SEC (other than, in each case, documents or information deemed to have been furnished and not filed in accordance with SEC rules):

- Our Annual Report on Form 10-K for the fiscal year ended December 31, 2011 filed with the SEC on February 23, 2012 (File No. 001-34045);
- Our Current Reports on Form 8-K filed with the SEC on January 5, 2012, January 6, 2012, January 17, 2012 and January 30, 2012 (File No. 001-34045);
- Our Proxy Statement filed on April 15, 2011 (File No. 001-34045);
- The Consolidated Financial Statements of Charter International plc and the Colfax Corporation Unaudited Pro Forma Condensed Combined Financial Information in our Proxy Statement filed with the SEC on December 19, 2011 (File No. 001-34045);

Table of Contents

- The description of our common stock, par value \$0.001 per share, contained in the Registration Statement on Form 8-A registration statement, filed with the SEC on May 5, 2008 (File No. 001-34045), registering our common stock pursuant to Section 12(b) of the Securities Exchange Act of 1934, as amended, including any and all amendments and reports filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 for the purpose of updating such description; and
- Future filings we make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 after the date of this prospectus and before the termination of this offering; *provided, however*, that we are not incorporating by reference any documents or information, including parts of documents that we file with the SEC, that are deemed to be furnished and not filed with the SEC. Unless specifically stated to the contrary, none of the information we disclose under Items 2.02 or 7.01 of any Current Report on Form 8-K that we may from time to time furnish to the SEC will be incorporated by reference into, or otherwise included in, this prospectus.

We will provide, without charge, to each person to whom a copy of this prospectus has been delivered, including any beneficial owner, a copy of any and all of the documents referred to herein that are summarized and incorporated by reference in this prospectus, if such person makes a written or oral request directed to:

Colfax Corporation
ATTN: Corporate Secretary
8170 Maple Lawn Boulevard, Suite 180
Fulton, Maryland 20759
(301) 323-9000

You should rely only on the information incorporated by reference or provided in this prospectus and any applicable prospectus supplement. We have not authorized anyone else to provide you with other information.

USE OF PROCEEDS

We will set forth in the applicable prospectus supplement our intended use for the net proceeds received by us for our sale of securities under this prospectus. We will not receive the net proceeds of any sales by selling security holders. Unless otherwise stated in the applicable prospectus supplement, we will use the proceeds of any offering for general corporate purposes, which may include repayment of debt, acquisitions, additions to working capital and capital expenditures.

RATIO OF EARNINGS TO FIXED CHARGES

The following table sets forth our historical ratios of earnings to fixed charges and our historical ratios of earnings to fixed charges and dividends on preferred stock for the periods indicated. This information should be read in conjunction with the consolidated financial statements and the accompanying notes incorporated by reference in this prospectus.

	Years Ended December 31,				
	2011	2010	2009	2008	2007
Ratio of earnings to fixed charges	3.65x	4.37x	4.68x	1.44x	6.06x
Ratio of earnings to fixed charges and dividends on preferred stock	3.65x	4.37x	4.68x	1.15x	2.70x

Earnings available for fixed charges represent income before income taxes and fixed charges before dividends on preferred stock. Fixed charges represent interest expense, including amortization of deferred financing costs, the interest portion of rental payment and, in the case of the ratios of earnings to fixed charges and dividends on preferred stock, dividends on preferred stock.

DESCRIPTION OF SECURITIES

We will set forth in the applicable prospectus supplement a description of the senior or subordinated debt securities, common stock, preferred stock, warrants, depositary shares, purchase contracts or units that may be offered under this prospectus.

Any senior debt securities offered under this prospectus will be governed by a senior debt indenture, and any subordinated debt securities offered under this prospectus will be governed by a subordinated debt indenture. The forms of both indentures have been filed as exhibits hereto.

SELLING SECURITY HOLDERS

We will set forth information about selling security holders, where applicable, in a prospectus supplement, in a post-effective amendment, or in filings we make with the SEC under the Securities Exchange Act of 1934 that are incorporated by reference.

LEGAL MATTERS

Gibson, Dunn & Crutcher LLP will pass upon the validity of any securities issued under this prospectus. Any underwriters will be represented by their own legal counsel.

EXPERTS

The consolidated financial statements of Colfax Corporation appearing in Colfax Corporation's Annual Report (Form 10-K) for the year ended December 31, 2011 (including schedules appearing therein), and the effectiveness of Colfax Corporation's internal control over financial reporting as of December 31, 2011, have been audited by Ernst & Young LLP, independent registered public accounting firm, as set forth in their reports thereon, included therein and incorporated herein by reference. Such consolidated financial statements are incorporated herein by reference in reliance upon such reports given on the authority of such firm as experts in accounting and auditing.

[Table of Contents](#)

The consolidated financial statements of Charter International plc appearing in Colfax Corporation's Proxy Statement filed with the SEC on December 19, 2011 have been audited by PricewaterhouseCoopers LLP, independent auditor, as set forth in their report thereon, included therein and incorporated herein by reference. Such financial statements are incorporated herein in reliance upon the report of PricewaterhouseCoopers LLP pertaining to such financial statements as of the date given on the authority of such firm as experts in accounting and auditing.

PART II
INFORMATION NOT REQUIRED IN PROSPECTUS

Item 14. Other Expenses of Issuance and Distribution.

The following statement sets forth our expenses in connection with the offering described in this Registration Statement (all of which will be borne by us). All amounts shown are estimated.

SEC registration fee	\$ *
Printing expenses	+
Legal fees and expenses	+
Accounting fees and expenses	+
Miscellaneous expenses	+
Trustee fees and expenses	+
Total	\$ +

* In accordance with Rules 456(b) and 457(r), we are deferring payment of the registration fee for the securities offered by this prospectus.

+ Estimated expenses are not presently known and will be reflected in the applicable prospectus supplement.

Item 15. Indemnification of Directors and Officers.*Delaware General Corporation Law*

Section 145(a) of the General Corporation Law of the State of Delaware (the "Delaware General Corporation Law") provides that a corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that the person's conduct was unlawful.

Section 145(b) of the Delaware General Corporation Law states that a corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by the person in connection with the defense or settlement of such action or suit if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which the person shall have been adjudged to be liable to the corporation unless and only to the extent that the Delaware Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such expenses as the Delaware Court of Chancery or such other court shall deem proper.

Table of Contents

Section 145(c) of the Delaware General Corporation Law provides that to the extent that a present or former director or officer of a corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsections (a) and (b) of Section 145, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

Section 145(d) of the Delaware General Corporation Law states that any indemnification under subsections (a) and (b) of Section 145 (unless ordered by a court) shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the present or former director, officer, employee or agent is proper in the circumstances because the person has met the applicable standard of conduct set forth in subsections (a) and (b) of Section 145. Such determination shall be made with respect to a person who is a director or officer at the time of such determination (1) by a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum, (2) by a committee of such directors designated by majority vote of such directors, even though less than a quorum, (3) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion or (4) by the stockholders.

Section 145(f) of the Delaware General Corporation Law states that the indemnification and advancement of expenses provided by, or granted pursuant to, the other subsections of Section 145 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office.

Section 145(g) of the Delaware General Corporation Law provides that a corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against such person and incurred by such person in any such capacity or arising out of such person's status as such, whether or not the corporation would have the power to indemnify such person against such liability under the provisions of Section 145.

Section 145(j) of the Delaware General Corporation Law states that the indemnification and advancement of expenses provided by, or granted pursuant to, Section 145 shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

Certificate of Incorporation

The registrant's amended and restated certificate of incorporation provides that no director of the registrant shall be liable to the registrant or its stockholders for monetary damages for breach of fiduciary duty as a director, provided that this provision of the registrant's amended and restated certificate of incorporation shall not eliminate or limit the liability of a director (a) for any breach of the director's duty of loyalty to the registrant or its stockholders, (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (c) under Section 174 of the Delaware General Corporation Law or (d) for any transaction from which the director derived an improper personal benefit. Any repeal or modification of this provision of the registrant's amended and restated certificate of incorporation shall be prospective only and shall not adversely affect any right or protection of, or any limitation of the liability of, a director of the registrant existing at, or arising out of facts or incidents occurring prior to, the effective date of such repeal or modification.

Bylaws

The registrant's amended and restated bylaws provide for the indemnification of the officers and directors of the registrant to the fullest extent permitted by the Delaware General Corporation Law. The amended and restated bylaws provide that each person who was or is made a party to, or is threatened to be made a party to, any civil or criminal action, suit or proceeding by reason of the fact that such person is or was a director or officer of the registrant will be indemnified and held harmless by the registrant to the fullest extent authorized by the Delaware General Corporation Law against all expense, liability and loss, including, without limitation, attorneys' fees, incurred by such person in connection therewith, if such person acted in good faith and in a manner such person reasonably believed to be or not opposed to the best interests of the registrant and had no reason to believe that such person's conduct was illegal.

Table of Contents

Insurance

The registrant maintains directors and officers liability insurance, which covers directors and officers of the registrant against certain claims or liabilities arising out of the performance of their duties.

Indemnification Agreements

The registrant has entered into agreements to indemnify its directors and certain of its officers. These agreements provide for indemnification of the registrant's directors and applicable officers to the fullest extent permitted by the Delaware General Corporation Law against all expenses, including attorneys' fees, judgments, fines and settlement amounts incurred by any such person in actions or proceedings, including actions by the registrant or in its right, arising out of such person's services as a director or officer of the registrant, any subsidiary of the registrant or any other company or enterprise to which the person provided services at the registrant's request. These agreements are intended to give the registrant's officers and directors additional contractual assurances regarding the scope of the indemnification set forth in its certificate of incorporation and bylaws and to provide additional procedural protections.

Item 16. Exhibits.

Exhibit Number	Description	Incorporation by Reference (where a report or registration statement is indicated below, that document has been previously filed with the SEC and the applicable exhibit is incorporated by reference thereto)
1.1	Form of Underwriting Agreement.	<i>To be filed by amendment or via Form 8-K.</i>
3.1	Amended and Restated Certificate of Incorporation.	Exhibit 3.01 to our Form 8-K filed January 30, 2012 (File No. 001-34045).
3.2	Amended and Restated Bylaws.	Exhibit 3.6 to our Form S-1/A filed May 1, 2008 (File No. 333-148486).
4.1	Form of Senior Indenture.	<i>Filed herewith.</i>
4.2	Form of Subordinated Indenture.	<i>Filed herewith.</i>
4.3	Form of Common Stock Certificate.	Exhibit 4.1 to our Form S-1/A filed May 1, 2008 (File No. 333-148486).
5	Opinion of Gibson, Dunn & Crutcher LLP.	<i>Filed herewith.</i>
12	Statement of Computation of Ratio of Earnings to Fixed Charges.	<i>Filed herewith.</i>
23.1	Consent of Ernst & Young LLP.	<i>Filed herewith.</i>
23.2	Consent of PricewaterhouseCoopers LLP.	<i>Filed herewith.</i>
23.3	Consent of Gibson, Dunn & Crutcher LLP.	<i>Included in Exhibit 5 filed herewith.</i>
24	Powers of Attorney.	<i>Included on the signature pages hereto.</i>
25.1	Statement of Eligibility of Trustee in Respect of Senior Indenture.	<i>To be filed by amendment or via Form T-1 pursuant to Rule 305 of the Trust Indenture Act of 1939.</i>
25.2	Statement of Eligibility of Trustee in Respect of Subordinated Indenture.	<i>To be filed by amendment or via Form T-1 pursuant to Rule 305 of the Trust Indenture Act of 1939.</i>

Item 17. Undertakings.

The undersigned registrant hereby undertakes:

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

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

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

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

provided, however, that paragraphs (i), (ii) and (iii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the SEC by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

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

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

(4) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:

[Table of Contents](#)

(i) Each prospectus filed by the registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

(ii) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5) or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii) or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof. *Provided, however*, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

(5) That, for the purpose of determining liability of the registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities, the undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

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

(7) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its

[Table of Contents](#)

counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

(8) The undersigned registrant hereby undertakes to file an application for the purpose of determining the eligibility of the trustee to act under subsection (a) of Section 310 of the Trust Indenture Act in accordance with the rules and regulations prescribed by the SEC under Section 305(b)(2) of the Act.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Fulton, State of Maryland, on February 23, 2012.

COLFAX CORPORATION

By: /s/ Clay H. Kiefaber
Clay H. Kiefaber
President and Chief Executive Officer

POWER OF ATTORNEY

Each person whose signature appears below constitutes and appoints Clay H. Kiefaber, C. Scott Brannan and A. Lynne Puckett as his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for such person and in his or her name, place and stead, in any and all capacities, to sign any or all further amendments (including post-effective amendments) to this registration statement (and any additional registration statement related hereto permitted by Rule 462(b) promulgated under the Securities Act of 1933 (and all further amendments, including post-effective amendments, thereto)), and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent, or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated below.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Clay H. Kiefaber</u> Clay H. Kiefaber	President, Chief Executive Officer and Director (Principal Executive Officer)	February 23, 2012
<u>/s/ C. Scott Brannan</u> C. Scott Brannan	Senior Vice President, Finance and Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	February 23, 2012
<u>/s/ Mitchell P. Rales</u> Mitchell P. Rales	Chairman of the Board of Directors	February 23, 2012
<u>/s/ Patrick W. Allender</u> Patrick W. Allender	Director	February 23, 2012
<u>/s/ Joseph O. Bunting III</u> Joseph O. Bunting III	Director	February 23, 2012
<u>/s/ Thomas S. Gayner</u> Thomas S. Gayner	Director	February 23, 2012

[Table of Contents](#)

<u>/s/ Rhonda L. Jordan</u> Rhonda L. Jordan	Director	February 23, 2012
<u>/s/ San W. Orr, III</u> San W. Orr, III	Director	February 23, 2012
<u>/s/ A. Clayton Perfall</u> A. Clayton Perfall	Director	February 23, 2012
<u>/s/ Steven E. Simms</u> Steven E. Simms	Director	February 23, 2012
<u>/s/ Rajiv Vinnakota</u> Rajiv Vinnakota	Director	February 23, 2012

EXHIBIT INDEX

Exhibit Number	Description	Incorporation by Reference (where a report or registration statement is indicated below, that document has been previously filed with the SEC and the applicable exhibit is incorporated by reference thereto)
1.1	Form of Underwriting Agreement.	<i>To be filed by amendment or via Form 8-K.</i>
3.1	Amended and Restated Certificate of Incorporation.	Exhibit 3.01 to our Form 8-K filed January 30, 2012 (File No. 001-34045).
3.2	Amended and Restated Bylaws.	Exhibit 3.6 to our Form S-1/A filed May 1, 2008 (File No. 333-148486).
4.1	Form of Senior Indenture.	<i>Filed herewith.</i>
4.2	Form of Subordinated Indenture.	<i>Filed herewith.</i>
4.3	Form of Common Stock Certificate.	Exhibit 4.1 to our Form S-1/A filed May 1, 2008 (File No. 333-148486).
5	Opinion of Gibson, Dunn & Crutcher LLP.	<i>Filed herewith.</i>
12	Statement of Computation of Ratio of Earnings to Fixed Charges.	<i>Filed herewith.</i>
23.1	Consent of Ernst & Young LLP.	<i>Filed herewith.</i>
23.2	Consent of PricewaterhouseCoopers LLP.	<i>Filed herewith.</i>
23.3	Consent of Gibson, Dunn & Crutcher LLP.	<i>Included in Exhibit 5 filed herewith.</i>
24	Powers of Attorney.	<i>Included on the signature pages hereto.</i>
25.1	Statement of Eligibility of Trustee in Respect of Senior Indenture.	<i>To be filed by amendment or via Form T-1 pursuant to Rule 305 of the Trust Indenture Act of 1939.</i>
25.2	Statement of Eligibility of Trustee in Respect of Subordinated Indenture.	<i>To be filed by amendment or via Form T-1 pursuant to Rule 305 of the Trust Indenture Act of 1939.</i>

Colfax Corporation

FORM OF INDENTURE

Dated as of [], 20[]

[Name of Trustee]

as Trustee

Unsubordinated Debt Securities

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I. DEFINITIONS AND INCORPORATION BY REFERENCE	1
Section 1.1. Definitions	1
Section 1.2. Other Definitions	5
Section 1.3. Rules of Construction	6
ARTICLE II. THE SECURITIES	6
Section 2.1. Issuable in Series	6
Section 2.2. Establishment of Terms of Series of Securities	6
Section 2.3. Execution and Authentication	9
Section 2.4. Registrar, Paying Agent and Transfer Agent	10
Section 2.5. Paying Agent to Hold Money in Trust	11
Section 2.6. Securityholder Lists	12
Section 2.7. Transfer and Exchange	12
Section 2.8. Mutilated, Destroyed, Lost and Stolen Securities	12
Section 2.9. Outstanding Securities	13
Section 2.10. Treasury Securities	14
Section 2.11. Temporary Securities	14
Section 2.12. Cancellation	14
Section 2.13. Defaulted Interest	14
Section 2.14. Global Securities	15
Section 2.15. CUSIP Numbers	16
ARTICLE III. REDEMPTION	17
Section 3.1. Notice to Trustee; No Liability for Calculations	17
Section 3.2. Selection of Securities to be Redeemed	17
Section 3.3. Notice of Redemption	17
Section 3.4. Effect of Notice of Redemption	19
Section 3.5. Deposit of Redemption Price	19
Section 3.6. Securities Redeemed in Part	19
Section 3.7. Sinking Fund	19
Section 3.8. Satisfaction of Sinking Fund Payments with Securities	20
Section 3.9. Redemption of Securities for Sinking Fund	20
Section 3.10. Redemption Upon Changes in Tax Law	20
ARTICLE IV. COVENANTS	22
Section 4.1. Payment of Principal, Premium and Interest	22
Section 4.2. Compliance Certificate	22
Section 4.3. Stay, Extension and Usury Laws	22
Section 4.4. Corporate Existence	23
Section 4.5. Limitation on Liens	23
Section 4.6. Additional Amounts	24
Section 4.7. Reports	27
ARTICLE V. SUCCESSORS	27
Section 5.1. Consolidation, Merger and Sale of Assets	27
ARTICLE VI. DEFAULTS AND REMEDIES	28
Section 6.1. Events of Default	28

Section 6.2.	Acceleration of Maturity; Rescission and Annulment	29
Section 6.3.	Collection of Indebtedness and Suits for Enforcement by Trustee	30
Section 6.4.	Trustee May File Proofs of Claim	30
Section 6.5.	Trustee May Enforce Claims Without Possession of Securities	31
Section 6.6.	Application of Money Collected	31
Section 6.7.	Limitation on Suits	32
Section 6.8.	Unconditional Right of Holders to Receive Principal and Interest	32
Section 6.9.	Restoration of Rights and Remedies	33
Section 6.10.	Rights and Remedies Cumulative	33
Section 6.11.	Delay or Omission Not Waiver	33
Section 6.12.	Control by Holders	33
Section 6.13.	Waiver of Past Defaults	34
Section 6.14.	Undertaking for Costs	34
ARTICLE VII.	TRUSTEE	35
Section 7.1.	Duties of Trustee	35
Section 7.2.	Rights of Trustee	36
Section 7.3.	May Hold Securities	37
Section 7.4.	Trustee's Disclaimer	38
Section 7.5.	Notice of Defaults	38
Section 7.6.	Compensation and Indemnity	38
Section 7.7.	Replacement of Trustee	39
Section 7.8.	Successor Trustee by Merger, etc.	41
Section 7.9.	Eligibility; Disqualification	41
Section 7.10.	Preferential Collection of Claims Against Company	41
ARTICLE VIII.	DISCHARGE OF INDENTURE	42
Section 8.1.	Termination of Company's Obligations	42
Section 8.2.	Application of Trust Money	45
Section 8.3.	Repayment to Company	45
Section 8.4.	Reinstatement	46
ARTICLE IX.	AMENDMENTS AND WAIVERS	46
Section 9.1.	Without Consent of Holders	46
Section 9.2.	With Consent of Holders	47
Section 9.3.	Limitations	48
Section 9.4.	Form of Amendments	49
Section 9.5.	Revocation and Effect of Consents	49
Section 9.6.	Notation on or Exchange of Securities	49
Section 9.7.	Trustee Protected	49
ARTICLE X.	MISCELLANEOUS	50
Section 10.1.	Notices	50
Section 10.2.	Communication by Holders with Other Holders	51
Section 10.3.	Certificate and Opinion as to Conditions Precedent	51
Section 10.4.	Statements Required in Certificate or Opinion	52
Section 10.5.	Rules by Trustee and Agents	52
Section 10.6.	Legal Holidays	52
Section 10.7.	No Personal Liability of Directors, Officers, Employees and Certain Others	53

Section 10.8.	Counterparts	53
Section 10.9.	Governing Laws	53
Section 10.10.	No Adverse Interpretation of Other Agreements	53
Section 10.11.	Successors	53
Section 10.12.	Severability	54
Section 10.13.	Table of Contents, Headings, Etc.	54
Section 10.14.	Judgment Currency	54
Section 10.15.	English Language	55
Section 10.16.	Submission to Jurisdiction; Appointment of Agent	55
Section 10.17.	Waiver of Immunity	55
Section 10.18.	Waiver of Jury Trial	56

Indenture dated as of [], 20[] between Colfax Corporation (the “Company”) and [], as trustee (the “Trustee”).

Each party agrees as follows for the benefit of the other parties and for the equal and ratable benefit of the Holders (as defined below) of the Securities (as defined below) issued under this Indenture.

ARTICLE I.
DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.1. Definitions.

“*Affiliate*” of any specified Person means any other Person directly or indirectly controlling or controlled by or under common control with such specified Person. For the purposes of this definition, “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities or by agreement or otherwise.

“*Agent*” means any Registrar, Paying Agent or Transfer Agent or any other agent appointed pursuant to this Indenture.

“*Board of Directors*” means the Board of Directors of the Company, or any duly authorized committee thereof.

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

“*Business Day*” means, unless otherwise provided by Board Resolution, Officer’s Certificate or supplemental indenture for a particular Series, any day except a Saturday, Sunday or a Legal Holiday in the City of New York on which banking institutions are authorized or required by law, regulation or executive order to close.

“*Capital Stock*” means (1) in the case of a corporation, corporate stock; (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock; (3) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“*Certificated Securities*” means definitive Securities in registered non-global certificated form.

“*Company*” means Colfax Corporation until a successor replaces it and thereafter means the successor.

“*Company Order*” or “*Company Request*” means a written order signed in the name of the Company by one of the Company’s Officers.

“*Consolidated Net Worth*” means the amount of total stockholders’ equity shown in the Company’s most recent quarterly consolidated statement of financial position.

“*Corporate Trust Office*” means the office of the Trustee at which at any particular time its corporate trust business shall be principally administered, which, as of the date hereof is the address set forth in Section 10.1.

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

“*Depository*” means, with respect to the Securities of any Series issuable or issued in whole or in part in the form of one or more Global Securities, the Person designated as Depository for such Series by the Company which Depository shall be a clearing agency registered under the Exchange Act; and if at any time there is more than one such Person, “*Depository*” as used with respect to the Securities of any Series shall mean the Depository with respect to the Securities of such Series.

“*Discount Security*” means any Security that provides for an amount less than the stated principal amount thereof to be due and payable upon declaration of acceleration of the maturity thereof pursuant to Section 6.2.

“*Dollars*” or “*\$*” means the currency of the United States of America.

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

“*GAAP*” means accounting principles generally accepted in the United States of America set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time.

“*Global Security*” or “*Global Securities*” means a Security or Securities, as the case may be, in the form established pursuant to Section 2.2 evidencing all or part of a Series of Securities, issued to the Depository for such Series or its nominee, and registered in the name of such Depository or nominee.

“*Government Obligations*” means securities which are (i) direct obligations of the United States of America for the payment of which its full faith and credit is pledged or (ii)

obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America, and which in the case of (i) and (ii) are not callable or redeemable at the option of the issuer thereof, and shall also include a depository receipt issued by a bank or trust company as custodian with respect to any such Government Obligation or a specific payment of interest on or principal of any such Government Obligation held by such custodian for the account of the holder of a depository receipt, *provided that* (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian with respect to the Government Obligation evidenced by such depository receipt.

“*Holder*” or “*Securityholder*” means a Person in whose name a Security is registered in the register maintained by the Registrar.

“*Indenture*” means this Indenture as amended or supplemented from time to time and shall include the form and terms of particular Series of Securities established as contemplated hereunder.

“*Issue Date*” means, with respect to any Security, the date of original issuance of such Security.

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

“*Mortgage*” means and includes any mortgage, pledge, lien, security interest, conditional sale or other title retention agreement or other similar encumbrance.

“*Non-recourse Debt*” means indebtedness as to which (a) neither the Company, nor any of its Subsidiaries (x) provides credit support of any kind or (y) is directly or indirectly liable as a guarantor or otherwise and (b) as to which the lenders have been notified in writing that they will not have any recourse to the stock or assets of the Company or any of its Subsidiaries.

“*Officer*” means the Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, President, any Vice-President, the Treasurer, a Director, the Chairman, the Secretary, any Assistant Treasurer or any Assistant Secretary of the Company.

“*Officer’s Certificate*” means a certificate signed by an Officer of the Company.

“*Opinion of Counsel*” means a written opinion of legal counsel who is acceptable to the Trustee. The counsel may be a direct or indirect employee of or counsel to the Company.

“*Periodic Offering*” means an offering of Securities of a Series from time to time, during which any or all of the specific terms of the Securities, including the rate or rates of interest, if any, thereon, the maturity or maturities thereof and the redemption provisions, if any, with respect thereto, are to be determined by the Company or its agents upon the issuance of such Securities in accordance with the terms of the relevant supplemental indenture.

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

“*principal*” of a Security means the principal of the Security plus, when appropriate, the premium, if any, on, and any Additional Amounts with respect to, the Security.

“*Responsible Officer*” means any officer of the Trustee in its Corporate Trust Office responsible for the administration of this Indenture and also means, with respect to a particular corporate trust matter, any other officer to whom any corporate trust matter is referred because of his or her knowledge of and familiarity with a particular subject.

“*Restricted Property*” means any real property, manufacturing plant, warehouse, office building or other physical facility, or any item of marine, transportation or construction equipment or other like depreciable assets of the Company or any of its Restricted Subsidiaries, whether owned on or acquired after the Issue Date of the Securities of any Series, unless, in the opinion of the Board of Directors, such plant or facility or other asset is not of material importance to the total business conducted by the Company and its Restricted Subsidiaries taken as a whole.

“*Restricted Security*”, with respect to any Series of Securities, means a Security of such Series, unless or until it has been (i) effectively registered under the Securities Act and disposed of in accordance with a registration statement with respect to such Series or (ii) distributed to the public pursuant to Rule 144 under the Securities Act or any similar provision then in force.

“*Restricted Subsidiary*” means any Subsidiary of the Company which owns a Restricted Property.

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

“*Securities*” means the debentures, notes or other debt instruments of the Company of any Series authenticated and delivered under this Indenture.

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

“*Series*” or “*Series of Securities*” means each series of Securities of the Company created pursuant to Sections 2.1 and 2.2 hereof.

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

“*Subsidiary*” means, with respect to any specified Person, (a) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders’ agreement that effectively transfers voting

power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other subsidiaries of that Person (or a combination thereof); and (b) any partnership or limited liability company of which (x) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other subsidiaries of that Person or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise, and (y) such Person or any subsidiary of such Person is a controlling general partner or otherwise controls such entity.

“Trustee” means the Person named as the “Trustee” in the first paragraph of this instrument until a successor Trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Trustee” shall mean or include each Person who is then a Trustee hereunder, and if at any time there is more than one such Person, “Trustee” as used with respect to the Securities of any Series shall mean the Trustee with respect to Securities of that Series.

“Unrestricted Securities”, with respect to any Series of Securities, means a Security (i) effectively registered under the Securities Act and disposed of in accordance with a registration statement with respect to such Series or (ii) distributed to the public pursuant to Rule 144 under the Securities Act or any similar provision then in force.

Section 1.2. Other Definitions.

<u>TERM</u>	<u>DEFINED IN SECTION</u>
“Additional Amounts”	4.6(a)
“Bankruptcy Law”	6.1
“Company Tax Jurisdiction”	4.6(a)
“covenant defeasance”	8.1(b)
“Custodian”	6.1
“Event of Default”	6.1
“Judgment Currency”	10.14
“legal defeasance”	8.1(c)
“Legal Holiday”	10.6
“New York Banking Day”	10.14
“Paying Agent”	2.4
“Process Agent”	10.16
“Registrar”	2.4
“Related Proceeding”	10.16
“Required Currency”	10.14
“Taxes”	4.6(a)
“Tax Redemption Date”	3.10
“Tax Jurisdiction”	4.6(a)
“TIA”	7.10
“Transfer Agent”	2.4

Section 1.3. Rules of Construction.

Unless the context otherwise requires:

- (a) a term has the meaning assigned to it;
- (b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (c) “or” is not exclusive and “including” means including without limitation;
- (d) words in the singular include the plural, and in the plural include the singular; and
- (e) provisions apply to successive events and transactions.

ARTICLE II.
THE SECURITIES

Section 2.1. Issuable in Series.

The aggregate principal amount of Securities that may be authenticated and delivered under this Indenture is unlimited. The Securities may be issued in one or more Series. All Securities of a Series shall be identical except as may be set forth in, or pursuant to a Board Resolution, Officer’s Certificate or supplemental indenture establishing the terms of such Series of Securities.

Section 2.2. Establishment of Terms of Series of Securities.

At or prior to the issuance of any Securities within a Series, the following shall be established (as to the Series generally, in the case of Subsection 2.2.1 and either as to such Securities within the Series or as to the Series generally in the case of Subsections 2.2.2 through 2.2.28) by or pursuant to a Board Resolution, Officer’s Certificate or supplemental indenture:

2.2.1. the title of the Series of Securities (which shall distinguish the Securities of that particular Series from the Securities of any other Series);

2.2.2. any limit upon the aggregate principal amount of the Securities of the Series which may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of the Series pursuant to Section 2.7, 2.8, 2.11, 3.6 or 9.6);

2.2.3. the date or dates on which the principal and premium, if any, of the Securities of the Series is payable;

2.2.4. the rate or rates, which may be fixed or variable, at which the Securities of the Series shall bear interest or the manner of calculation of such rate or rates, if any, including any procedures to vary or reset such rate or rates, and the basis upon which interest will be calculated if other than that of a 360-day year or twelve 30-day months;

2.2.5. the date or dates from which interest shall accrue, the dates on which such interest will be payable or the manner of determination of such dates, and the record date for the determination of holders to whom interest is payable on any such dates;

2.2.6. the place or places where the principal of and interest, if any, on the Securities of the Series shall be payable, where the Securities of such Series may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company with respect to the Securities of such Series and this Indenture may be served, and the method of such payment, if by wire transfer, mail or other means if other than as set forth in this Indenture;

2.2.7. the right, if any, to extend the interest payment periods or defer the payment of interest and the duration of such extension or deferral;

2.2.8. if applicable, the period or periods within which, the price or prices at which and the terms and conditions upon which the Securities of the Series may be redeemed, in whole or in part, at the option of the Company if other than as set forth in this Indenture;

2.2.9. the obligation, if any, of the Company to redeem or purchase, if other than as set forth herein, the Securities of the Series pursuant to any sinking fund or analogous provisions, including payments made in cash in anticipation of future sinking fund obligations, or at the option of a Holder thereof and the period or periods within which, the price or prices at which and the terms and conditions upon which Securities of the Series shall be redeemed, purchased or repaid, in whole or in part, pursuant to such obligation;

2.2.10. the terms of any repurchase or remarketing rights;

2.2.11. if other than denominations of \$2,000 or integral multiples of \$1,000 in excess thereof, the denominations in which the Securities of the Series shall be issuable;

2.2.12. the forms of the Securities of the Series including the form of the Trustee's certificate of authentication for such Series;

2.2.13. any trustees, authenticating agents or paying agents with respect to the Securities of the Series, if different from those set forth in this Indenture;

2.2.14. if the Securities of the Series shall be issued in whole or in part in the form of a Global Security or Securities, the type of Global Security to be issued; the terms and

conditions, if different from those contained in this Indenture, upon which such Global Security or Securities may be exchanged in whole or in part for other individual Securities in definitive registered form; the Depositary for such Global Security or Securities; and the form of any legend or legends to be borne by any such Global Security or Securities in addition to or in lieu of the legend referred to in Section 2.14.2;

2.2.15. any provisions granting special rights to Holders when a specified event occurs;

2.2.16. if the amount of principal of or any premium or interest on Securities of any Series may be determined with reference to an index or pursuant to a formula, the manner in which such amounts will be determined;

2.2.17. any special tax implications of the Securities, including provisions for original issue discount securities, if offered;

2.2.18. whether and upon what terms Securities of the Series may be defeased if different from the provisions set forth in this Indenture;

2.2.19. with regard to the Securities of any Series that do not bear interest, the dates for certain required reports to the Trustee;

2.2.20. whether the Securities of any Series will be issued as Unrestricted Securities or Restricted Securities, and, if issued as Restricted Securities, the rule or regulation promulgated under the Securities Act in reliance on which they will be sold;

2.2.21. any guarantees on the Securities of the Series;

2.2.22. the currency or currencies in which payment of the principal of, premium, if any, and interest on, the Securities of the Series shall be payable;

2.2.23. if the principal amount payable at the Stated Maturity of Securities of the Series will not be determinable as of any one or more dates prior to such Stated Maturity, the amount which will be deemed to be such principal amount as of any such date for any purpose, including the portion of the principal amount thereof that will be due and payable upon declaration of acceleration of the maturity thereof pursuant to Section 6.2 or upon any maturity other than the Stated Maturity or that will be deemed to be outstanding as of any such date, or, in any such case, the manner in which such deemed principal amount is to be determined;

2.2.24. the provisions, if any, relating to any security provided for the Securities of the Series;

2.2.25. any additional restrictive covenants or Events of Default that will apply to the Securities of the Series, or any changes to the restrictive covenants set forth in Article IV or the Events of Default set forth in Section 6.01 that will apply to the Securities of the Series, which may consist of establishing different terms or provisions from those set forth in Article IV or Section 6.01 or eliminating any such restrictive covenant or Event of Default with respect to the Securities of the Series;

2.2.26. any Depositaries, interest rate calculation agents, exchange rate calculation agents or other agents with respect to Securities of such Series if other than those appointed herein;

2.2.27. whether the Securities of the Series will be convertible into or exchangeable for other Securities, common shares or other securities of any kind of the Company or another obligor, and, if so, the terms and conditions upon which such Securities will be so convertible or exchangeable, including the initial conversion or exchange price or rate or the method of calculation, how and when the conversion price or exchange ratio may be adjusted, whether conversion or exchange is mandatory, at the option of the holder or at the Company's option, the conversion or exchange period, and any other provision in addition to or in lieu of those described herein; and

2.2.28. any and all additional, eliminated or changed terms that shall apply to the Securities of the Series, including any terms that may be required by or advisable under United States laws or regulations, including the Securities Act and the rules and regulations promulgated thereunder, or advisable in connection with the marketing of Securities of that Series.

All Securities of any one Series need not be issued at the same time and may be issued from time to time, consistent with the terms of this Indenture, if so provided by or pursuant to the Board Resolution, Officer's Certificate or supplemental indenture referred to above.

Section 2.3. Execution and Authentication.

An Officer of the Company shall sign the Securities for the Company by manual or facsimile signature.

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

A Security shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent. The signature shall be conclusive evidence that the Security has been authenticated under this Indenture.

The Trustee shall at any time, and from time to time, authenticate Securities for original issue in the principal amount provided in the Board Resolution, Officer's Certificate or supplemental indenture, upon receipt by the Trustee of a Company Order. Each Security shall be dated the date of its authentication unless otherwise provided by the relevant Board Resolution, Officer's Certificate or supplemental indenture.

Notwithstanding the provisions of Section 2.2 and the preceding paragraph, in the case of Securities offered in a Periodic Offering, the Trustee shall authenticate and deliver such Securities from time to time in accordance with a Company Order or such other procedures acceptable to the Trustee as may be specified by or pursuant to a supplemental indenture or the written order of the Company delivered to the Trustee prior to the time of the first authentication of Securities of such Series.

The aggregate principal amount of Securities of any Series outstanding at any time may not exceed any limit upon the maximum principal amount for such Series set forth in the Board Resolution, Officer's Certificate or supplemental indenture delivered pursuant to Section 2.2.

Prior to the issuance of Securities of any Series, the Trustee shall have received and (subject to Section 7.2) shall be fully protected in relying on: (a) the Board Resolution, Officer's Certificate or supplemental indenture establishing the form of the Securities of that Series or of Securities within that Series and the terms of the Securities of that Series or of Securities within that Series, (b) an Officer's Certificate complying with Section 10.4, and (c) an Opinion of Counsel complying with Section 10.4. With respect to Securities of a Series subject to a Periodic Offering, the Trustee conclusively may rely, as to the authorization by the Company of any of such Securities, the forms and terms thereof and the legality, validity, binding effect and enforceability thereof, upon the written order of the Company, Opinion of Counsel, Officer's Certificate and other documents delivered pursuant to this Section 2.3 at or prior to the time of the first authentication of Securities of such Series unless and until such written order, Opinion of Counsel, Officer's Certificate or other documents have been superseded or revoked, and written notice thereof is provided to Trustee, or expire by their terms.

The Trustee shall have the right to decline to authenticate and deliver any Securities of such Series: (a) if the Trustee, being advised by counsel, determines that such action may not be taken lawfully; or (b) if the Trustee in good faith by its board of directors or trustees, executive committee or a committee of Responsible Officers shall determine that such action would expose the Trustee to personal liability.

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

Section 2.4. Registrar, Paying Agent and Transfer Agent.

The Company will maintain one or more paying agents (each, a "*Paying Agent*") for the Securities in the Borough of Manhattan, City of New York. The initial Paying Agents will be [] and thereafter "*Paying Agent*" shall mean or include each Person who is then a Paying Agent hereunder, and if at any time there is more than one such Person, "*Paying Agent*" as used with respect to the Securities of any Series shall mean the Paying Agent with respect to Securities of that Series. The Company, upon written notice to the Trustee accompanied by an Officer's Certificate, may appoint one or more paying agents, other than the Trustee, for all or any series of the Securities. If the Company fails to appoint or maintain another entity as paying agent, the Trustee shall act as such. The Company or any of its Subsidiaries, upon notice to the Trustee, may act as paying agent.

The Company will maintain one or more registrars (each, a “*Registrar*”) for the Securities in the Borough of Manhattan, City of New York. The initial Registrar will be [] and thereafter “*Registrar*” shall mean or include each Person who is then a Registrar hereunder, and if at any time there is more than one such Person, “*Registrar*” as used with respect to the Securities of any Series shall mean the Registrar with respect to Securities of that Series. The Company, upon written notice to the Trustee accompanied by an Officer’s Certificate, may appoint one or more registrars, other than the Trustee, for all or any series of the Securities. If the Company fails to appoint or maintain another entity as registrar, the Trustee shall act as such. The Company or any of its Subsidiaries, upon notice to the Trustee, may act as registrar.

The Company will also maintain a transfer agent (each, a “*Transfer Agent*”) for the Securities in the Borough of Manhattan, City of New York. The initial Transfer Agent will be [] and thereafter “*Transfer Agent*” shall mean or include each Person who is then a Transfer Agent hereunder, and if at any time there is more than one such Person, “*Transfer Agent*” as used with respect to the Securities of any Series shall mean the Transfer Agent with respect to Securities of that Series. The Company, upon written notice to the Trustee accompanied by an Officer’s Certificate, may appoint one or more transfer agents, other than the Trustee, for all or any series of the Securities. If the Company fails to appoint or maintain another entity as transfer agent, the Trustee shall act as such. The Company or any of its Subsidiaries, upon notice to the Trustee, may act as transfer agent.

The Company may change any Paying Agent, Registrar or Transfer Agent for its Securities without prior notice to the Holders.

Section 2.5. Paying Agent to Hold Money in Trust.

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

Section 2.6. Securityholder 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 Securityholders of each Series of Securities. If the Trustee is not the Registrar, the Company shall furnish to the Trustee at least ten days before each interest payment date and at such other times as the Trustee may request in writing a list, in such form and as of such date as the Trustee may reasonably require, of the names and addresses of Securityholders of each Series of Securities.

Section 2.7. Transfer and Exchange.

Where Securities of a Series are presented to the Registrar or a co-registrar with a request to register a transfer or to exchange them for an equal principal amount of Securities of the same Series, the Registrar shall register the transfer or make the exchange if the requirements for such transactions set forth in this Indenture are met. To permit registrations of transfers and exchanges, the Trustee shall authenticate Securities at the Registrar's request upon the Trustee's receipt of a Company Order from the Company. No service charge shall be made for any registration of transfer or exchange (except as otherwise expressly permitted herein), but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer tax or similar governmental charge payable upon exchanges pursuant to Sections 2.11, 3.6 or 9.6).

Neither the Company nor the Registrar shall be required (a) to issue, register the transfer of, or exchange Securities of any Series for the period beginning at the opening of business fifteen days immediately preceding the delivery of a notice of redemption of Securities of that Series selected for redemption and ending at the close of business on the day of such delivery, or (b) to register the transfer of or exchange Securities of any Series selected, called or being called for redemption as a whole or the portion being redeemed of any such Securities selected, called or being called for redemption in part.

Section 2.8. Mutilated, Destroyed, Lost and Stolen Securities.

If any mutilated Security is surrendered to the Trustee, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a new Security of the same Series and of like tenor and principal amount and bearing a number not contemporaneously outstanding.

If there shall be delivered to the Company and the Trustee (i) evidence to their satisfaction of the destruction, loss or theft of any Security and (ii) such security or indemnity as may be required by them to save each of them and any agent of either of them harmless, then, in the absence of notice to the Company or the Trustee that such Security has been acquired by a protected purchaser, the Company shall execute and upon receipt of a Company Order, the Trustee shall authenticate and make available for delivery, in lieu of any such destroyed, lost or stolen Security, a new Security of the same Series and of like tenor and principal amount and bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Security, pay such Security.

Upon the issuance of any new Security under this Section 2.8, 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 Security of any Series issued pursuant to this Section 2.8 in lieu of any destroyed, lost or stolen Security shall constitute an original additional contractual obligation of the Company whether or not the destroyed, lost or stolen Security shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Securities of that Series duly issued hereunder.

The provisions of this Section 2.8 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

Section 2.9. Outstanding Securities.

The Securities outstanding at any time are all the Securities authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest on a Security, if applicable, effected by the Trustee in accordance with the provisions hereof and those described in this Section 2.9 as not outstanding.

If a Security is replaced pursuant to Section 2.8, it ceases to be outstanding until the Trustee receives proof satisfactory to it that the replaced Security is held by a protected purchaser.

If the Paying Agent (other than the Company, a Subsidiary of the Company or an Affiliate of the Company) holds on the Maturity of Securities of a Series money sufficient to pay such Securities payable on that date, then on and after that date such Securities of the Series cease to be outstanding and interest on them ceases to accrue.

The Company may purchase or otherwise acquire the Securities, whether by open market purchases, negotiated transactions or otherwise. A Security does not cease to be outstanding because the Company or an Affiliate of the Company holds the Security.

In determining whether the Holders of the requisite principal amount of outstanding Securities have given any request, demand, authorization, direction, notice, consent or waiver hereunder, the principal amount of a Discount Security that shall be deemed to be outstanding for such purposes shall be the amount of the principal thereof that would be due and payable as of the date of such determination upon a declaration of acceleration of the Maturity thereof pursuant to Section 6.2.

Section 2.10. Treasury Securities.

In determining whether the Holders of the required principal amount of Securities of a Series have concurred in any request, demand, authorization, direction, notice, consent or waiver, Securities of a Series owned by the Company or any Affiliate of the Company shall be disregarded, except that for the purposes of determining whether the Trustee shall be protected in relying on any such request, demand, authorization, direction, notice, consent or waiver only Securities of a Series that a Responsible Officer of the Trustee knows are so owned shall be so disregarded.

Section 2.11. Temporary Securities.

Until definitive Securities are ready for delivery, the Company may prepare and the Trustee shall authenticate temporary Securities upon a Company Order. Temporary Securities shall be substantially in the form of definitive Securities but may have variations that the Company considers appropriate for temporary Securities. Without unreasonable delay, the Company shall prepare and the Trustee upon request shall authenticate definitive Securities of the same Series and date of maturity in exchange for temporary Securities. Until so exchanged, temporary securities shall have the same rights under this Indenture as the definitive Securities.

Section 2.12. Cancellation.

The Company at any time may deliver Securities to the Trustee for cancellation. The Agents shall forward to the Trustee any Securities surrendered to them for registration of transfer, exchange or payment. The Trustee shall cancel all Securities surrendered for transfer, exchange, payment, replacement or cancellation and shall destroy such canceled Securities (subject to the record retention requirement of the Exchange Act) and deliver a certificate of such destruction to the Company unless the Company otherwise directs. The Company may not issue new Securities to replace Securities that it has paid or delivered to the Trustee for cancellation.

Section 2.13. Defaulted Interest.

If the Company defaults in a payment of interest on a Series of Securities, it shall pay the defaulted interest, plus, to the extent permitted by law, any interest payable on the defaulted interest, to the Persons who are Securityholders of the Series on a subsequent special record date. The Company shall fix the record date and payment date. At least 10 days before the record date, the Company shall deliver to the Trustee and to each Securityholder of the Series a notice that states the record date, the payment date and the amount of interest to be paid. The Company may pay defaulted interest in any other lawful manner.

Section 2.14. Global Securities.

2.14.1. Transfer and Exchange. Notwithstanding any provisions to the contrary contained in Section 2.7 of this Indenture and in addition thereto, any Global Security shall be exchangeable pursuant to Section 2.7 of this Indenture for Securities registered in the names of Holders other than the Depositary for such Security or its nominee only if (i) such Depositary notifies the Company that it is unwilling or unable to continue as Depositary for such Global Security or if at any time such Depositary ceases to be a clearing agency registered under the Exchange Act, and, in either case, the Company fails to appoint a successor Depositary registered as a clearing agency under the Exchange Act within 90 days of such event or (ii) the Company executes and delivers to the Trustee an Officer's Certificate to the effect that such Global Security shall be so exchangeable. Any Global Security that is exchangeable pursuant to the preceding sentence shall be exchangeable for Securities registered in such names as the Depositary shall direct in writing in an aggregate principal amount equal to the principal amount of the Global Security with like tenor and terms.

Except as provided in this Section 2.14.1, a Global Security may not be transferred except as a whole by the Depositary with respect to such Global Security to a nominee of such Depositary, by a nominee of such Depositary to such Depositary or another nominee of such Depositary or by the Depositary or any such nominee to a successor Depositary or a nominee of such a successor Depositary.

Neither the Trustee nor any Agent shall have any obligation or duty to monitor, determine or inquire as to compliance with any tax or securities laws with respect to any restrictions on transfer imposed under this Indenture or under applicable law (including any transfers between or among Depositary participants, members or beneficial owners in any Global Security) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

2.14.2. Legend. Any Global Security issued hereunder shall bear a legend in substantially the following form:

“THIS SECURITY IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITARY OR A NOMINEE OF THE DEPOSITARY. THIS SECURITY IS EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITARY OR ITS NOMINEE ONLY IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE, AND MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE

DEPOSITARY, BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH A SUCCESSOR DEPOSITARY.”

2.14.3. Acts of Holders. The Depositary, as a Holder, may appoint agents and otherwise authorize participants to give or take any request, demand, authorization, direction, notice, consent, waiver or other action which a Holder is entitled to give or take under this Indenture.

2.14.4. Payments. Notwithstanding the other provisions of this Indenture, unless otherwise specified as contemplated by Section 2.2, payment of the principal of and interest, if any, on any Global Security shall be made to the Holder thereof, which in the case of a Depositary therefore will be made in accordance with its applicable procedures.

2.14.5. Holdings. The Company, the Trustee and each Agent shall treat the Person in whose name any Security is registered in the register maintained by the Registrar as the Holder for all purposes including for purposes of obtaining any consents, declarations, waivers or directions permitted or required to be given by the Holders pursuant to this Indenture.

2.14.6. None of the Trustee or any Agent shall have any responsibility or obligation to any beneficial owner of an interest in a Global Security, a member of, or a participant in, the Depositary or other Person with respect to the accuracy of the records of the Depositary or its nominee or of any participant or member thereof, with respect to any ownership interest in the Securities or with respect to the delivery to any participant, member, beneficial owner or other Person (other than the Depositary) of any notice (including any notice of redemption) or the payment of any amount or delivery of any Securities (or other security or property) under or with respect to such Securities. All notices and communications to be given to the Holders and all payments to be made to Holders with respect to the Securities shall be given or made only to or upon the order of the registered Holders (which shall be the Depositary or its nominee in the case of a Global Security). The rights of beneficial owners in any Global Security shall be exercised only through the Depositary subject to the applicable rules and procedures of the Depositary. The Trustee and each Agent may rely and shall be fully protected in relying upon information furnished by the Depositary with respect to its members, participants and any beneficial owners.

Section 2.15. CUSIP Numbers.

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

ARTICLE III.
REDEMPTION

Section 3.1. Notice to Trustee; No Liability for Calculations.

The Company may, with respect to any Series of Securities, reserve the right to redeem and pay such Series of Securities or may covenant to redeem and pay such Series of Securities or any part thereof prior to the Stated Maturity thereof at such time and on such terms as provided for in Sections 3.9 and 3.10 hereof or, as applicable, in the Board Resolution, Officer's Certificate or supplemental indenture relating to such Series. If a Series of Securities is redeemable and the Company wants or is obligated to redeem prior to the Stated Maturity thereof all or part of the Series of Securities pursuant to the terms of such Securities, it shall notify the Trustee in writing of the redemption date and the principal amount of Series of Securities to be redeemed at least 40 days before a redemption date (or such shorter notice as may be acceptable to the Trustee). The Trustee shall have no liability with respect to or obligation to calculate the redemption price of any Securities to be redeemed pursuant to this Indenture.

Section 3.2. Selection of Securities to be Redeemed.

Unless otherwise indicated for a particular Series by a Board Resolution, Officer's Certificate or a supplemental indenture, if less than all of the Securities of a Series are to be redeemed at any time, the Trustee will select the Securities of a Series to be redeemed on a *pro rata* basis (or, in the case of Securities issued in global form based on a method that most nearly approximates a *pro rata* selection as the Trustee deems fair and appropriate) unless otherwise required by law or applicable stock exchange or Depository requirements. The Trustee will not be liable for selections made by it as contemplated in this section.

No Securities of a Series in principal amount of \$2,000 or less can be redeemed in part.

Notices of purchase or redemption will be given to each Holder pursuant to Section 3.3 and Section 10.1.

Section 3.3. Notice of Redemption.

Unless otherwise indicated for a particular Series by Board Resolution, Officer's Certificate or supplemental indenture, at least 30 days but not more than 60 days before a redemption date, the Company will deliver a notice of redemption to each Holder whose Securities are to be redeemed in accordance with Section 10.1, except that redemption notices may be given more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Securities or a satisfaction and discharge of this Indenture pursuant to Article VIII hereof.

The notice shall identify the Securities to be redeemed and corresponding CUSIP, ISIN or Common Code numbers, as applicable, and will state:

- (a) the redemption date;
- (b) the redemption price and the amount of accrued interest, if any, and Additional Amounts, if any, to be paid;
- (c) if any Global Security is being redeemed in part, the portion of the principal amount of such Global Security to be redeemed and that, after the redemption date upon surrender of such Global Security, the principal amount thereof will be decreased by the portion thereof redeemed pursuant thereto;
- (d) if any Certificated Security is being redeemed in part, the portion of the principal amount of such Security to be redeemed, and that, after the redemption date, upon surrender of such Security, a new Certificated Security or Certificated Securities in principal amount equal to the unredeemed portion thereof will be issued in the name of the Holder thereof upon cancellation of the original Certificated Security;
- (e) the name and address of the Paying Agent(s) to which the Securities are to be surrendered for redemption;
- (f) that Securities called for redemption must be surrendered to the relevant Paying Agent to collect the redemption price, plus accrued and unpaid interest, if any, and Additional Amounts, if any;
- (g) that, unless the Company defaults in making such redemption payment, interest and Additional Amounts, if any, on Securities called for redemption cease to accrue on and after the redemption date;
- (h) that Securities of the Series called for redemption must be surrendered to the Paying Agent to collect the redemption price;
- (i) the paragraph of the Securities and/or Section of this Indenture pursuant to which the Securities called for redemption are being redeemed; and
- (j) that no representation is made as to the correctness or accuracy of the CUSIP, ISIN or Common Code numbers, if any, listed in such notice or printed on the Securities.

At the Company's written request, the Trustee shall give the notice of redemption in the Company's name and at its expense; *provided, however*, that the Company has delivered to the Trustee, at least 40 days prior to the redemption date, an Officer's Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

Section 3.4. Effect of Notice of Redemption.

Once notice of redemption is mailed or published as provided in Section 3.3, Securities of a Series called for redemption become due and payable on the redemption date and at the redemption price. Unless otherwise indicated for a particular Series by Board Resolution, Officer's Certificate or supplemental indenture, a notice of redemption may not be conditional. Upon surrender to the Paying Agent, such Securities shall be paid at the redemption price plus accrued interest to the redemption date.

On or after any purchase or redemption date, unless the Company defaults in payment of the purchase or redemption price, interest shall cease to accrue on Securities or portions thereof tendered for purchase or called for redemption.

Section 3.5. Deposit of Redemption Price.

On or before 10:00 a.m., New York City time, on the redemption date, the Company shall deposit with the Paying Agent money in immediately available funds sufficient to pay the redemption price of and accrued interest, if any, on all Securities to be redeemed on that date.

Section 3.6. Securities Redeemed in Part.

Upon surrender of a Certificated Security that is redeemed in part, the Trustee shall authenticate for the Holder a new Certificated Security of the same Series and the same maturity equal in principal amount to the unredeemed portion of the Security surrendered.

In relation to Certificated Securities, a new Security in principal amount equal to the unpurchased or unredeemed portion of any Security purchased or redeemed in part will be issued in the name of the Holder thereof upon cancellation of the original Certificated Security.

Section 3.7. Sinking Fund.

Unless otherwise indicated for a particular Series by Board Resolution, Officer's Certificate or supplemental indenture, the provisions of Sections 3.7, 3.8 and 3.9 shall be applicable to any sinking fund for the retirement of Securities of a Series.

The minimum amount of any sinking fund payment provided for by the terms of Securities of any series is referred to as a “mandatory sinking fund payment,” and any payment in excess of such minimum amount provided for by the terms of Securities of any series is referred to as an “optional sinking fund payment.” If provided for by the terms of Securities of any Series, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 3.8. Each sinking fund payment shall be applied to the redemption of Securities of any Series as provided for by the terms of Securities of such Series.

Section 3.8. Satisfaction of Sinking Fund Payments with Securities.

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

Section 3.9. Redemption of Securities for Sinking Fund.

Not less than 30 days prior to each sinking fund payment date for any Series of Securities, the Company will deliver to the Trustee an Officer’s Certificate specifying the amount of the next ensuing sinking fund payment for that Series pursuant to the terms of the Series, the portion thereof, if any, that is to be satisfied by payment of cash in the currency in which the Securities of such Series are denominated (except as provided pursuant to Section 2.2), the portion thereof, if any, that is to be satisfied by delivering and crediting Securities of that Series pursuant to Section 3.8 and the basis for such credit. Together with such Officer’s Certificate, the Company will deliver to the Trustee any Securities to be so delivered. Not less than 30 days before each such sinking fund payment date the Trustee shall select the Securities to be redeemed upon such sinking fund payment date in the manner specified in Section 3.3 and cause notice of the redemption thereof to be given in the name of and at the expense of the Company in the manner provided in Section 3.3.

Section 3.10. Redemption Upon Changes in Tax Law.

The Company may redeem the Securities, in whole but not in part, at its discretion at any time upon giving notice to the Holders of such of the Securities in accordance with Section 3.3 (which notice will be irrevocable), at a redemption price equal to 100% of the aggregate principal amount thereof, together with accrued and unpaid interest, if any, to the date

fixed by the Company for redemption (a “*Tax Redemption Date*”) and all Additional Amounts (if any) then due and which will become due on the Tax Redemption Date as a result of the redemption or otherwise (subject to the right of Holders of such Securities on the relevant record date to receive interest due on the relevant interest payment date and Additional Amounts (if any) in respect thereof), if on the next date on which any amount would be payable with respect to such Securities, the Company is or would be required to pay Additional Amounts, and the Company cannot avoid any such payment obligation by taking reasonable measures available, and the requirement arises as a result of:

(a) any amendment to, or change in, the laws (or any regulations or rulings promulgated thereunder) of a relevant Tax Jurisdiction which change or amendment becomes effective on or after the Issue Date (or, if the applicable Tax Jurisdiction became a Tax Jurisdiction on a date after the Issue Date, such later date), or

(b) any amendment to, or change in, an official interpretation or application of such laws, regulations or rulings (including by virtue of a holding, judgment, order by a court of competent jurisdiction or a change in published administrative practice) which amendment or change becomes effective on or after the Issue Date (or, if the applicable Tax Jurisdiction became a Tax Jurisdiction on a date after the Issue Date, such later date).

The Company, as applicable, will not give any such notice of redemption earlier than 90 days prior to the earliest date on which the Company would be obligated to make such payment or withholding if a payment with respect to the applicable Securities was then due, and the obligation to pay Additional Amounts must be in effect at the time such notice is given. Prior to the publication or, where relevant, mailing of any notice of redemption of the Securities pursuant to the foregoing, the Company will deliver to the Trustee an opinion of independent tax counsel to the effect that there has been such amendment or change which would entitle the Company to redeem such Securities hereunder. In addition, before the Company publishes or mails notice of redemption of such Securities as described above, it will deliver to the Trustee an Officer’s Certificate to the effect that it cannot avoid its obligation to pay Additional Amounts by taking reasonable measures available to the Company.

The Trustee will accept and shall be entitled to rely on such Officer’s Certificate and Opinion of Counsel as sufficient evidence of the existence and satisfaction of the conditions precedent as described above, in which event it will be conclusive and binding on the Holders of the Securities.

The foregoing will apply *mutatis mutandis* to any jurisdiction in which any successor Person to the Company is incorporated or organized, or any jurisdiction from or through which payment is made by or on behalf of such Person on the Securities and any political subdivision thereof or therein.

ARTICLE IV.
COVENANTS

Section 4.1. Payment of Principal, Premium and Interest.

The Company covenants and agrees for the benefit of the Holders of each Series of Securities that it will duly and punctually pay the principal of, premium, if any, and interest, on the Securities of that Series in accordance with the terms of such Securities and this Indenture. Unless otherwise provided by Board Resolution, Officer's Certificate or supplemental indenture for a particular Series, on or before 10:00 a.m., New York City time, on the applicable payment date, the Company shall deposit with the Paying Agent money sufficient to pay the principal of, premium, if any, and interest on the Securities of each such Series in accordance with the terms of such Securities and this Indenture.

Section 4.2. Compliance Certificate.

The Company shall deliver to the Trustee, within 120 days after the end of its fiscal year (which as of the date of this Indenture is December 31, or if the fiscal year with respect to the Company is changed so that it ends on a date other than December 31, such other fiscal year end date as the Company shall notify to the Trustee in writing) of the Company, an Officer's Certificate stating that a review of the activities of the Company and its Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officer with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Indenture, and further stating, as to each such Officer signing such certificate, that to his/her knowledge the Company is not in default in the performance or observance of any of the terms, provisions and conditions hereof (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which he may have knowledge). Such Officer's Certificate need not include a reference to any non-compliance that has been fully cured prior to the date as of which such certificate speaks.

The Company will, so long as any of the Securities are outstanding, deliver to the Trustee, within 30 days upon becoming aware of any Default or Event of Default, an Officer's Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

Section 4.3. Stay, Extension and Usury Laws.

The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture or the Securities; 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 has been enacted.

Section 4.4. Corporate Existence.

Subject to Article V, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence and rights (charter and statutory); *provided, however*, that the Company shall not be required to preserve any such right if its Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of its business and its Subsidiaries taken as a whole and that the loss thereof is not adverse in any material respect to the Holders of the Securities.

Section 4.5. Limitation on Liens.

The Company will not, and will not permit any of its respective Subsidiaries to, incur, issue, assume or guarantee any notes, bonds, debentures or other similar evidences of indebtedness for money borrowed, secured by a Mortgage on any Restricted Property, or on any shares of stock, ownership interests in, or indebtedness of a Restricted Subsidiary, without effectively providing concurrently with the incurrence, issuance, assumption or guarantee of such secured indebtedness that the Securities (together with, if the Company shall so determine, any of its other indebtedness or the indebtedness of any such Restricted Subsidiary then existing or thereafter created ranking on a parity with the Securities) shall be secured equally and ratably with (or prior to) such secured indebtedness, so long as such secured indebtedness shall be so secured, unless, after giving effect thereto, the aggregate amount of all such secured indebtedness (excluding any indebtedness secured by Mortgages of the types referred to in clauses (1) through (10) below) would not exceed 20% of Consolidated Net Worth as shown on the Company's most recent consolidated quarterly financial statements; *provided, however*, that these provisions shall not apply to:

(a) Mortgages existing on the date of original issuance of the Securities;

(b) Mortgages on property or assets of, or on any shares of stock, ownership interests in or indebtedness of, any Person existing at the time such Person becomes a Subsidiary (including a Restricted Subsidiary) of the Company;

(c) Mortgages on property or assets existing at the time of acquisition thereof (including acquisition through merger or consolidation) or to secure the payment of all or any part of the purchase price or cost of construction, development, expansion or improvement thereof or to secure any indebtedness incurred prior to, at the time of, or within 12 months after, the acquisition or completion of construction, development, expansion or improvement of such property or assets or its commencement of commercial operations for the purpose of financing all or any part of the purchase price or cost of construction, development, expansion or improvement thereof;

(d) Mortgages in favor of the Company or any of its Subsidiaries;

(e) the Mortgage of any of the Company's property or assets or any property or assets of any of its Restricted Subsidiaries in favor of the United States of America or any other sovereign entity, or any state, province or other political subdivision thereof, or any entity, department, agency, instrumentality or comparable authority thereof, to secure partial, progress, advance or other payments pursuant to the provisions of any contract, statute, law, rule or regulation;

(f) the Mortgage of any property or assets to secure indebtedness of the pollution control, industrial revenue or other revenue bond type;

(g) Mortgages incurred or deposits made (including Mortgages and deposits securing letters of credit or similar financial assurance) to secure the performance of or in connection with bids, tenders, statutory, governmental or private contractual or other obligations, surety, performance, completion, appeal or similar bonds, leases, return-of-money bonds and other obligations similar to any of the foregoing, in each case in the ordinary course of business;

(h) Mortgages arising by operation of law, including but not limited to Mortgages for taxes, assessments or similar charges that are not yet due or the validity of which is being contested in good faith by appropriate proceedings;

(i) Mortgages created in connection with the acquisition of property or assets, or a project financed with, Non-recourse Debt; and

(j) any extension, renewal or replacement (or successive extensions, renewals or replacements), as a whole or in part, of any Mortgage referred to in the foregoing clauses, inclusive; provided, that such extension, renewal or replacement Mortgage shall be limited to all or a part of the same property or assets that secured the Mortgage extended, renewed or replaced, plus improvements on such property or assets.

Section 4.6. Additional Amounts.

(a) All payments made by the Company under or with respect to the Securities will be made free and clear of and without withholding or deduction for, or on account of, any present or future tax, duty, levy, assessment or other governmental charge, including any related interest, penalties or additions to tax ("*Taxes*") unless the withholding or deduction of such Taxes is then required by law or by interpretation or administration of law. If any deduction or withholding for, or on account of, any Taxes imposed or levied by or on behalf of (1) any jurisdiction in which the Company is then incorporated or organized or any political subdivision thereof or therein (each, a "*Company Tax Jurisdiction*") or (2) any jurisdiction from or through which payment is made by or on behalf of the Company (including the jurisdiction of any Paying Agent for the applicable Securities) or any political subdivision thereof or therein (each, together with each Company Tax Jurisdiction, a "*Tax Jurisdiction*") will at any time be required to

be made from any payments made by the Company under or with respect to the Securities, including payments of principal, redemption price, interest or premium, the Company will pay such additional amounts (the “*Additional Amounts*”) as may be necessary in order that the net amounts received with respect to such payments by each holder of the applicable Securities after such withholding, deduction or imposition (including any such withholding, deduction or imposition from such *Additional Amounts*) will equal the respective amounts that would have been received with respect to such payments in the absence of such withholding or deduction; *provided, however*, that no *Additional Amounts* will be payable with respect to:

(1) any Taxes, to the extent such Taxes would not have been imposed but for the existence of any actual or deemed present or former connection between the Holder or the beneficial owner of such Securities and the relevant Tax Jurisdiction (including being or having been a national, resident or citizen of, being or having been engaged in a trade or business in, being or having been physically present in, or having or having had a permanent establishment in, such jurisdiction for Tax purposes), other than the holding of such Security, the enforcement of rights under such Security or the receipt of any payments with respect to such Security;

(2) any Taxes, to the extent such Taxes were imposed as a result of the presentation of such Security for payment (where presentation is required) more than 30 days after the relevant payment is first made available for payment to the holder (except to the extent that the holder would have been entitled to *Additional Amounts* had the applicable Security been presented on the last day of such 30 day period);

(3) any estate, inheritance, gift, sales, transfer, personal property or similar Taxes;

(4) any Tax imposed on or with respect to any payment by the Company to the Holder if such Holder is a fiduciary, partnership, limited liability company or other Person other than the sole beneficial owner of such payment to the extent that Taxes would not have been imposed on such payment had such Holder been the sole beneficial owner of such Security;

(5) with respect to any Taxes imposed by the United States, any such Taxes imposed by reason of the failure of such Holder to fulfill the statement requirements of Sections 871(h) or 881(c) of the Internal Revenue Code of 1986, as amended;

(6) Taxes imposed on or with respect to a payment made to a Holder or beneficial owner of such Security who would have been able to avoid such withholding or deduction by presenting such Security (where presentation is required) to another Paying Agent;

(7) any Taxes payable other than by deduction or withholding from payments under, or with respect to, such Securities or the Guarantee;

(8) any Taxes to the extent such Taxes are imposed or withheld by reason of the failure of the Holder or beneficial owner of such Security, to comply with any written request of the Company addressed to the Holder or beneficial owner to satisfy any certification, identification, information or other reporting requirements, whether required by statute, treaty, regulation or administrative practice of a relevant Tax Jurisdiction, as a precondition to exemption from, or reduction in the rate of deduction or withholding of, Taxes imposed by the relevant Tax Jurisdiction (including a certification that the Holder or beneficial owner is not resident in such Tax Jurisdiction), but in each case, only to the extent the Holder or beneficial owner is legally entitled to provide such certification or documentation; or

(9) any combination of items (1) through (8) of this Section 4.6(a).

(b) In addition to the foregoing, the Company will also pay and indemnify the Holders for any present or future stamp, issue, registration, court or documentary Taxes, or any other excise or property Taxes, charges or similar levies (including penalties, interest and any other reasonable expenses related thereto) which are levied by a relevant Tax Jurisdiction on the execution, delivery, issuance, or registration of the Securities, or the related Indenture, or any other document or instrument referred to therein in connection with a transfer of such Securities at the time of the initial resale by the initial purchasers.

(c) If the Company becomes aware that it will be obligated to pay Additional Amounts with respect to any payment under or with respect to the Securities, the Company will deliver to the Trustee on a date that is at least 30 days prior to the date of that payment (unless the obligation to pay Additional Amounts arises fewer than 45 days prior to that payment date, in which case the Company shall notify the Trustee promptly thereafter) an Officer's Certificate stating the fact that Additional Amounts will be payable and the amount estimated to be so payable. The Officer's Certificate(s) must also set forth any other information reasonably necessary to enable the Paying Agents to pay such Additional Amounts to Holders on the relevant payment date. The Trustee shall be entitled to rely solely on such Officer's Certificate as conclusive proof that such payments are necessary.

(d) The Company will make all withholdings and deductions required by law with respect to the Securities, and will remit the full amount deducted or withheld to the relevant Tax authority in accordance with applicable law. The Company will use its reasonable efforts to obtain Tax receipts from each Tax authority evidencing the payment of any Taxes so deducted or withheld. Upon reasonable written request, the Company will furnish to the Trustee (or to a Holder or beneficial owner upon written request), within a reasonable time after the date the payment of any Taxes so deducted or withheld is made, certified copies of Tax receipts evidencing payment by the Company or if, notwithstanding the Company's efforts to obtain receipts, receipts are not obtained, other evidence of payments (reasonably satisfactory to the Trustee).

(e) Whenever in this Indenture there is mentioned, in any context, the payment of amounts based upon the principal amount of the Securities or of principal, interest or of any other amount payable under, or with respect to, any of the Securities, such mention shall be deemed to include mention of the payment of Additional Amounts to the extent that, in such context, Additional Amounts are, were or would be payable in respect thereof.

The obligations in this Section 4.6 will survive any termination, defeasance or discharge of this Indenture, any transfer by a Holder or beneficial owner of its Securities, and will apply, mutatis mutandis, to any jurisdiction in which any successor Person to the Company is incorporated or organized, or any jurisdiction from or through which payment is made by or on behalf of such Person on the Securities and any political subdivision thereof or therein.

Section 4.7. Reports.

(a) So long as any Securities are outstanding, the Company shall file with the Trustee, within 15 days after the Company files with the SEC, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the SEC may from time to time by rules and regulations prescribe) that the Company may be required to file with the SEC pursuant to Section 13 or Section 15(d) of the Exchange Act. The Company shall be deemed to have complied with the previous sentence to the extent that such information, documents and reports are filed with the SEC via EDGAR (or any successor electronic delivery procedure).

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

**ARTICLE V.
SUCCESSORS**

Section 5.1. Consolidation, Merger and Sale of Assets.

The Company may not consolidate with or merge into any other Person or transfer or lease all or substantially all of its assets to any Person unless any successor or purchaser expressly assumes its obligations under this Indenture and the Securities, by an indenture supplemental to this Indenture to which the Company is a party to, and immediately after which, no Default or Event of Default, shall have happened and be continuing. An Officer's Certificate and an Opinion of Counsel will be delivered to the Trustee, which will serve as conclusive evidence of compliance with this Section 5.1.

ARTICLE VI.
DEFAULTS AND REMEDIES

Section 6.1. Events of Default.

The following are “*Events of Default*” with respect to the Securities of any Series, unless in the establishing Board Resolution, Officer’s Certificate or supplemental indenture, it is provided that such Series shall not have the benefit of said Event of Default:

- (a) failure to pay any interest on the Securities within 30 days after such interest becomes due and payable;
- (b) failure to pay principal of the Securities at maturity, or if applicable, the redemption price, when the same become due and payable;
- (c) failure to pay any sinking fund installment as and when the same shall become due and payable by the terms of the Securities, and continuance of such default for a period of 30 days;
- (d) failure to comply with any of the covenants or agreements in the Securities or this Indenture (other than an agreement or covenant that the Company has included in this Indenture solely for the benefit of another Series of Securities) for 90 days after written notice by the Trustee or by the Holders of at least 25% in principal amount of all outstanding debt securities affected by that failure;
- (e) the Company pursuant to or within the meaning of any Bankruptcy Law:
 - (1) commences a voluntary case,
 - (2) consents to the entry of an order for relief against it in an involuntary case,
 - (3) consents to the appointment of a Custodian of it or for all or substantially all of its property,
 - (4) makes a general assignment for the benefit of its creditors, or
 - (5) generally is unable to pay its debts as the same become due; or
- (f) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:
 - (1) is for relief against the Company in an involuntary case,

(2) appoints a Custodian of the Company or for all or substantially all of its property, or

(3) orders the liquidation of the Company,

and the order or decree remains unstayed and in effect for 60 days; and

(g) any other Event of Default provided in the supplemental indenture or Board Resolution under which such Series of Securities is issued or in the form of Security for such Series.

The term “*Bankruptcy Law*” means title 11, U.S. Code or any similar Federal or State law for the relief of debtors. The term “*Custodian*” means any receiver, trustee, assignee, liquidator or similar official under any Bankruptcy Law.

A Default under one Series of Securities issued under this Indenture will not necessarily be a default under another Series of Securities under this Indenture.

Section 6.2. Acceleration of Maturity; Rescission and Annulment.

If an Event of Default for a Series of Securities occurs and is continuing (other than an Event of Default referred to in Section 6.1(e) or (f)), the Trustee or the Holders of at least 25% in principal amount of such Series of Securities may require the Company to pay immediately the principal amount plus accrued and unpaid interest on such Securities. If an Event of Default referred to in Section 6.1(e) or (f) occurs, the principal amount plus accrued and unpaid interest on such Series of Securities will become immediately due and payable without any action on the part of the Trustee or any Holder.

At any time after such a declaration of acceleration with respect to any Series has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter in this Article VI provided, the Holders of a majority in principal amount of the outstanding Securities of that Series, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences if all Events of Default with respect to Securities of that Series, other than the non-payment of the principal and interest, if any, of Securities of that Series which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 6.13.

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

Section 6.3. Collection of Indebtedness and Suits for Enforcement by Trustee.

The Company covenants that if

(a) default is made in the payment of any interest on any Security when such interest becomes due and payable and such default continues for a period of 30 days, or

(b) default is made in the payment of principal of any Security at the Maturity thereof, or

(c) default is made in the deposit of any sinking fund payment when and as due by the terms of a Security,

then, the Company will, upon demand of the Trustee, pay to it, for the benefit of the Holders of such Securities, the whole amount then due and payable on such Securities for principal and interest and, to the extent that payment of such interest shall be legally enforceable, interest on any overdue principal and any overdue interest at the rate or rates prescribed therefor in such Securities, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

If the Company fails to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Company or any other obligor upon such Securities and collect the moneys adjudged or deemed to be payable in the manner provided by law out of the property of the Company, or any other obligor upon such Securities, wherever situated.

If an Event of Default with respect to any Securities of any Series occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders of Securities of such Series by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

Section 6.4. Trustee May File Proofs of Claim.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company or any other obligor upon the Securities or the property of the Company or of such other obligor or their creditors, the Trustee (irrespective of whether the principal of the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Company for the payment of overdue principal or interest) shall be entitled and empowered, by intervention in such proceeding or otherwise,

(a) to file and prove a claim for the whole amount of principal and interest owing and unpaid with respect to the Securities and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Holders allowed in such judicial proceeding, and

(b) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same,

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent 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 counsel, and any other amounts due the Trustee under Section 7.6.

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

Section 6.5. Trustee May Enforce Claims Without Possession of Securities.

All rights of action and claims under this Indenture or the Securities may be prosecuted and enforced by the Trustee without the possession of any of the Securities or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Securities with respect to which such judgment has been recovered.

Section 6.6. Application of Money Collected.

Any money collected by the Trustee pursuant to this Article VI shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal or interest, upon presentation of the Securities and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

First: To the payment of all amounts due the Trustee under Section 7.6;

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

Third: To the Company.

Section 6.7. Limitation on Suits.

A Holder of Securities of any Series may pursue any remedy under this Indenture applicable to such Securities only if:

- (a) the Holder gives the Trustee written notice of a continuing Event of Default for such Series of Securities;
- (b) the Holders of at least 25% in principal amount of such outstanding Series of Securities make a written request to the Trustee to pursue the remedy;
- (c) the Holders furnish to the Trustee indemnity reasonably satisfactory to the Trustee against the costs, expenses and liabilities which might be incurred by it in compliance with such request;
- (d) the Trustee fails to act for a period of 60 days after receipt of notice and furnishing of indemnity; and
- (e) during that 60-day period, the Holders of a majority in principal amount of such Securities do not give the Trustee a direction inconsistent with the request.

This provision does not, however, affect the right of a Holder of Securities to sue for enforcement of any overdue payment with respect to such Securities.

Section 6.8. Unconditional Right of Holders to Receive Principal and Interest.

Notwithstanding any other provision in this Indenture, the Holder of any Security shall have the right, which is absolute and unconditional, to receive payment of the principal of and interest, if any, on such Security on the Stated Maturity or Stated Maturities expressed in such Security (or, in the case of redemption, on the redemption date) and to institute suit for the enforcement of any such payment, and such rights shall not be impaired without the consent of such Holder.

Section 6.9. Restoration of Rights and Remedies.

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 6.10. Rights and Remedies Cumulative.

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in Section 2.8, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not, to the extent permitted by law, prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 6.11. Delay or Omission Not Waiver.

No delay or omission of the Trustee or of any Holder of any Securities to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article VI or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

Section 6.12. Control by Holders.

The Holders of a majority in principal amount of the outstanding Securities of any Series shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee, with respect to the Securities of such Series, provided that

- (a) such direction shall not be in conflict with any rule of law or with this Indenture,

(b) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction, and

(c) the Trustee shall have the right to decline to follow any such direction if the Trustee in good faith shall, by a Responsible Officer of the Trustee, determine that the proceeding so directed would involve the Trustee in personal liability or that it will not be adequately indemnified against the costs, expenses and liabilities which might be incurred by it in complying with such direction.

Section 6.13. Waiver of Past Defaults.

The Holders of not less than a majority in principal amount of the outstanding Securities of any Series may on behalf of the Holders of all the Securities of such Series waive any past Default hereunder with respect to such Series and its consequences, except a Default in the payment of the principal of or interest on any Security of such Series (*provided, however*, that the Holders of a majority in principal amount of the outstanding Securities of any Series may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration). Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

Section 6.14. Undertaking for Costs.

All parties to this Indenture agree, and each Holder of any Security by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section shall not apply to any suit instituted by the Company to any suit instituted by the Trustee, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% in principal amount of the outstanding Securities of any Series, or to any suit instituted by any Holder for the enforcement of the payment of the principal of or interest on any Security on or after the Stated Maturity or Stated Maturities expressed in such Security (or, in the case of redemption, on the redemption date).

ARTICLE VII.
TRUSTEE

Section 7.1. 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 such exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

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

- (1) the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and
- (2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee shall examine such certificates and opinions to determine whether, on their face, they appear to conform to the requirements of this Indenture.

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

- (1) this paragraph does not limit the effect of paragraph (b) of this Section 7.1; and
- (2) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was grossly negligent in ascertaining the pertinent facts.

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

(e) No provision of this Indenture shall require the Trustee to expend or risk its own funds or incur any liability. The Trustee may refuse to perform any duty or exercise any right or power unless it receives indemnity reasonably satisfactory to it against any loss, liability or expense.

(f) The Trustee shall not be liable for interest on or investment of any money received by it except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law. All money received by the Trustee shall, until applied as herein provided, be held in trust for the payment of the principal of, premium (if any) and interest on and Additional Amounts with respect to the Securities.

Section 7.2. Rights of Trustee.

(a) The Trustee may conclusively rely and shall be fully protected in acting or refraining from acting, upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, note, debenture 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 resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, security or other paper or document.

(b) Before the Trustee acts or refrains from acting, it may require instruction, an Officer's Certificate or an Opinion of Counsel or both to be provided. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such instruction, Officer's Certificate or Opinion of Counsel. The Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection with respect to any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

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

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers conferred upon it by this Indenture or with respect to any action it takes or omits to take in good faith in accordance with a direction received by it from the Holders of a majority in aggregate principal amount of the relevant Series of Securities.

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

(f) Anything in this Indenture to the contrary notwithstanding, in no event shall the Trustee be liable under or in connection with this Indenture for indirect, special, incidental, punitive or consequential losses or damages of any kind whatsoever, including but not limited to lost profits, whether or not foreseeable, even if the Trustee has been advised of the possibility thereof and regardless of the form of action in which such damages are sought.

(g) The Trustee shall be under no obligation to exercise any of the trusts or powers vested in it by this Indenture at the request, order or direction of any of the Holders of Securities pursuant to the provisions of this Indenture, unless such Holders of Securities shall have offered to the Trustee, security or indemnity reasonably satisfactory to the Trustee against the costs, expenses and liabilities which might be incurred therein or thereby.

(h) The Trustee shall not be deemed to have notice of any Event of Default with respect to the Securities unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Securities and this Indenture.

(i) The Trustee may at any time request, and the Company shall deliver an Officer's Certificate setting forth the specimen signatures and the names of individuals and/or titles of Officers authorized at such time to take specified actions pursuant to this Indenture, which Officer's 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) Notwithstanding any provision herein to the contrary, in no event shall the Trustee be liable for any failure or delay in the performance of its obligations under this Indenture because of circumstances beyond its control, including, but not limited to, acts of God, flood, war (whether declared or undeclared), terrorism, fire, riot, strikes or work stoppages for any reason, embargo, government action, including any laws, ordinances, regulations or the like which restrict or prohibit the providing of the services contemplated by this Indenture, inability to obtain material, equipment, or communications or computer facilities, or the failure of equipment or interruption of communications or computer facilities, and other causes beyond its control whether or not of the same class or kind as specifically named above.

(k) The rights, privileges, protections, immunities and benefits given to the Trustee, including its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, each Agent, and each other agent, custodian and other Person employed to act hereunder.

Section 7.3. May Hold Securities.

The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company or any of its Affiliates with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights and duties. However, the Trustee is subject to Sections 7.9 and 7.10.

Section 7.4. Trustee's Disclaimer.

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

Section 7.5. Notice of Defaults.

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

Section 7.6. Compensation and Indemnity.

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

The Company hereby indemnifies the Trustee from, and hold it harmless against any damage, cost, claim, loss, liability or expense (including the reasonable fees and expenses of the Trustee's agents and counsel) incurred by it arising out of or in connection with its acceptance and administration of the trusts set forth under this Indenture, the performance of its obligations and/or the exercise of its rights hereunder, including the reasonable costs and expenses of defending itself against any claim, except as set forth in the next following paragraph. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. The Company shall defend the claim, with counsel reasonably acceptable to the Trustee, and the Trustee shall cooperate in the defense, unless, the Trustee, in its reasonable discretion, determines that any actual or potential conflict of interest may exist, in which case the Trustee may have separate counsel, reasonably acceptable to the Company and the Company shall pay the reasonable fees and expenses of such counsel. The Company need not pay for any settlement made without its consent.

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

To secure the payment obligations of the Company in this Section 7.6, the Trustee shall have a lien prior to the Securities on all money or property held or collected by the Trustee, except that held in trust to pay principal of, premium (if any) and interest on and any Additional Amounts with respect to Securities of any Series. Such lien and the obligations of the Company under this Section 7.6 shall survive the satisfaction and discharge of this Indenture, the payment of the Securities and/or the resignation or removal of the Trustee.

When the Trustee incurs expenses or renders services in connection with an Event of Default, the expenses (including the reasonable charges and expenses of its counsel) and the compensation for the services are intended to constitute expenses of administration under any applicable Federal or State bankruptcy, insolvency or other similar law.

Section 7.7. Replacement of Trustee.

A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.7.

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

- (a) the Trustee fails to comply with Section 7.9;
- (b) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (c) a Custodian or public officer takes charge of the Trustee or its property; or
- (d) the Trustee becomes incapable of acting.

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

If a successor Trustee with respect to the Securities of any Series does not take office within 30 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company or the Holders of at least 10% in principal amount of the then outstanding Securities of such Series may petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such Series.

If the Trustee with respect to the Securities of a Series fails to comply with Section 7.9, any Holder of Securities of such Series may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee with respect to the Securities of such Series.

In case of the appointment of a successor Trustee with respect to all Securities, each such successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the retiring Trustee under this Indenture. The successor Trustee shall give a notice of its succession to Holders in accordance with Section 10.2. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, subject to the lien provided for in Section 7.6.

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

Notwithstanding replacement of the Trustee or Trustees pursuant to this Section 7.7, the obligations of the Company under Section 7.6 shall continue for the benefit of the retiring Trustee or Trustees.

Section 7.8. Successor Trustee by Merger, etc.

Subject to Section 7.9, if the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business (including this transaction) to, another corporation, the successor corporation without any further act shall be the successor Trustee.

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

Section 7.9. Eligibility; Disqualification.

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

Section 7.10. Preferential Collection of Claims Against Company.

The Trustee is subject to and shall comply with the provisions of the Trust Indenture Act of 1933, as amended (the "TIA") § 311(a), as if such section applied hereto, excluding any creditor relationship listed in TIA § 311(b). A Trustee who has resigned or been removed shall be subject to TIA § 311(a), as if such section applied hereto, to the extent indicated therein.

ARTICLE VIII.
DISCHARGE OF INDENTURE

Section 8.1. Termination of Company's Obligations.

(a) This Indenture shall cease to be of further effect with respect to the Securities of a Series (except that all obligations of the Company under Section 7.6, the Trustee's and Paying Agent's obligations under Section 8.3 and the rights, powers, protections and privileges accorded the Trustee under Article VII shall survive), and the Trustee, on written demand of the Company shall execute instruments acknowledging the satisfaction and discharge of this Indenture with respect to the Securities of such Series, when:

(1) either

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

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

(i) have become due and payable, or

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

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

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

(C) the Company has properly fulfilled such other means of satisfaction and discharge, as contemplated by Section 2.2 to be applicable to the Securities of such Series:

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

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

(b) Unless this Section 8.1(b) is specified as not being applicable to Securities of a Series as contemplated by Section 2.2, the Company may terminate certain of its obligations under this Indenture ("*covenant defeasance*") with respect to the Securities of a Series if:

(1) the Company has irrevocably deposited or caused to be irrevocably deposited with the Trustee as trust funds in trust for the purpose of making the following payments, specifically pledged as security for and dedicated solely to the benefit of the Holders of Securities of such Series, (i) money, or (ii) Government Obligations with respect to such Series, maturing as to principal and interest at such times and in such amounts as will ensure the availability of money in the currency in which payment of the Securities of such Series is to be made in an amount or (iii) a combination thereof, that is sufficient, in the opinion (in the case of (ii) and (iii)) of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay the principal of and premium (if any) and interest on all Securities of such Series on each date that such principal, premium (if any) or interest is due and payable and (at the Stated Maturity thereof or upon redemption as provided in Section 8.1(e)) to pay all other sums payable by it hereunder; provided that the Trustee shall have been irrevocably instructed to apply such money and/or the proceeds of such Government Obligations to the payment of said principal, premium (if any) and interest with respect to the Securities of such Series as the same shall become due;

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

(3) no Default or Event of Default with respect to the Securities of such Series shall have occurred and be continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit and the grant of any lien securing such borrowings);

(4) the Company shall have delivered to the Trustee an Opinion of Counsel from a nationally recognized counsel acceptable to the Trustee or a tax

ruling to the effect that the Holders will not recognize income, gain or loss for Federal income tax purposes as a result of such Company's exercise of its option under this Section 8.1(b) and will be subject to Federal income tax on the same amount and in the same manner and at the same times as would have been the case if such option had not been exercised; and

(5) the Company has complied with any additional conditions specified pursuant to Section 2.2 to be applicable to the discharge of Securities of such Series pursuant to this Section 8.1.

In such event, this Indenture shall cease to be of further effect (except as set forth in this paragraph), and the Trustee, on written demand of the Company, shall execute instruments acknowledging satisfaction and discharge under this Indenture. However, the Company's obligations in Sections 2.4, 2.5, 2.6, 2.7, 2.8, 4.1, 5.1, 7.6 and 7.7, the Trustee's and Paying Agent's obligations in Section 8.3 and the rights, powers, protections and privileges accorded the Trustee under Article VII shall survive until all Securities of such Series are no longer outstanding. Thereafter, only the obligations of the Company in Section 7.6 and the Trustee's and Paying Agent's obligations in Section 8.3 shall survive with respect to Securities of such Series.

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

(c) If the Company has previously complied or is concurrently complying with the conditions set forth in Section 8.1(b) (other than any additional conditions specified pursuant to Section 2.2 that are expressly applicable only to covenant defeasance) with respect to Securities of a Series, then unless this Section 8.1(c) is specified as not being applicable to Securities of such Series as contemplated by Section 2.2, the Company may elect to be discharged ("*legal defeasance*") from its obligations to make payments with respect to Securities of such Series, if:

(1) unless otherwise specified with respect to Securities of such Series as contemplated by Section 2.2, the Company has delivered to the Trustee an Opinion of Counsel from a nationally recognized counsel acceptable to the Trustee to the effect referred to in Section 8.1(b)(4) with respect to such legal defeasance, which opinion is based on (i) a private ruling of the Internal Revenue Service addressed to the Company, (ii) a published ruling of the Internal Revenue Service or (iii) a change in the applicable federal income tax law (including regulations) after the date of this Indenture; the Company has complied with any other conditions specified pursuant to Section 2.2 to be applicable to the legal defeasance of Securities of such Series pursuant to this Section 8.1(c); and

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

In such event, the Company will be discharged from its obligations under this Indenture and the Securities of such Series to pay principal of, premium (if any) and interest on, and any Additional Amounts with respect to, Securities of such Series, the Company's obligations under Sections 4.1 and 5.1 shall terminate with respect to such Securities, and the entire indebtedness of the Company evidenced by such Securities shall be deemed paid and discharged.

(d) If and to the extent additional or alternative means of satisfaction, discharge or defeasance of Securities of a Series are specified to be applicable to such Series as contemplated by Section 2.2, the Company may terminate any or all of its obligations under this Indenture with respect to its Securities of a Series and any or all of its obligations under the Securities of such Series if it fulfills such other means of satisfaction and discharge as may be so specified, as contemplated by Section 2.2, to be applicable to the Securities of such Series.

(e) If Securities of any Series subject to subsections (a), (b), (c) or (d) of this Section 8.1 are to be redeemed prior to their Stated Maturity, whether pursuant to any optional redemption provisions or in accordance with any mandatory or optional sinking fund provisions, the terms of the applicable trust arrangement shall provide for such redemption, and the Company shall make such arrangements as are reasonably satisfactory to the Trustee for the giving of notice of redemption in the name, and at the expense, of the Company.

Section 8.2. Application of Trust Money.

The Trustee or a trustee satisfactory to the Trustee and the Company shall hold in trust money or Government Obligations deposited with it pursuant to Section 8.1 hereof. It shall apply the deposited money and the money from Government Obligations through the Paying Agent and in accordance with this Indenture to the payment of principal of premium (if any) and interest on and any Additional Amounts with respect to the Securities of the Series with respect to which the deposit was made.

Section 8.3. Repayment to Company.

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

Subject to the requirements of any applicable abandoned property laws, the Trustee and the Paying Agent shall pay to the Company upon written request any money held by them for the payment of principal, premium (if any), interest or any Additional Amounts that remains unclaimed for two years after the date upon which such payment shall have become due. After payment to the Company, Holders entitled to the money must look to the Company for payment as general creditors unless an applicable abandoned property law designates another Person, and all liability of the Trustee and the Paying Agent with respect to such money shall cease.

Section 8.4. Reinstatement.

If the Trustee or the Paying Agent is unable to apply any money or Government Obligations deposited with respect to Securities of any Series in accordance with Section 8.1 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the obligations of the Company under this Indenture with respect to the Securities of such Series and under the Securities of such Series shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.1 until such time as the Trustee or the Paying Agent is permitted to apply all such money or Government Obligations in accordance with Section 8.1; *provided, however*, that if the Company has made any payment of principal of, premium (if any) or interest on or any Additional Amounts with respect to any Securities because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Securities to receive such payment from the money or Government Obligations held by the Trustee or the Paying Agent.

ARTICLE IX.
AMENDMENTS AND WAIVERS

Section 9.1. Without Consent of Holders.

Without the consent of any Holder of Securities of a Series, the Company and the Trustee may amend or supplement this Indenture or the Series of Securities in the following circumstances:

- (1) to cure any ambiguity, omission, defect or inconsistency;
- (2) to provide for the assumption of the Company's obligations under this Indenture by a successor upon any merger, consolidation or asset transfer;
- (3) to provide for uncertificated Securities in addition to or in place of Certificated Securities;
- (4) to provide any security for or guarantees of its Securities or for the addition of an additional obligor on its Securities;
- (5) to comply with any requirement to effect or maintain the qualification of this Indenture under the Trust Indenture Act of 1939, as amended, if applicable;

- (6) to add covenants that would benefit the Holders of its Securities or to surrender any rights the Company has under this Indenture;
- (7) to change or eliminate any of the provisions of this Indenture, *provided* that any such change or elimination shall not become effective with respect to any outstanding Securities of any Series created prior to the execution of such supplemental indenture which is entitled to the benefit of such provision;
- (8) to provide for the issuance of and establish forms and terms and conditions of a new series of Securities;
- (9) to permit or facilitate the defeasance and discharge of the Securities;
- (10) to issue additional Securities of any Series, *provided* that such additional Securities have the same terms as, and be deemed part of the same Series as, the applicable Series of Securities to the extent required under this Indenture;
- (11) to evidence and provide for the acceptance of and appointment by a successor trustee with respect to the Securities of one or more Series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trust by more than one trustee;
- (12) to add additional Events of Default with respect to Securities; and
- (13) to make any change that does not adversely affect any of its outstanding Securities in any material respect.

Section 9.2. With Consent of Holders.

This Indenture or the Securities of a Series may be amended or supplemented, and waivers may be obtained, with the consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Securities of such Series voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, such Securities of a Series), and any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium on, if any, interest or Additional Amounts, if any, on, such Securities of a Series, except a payment Default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture or the Securities of such Series may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Securities of such Series voting as a single class (including consents obtained in connection with a purchase of, or tender offer or exchange offer for, such Securities of a Series).

The Holders of a majority in principal amount of the outstanding Securities of a Series issued by the Company may waive any existing or past Default or Event of Default with respect to those Securities. Those Holders may not, however, waive any Default or Event of Default in any payment on any Security.

For the avoidance of doubt, any amendment, supplement or waiver to any Series of Securities made with the consent of Holders of such Series of Securities, shall be made with respect to that Series of Securities only, and not any other Series of Securities.

Section 9.3. Limitations.

Without the consent of each Holder of Securities of a Series affected thereby, an amendment, supplement or waiver may not (with respect to any Securities of such Series held by a non-consenting Holder):

- (1) reduce the amount of the Securities of such Series whose Holders must consent to an amendment, supplement or waiver;
- (2) reduce the rate of or change the time for payment of interest on the Securities of such Series;
- (3) reduce the principal of the Securities of such Series or change the Stated Maturity of the Securities of such Series;
- (4) reduce any premium payable on the redemption of the Securities of such Series or change the time at which the Securities of such Series may or must be redeemed;
- (5) change any obligation to pay Additional Amounts on the Securities of such Series;
- (6) make payments on the Security of such Series payable in currency other than as originally stated in such Security;
- (7) impair the Holder's right to institute suit for the enforcement of any payment on the Security of such Series;
- (8) make any change in the percentage of principal amount of the Securities of such Series necessary to waive compliance with Sections 6.8 and 6.13 of this Indenture or to make any change in this Section 9.3(8); or
- (9) waive a continuing Default or Event of Default regarding any payment on Securities of such Series.

In the event that consent is obtained from some of the Holders but not from all of the Holders with respect to any amendments or waivers pursuant to clauses (1) through (9) of this Section 9.3, new Securities of such Series with such amendments or waivers will be issued to those consenting Holders. Such new Securities shall have separate CUSIP numbers and ISINs from those Securities of such Series held by non-consenting Holders.

Section 9.4. Form of Amendments.

Every amendment to this Indenture or the Securities of one or more Series shall be set forth in a supplemental indenture.

Section 9.5. Revocation and Effect of Consents.

Until an amendment is set forth in a supplemental indenture or a waiver becomes effective, a consent to it by a Holder of a Security is a continuing consent by the Holder and every subsequent Holder of a Security or portion of a Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent is not made on any Security. However, any such Holder or subsequent Holder may revoke the consent as to his Security or portion of a Security if the Trustee receives the written notice of revocation before the date of the supplemental indenture or the date the waiver becomes effective.

Any amendment or waiver once effective shall bind every Securityholder of each Series affected by such amendment or waiver unless it is of the type described in any of clauses (1) through (9) of Section 9.3. In that case, the amendment or waiver shall bind each Holder of a Security who has consented to it and every subsequent Holder of a Security or portion of a Security that evidences the same debt as the consenting Holder's Security.

Section 9.6. Notation on or Exchange of Securities.

The Trustee may place an appropriate notation about an amendment or waiver on any Security of any Series thereafter authenticated. The Company, in exchange for its Securities of that Series, may issue and the Trustee shall authenticate upon request new Securities of that Series that reflect the amendment or waiver.

Section 9.7. Trustee Protected.

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article IX or the modifications thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and (subject to Section 7.1) shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture. The Trustee may, but shall not be obligated to, enter into any supplemental indentures which affect the Trustee's own rights, duties, immunities, or indemnities under this Indenture, the Securities or otherwise.

ARTICLE X.
MISCELLANEOUS

Section 10.1. Notices.

Any request, direction, instruction, demand, document, notice or communication by the Company or the Trustee to the other, or by a Holder to the Company or the Trustee, shall be in English and in writing and delivered in person, mailed by first-class mail, delivered via facsimile or delivered by overnight courier as follows:

if to the Company:

Colfax Corporation
8170 Maple Lawn Blvd.
Suite 180
Fulton, Maryland 20769
Fax: (301) 323-9001
Attention: [Corporate Secretary]

with a copy to:

Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, New York 10166
Fax: (212) 351-4035
Attention: Andrew L. Fabens

if to the Trustee:

[]
[]
[]
Attention: []

with a copy to:

[]
[]
[]
Attention: []

Notices shall be effective upon the recipient's actual receipt thereof. Any party by notice to the other parties may designate additional or different addresses for subsequent notices or communications.

Any notice or communication to (i) a Securityholder of a Certificated Security shall be mailed by first-class mail to his address shown on the register kept by the Registrar (ii) a Securityholder of a Global Security shall be delivered to the Depositary in accordance with its applicable procedures. Failure to mail a notice or communication to a Securityholder of any Series or any defect in it shall not affect its sufficiency with respect to other Securityholders of that or any other Series.

If a notice or communication to any Securityholder is mailed or published in the manner provided above, within the time prescribed, it is duly given, whether or not the Securityholder receives it.

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

With respect to this Indenture, the Trustee shall not have any duty or obligation to verify or confirm that the Person sending instructions, directions, reports, notices or other communications or information by electronic transmission is, in fact, a Person authorized to give such instructions, directions, reports, notices or other communications or information on behalf of the party purporting to send such electronic transmission; and the Trustee shall not have any liability for any losses, liabilities, costs or expenses incurred or sustained by any party as a result of such reliance upon or compliance with such instructions, directions, reports, notices or other communications or information. Each other party agrees to assume all risks arising out of the use of electronic methods to submit instructions, directions, reports, notices or other communications or information to the Trustee, including the risk of the Trustee acting on unauthorized instructions, notices, reports or other communications or information, and the risk of interception and misuse by third parties.

Section 10.2. Communication by Holders with Other Holders.

Securityholders of a Series may communicate pursuant to TIA § 312(b), as if such section applied hereto, with other Securityholders of such Series with respect to their rights under this Indenture or the Securities.

Section 10.3. 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:

1. 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

2. an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

Section 10.4. Statements Required in Certificate or Opinion.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

1. a statement that the Person making such certificate or opinion has read such covenant or condition;
2. a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;
3. a statement that, in the opinion of such Person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and
4. a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

Section 10.5. Rules by Trustee and Agents.

The Trustee may make reasonable rules for action by or a meeting of Securityholders of one or more Series. Any Agent may make reasonable rules and set reasonable requirements for its functions.

Section 10.6. Legal Holidays.

Unless otherwise provided by Board Resolution, Officer's Certificate or supplemental indenture for a particular Series, a "*Legal Holiday*" is any day that is not a Business Day. If a payment date is a Legal Holiday at a place of payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period.

Section 10.7. No Personal Liability of Directors, Officers, Employees and Certain Others.

No director, officer, employee, incorporator or similar founder, stockholder or member of the Company will have any liability for or any obligations of the Company under this Indenture or the Securities or for any claim based on, with respect to or by reason of, such obligations or their creation. Each Holder of Securities by accepting a Security waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Securities. The waiver may not be effective to waive liabilities under the federal securities laws.

Section 10.8. Counterparts.

This Indenture may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

Section 10.9. Governing Laws.

THIS INDENTURE AND THE SECURITIES, INCLUDING ANY CLAIM OR CONTROVERSY ARISING OUT OF OR RELATING TO THIS INDENTURE OR THE SECURITIES, SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAW OF THE STATE OF NEW YORK.

Section 10.10. No Adverse Interpretation of Other Agreements.

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

Section 10.11. Successors.

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

Section 10.12. Severability.

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

Section 10.13. Table of Contents, Headings, Etc.

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

Section 10.14. Judgment Currency.

The Company agrees, to the fullest extent that it may effectively do so under applicable law, that (a) if for the purpose of obtaining judgment in any court it is necessary to convert the sum due with respect to the principal of or interest or other amount on the Securities of any Series (the “*Required Currency*”) into a currency in which a judgment will be rendered (the “*Judgment Currency*”), the rate of exchange used shall be the rate at which in accordance with normal banking procedures the recipient could purchase in The City of New York the Required Currency with the Judgment Currency on the day on which final unappealable judgment is entered, unless such day is not a New York Banking Day, then the rate of exchange used shall be the rate at which in accordance with normal banking procedures the recipient could purchase in The City of New York the Required Currency with the Judgment Currency on the New York Banking Day preceding the day on which final unappealable judgment is entered and (b) its obligations under this Indenture to make payments in the Required Currency (i) shall not be discharged or satisfied by any tender, any recovery pursuant to any judgment (whether or not entered in accordance with subsection (a)), in any currency other than the Required Currency, except to the extent that such tender or recovery shall result in the actual receipt, by the payee, of the full amount of the Required Currency expressed to be payable with respect to such payments, (ii) shall be enforceable as an alternative or additional cause of action for the purpose of recovering in the Required Currency the amount, if any, by which such actual receipt shall fall short of the full amount of the Required Currency so expressed to be payable, and (iii) shall not be affected by judgment being obtained for any other sum due under this Indenture. For purposes of the foregoing, “*New York Banking Day*” means any day except a Saturday, Sunday or a Legal Holiday in The City of New York on which banking institutions are authorized or required by law, regulation or executive order to close.

Section 10.15. English Language.

This Indenture has been negotiated and executed in the English language. All certificates, reports, notices and other documents and communications delivered or delivered pursuant to this Indenture (including any modifications or supplements hereto), shall be in the English language, or accompanied by a certified English translation thereof. In the case of any document originally issued in a language other than English, the English language version of any such document shall for purposes of this Indenture, and absent manifest error, control the meaning of the matters set out therein.

Section 10.16. Submission to Jurisdiction; Appointment of Agent.

Any suit, action or proceeding against the Company or its respective properties, assets or revenues with respect to this Indenture or the Securities (a “*Related Proceeding*”) may be brought in any state or Federal court in the Borough of Manhattan in The City of New York, New York, as the Person bringing such Related Proceeding may elect in its sole discretion. The Company hereby consents to the non-exclusive jurisdiction of each such court for the purpose of any Related Proceeding and has irrevocably waived any objection to the laying of venue of any Related Proceeding brought in any such court and to the fullest extent it may effectively do so and the defense of an inconvenient forum to the maintenance of any Related Proceeding or any such suit, action or proceeding in any such court. The Company hereby agrees that service of all writs, claims, process and summonses in any Related Proceeding brought against it in the State of New York may be made upon Colfax Corporation, 8170 Maple Lawn Blvd., Suite 180, Fulton, Maryland 20769 Attention: [Corporate Secretary] (the “*Process Agent*”). The Company irrevocably appointed the Process Agent as its agent and true and lawful attorney in fact in its name, place and stead to accept such service of any and all such writs, claims, process and summonses, and hereby agrees that the failure of the Process Agent to give any notice to it of any such service of process shall not impair or affect the validity of such service or of any judgment based thereon. The Company hereby agrees to have an office or to maintain at all times an agent with offices in the United States of America to act as Process Agent. Nothing in this Indenture shall in any way be deemed to limit the ability to serve any such writs, process or summonses in any other manner permitted by applicable law.

Section 10.17. Waiver of Immunity.

To the extent that the Company has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution or execution, on the ground of sovereignty or otherwise) with respect to itself or its property, it hereby irrevocably waives, to the fullest extent permitted by applicable law, such immunity with respect to its obligations under this Indenture, and, Securities.

Section 10.18. Waiver of Jury Trial.

EACH OF THE COMPANY AND THE TRUSTEE HERETO HEREBY IRREVOCABLY WAIVE ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS INDENTURE, THE SECURITIES, OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

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

Colfax Corporation

By: _____
Name:
Its:

[Trustee]

By: _____

Name:

Title:

Colfax Corporation

FORM OF INDENTURE

Dated as of [], 20[]

[Name of Trustee]

as Trustee

Subordinated Debt Securities

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I. DEFINITIONS AND INCORPORATION BY REFERENCE	1
Section 1.1. Definitions	1
Section 1.2. Other Definitions	5
Section 1.3. Rules of Construction	6
ARTICLE II. THE SECURITIES	6
Section 2.1. Issuable in Series	6
Section 2.2. Establishment of Terms of Series of Securities	6
Section 2.3. Execution and Authentication	9
Section 2.4. Registrar, Paying Agent and Transfer Agent	10
Section 2.5. Paying Agent to Hold Money in Trust	11
Section 2.6. Securityholder Lists	12
Section 2.7. Transfer and Exchange	12
Section 2.8. Mutilated, Destroyed, Lost and Stolen Securities	12
Section 2.9. Outstanding Securities	13
Section 2.10. Treasury Securities	14
Section 2.11. Temporary Securities	14
Section 2.12. Cancellation	14
Section 2.13. Defaulted Interest	14
Section 2.14. Global Securities	15
Section 2.15. CUSIP Numbers	16
ARTICLE III. REDEMPTION	17
Section 3.1. Notice to Trustee; No Liability for Calculations	17
Section 3.2. Selection of Securities to be Redeemed	17
Section 3.3. Notice of Redemption	17
Section 3.4. Effect of Notice of Redemption	19
Section 3.5. Deposit of Redemption Price	19
Section 3.6. Securities Redeemed in Part	19
Section 3.7. Sinking Fund	19
Section 3.8. Satisfaction of Sinking Fund Payments with Securities	20
Section 3.9. Redemption of Securities for Sinking Fund	20
Section 3.10. Redemption Upon Changes in Tax Law	20
ARTICLE IV. COVENANTS	22
Section 4.1. Payment of Principal, Premium and Interest	22
Section 4.2. Compliance Certificate	22
Section 4.3. Stay, Extension and Usury Laws	22
Section 4.4. Corporate Existence	23
Section 4.5. Limitation on Liens	23
Section 4.6. Additional Amounts	24
Section 4.7. Reports	27
ARTICLE V. SUCCESSORS	27
Section 5.1. Consolidation, Merger and Sale of Assets	27
ARTICLE VI. DEFAULTS AND REMEDIES	28
Section 6.1. Events of Default	28

Section 6.2.	Acceleration of Maturity; Rescission and Annulment	29
Section 6.3.	Collection of Indebtedness and Suits for Enforcement by Trustee	30
Section 6.4.	Trustee May File Proofs of Claim	30
Section 6.5.	Trustee May Enforce Claims Without Possession of Securities	31
Section 6.6.	Application of Money Collected	31
Section 6.7.	Limitation on Suits	32
Section 6.8.	Unconditional Right of Holders to Receive Principal and Interest	32
Section 6.9.	Restoration of Rights and Remedies	33
Section 6.10.	Rights and Remedies Cumulative	33
Section 6.11.	Delay or Omission Not Waiver	33
Section 6.12.	Control by Holders	33
Section 6.13.	Waiver of Past Defaults	34
Section 6.14.	Undertaking for Costs	34
ARTICLE VII.	TRUSTEE	35
Section 7.1.	Duties of Trustee	35
Section 7.2.	Rights of Trustee	36
Section 7.3.	May Hold Securities	37
Section 7.4.	Trustee's Disclaimer	38
Section 7.5.	Notice of Defaults	38
Section 7.6.	Compensation and Indemnity	38
Section 7.7.	Replacement of Trustee	39
Section 7.8.	Successor Trustee by Merger, etc.	41
Section 7.9.	Eligibility; Disqualification	41
Section 7.10.	Preferential Collection of Claims Against Company	41
ARTICLE VIII.	DISCHARGE OF INDENTURE	42
Section 8.1.	Termination of Company's Obligations	42
Section 8.2.	Application of Trust Money	45
Section 8.3.	Repayment to Company	45
Section 8.4.	Reinstatement	46
ARTICLE IX.	AMENDMENTS AND WAIVERS	46
Section 9.1.	Without Consent of Holders	46
Section 9.2.	With Consent of Holders	47
Section 9.3.	Limitations	48
Section 9.4.	Form of Amendments	49
Section 9.5.	Revocation and Effect of Consents	49
Section 9.6.	Notation on or Exchange of Securities	49
Section 9.7.	Trustee Protected	49
ARTICLE X.	MISCELLANEOUS	50
Section 10.1.	Notices	50
Section 10.2.	Communication by Holders with Other Holders	51
Section 10.3.	Certificate and Opinion as to Conditions Precedent	51
Section 10.4.	Statements Required in Certificate or Opinion	52
Section 10.5.	Rules by Trustee and Agents	52
Section 10.6.	Legal Holidays	52
Section 10.7.	No Personal Liability of Directors, Officers, Employees and Certain Others	53

Section 10.8.	Counterparts	53
Section 10.9.	Governing Laws	53
Section 10.10.	No Adverse Interpretation of Other Agreements	53
Section 10.11.	Successors	53
Section 10.12.	Severability	54
Section 10.13.	Table of Contents, Headings, Etc.	54
Section 10.14.	Judgment Currency	54
Section 10.15.	English Language	55
Section 10.16.	Submission to Jurisdiction; Appointment of Agent	55
Section 10.17.	Waiver of Immunity	55
Section 10.18.	Waiver of Jury Trial	56
ARTICLE XI.	SUBORDINATION OF SECURITIES	56
Section 11.1.	Subordination Terms	56

Indenture dated as of [], 20[] between Colfax Corporation (the “Company”) and [], as trustee (the “Trustee”).

Each party agrees as follows for the benefit of the other parties and for the equal and ratable benefit of the Holders (as defined below) of the Securities (as defined below) issued under this Indenture.

ARTICLE I.
DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.1. Definitions.

“*Affiliate*” of any specified Person means any other Person directly or indirectly controlling or controlled by or under common control with such specified Person. For the purposes of this definition, “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities or by agreement or otherwise.

“*Agent*” means any Registrar, Paying Agent or Transfer Agent or any other agent appointed pursuant to this Indenture.

“*Board of Directors*” means the Board of Directors of the Company, or any duly authorized committee thereof.

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

“*Business Day*” means, unless otherwise provided by Board Resolution, Officer’s Certificate or supplemental indenture for a particular Series, any day except a Saturday, Sunday or a Legal Holiday in the City of New York on which banking institutions are authorized or required by law, regulation or executive order to close.

“*Capital Stock*” means (1) in the case of a corporation, corporate stock; (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock; (3) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“*Certificated Securities*” means definitive Securities in registered non-global certificated form.

“*Company*” means Colfax Corporation until a successor replaces it and thereafter means the successor.

“*Company Order*” or “*Company Request*” means a written order signed in the name of the Company by one of the Company’s Officers.

“*Consolidated Net Worth*” means the amount of total stockholders’ equity shown in the Company’s most recent quarterly consolidated statement of financial position.

“*Corporate Trust Office*” means the office of the Trustee at which at any particular time its corporate trust business shall be principally administered, which, as of the date hereof is the address set forth in Section 10.1.

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

“*Depository*” means, with respect to the Securities of any Series issuable or issued in whole or in part in the form of one or more Global Securities, the Person designated as Depository for such Series by the Company which Depository shall be a clearing agency registered under the Exchange Act; and if at any time there is more than one such Person, “*Depository*” as used with respect to the Securities of any Series shall mean the Depository with respect to the Securities of such Series.

“*Discount Security*” means any Security that provides for an amount less than the stated principal amount thereof to be due and payable upon declaration of acceleration of the maturity thereof pursuant to Section 6.2.

“*Dollars*” or “*\$*” means the currency of the United States of America.

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

“*GAAP*” means accounting principles generally accepted in the United States of America set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time.

“*Global Security*” or “*Global Securities*” means a Security or Securities, as the case may be, in the form established pursuant to Section 2.2 evidencing all or part of a Series of Securities, issued to the Depository for such Series or its nominee, and registered in the name of such Depository or nominee.

“*Government Obligations*” means securities which are (i) direct obligations of the United States of America for the payment of which its full faith and credit is pledged or (ii)

obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America, and which in the case of (i) and (ii) are not callable or redeemable at the option of the issuer thereof, and shall also include a depository receipt issued by a bank or trust company as custodian with respect to any such Government Obligation or a specific payment of interest on or principal of any such Government Obligation held by such custodian for the account of the holder of a depository receipt, *provided* that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian with respect to the Government Obligation evidenced by such depository receipt.

“*Holder*” or “*Securityholder*” means a Person in whose name a Security is registered in the register maintained by the Registrar.

“*Indenture*” means this Indenture as amended or supplemented from time to time and shall include the form and terms of particular Series of Securities established as contemplated hereunder.

“*Issue Date*” means, with respect to any Security, the date of original issuance of such Security.

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

“*Mortgage*” means and includes any mortgage, pledge, lien, security interest, conditional sale or other title retention agreement or other similar encumbrance.

“*Non-recourse Debt*” means indebtedness as to which (a) neither the Company, nor any of its Subsidiaries (x) provides credit support of any kind or (y) is directly or indirectly liable as a guarantor or otherwise and (b) as to which the lenders have been notified in writing that they will not have any recourse to the stock or assets of the Company or any of its Subsidiaries.

“*Officer*” means the Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, President, any Vice-President, the Treasurer, a Director, the Chairman, the Secretary, any Assistant Treasurer or any Assistant Secretary of the Company.

“*Officer’s Certificate*” means a certificate signed by an Officer of the Company.

“*Opinion of Counsel*” means a written opinion of legal counsel who is acceptable to the Trustee. The counsel may be a direct or indirect employee of or counsel to the Company.

“*Periodic Offering*” means an offering of Securities of a Series from time to time, during which any or all of the specific terms of the Securities, including the rate or rates of interest, if any, thereon, the maturity or maturities thereof and the redemption provisions, if any, with respect thereto, are to be determined by the Company or its agents upon the issuance of such Securities in accordance with the terms of the relevant supplemental indenture.

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

“*principal*” of a Security means the principal of the Security plus, when appropriate, the premium, if any, on, and any Additional Amounts with respect to, the Security.

“*Responsible Officer*” means any officer of the Trustee in its Corporate Trust Office responsible for the administration of this Indenture and also means, with respect to a particular corporate trust matter, any other officer to whom any corporate trust matter is referred because of his or her knowledge of and familiarity with a particular subject.

“*Restricted Property*” means any real property, manufacturing plant, warehouse, office building or other physical facility, or any item of marine, transportation or construction equipment or other like depreciable assets of the Company or any of its Restricted Subsidiaries, whether owned on or acquired after the Issue Date of the Securities of any Series, unless, in the opinion of the Board of Directors, such plant or facility or other asset is not of material importance to the total business conducted by the Company and its Restricted Subsidiaries taken as a whole.

“*Restricted Security*”, with respect to any Series of Securities, means a Security of such Series, unless or until it has been (i) effectively registered under the Securities Act and disposed of in accordance with a registration statement with respect to such Series or (ii) distributed to the public pursuant to Rule 144 under the Securities Act or any similar provision then in force.

“*Restricted Subsidiary*” means any Subsidiary of the Company which owns a Restricted Property.

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

“*Securities*” means the debentures, notes or other debt instruments of the Company of any Series authenticated and delivered under this Indenture.

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

“*Series*” or “*Series of Securities*” means each series of Securities of the Company created pursuant to Sections 2.1 and 2.2 hereof.

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

“*Subsidiary*” means, with respect to any specified Person, (a) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders’ agreement that effectively transfers voting

power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other subsidiaries of that Person (or a combination thereof); and (b) any partnership or limited liability company of which (x) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other subsidiaries of that Person or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise, and (y) such Person or any subsidiary of such Person is a controlling general partner or otherwise controls such entity.

“Trustee” means the Person named as the “Trustee” in the first paragraph of this instrument until a successor Trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Trustee” shall mean or include each Person who is then a Trustee hereunder, and if at any time there is more than one such Person, “Trustee” as used with respect to the Securities of any Series shall mean the Trustee with respect to Securities of that Series.

“Unrestricted Securities”, with respect to any Series of Securities, means a Security (i) effectively registered under the Securities Act and disposed of in accordance with a registration statement with respect to such Series or (ii) distributed to the public pursuant to Rule 144 under the Securities Act or any similar provision then in force.

Section 1.2. Other Definitions.

<u>TERM</u>	<u>DEFINED IN SECTION</u>
“Additional Amounts”	4.6(a)
“Bankruptcy Law”	6.1
“Company Tax Jurisdiction”	4.6(a)
“covenant defeasance”	8.1(b)
“Custodian”	6.1
“Event of Default”	6.1
“Judgment Currency”	10.14
“legal defeasance”	8.1(c)
“Legal Holiday”	10.6
“New York Banking Day”	10.14
“Paying Agent”	2.4
“Process Agent”	10.16
“Registrar”	2.4
“Related Proceeding”	10.16
“Required Currency”	10.14
“Taxes”	4.6(a)
“Tax Redemption Date”	3.10
“Tax Jurisdiction”	4.6(a)
“TIA”	7.10
“Transfer Agent”	2.4

Section 1.3. Rules of Construction.

Unless the context otherwise requires:

- (a) a term has the meaning assigned to it;
- (b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (c) “or” is not exclusive and “including” means including without limitation;
- (d) words in the singular include the plural, and in the plural include the singular; and
- (e) provisions apply to successive events and transactions.

ARTICLE II.
THE SECURITIES

Section 2.1. Issuable in Series.

The aggregate principal amount of Securities that may be authenticated and delivered under this Indenture is unlimited. The Securities may be issued in one or more Series. All Securities of a Series shall be identical except as may be set forth in, or pursuant to a Board Resolution, Officer’s Certificate or supplemental indenture establishing the terms of such Series of Securities.

Section 2.2. Establishment of Terms of Series of Securities.

At or prior to the issuance of any Securities within a Series, the following shall be established (as to the Series generally, in the case of Subsection 2.2.1 and either as to such Securities within the Series or as to the Series generally in the case of Subsections 2.2.2 through 2.2.29) by or pursuant to a Board Resolution, Officer’s Certificate or supplemental indenture:

2.2.1. the title of the Series of Securities (which shall distinguish the Securities of that particular Series from the Securities of any other Series);

2.2.2. any limit upon the aggregate principal amount of the Securities of the Series which may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of the Series pursuant to Section 2.7, 2.8, 2.11, 3.6 or 9.6);

2.2.3. the date or dates on which the principal and premium, if any, of the Securities of the Series is payable;

2.2.4. the rate or rates, which may be fixed or variable, at which the Securities of the Series shall bear interest or the manner of calculation of such rate or rates, if any, including any procedures to vary or reset such rate or rates, and the basis upon which interest will be calculated if other than that of a 360-day year or twelve 30-day months;

2.2.5. the date or dates from which interest shall accrue, the dates on which such interest will be payable or the manner of determination of such dates, and the record date for the determination of holders to whom interest is payable on any such dates;

2.2.6. the place or places where the principal of and interest, if any, on the Securities of the Series shall be payable, where the Securities of such Series may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company with respect to the Securities of such Series and this Indenture may be served, and the method of such payment, if by wire transfer, mail or other means if other than as set forth in this Indenture;

2.2.7. the right, if any, to extend the interest payment periods or defer the payment of interest and the duration of such extension or deferral;

2.2.8. if applicable, the period or periods within which, the price or prices at which and the terms and conditions upon which the Securities of the Series may be redeemed, in whole or in part, at the option of the Company if other than as set forth in this Indenture;

2.2.9. the obligation, if any, of the Company to redeem or purchase, if other than as set forth herein, the Securities of the Series pursuant to any sinking fund or analogous provisions, including payments made in cash in anticipation of future sinking fund obligations, or at the option of a Holder thereof and the period or periods within which, the price or prices at which and the terms and conditions upon which Securities of the Series shall be redeemed, purchased or repaid, in whole or in part, pursuant to such obligation;

2.2.10. the terms of any repurchase or remarketing rights;

2.2.11. if other than denominations of \$2,000 or integral multiples of \$1,000 in excess thereof, the denominations in which the Securities of the Series shall be issuable;

2.2.12. the forms of the Securities of the Series including the form of the Trustee's certificate of authentication for such Series;

2.2.13. any trustees, authenticating agents or paying agents with respect to the Securities of the Series, if different from those set forth in this Indenture;

2.2.14. if the Securities of the Series shall be issued in whole or in part in the form of a Global Security or Securities, the type of Global Security to be issued; the terms and

conditions, if different from those contained in this Indenture, upon which such Global Security or Securities may be exchanged in whole or in part for other individual Securities in definitive registered form; the Depositary for such Global Security or Securities; and the form of any legend or legends to be borne by any such Global Security or Securities in addition to or in lieu of the legend referred to in Section 2.14.2;

2.2.15. any provisions granting special rights to Holders when a specified event occurs;

2.2.16. if the amount of principal of or any premium or interest on Securities of any Series may be determined with reference to an index or pursuant to a formula, the manner in which such amounts will be determined;

2.2.17. any special tax implications of the Securities, including provisions for original issue discount securities, if offered;

2.2.18. whether and upon what terms Securities of the Series may be defeased if different from the provisions set forth in this Indenture;

2.2.19. with regard to the Securities of any Series that do not bear interest, the dates for certain required reports to the Trustee;

2.2.20. whether the Securities of any Series will be issued as Unrestricted Securities or Restricted Securities, and, if issued as Restricted Securities, the rule or regulation promulgated under the Securities Act in reliance on which they will be sold;

2.2.21. any guarantees on the Securities of the Series;

2.2.22. the currency or currencies in which payment of the principal of, premium, if any, and interest on, the Securities of the Series shall be payable;

2.2.23. if the principal amount payable at the Stated Maturity of Securities of the Series will not be determinable as of any one or more dates prior to such Stated Maturity, the amount which will be deemed to be such principal amount as of any such date for any purpose, including the portion of the principal amount thereof that will be due and payable upon declaration of acceleration of the maturity thereof pursuant to Section 6.2 or upon any maturity other than the Stated Maturity or that will be deemed to be outstanding as of any such date, or, in any such case, the manner in which such deemed principal amount is to be determined;

2.2.24. the provisions, if any, relating to any security provided for the Securities of the Series;

2.2.25. any additional restrictive covenants or Events of Default that will apply to the Securities of the Series, or any changes to the restrictive covenants set forth in Article IV or the Events of Default set forth in Section 6.01 that will apply to the Securities of the Series, which may consist of establishing different terms or provisions from those set forth in Article IV or Section 6.01 or eliminating any such restrictive covenant or Event of Default with respect to the Securities of the Series;

2.2.26. any Depositaries, interest rate calculation agents, exchange rate calculation agents or other agents with respect to Securities of such Series if other than those appointed herein;

2.2.27. whether the Securities of the Series will be convertible into or exchangeable for other Securities, common shares or other securities of any kind of the Company or another obligor, and, if so, the terms and conditions upon which such Securities will be so convertible or exchangeable, including the initial conversion or exchange price or rate or the method of calculation, how and when the conversion price or exchange ratio may be adjusted, whether conversion or exchange is mandatory, at the option of the holder or at the Company's option, the conversion or exchange period, and any other provision in addition to or in lieu of those described herein;

2.2.28. the subordination terms of the Securities of the Series; and

2.2.29. any and all additional, eliminated or changed terms that shall apply to the Securities of the Series, including any terms that may be required by or advisable under United States laws or regulations, including the Securities Act and the rules and regulations promulgated thereunder, or advisable in connection with the marketing of Securities of that Series.

All Securities of any one Series need not be issued at the same time and may be issued from time to time, consistent with the terms of this Indenture, if so provided by or pursuant to the Board Resolution, Officer's Certificate or supplemental indenture referred to above.

Section 2.3. Execution and Authentication.

An Officer of the Company shall sign the Securities for the Company by manual or facsimile signature.

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

A Security shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent. The signature shall be conclusive evidence that the Security has been authenticated under this Indenture.

The Trustee shall at any time, and from time to time, authenticate Securities for original issue in the principal amount provided in the Board Resolution, Officer's Certificate or supplemental indenture, upon receipt by the Trustee of a Company Order. Each Security shall be dated the date of its authentication unless otherwise provided by the relevant Board Resolution, Officer's Certificate or supplemental indenture.

Notwithstanding the provisions of Section 2.2 and the preceding paragraph, in the case of Securities offered in a Periodic Offering, the Trustee shall authenticate and deliver such

Securities from time to time in accordance with a Company Order or such other procedures acceptable to the Trustee as may be specified by or pursuant to a supplemental indenture or the written order of the Company delivered to the Trustee prior to the time of the first authentication of Securities of such Series.

The aggregate principal amount of Securities of any Series outstanding at any time may not exceed any limit upon the maximum principal amount for such Series set forth in the Board Resolution, Officer's Certificate or supplemental indenture delivered pursuant to Section 2.2.

Prior to the issuance of Securities of any Series, the Trustee shall have received and (subject to Section 7.2) shall be fully protected in relying on: (a) the Board Resolution, Officer's Certificate or supplemental indenture establishing the form of the Securities of that Series or of Securities within that Series and the terms of the Securities of that Series or of Securities within that Series, (b) an Officer's Certificate complying with Section 10.4, and (c) an Opinion of Counsel complying with Section 10.4. With respect to Securities of a Series subject to a Periodic Offering, the Trustee conclusively may rely, as to the authorization by the Company of any of such Securities, the forms and terms thereof and the legality, validity, binding effect and enforceability thereof, upon the written order of the Company, Opinion of Counsel, Officer's Certificate and other documents delivered pursuant to this Section 2.3 at or prior to the time of the first authentication of Securities of such Series unless and until such written order, Opinion of Counsel, Officer's Certificate or other documents have been superseded or revoked, and written notice thereof is provided to Trustee, or expire by their terms.

The Trustee shall have the right to decline to authenticate and deliver any Securities of such Series: (a) if the Trustee, being advised by counsel, determines that such action may not be taken lawfully; or (b) if the Trustee in good faith by its board of directors or trustees, executive committee or a committee of Responsible Officers shall determine that such action would expose the Trustee to personal liability.

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

Section 2.4. Registrar, Paying Agent and Transfer Agent.

The Company will maintain one or more paying agents (each, a "*Paying Agent*") for the Securities in the Borough of Manhattan, City of New York. The initial Paying Agents will be [] and thereafter "*Paying Agent*" shall mean or include each Person who is then a Paying Agent hereunder, and if at any time there is more than one such Person, "*Paying Agent*" as used with respect to the Securities of any Series shall mean the Paying Agent with respect to Securities of that Series. The Company, upon written notice to the Trustee accompanied by an Officer's Certificate, may appoint one or more paying agents, other than the

Trustee, for all or any series of the Securities. If the Company fails to appoint or maintain another entity as paying agent, the Trustee shall act as such. The Company or any of its Subsidiaries, upon notice to the Trustee, may act as paying agent.

The Company will maintain one or more registrars (each, a “*Registrar*”) for the Securities in the Borough of Manhattan, City of New York. The initial Registrar will be [] and thereafter “*Registrar*” shall mean or include each Person who is then a Registrar hereunder, and if at any time there is more than one such Person, “*Registrar*” as used with respect to the Securities of any Series shall mean the Registrar with respect to Securities of that Series. The Company, upon written notice to the Trustee accompanied by an Officer’s Certificate, may appoint one or more registrars, other than the Trustee, for all or any series of the Securities. If the Company fails to appoint or maintain another entity as registrar, the Trustee shall act as such. The Company or any of its Subsidiaries, upon notice to the Trustee, may act as registrar.

The Company will also maintain a transfer agent (each, a “*Transfer Agent*”) for the Securities in the Borough of Manhattan, City of New York. The initial Transfer Agent will be [] and thereafter “*Transfer Agent*” shall mean or include each Person who is then a Transfer Agent hereunder, and if at any time there is more than one such Person, “*Transfer Agent*” as used with respect to the Securities of any Series shall mean the Transfer Agent with respect to Securities of that Series. The Company, upon written notice to the Trustee accompanied by an Officer’s Certificate, may appoint one or more transfer agents, other than the Trustee, for all or any series of the Securities. If the Company fails to appoint or maintain another entity as transfer agent, the Trustee shall act as such. The Company or any of its Subsidiaries, upon notice to the Trustee, may act as transfer agent.

The Company may change any Paying Agent, Registrar or Transfer Agent for its Securities without prior notice to the Holders.

Section 2.5. Paying Agent to Hold Money in Trust.

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

Section 2.6. Securityholder 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 Securityholders of each Series of Securities. If the Trustee is not the Registrar, the Company shall furnish to the Trustee at least ten days before each interest payment date and at such other times as the Trustee may request in writing a list, in such form and as of such date as the Trustee may reasonably require, of the names and addresses of Securityholders of each Series of Securities.

Section 2.7. Transfer and Exchange.

Where Securities of a Series are presented to the Registrar or a co-registrar with a request to register a transfer or to exchange them for an equal principal amount of Securities of the same Series, the Registrar shall register the transfer or make the exchange if the requirements for such transactions set forth in this Indenture are met. To permit registrations of transfers and exchanges, the Trustee shall authenticate Securities at the Registrar's request upon the Trustee's receipt of a Company Order from the Company. No service charge shall be made for any registration of transfer or exchange (except as otherwise expressly permitted herein), but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer tax or similar governmental charge payable upon exchanges pursuant to Sections 2.11, 3.6 or 9.6).

Neither the Company nor the Registrar shall be required (a) to issue, register the transfer of, or exchange Securities of any Series for the period beginning at the opening of business fifteen days immediately preceding the delivery of a notice of redemption of Securities of that Series selected for redemption and ending at the close of business on the day of such delivery, or (b) to register the transfer of or exchange Securities of any Series selected, called or being called for redemption as a whole or the portion being redeemed of any such Securities selected, called or being called for redemption in part.

Section 2.8. Mutilated, Destroyed, Lost and Stolen Securities.

If any mutilated Security is surrendered to the Trustee, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a new Security of the same Series and of like tenor and principal amount and bearing a number not contemporaneously outstanding.

If there shall be delivered to the Company and the Trustee (i) evidence to their satisfaction of the destruction, loss or theft of any Security and (ii) such security or indemnity as may be required by them to save each of them and any agent of either of them harmless, then, in the absence of notice to the Company or the Trustee that such Security has been acquired by a protected purchaser, the Company shall execute and upon receipt of a Company Order, the

Trustee shall authenticate and make available for delivery, in lieu of any such destroyed, lost or stolen Security, a new Security of the same Series and of like tenor and principal amount and bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Security, pay such Security.

Upon the issuance of any new Security under this Section 2.8, 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 Security of any Series issued pursuant to this Section 2.8 in lieu of any destroyed, lost or stolen Security shall constitute an original additional contractual obligation of the Company whether or not the destroyed, lost or stolen Security shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Securities of that Series duly issued hereunder.

The provisions of this Section 2.8 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

Section 2.9. Outstanding Securities.

The Securities outstanding at any time are all the Securities authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest on a Security, if applicable, effected by the Trustee in accordance with the provisions hereof and those described in this Section 2.9 as not outstanding.

If a Security is replaced pursuant to Section 2.8, it ceases to be outstanding until the Trustee receives proof satisfactory to it that the replaced Security is held by a protected purchaser.

If the Paying Agent (other than the Company, a Subsidiary of the Company or an Affiliate of the Company) holds on the Maturity of Securities of a Series money sufficient to pay such Securities payable on that date, then on and after that date such Securities of the Series cease to be outstanding and interest on them ceases to accrue.

The Company may purchase or otherwise acquire the Securities, whether by open market purchases, negotiated transactions or otherwise. A Security does not cease to be outstanding because the Company or an Affiliate of the Company holds the Security.

In determining whether the Holders of the requisite principal amount of outstanding Securities have given any request, demand, authorization, direction, notice, consent or waiver hereunder, the principal amount of a Discount Security that shall be deemed to be

outstanding for such purposes shall be the amount of the principal thereof that would be due and payable as of the date of such determination upon a declaration of acceleration of the Maturity thereof pursuant to Section 6.2.

Section 2.10. Treasury Securities.

In determining whether the Holders of the required principal amount of Securities of a Series have concurred in any request, demand, authorization, direction, notice, consent or waiver, Securities of a Series owned by the Company or any Affiliate of the Company shall be disregarded, except that for the purposes of determining whether the Trustee shall be protected in relying on any such request, demand, authorization, direction, notice, consent or waiver only Securities of a Series that a Responsible Officer of the Trustee knows are so owned shall be so disregarded.

Section 2.11. Temporary Securities.

Until definitive Securities are ready for delivery, the Company may prepare and the Trustee shall authenticate temporary Securities upon a Company Order. Temporary Securities shall be substantially in the form of definitive Securities but may have variations that the Company considers appropriate for temporary Securities. Without unreasonable delay, the Company shall prepare and the Trustee upon request shall authenticate definitive Securities of the same Series and date of maturity in exchange for temporary Securities. Until so exchanged, temporary securities shall have the same rights under this Indenture as the definitive Securities.

Section 2.12. Cancellation.

The Company at any time may deliver Securities to the Trustee for cancellation. The Agents shall forward to the Trustee any Securities surrendered to them for registration of transfer, exchange or payment. The Trustee shall cancel all Securities surrendered for transfer, exchange, payment, replacement or cancellation and shall destroy such canceled Securities (subject to the record retention requirement of the Exchange Act) and deliver a certificate of such destruction to the Company unless the Company otherwise directs. The Company may not issue new Securities to replace Securities that it has paid or delivered to the Trustee for cancellation.

Section 2.13. Defaulted Interest.

If the Company defaults in a payment of interest on a Series of Securities, it shall pay the defaulted interest, plus, to the extent permitted by law, any interest payable on the defaulted interest, to the Persons who are Securityholders of the Series on a subsequent special record date. The Company shall fix the record date and payment date. At least 10 days before

the record date, the Company shall deliver to the Trustee and to each Securityholder of the Series a notice that states the record date, the payment date and the amount of interest to be paid. The Company may pay defaulted interest in any other lawful manner.

Section 2.14. Global Securities.

2.14.1. Transfer and Exchange. Notwithstanding any provisions to the contrary contained in Section 2.7 of this Indenture and in addition thereto, any Global Security shall be exchangeable pursuant to Section 2.7 of this Indenture for Securities registered in the names of Holders other than the Depository for such Security or its nominee only if (i) such Depository notifies the Company that it is unwilling or unable to continue as Depository for such Global Security or if at any time such Depository ceases to be a clearing agency registered under the Exchange Act, and, in either case, the Company fails to appoint a successor Depository registered as a clearing agency under the Exchange Act within 90 days of such event or (ii) the Company executes and delivers to the Trustee an Officer's Certificate to the effect that such Global Security shall be so exchangeable. Any Global Security that is exchangeable pursuant to the preceding sentence shall be exchangeable for Securities registered in such names as the Depository shall direct in writing in an aggregate principal amount equal to the principal amount of the Global Security with like tenor and terms.

Except as provided in this Section 2.14.1, a Global Security may not be transferred except as a whole by the Depository with respect to such Global Security to a nominee of such Depository, by a nominee of such Depository to such Depository or another nominee of such Depository or by the Depository or any such nominee to a successor Depository or a nominee of such a successor Depository.

Neither the Trustee nor any Agent shall have any obligation or duty to monitor, determine or inquire as to compliance with any tax or securities laws with respect to any restrictions on transfer imposed under this Indenture or under applicable law (including any transfers between or among Depository participants, members or beneficial owners in any Global Security) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

2.14.2. Legend. Any Global Security issued hereunder shall bear a legend in substantially the following form:

“THIS SECURITY IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITARY OR A NOMINEE OF THE DEPOSITARY. THIS SECURITY IS EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITARY OR ITS NOMINEE ONLY IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE, AND MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE

DEPOSITARY, BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH A SUCCESSOR DEPOSITARY.”

2.14.3. Acts of Holders. The Depositary, as a Holder, may appoint agents and otherwise authorize participants to give or take any request, demand, authorization, direction, notice, consent, waiver or other action which a Holder is entitled to give or take under this Indenture.

2.14.4. Payments. Notwithstanding the other provisions of this Indenture, unless otherwise specified as contemplated by Section 2.2, payment of the principal of and interest, if any, on any Global Security shall be made to the Holder thereof, which in the case of a Depositary therefore will be made in accordance with its applicable procedures.

2.14.5. Holdings. The Company, the Trustee and each Agent shall treat the Person in whose name any Security is registered in the register maintained by the Registrar as the Holder for all purposes including for purposes of obtaining any consents, declarations, waivers or directions permitted or required to be given by the Holders pursuant to this Indenture.

2.14.6. None of the Trustee or any Agent shall have any responsibility or obligation to any beneficial owner of an interest in a Global Security, a member of, or a participant in, the Depositary or other Person with respect to the accuracy of the records of the Depositary or its nominee or of any participant or member thereof, with respect to any ownership interest in the Securities or with respect to the delivery to any participant, member, beneficial owner or other Person (other than the Depositary) of any notice (including any notice of redemption) or the payment of any amount or delivery of any Securities (or other security or property) under or with respect to such Securities. All notices and communications to be given to the Holders and all payments to be made to Holders with respect to the Securities shall be given or made only to or upon the order of the registered Holders (which shall be the Depositary or its nominee in the case of a Global Security). The rights of beneficial owners in any Global Security shall be exercised only through the Depositary subject to the applicable rules and procedures of the Depositary. The Trustee and each Agent may rely and shall be fully protected in relying upon information furnished by the Depositary with respect to its members, participants and any beneficial owners.

Section 2.15. CUSIP Numbers.

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

ARTICLE III.
REDEMPTION

Section 3.1. Notice to Trustee; No Liability for Calculations.

The Company may, with respect to any Series of Securities, reserve the right to redeem and pay such Series of Securities or may covenant to redeem and pay such Series of Securities or any part thereof prior to the Stated Maturity thereof at such time and on such terms as provided for in Sections 3.9 and 3.10 hereof or, as applicable, in the Board Resolution, Officer's Certificate or supplemental indenture relating to such Series. If a Series of Securities is redeemable and the Company wants or is obligated to redeem prior to the Stated Maturity thereof all or part of the Series of Securities pursuant to the terms of such Securities, it shall notify the Trustee in writing of the redemption date and the principal amount of Series of Securities to be redeemed at least 40 days before a redemption date (or such shorter notice as may be acceptable to the Trustee). The Trustee shall have no liability with respect to or obligation to calculate the redemption price of any Securities to be redeemed pursuant to this Indenture.

Section 3.2. Selection of Securities to be Redeemed.

Unless otherwise indicated for a particular Series by a Board Resolution, Officer's Certificate or a supplemental indenture, if less than all of the Securities of a Series are to be redeemed at any time, the Trustee will select the Securities of a Series to be redeemed on a *pro rata* basis (or, in the case of Securities issued in global form based on a method that most nearly approximates a *pro rata* selection as the Trustee deems fair and appropriate) unless otherwise required by law or applicable stock exchange or Depository requirements. The Trustee will not be liable for selections made by it as contemplated in this section.

No Securities of a Series in principal amount of \$2,000 or less can be redeemed in part.

Notices of purchase or redemption will be given to each Holder pursuant to Section 3.3 and Section 10.1.

Section 3.3. Notice of Redemption.

Unless otherwise indicated for a particular Series by Board Resolution, Officer's Certificate or supplemental indenture, at least 30 days but not more than 60 days before a redemption date, the Company will deliver a notice of redemption to each Holder whose Securities are to be redeemed in accordance with Section 10.1, except that redemption notices

may be given more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Securities or a satisfaction and discharge of this Indenture pursuant to Article VIII hereof.

The notice shall identify the Securities to be redeemed and corresponding CUSIP, ISIN or Common Code numbers, as applicable, and will state:

- (a) the redemption date;
 - (b) the redemption price and the amount of accrued interest, if any, and Additional Amounts, if any, to be paid;
 - (c) if any Global Security is being redeemed in part, the portion of the principal amount of such Global Security to be redeemed and that, after the redemption date upon surrender of such Global Security, the principal amount thereof will be decreased by the portion thereof redeemed pursuant thereto;
 - (d) if any Certificated Security is being redeemed in part, the portion of the principal amount of such Security to be redeemed, and that, after the redemption date, upon surrender of such Security, a new Certificated Security or Certificated Securities in principal amount equal to the unredeemed portion thereof will be issued in the name of the Holder thereof upon cancellation of the original Certificated Security;
 - (e) the name and address of the Paying Agent(s) to which the Securities are to be surrendered for redemption;
 - (f) that Securities called for redemption must be surrendered to the relevant Paying Agent to collect the redemption price, plus accrued and unpaid interest, if any, and Additional Amounts, if any;
 - (g) that, unless the Company defaults in making such redemption payment, interest and Additional Amounts, if any, on Securities called for redemption cease to accrue on and after the redemption date;
 - (h) that Securities of the Series called for redemption must be surrendered to the Paying Agent to collect the redemption price;
 - (i) the paragraph of the Securities and/or Section of this Indenture pursuant to which the Securities called for redemption are being redeemed;
- and
- (j) that no representation is made as to the correctness or accuracy of the CUSIP, ISIN or Common Code numbers, if any, listed in such notice or printed on the Securities.

At the Company's written request, the Trustee shall give the notice of redemption in the Company's name and at its expense; *provided, however*, that the Company has delivered to the Trustee, at least 40 days prior to the redemption date, an Officer's Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

Section 3.4. Effect of Notice of Redemption.

Once notice of redemption is mailed or published as provided in Section 3.3, Securities of a Series called for redemption become due and payable on the redemption date and at the redemption price. Unless otherwise indicated for a particular Series by Board Resolution, Officer's Certificate or supplemental indenture, a notice of redemption may not be conditional. Upon surrender to the Paying Agent, such Securities shall be paid at the redemption price plus accrued interest to the redemption date.

On or after any purchase or redemption date, unless the Company defaults in payment of the purchase or redemption price, interest shall cease to accrue on Securities or portions thereof tendered for purchase or called for redemption.

Section 3.5. Deposit of Redemption Price.

On or before 10:00 a.m., New York City time, on the redemption date, the Company shall deposit with the Paying Agent money in immediately available funds sufficient to pay the redemption price of and accrued interest, if any, on all Securities to be redeemed on that date.

Section 3.6. Securities Redeemed in Part.

Upon surrender of a Certificated Security that is redeemed in part, the Trustee shall authenticate for the Holder a new Certificated Security of the same Series and the same maturity equal in principal amount to the unredeemed portion of the Security surrendered.

In relation to Certificated Securities, a new Security in principal amount equal to the unpurchased or unredeemed portion of any Security purchased or redeemed in part will be issued in the name of the Holder thereof upon cancellation of the original Certificated Security.

Section 3.7. Sinking Fund.

Unless otherwise indicated for a particular Series by Board Resolution, Officer's Certificate or supplemental indenture, the provisions of Sections 3.7, 3.8 and 3.9 shall be applicable to any sinking fund for the retirement of Securities of a Series.

The minimum amount of any sinking fund payment provided for by the terms of Securities of any series is referred to as a “mandatory sinking fund payment,” and any payment in excess of such minimum amount provided for by the terms of Securities of any series is referred to as an “optional sinking fund payment.” If provided for by the terms of Securities of any Series, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 3.8. Each sinking fund payment shall be applied to the redemption of Securities of any Series as provided for by the terms of Securities of such Series.

Section 3.8. Satisfaction of Sinking Fund Payments with Securities.

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

Section 3.9. Redemption of Securities for Sinking Fund.

Not less than 30 days prior to each sinking fund payment date for any Series of Securities, the Company will deliver to the Trustee an Officer’s Certificate specifying the amount of the next ensuing sinking fund payment for that Series pursuant to the terms of the Series, the portion thereof, if any, that is to be satisfied by payment of cash in the currency in which the Securities of such Series are denominated (except as provided pursuant to Section 2.2), the portion thereof, if any, that is to be satisfied by delivering and crediting Securities of that Series pursuant to Section 3.8 and the basis for such credit. Together with such Officer’s Certificate, the Company will deliver to the Trustee any Securities to be so delivered. Not less than 30 days before each such sinking fund payment date the Trustee shall select the Securities to be redeemed upon such sinking fund payment date in the manner specified in Section 3.3 and cause notice of the redemption thereof to be given in the name of and at the expense of the Company in the manner provided in Section 3.3.

Section 3.10. Redemption Upon Changes in Tax Law.

The Company may redeem the Securities, in whole but not in part, at its discretion at any time upon giving notice to the Holders of such of the Securities in accordance with Section 3.3 (which notice will be irrevocable), at a redemption price equal to 100% of the aggregate principal amount thereof, together with accrued and unpaid interest, if any, to the date

fixed by the Company for redemption (a “*Tax Redemption Date*”) and all Additional Amounts (if any) then due and which will become due on the Tax Redemption Date as a result of the redemption or otherwise (subject to the right of Holders of such Securities on the relevant record date to receive interest due on the relevant interest payment date and Additional Amounts (if any) in respect thereof), if on the next date on which any amount would be payable with respect to such Securities, the Company is or would be required to pay Additional Amounts, and the Company cannot avoid any such payment obligation by taking reasonable measures available, and the requirement arises as a result of:

(a) any amendment to, or change in, the laws (or any regulations or rulings promulgated thereunder) of a relevant Tax Jurisdiction which change or amendment becomes effective on or after the Issue Date (or, if the applicable Tax Jurisdiction became a Tax Jurisdiction on a date after the Issue Date, such later date), or

(b) any amendment to, or change in, an official interpretation or application of such laws, regulations or rulings (including by virtue of a holding, judgment, order by a court of competent jurisdiction or a change in published administrative practice) which amendment or change becomes effective on or after the Issue Date (or, if the applicable Tax Jurisdiction became a Tax Jurisdiction on a date after the Issue Date, such later date).

The Company, as applicable, will not give any such notice of redemption earlier than 90 days prior to the earliest date on which the Company would be obligated to make such payment or withholding if a payment with respect to the applicable Securities was then due, and the obligation to pay Additional Amounts must be in effect at the time such notice is given. Prior to the publication or, where relevant, mailing of any notice of redemption of the Securities pursuant to the foregoing, the Company will deliver to the Trustee an opinion of independent tax counsel to the effect that there has been such amendment or change which would entitle the Company to redeem such Securities hereunder. In addition, before the Company publishes or mails notice of redemption of such Securities as described above, it will deliver to the Trustee an Officer’s Certificate to the effect that it cannot avoid its obligation to pay Additional Amounts by taking reasonable measures available to the Company.

The Trustee will accept and shall be entitled to rely on such Officer’s Certificate and Opinion of Counsel as sufficient evidence of the existence and satisfaction of the conditions precedent as described above, in which event it will be conclusive and binding on the Holders of the Securities.

The foregoing will apply *mutatis mutandis* to any jurisdiction in which any successor Person to the Company is incorporated or organized, or any jurisdiction from or through which payment is made by or on behalf of such Person on the Securities and any political subdivision thereof or therein.

ARTICLE IV.
COVENANTS

Section 4.1. Payment of Principal, Premium and Interest.

The Company covenants and agrees for the benefit of the Holders of each Series of Securities that it will duly and punctually pay the principal of, premium, if any, and interest, on the Securities of that Series in accordance with the terms of such Securities and this Indenture. Unless otherwise provided by Board Resolution, Officer's Certificate or supplemental indenture for a particular Series, on or before 10:00 a.m., New York City time, on the applicable payment date, the Company shall deposit with the Paying Agent money sufficient to pay the principal of, premium, if any, and interest on the Securities of each such Series in accordance with the terms of such Securities and this Indenture.

Section 4.2. Compliance Certificate.

The Company shall deliver to the Trustee, within 120 days after the end of its fiscal year (which as of the date of this Indenture is December 31, or if the fiscal year with respect to the Company is changed so that it ends on a date other than December 31, such other fiscal year end date as the Company shall notify to the Trustee in writing) of the Company, an Officer's Certificate stating that a review of the activities of the Company and its Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officer with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Indenture, and further stating, as to each such Officer signing such certificate, that to his/her knowledge the Company is not in default in the performance or observance of any of the terms, provisions and conditions hereof (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which he may have knowledge). Such Officer's Certificate need not include a reference to any non-compliance that has been fully cured prior to the date as of which such certificate speaks.

The Company will, so long as any of the Securities are outstanding, deliver to the Trustee, within 30 days upon becoming aware of any Default or Event of Default, an Officer's Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

Section 4.3. Stay, Extension and Usury Laws.

The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture or the Securities; 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 has been enacted.

Section 4.4. Corporate Existence.

Subject to Article V, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence and rights (charter and statutory); *provided, however*, that the Company shall not be required to preserve any such right if its Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of its business and its Subsidiaries taken as a whole and that the loss thereof is not adverse in any material respect to the Holders of the Securities.

Section 4.5. Limitation on Liens.

The Company will not, and will not permit any of its respective Subsidiaries to, incur, issue, assume or guarantee any notes, bonds, debentures or other similar evidences of indebtedness for money borrowed, secured by a Mortgage on any Restricted Property, or on any shares of stock, ownership interests in, or indebtedness of a Restricted Subsidiary, without effectively providing concurrently with the incurrence, issuance, assumption or guarantee of such secured indebtedness that the Securities (together with, if the Company shall so determine, any of its other indebtedness or the indebtedness of any such Restricted Subsidiary then existing or thereafter created ranking on a parity with the Securities) shall be secured equally and ratably with (or prior to) such secured indebtedness, so long as such secured indebtedness shall be so secured, unless, after giving effect thereto, the aggregate amount of all such secured indebtedness (excluding any indebtedness secured by Mortgages of the types referred to in clauses (1) through (10) below) would not exceed 20% of Consolidated Net Worth as shown on the Company's most recent consolidated quarterly financial statements; *provided, however*, that these provisions shall not apply to:

(a) Mortgages existing on the date of original issuance of the Securities;

(b) Mortgages on property or assets of, or on any shares of stock, ownership interests in or indebtedness of, any Person existing at the time such Person becomes a Subsidiary (including a Restricted Subsidiary) of the Company;

(c) Mortgages on property or assets existing at the time of acquisition thereof (including acquisition through merger or consolidation) or to secure the payment of all or any part of the purchase price or cost of construction, development, expansion or improvement thereof or to secure any indebtedness incurred prior to, at the time of, or within 12 months after, the acquisition or completion of construction, development, expansion or improvement of such property or assets or its commencement of commercial operations for the purpose of financing all or any part of the purchase price or cost of construction, development, expansion or improvement thereof;

(d) Mortgages in favor of the Company or any of its Subsidiaries;

(e) the Mortgage of any of the Company's property or assets or any property or assets of any of its Restricted Subsidiaries in favor of the United States of America or any other sovereign entity, or any state, province or other political subdivision thereof, or any entity, department, agency, instrumentality or comparable authority thereof, to secure partial, progress, advance or other payments pursuant to the provisions of any contract, statute, law, rule or regulation;

(f) the Mortgage of any property or assets to secure indebtedness of the pollution control, industrial revenue or other revenue bond type;

(g) Mortgages incurred or deposits made (including Mortgages and deposits securing letters of credit or similar financial assurance) to secure the performance of or in connection with bids, tenders, statutory, governmental or private contractual or other obligations, surety, performance, completion, appeal or similar bonds, leases, return-of-money bonds and other obligations similar to any of the foregoing, in each case in the ordinary course of business;

(h) Mortgages arising by operation of law, including but not limited to Mortgages for taxes, assessments or similar charges that are not yet due or the validity of which is being contested in good faith by appropriate proceedings;

(i) Mortgages created in connection with the acquisition of property or assets, or a project financed with, Non-recourse Debt; and

(j) any extension, renewal or replacement (or successive extensions, renewals or replacements), as a whole or in part, of any Mortgage referred to in the foregoing clauses, inclusive; provided, that such extension, renewal or replacement Mortgage shall be limited to all or a part of the same property or assets that secured the Mortgage extended, renewed or replaced, plus improvements on such property or assets.

Section 4.6. Additional Amounts.

(a) All payments made by the Company under or with respect to the Securities will be made free and clear of and without withholding or deduction for, or on account of, any present or future tax, duty, levy, assessment or other governmental charge, including any related interest, penalties or additions to tax ("*Taxes*") unless the withholding or deduction of such Taxes is then required by law or by interpretation or administration of law. If any deduction or withholding for, or on account of, any Taxes imposed or levied by or on behalf of (1) any jurisdiction in which the Company is then incorporated or organized or any political subdivision thereof or therein (each, a "*Company Tax Jurisdiction*") or (2) any jurisdiction from or through which payment is made by or on behalf of the Company (including the jurisdiction of any Paying Agent for the applicable Securities) or any political subdivision thereof or therein (each, together with each Company Tax Jurisdiction, a "*Tax Jurisdiction*") will at any time be required to

be made from any payments made by the Company under or with respect to the Securities, including payments of principal, redemption price, interest or premium, the Company will pay such additional amounts (the “*Additional Amounts*”) as may be necessary in order that the net amounts received with respect to such payments by each holder of the applicable Securities after such withholding, deduction or imposition (including any such withholding, deduction or imposition from such *Additional Amounts*) will equal the respective amounts that would have been received with respect to such payments in the absence of such withholding or deduction; *provided, however*, that no *Additional Amounts* will be payable with respect to:

(1) any Taxes, to the extent such Taxes would not have been imposed but for the existence of any actual or deemed present or former connection between the Holder or the beneficial owner of such Securities and the relevant Tax Jurisdiction (including being or having been a national, resident or citizen of, being or having been engaged in a trade or business in, being or having been physically present in, or having or having had a permanent establishment in, such jurisdiction for Tax purposes), other than the holding of such Security, the enforcement of rights under such Security or the receipt of any payments with respect to such Security;

(2) any Taxes, to the extent such Taxes were imposed as a result of the presentation of such Security for payment (where presentation is required) more than 30 days after the relevant payment is first made available for payment to the holder (except to the extent that the holder would have been entitled to *Additional Amounts* had the applicable Security been presented on the last day of such 30 day period);

(3) any estate, inheritance, gift, sales, transfer, personal property or similar Taxes;

(4) any Tax imposed on or with respect to any payment by the Company to the Holder if such Holder is a fiduciary, partnership, limited liability company or other Person other than the sole beneficial owner of such payment to the extent that Taxes would not have been imposed on such payment had such Holder been the sole beneficial owner of such Security;

(5) with respect to any Taxes imposed by the United States, any such Taxes imposed by reason of the failure of such Holder to fulfill the statement requirements of Sections 871(h) or 881(c) of the Internal Revenue Code of 1986, as amended;

(6) Taxes imposed on or with respect to a payment made to a Holder or beneficial owner of such Security who would have been able to avoid such withholding or deduction by presenting such Security (where presentation is required) to another Paying Agent;

(7) any Taxes payable other than by deduction or withholding from payments under, or with respect to, such Securities or the Guarantee;

(8) any Taxes to the extent such Taxes are imposed or withheld by reason of the failure of the Holder or beneficial owner of such Security, to comply with any written request of the Company addressed to the Holder or beneficial owner to satisfy any certification, identification, information or other reporting requirements, whether required by statute, treaty, regulation or administrative practice of a relevant Tax Jurisdiction, as a precondition to exemption from, or reduction in the rate of deduction or withholding of, Taxes imposed by the relevant Tax Jurisdiction (including a certification that the Holder or beneficial owner is not resident in such Tax Jurisdiction), but in each case, only to the extent the Holder or beneficial owner is legally entitled to provide such certification or documentation; or

(9) any combination of items (1) through (8) of this Section 4.6(a).

(b) In addition to the foregoing, the Company will also pay and indemnify the Holders for any present or future stamp, issue, registration, court or documentary Taxes, or any other excise or property Taxes, charges or similar levies (including penalties, interest and any other reasonable expenses related thereto) which are levied by a relevant Tax Jurisdiction on the execution, delivery, issuance, or registration of the Securities, or the related Indenture, or any other document or instrument referred to therein in connection with a transfer of such Securities at the time of the initial resale by the initial purchasers.

(c) If the Company becomes aware that it will be obligated to pay Additional Amounts with respect to any payment under or with respect to the Securities, the Company will deliver to the Trustee on a date that is at least 30 days prior to the date of that payment (unless the obligation to pay Additional Amounts arises fewer than 45 days prior to that payment date, in which case the Company shall notify the Trustee promptly thereafter) an Officer's Certificate stating the fact that Additional Amounts will be payable and the amount estimated to be so payable. The Officer's Certificate(s) must also set forth any other information reasonably necessary to enable the Paying Agents to pay such Additional Amounts to Holders on the relevant payment date. The Trustee shall be entitled to rely solely on such Officer's Certificate as conclusive proof that such payments are necessary.

(d) The Company will make all withholdings and deductions required by law with respect to the Securities, and will remit the full amount deducted or withheld to the relevant Tax authority in accordance with applicable law. The Company will use its reasonable efforts to obtain Tax receipts from each Tax authority evidencing the payment of any Taxes so deducted or withheld. Upon reasonable written request, the Company will furnish to the Trustee (or to a Holder or beneficial owner upon written request), within a reasonable time after the date the payment of any Taxes so deducted or withheld is made, certified copies of Tax receipts evidencing payment by the Company or if, notwithstanding the Company's efforts to obtain receipts, receipts are not obtained, other evidence of payments (reasonably satisfactory to the Trustee).

(e) Whenever in this Indenture there is mentioned, in any context, the payment of amounts based upon the principal amount of the Securities or of principal, interest or of any other amount payable under, or with respect to, any of the Securities, such mention shall be deemed to include mention of the payment of Additional Amounts to the extent that, in such context, Additional Amounts are, were or would be payable in respect thereof.

The obligations in this Section 4.6 will survive any termination, defeasance or discharge of this Indenture, any transfer by a Holder or beneficial owner of its Securities, and will apply, mutatis mutandis, to any jurisdiction in which any successor Person to the Company is incorporated or organized, or any jurisdiction from or through which payment is made by or on behalf of such Person on the Securities and any political subdivision thereof or therein.

Section 4.7. Reports.

(a) So long as any Securities are outstanding, the Company shall file with the Trustee, within 15 days after the Company files with the SEC, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the SEC may from time to time by rules and regulations prescribe) that the Company may be required to file with the SEC pursuant to Section 13 or Section 15(d) of the Exchange Act. The Company shall be deemed to have complied with the previous sentence to the extent that such information, documents and reports are filed with the SEC via EDGAR (or any successor electronic delivery procedure).

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

**ARTICLE V.
SUCCESSORS**

Section 5.1. Consolidation, Merger and Sale of Assets.

The Company may not consolidate with or merge into any other Person or transfer or lease all or substantially all of its assets to any Person unless any successor or purchaser expressly assumes its obligations under this Indenture and the Securities, by an indenture supplemental to this Indenture to which the Company is a party to, and immediately after which, no Default or Event of Default, shall have happened and be continuing. An Officer's Certificate and an Opinion of Counsel will be delivered to the Trustee, which will serve as conclusive evidence of compliance with this Section 5.1.

ARTICLE VI.
DEFAULTS AND REMEDIES

Section 6.1. Events of Default.

The following are “*Events of Default*” with respect to the Securities of any Series, unless in the establishing Board Resolution, Officer’s Certificate or supplemental indenture, it is provided that such Series shall not have the benefit of said Event of Default:

- (a) failure to pay any interest on the Securities within 30 days after such interest becomes due and payable;
- (b) failure to pay principal of the Securities at maturity, or if applicable, the redemption price, when the same become due and payable;
- (c) failure to pay any sinking fund installment as and when the same shall become due and payable by the terms of the Securities, and continuance of such default for a period of 30 days;
- (d) failure to comply with any of the covenants or agreements in the Securities or this Indenture (other than an agreement or covenant that the Company has included in this Indenture solely for the benefit of another Series of Securities) for 90 days after written notice by the Trustee or by the Holders of at least 25% in principal amount of all outstanding debt securities affected by that failure;
- (e) the Company pursuant to or within the meaning of any Bankruptcy Law:
 - (1) commences a voluntary case,
 - (2) consents to the entry of an order for relief against it in an involuntary case,
 - (3) consents to the appointment of a Custodian of it or for all or substantially all of its property,
 - (4) makes a general assignment for the benefit of its creditors, or
 - (5) generally is unable to pay its debts as the same become due; or
- (f) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:
 - (1) is for relief against the Company in an involuntary case,

(2) appoints a Custodian of the Company or for all or substantially all of its property, or

(3) orders the liquidation of the Company,

and the order or decree remains unstayed and in effect for 60 days; and

(g) any other Event of Default provided in the supplemental indenture or Board Resolution under which such Series of Securities is issued or in the form of Security for such Series.

The term “*Bankruptcy Law*” means title 11, U.S. Code or any similar Federal or State law for the relief of debtors. The term “*Custodian*” means any receiver, trustee, assignee, liquidator or similar official under any Bankruptcy Law.

A Default under one Series of Securities issued under this Indenture will not necessarily be a default under another Series of Securities under this Indenture.

Section 6.2. Acceleration of Maturity; Rescission and Annulment.

If an Event of Default for a Series of Securities occurs and is continuing (other than an Event of Default referred to in Section 6.1(e) or (f)), the Trustee or the Holders of at least 25% in principal amount of such Series of Securities may require the Company to pay immediately the principal amount plus accrued and unpaid interest on such Securities. If an Event of Default referred to in Section 6.1(e) or (f) occurs, the principal amount plus accrued and unpaid interest on such Series of Securities will become immediately due and payable without any action on the part of the Trustee or any Holder.

At any time after such a declaration of acceleration with respect to any Series has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter in this Article VI provided, the Holders of a majority in principal amount of the outstanding Securities of that Series, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences if all Events of Default with respect to Securities of that Series, other than the non-payment of the principal and interest, if any, of Securities of that Series which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 6.13.

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

Section 6.3. Collection of Indebtedness and Suits for Enforcement by Trustee.

The Company covenants that if

(a) default is made in the payment of any interest on any Security when such interest becomes due and payable and such default continues for a period of 30 days, or

(b) default is made in the payment of principal of any Security at the Maturity thereof, or

(c) default is made in the deposit of any sinking fund payment when and as due by the terms of a Security,

then, the Company will, upon demand of the Trustee, pay to it, for the benefit of the Holders of such Securities, the whole amount then due and payable on such Securities for principal and interest and, to the extent that payment of such interest shall be legally enforceable, interest on any overdue principal and any overdue interest at the rate or rates prescribed therefor in such Securities, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

If the Company fails to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Company or any other obligor upon such Securities and collect the moneys adjudged or deemed to be payable in the manner provided by law out of the property of the Company, or any other obligor upon such Securities, wherever situated.

If an Event of Default with respect to any Securities of any Series occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders of Securities of such Series by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

Section 6.4. Trustee May File Proofs of Claim.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company or any other obligor upon the Securities or the property of the Company or of such other obligor or their creditors, the Trustee (irrespective of whether the principal of the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Company for the payment of overdue principal or interest) shall be entitled and empowered, by intervention in such proceeding or otherwise,

(a) to file and prove a claim for the whole amount of principal and interest owing and unpaid with respect to the Securities and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Holders allowed in such judicial proceeding, and

(b) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same,

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent 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 counsel, and any other amounts due the Trustee under Section 7.6.

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

Section 6.5. Trustee May Enforce Claims Without Possession of Securities.

All rights of action and claims under this Indenture or the Securities may be prosecuted and enforced by the Trustee without the possession of any of the Securities or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Securities with respect to which such judgment has been recovered.

Section 6.6. Application of Money Collected.

Any money collected by the Trustee pursuant to this Article VI shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal or interest, upon presentation of the Securities and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

First: To the payment of all amounts due the Trustee under Section 7.6;

Second: To the payment of all senior indebtedness of the Company if and to the extent required by Article XI;

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

Fourth: To the Company.

Section 6.7. Limitation on Suits.

A Holder of Securities of any Series may pursue any remedy under this Indenture applicable to such Securities only if:

- (a) the Holder gives the Trustee written notice of a continuing Event of Default for such Series of Securities;
- (b) the Holders of at least 25% in principal amount of such outstanding Series of Securities make a written request to the Trustee to pursue the remedy;
- (c) the Holders furnish to the Trustee indemnity reasonably satisfactory to the Trustee against the costs, expenses and liabilities which might be incurred by it in compliance with such request;
- (d) the Trustee fails to act for a period of 60 days after receipt of notice and furnishing of indemnity; and
- (e) during that 60-day period, the Holders of a majority in principal amount of such Securities do not give the Trustee a direction inconsistent with the request.

This provision does not, however, affect the right of a Holder of Securities to sue for enforcement of any overdue payment with respect to such Securities.

Section 6.8. Unconditional Right of Holders to Receive Principal and Interest.

Notwithstanding any other provision in this Indenture, the Holder of any Security shall have the right, which is absolute and unconditional, to receive payment of the principal of and interest, if any, on such Security on the Stated Maturity or Stated Maturities expressed in such Security (or, in the case of redemption, on the redemption date) and to institute suit for the enforcement of any such payment, and such rights shall not be impaired without the consent of such Holder.

Section 6.9. Restoration of Rights and Remedies.

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 6.10. Rights and Remedies Cumulative.

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in Section 2.8, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not, to the extent permitted by law, prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 6.11. Delay or Omission Not Waiver.

No delay or omission of the Trustee or of any Holder of any Securities to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article VI or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

Section 6.12. Control by Holders.

The Holders of a majority in principal amount of the outstanding Securities of any Series shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee, with respect to the Securities of such Series, provided that

- (a) such direction shall not be in conflict with any rule of law or with this Indenture,

(b) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction, and

(c) the Trustee shall have the right to decline to follow any such direction if the Trustee in good faith shall, by a Responsible Officer of the Trustee, determine that the proceeding so directed would involve the Trustee in personal liability or that it will not be adequately indemnified against the costs, expenses and liabilities which might be incurred by it in complying with such direction.

Section 6.13. Waiver of Past Defaults.

The Holders of not less than a majority in principal amount of the outstanding Securities of any Series may on behalf of the Holders of all the Securities of such Series waive any past Default hereunder with respect to such Series and its consequences, except a Default in the payment of the principal of or interest on any Security of such Series (*provided, however*, that the Holders of a majority in principal amount of the outstanding Securities of any Series may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration). Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

Section 6.14. Undertaking for Costs.

All parties to this Indenture agree, and each Holder of any Security by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section shall not apply to any suit instituted by the Company to any suit instituted by the Trustee, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% in principal amount of the outstanding Securities of any Series, or to any suit instituted by any Holder for the enforcement of the payment of the principal of or interest on any Security on or after the Stated Maturity or Stated Maturities expressed in such Security (or, in the case of redemption, on the redemption date).

ARTICLE VII.
TRUSTEE

Section 7.1. 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 such exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

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

- (1) the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and
- (2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee shall examine such certificates and opinions to determine whether, on their face, they appear to conform to the requirements of this Indenture.

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

- (1) this paragraph does not limit the effect of paragraph (b) of this Section 7.1; and
- (2) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was grossly negligent in ascertaining the pertinent facts.

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

(e) No provision of this Indenture shall require the Trustee to expend or risk its own funds or incur any liability. The Trustee may refuse to perform any duty or exercise any right or power unless it receives indemnity reasonably satisfactory to it against any loss, liability or expense.

(f) The Trustee shall not be liable for interest on or investment of any money received by it except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law. All money received by the Trustee shall, until applied as herein provided, be held in trust for the payment of the principal of, premium (if any) and interest on and Additional Amounts with respect to the Securities.

Section 7.2. Rights of Trustee.

(a) The Trustee may conclusively rely and shall be fully protected in acting or refraining from acting, upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, note, debenture 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 resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, security or other paper or document.

(b) Before the Trustee acts or refrains from acting, it may require instruction, an Officer's Certificate or an Opinion of Counsel or both to be provided. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such instruction, Officer's Certificate or Opinion of Counsel. The Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection with respect to any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

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

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers conferred upon it by this Indenture or with respect to any action it takes or omits to take in good faith in accordance with a direction received by it from the Holders of a majority in aggregate principal amount of the relevant Series of Securities.

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

(f) Anything in this Indenture to the contrary notwithstanding, in no event shall the Trustee be liable under or in connection with this Indenture for indirect, special, incidental, punitive or consequential losses or damages of any kind whatsoever, including but not limited to lost profits, whether or not foreseeable, even if the Trustee has been advised of the possibility thereof and regardless of the form of action in which such damages are sought.

(g) The Trustee shall be under no obligation to exercise any of the trusts or powers vested in it by this Indenture at the request, order or direction of any of the Holders of Securities pursuant to the provisions of this Indenture, unless such Holders of Securities shall have offered to the Trustee, security or indemnity reasonably satisfactory to the Trustee against the costs, expenses and liabilities which might be incurred therein or thereby.

(h) The Trustee shall not be deemed to have notice of any Event of Default with respect to the Securities unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Securities and this Indenture.

(i) The Trustee may at any time request, and the Company shall deliver an Officer's Certificate setting forth the specimen signatures and the names of individuals and/or titles of Officers authorized at such time to take specified actions pursuant to this Indenture, which Officer's 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) Notwithstanding any provision herein to the contrary, in no event shall the Trustee be liable for any failure or delay in the performance of its obligations under this Indenture because of circumstances beyond its control, including, but not limited to, acts of God, flood, war (whether declared or undeclared), terrorism, fire, riot, strikes or work stoppages for any reason, embargo, government action, including any laws, ordinances, regulations or the like which restrict or prohibit the providing of the services contemplated by this Indenture, inability to obtain material, equipment, or communications or computer facilities, or the failure of equipment or interruption of communications or computer facilities, and other causes beyond its control whether or not of the same class or kind as specifically named above.

(k) The rights, privileges, protections, immunities and benefits given to the Trustee, including its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, each Agent, and each other agent, custodian and other Person employed to act hereunder.

Section 7.3. May Hold Securities.

The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company or any of its Affiliates with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights and duties. However, the Trustee is subject to Sections 7.9 and 7.10.

Section 7.4. Trustee's Disclaimer.

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

Section 7.5. Notice of Defaults.

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

Section 7.6. Compensation and Indemnity.

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

The Company hereby indemnifies the Trustee from, and hold it harmless against any damage, cost, claim, loss, liability or expense (including the reasonable fees and expenses of the Trustee's agents and counsel) incurred by it arising out of or in connection with its acceptance and administration of the trusts set forth under this Indenture, the performance of its obligations and/or the exercise of its rights hereunder, including the reasonable costs and expenses of defending itself against any claim, except as set forth in the next following paragraph. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. The Company shall defend the claim, with counsel reasonably acceptable to the Trustee, and the Trustee shall cooperate in the defense, unless, the Trustee, in its reasonable discretion, determines that any actual or potential conflict of interest may exist, in which case the Trustee may have separate counsel, reasonably acceptable to the Company and the Company shall pay the reasonable fees and expenses of such counsel. The Company need not pay for any settlement made without its consent.

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

To secure the payment obligations of the Company in this Section 7.6, the Trustee shall have a lien prior to the Securities on all money or property held or collected by the Trustee, except that held in trust to pay principal of, premium (if any) and interest on and any Additional Amounts with respect to Securities of any Series. Such lien and the obligations of the Company under this Section 7.6 shall survive the satisfaction and discharge of this Indenture, the payment of the Securities and/or the resignation or removal of the Trustee.

When the Trustee incurs expenses or renders services in connection with an Event of Default, the expenses (including the reasonable charges and expenses of its counsel) and the compensation for the services are intended to constitute expenses of administration under any applicable Federal or State bankruptcy, insolvency or other similar law.

Section 7.7. Replacement of Trustee.

A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.7.

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

- (a) the Trustee fails to comply with Section 7.9;
- (b) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (c) a Custodian or public officer takes charge of the Trustee or its property; or
- (d) the Trustee becomes incapable of acting.

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

If a successor Trustee with respect to the Securities of any Series does not take office within 30 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company or the Holders of at least 10% in principal amount of the then outstanding Securities of such Series may petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such Series.

If the Trustee with respect to the Securities of a Series fails to comply with Section 7.9, any Holder of Securities of such Series may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee with respect to the Securities of such Series.

In case of the appointment of a successor Trustee with respect to all Securities, each such successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the retiring Trustee under this Indenture. The successor Trustee shall give a notice of its succession to Holders in accordance with Section 10.2. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, subject to the lien provided for in Section 7.6.

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

Notwithstanding replacement of the Trustee or Trustees pursuant to this Section 7.7, the obligations of the Company under Section 7.6 shall continue for the benefit of the retiring Trustee or Trustees.

Section 7.8. Successor Trustee by Merger, etc.

Subject to Section 7.9, if the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business (including this transaction) to, another corporation, the successor corporation without any further act shall be the successor Trustee.

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

Section 7.9. Eligibility; Disqualification.

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

Section 7.10. Preferential Collection of Claims Against Company.

The Trustee is subject to and shall comply with the provisions of the Trust Indenture Act of 1933, as amended (the "TIA") § 311(a), as if such section applied hereto, excluding any creditor relationship listed in TIA § 311(b). A Trustee who has resigned or been removed shall be subject to TIA § 311(a), as if such section applied hereto, to the extent indicated therein.

ARTICLE VIII.
DISCHARGE OF INDENTURE

Section 8.1. Termination of Company's Obligations.

(a) This Indenture shall cease to be of further effect with respect to the Securities of a Series (except that all obligations of the Company under Section 7.6, the Trustee's and Paying Agent's obligations under Section 8.3 and the rights, powers, protections and privileges accorded the Trustee under Article VII shall survive), and the Trustee, on written demand of the Company shall execute instruments acknowledging the satisfaction and discharge of this Indenture with respect to the Securities of such Series, when:

(1) either

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

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

(i) have become due and payable, or

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

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

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

(C) the Company has properly fulfilled such other means of satisfaction and discharge, as contemplated by Section 2.2 to be applicable to the Securities of such Series:

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

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

(b) Unless this Section 8.1(b) is specified as not being applicable to Securities of a Series as contemplated by Section 2.2, the Company may terminate certain of its obligations under this Indenture ("*covenant defeasance*") with respect to the Securities of a Series if:

(1) the Company has irrevocably deposited or caused to be irrevocably deposited with the Trustee as trust funds in trust for the purpose of making the following payments, specifically pledged as security for and dedicated solely to the benefit of the Holders of Securities of such Series, (i) money, or (ii) Government Obligations with respect to such Series, maturing as to principal and interest at such times and in such amounts as will ensure the availability of money in the currency in which payment of the Securities of such Series is to be made in an amount or (iii) a combination thereof, that is sufficient, in the opinion (in the case of (ii) and (iii)) of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay the principal of and premium (if any) and interest on all Securities of such Series on each date that such principal, premium (if any) or interest is due and payable and (at the Stated Maturity thereof or upon redemption as provided in Section 8.1(e)) to pay all other sums payable by it hereunder; provided that the Trustee shall have been irrevocably instructed to apply such money and/or the proceeds of such Government Obligations to the payment of said principal, premium (if any) and interest with respect to the Securities of such Series as the same shall become due;

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

(3) no Default or Event of Default with respect to the Securities of such Series shall have occurred and be continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit and the grant of any lien securing such borrowings);

(4) the Company shall have delivered to the Trustee an Opinion of Counsel from a nationally recognized counsel acceptable to the Trustee or a tax

ruling to the effect that the Holders will not recognize income, gain or loss for Federal income tax purposes as a result of such Company's exercise of its option under this Section 8.1(b) and will be subject to Federal income tax on the same amount and in the same manner and at the same times as would have been the case if such option had not been exercised; and

(5) the Company has complied with any additional conditions specified pursuant to Section 2.2 to be applicable to the discharge of Securities of such Series pursuant to this Section 8.1.

In such event, this Indenture shall cease to be of further effect (except as set forth in this paragraph), and the Trustee, on written demand of the Company, shall execute instruments acknowledging satisfaction and discharge under this Indenture. However, the Company's obligations in Sections 2.4, 2.5, 2.6, 2.7, 2.8, 4.1, 5.1, 7.6 and 7.7, the Trustee's and Paying Agent's obligations in Section 8.3 and the rights, powers, protections and privileges accorded the Trustee under Article VII shall survive until all Securities of such Series are no longer outstanding. Thereafter, only the obligations of the Company in Section 7.6 and the Trustee's and Paying Agent's obligations in Section 8.3 shall survive with respect to Securities of such Series.

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

(c) If the Company has previously complied or is concurrently complying with the conditions set forth in Section 8.1(b) (other than any additional conditions specified pursuant to Section 2.2 that are expressly applicable only to covenant defeasance) with respect to Securities of a Series, then unless this Section 8.1(c) is specified as not being applicable to Securities of such Series as contemplated by Section 2.2, the Company may elect to be discharged ("*legal defeasance*") from its obligations to make payments with respect to Securities of such Series, if:

(1) unless otherwise specified with respect to Securities of such Series as contemplated by Section 2.2, the Company has delivered to the Trustee an Opinion of Counsel from a nationally recognized counsel acceptable to the Trustee to the effect referred to in Section 8.1(b)(4) with respect to such legal defeasance, which opinion is based on (i) a private ruling of the Internal Revenue Service addressed to the Company, (ii) a published ruling of the Internal Revenue Service or (iii) a change in the applicable federal income tax law (including regulations) after the date of this Indenture; the Company has complied with any other conditions specified pursuant to Section 2.2 to be applicable to the legal defeasance of Securities of such Series pursuant to this Section 8.1(c); and

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

In such event, the Company will be discharged from its obligations under this Indenture and the Securities of such Series to pay principal of, premium (if any) and interest on, and any Additional Amounts with respect to, Securities of such Series, the Company's obligations under Sections 4.1 and 5.1 shall terminate with respect to such Securities, and the entire indebtedness of the Company evidenced by such Securities shall be deemed paid and discharged.

(d) If and to the extent additional or alternative means of satisfaction, discharge or defeasance of Securities of a Series are specified to be applicable to such Series as contemplated by Section 2.2, the Company may terminate any or all of its obligations under this Indenture with respect to its Securities of a Series and any or all of its obligations under the Securities of such Series if it fulfills such other means of satisfaction and discharge as may be so specified, as contemplated by Section 2.2, to be applicable to the Securities of such Series.

(e) If Securities of any Series subject to subsections (a), (b), (c) or (d) of this Section 8.1 are to be redeemed prior to their Stated Maturity, whether pursuant to any optional redemption provisions or in accordance with any mandatory or optional sinking fund provisions, the terms of the applicable trust arrangement shall provide for such redemption, and the Company shall make such arrangements as are reasonably satisfactory to the Trustee for the giving of notice of redemption in the name, and at the expense, of the Company.

Section 8.2. Application of Trust Money.

The Trustee or a trustee satisfactory to the Trustee and the Company shall hold in trust money or Government Obligations deposited with it pursuant to Section 8.1 hereof. It shall apply the deposited money and the money from Government Obligations through the Paying Agent and in accordance with this Indenture to the payment of principal of premium (if any) and interest on and any Additional Amounts with respect to the Securities of the Series with respect to which the deposit was made.

Section 8.3. Repayment to Company.

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

Subject to the requirements of any applicable abandoned property laws, the Trustee and the Paying Agent shall pay to the Company upon written request any money held by them for the payment of principal, premium (if any), interest or any Additional Amounts that remains unclaimed for two years after the date upon which such payment shall have become due. After payment to the Company, Holders entitled to the money must look to the Company for payment as general creditors unless an applicable abandoned property law designates another Person, and all liability of the Trustee and the Paying Agent with respect to such money shall cease.

Section 8.4. Reinstatement.

If the Trustee or the Paying Agent is unable to apply any money or Government Obligations deposited with respect to Securities of any Series in accordance with Section 8.1 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the obligations of the Company under this Indenture with respect to the Securities of such Series and under the Securities of such Series shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.1 until such time as the Trustee or the Paying Agent is permitted to apply all such money or Government Obligations in accordance with Section 8.1; *provided, however*, that if the Company has made any payment of principal of, premium (if any) or interest on or any Additional Amounts with respect to any Securities because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Securities to receive such payment from the money or Government Obligations held by the Trustee or the Paying Agent.

ARTICLE IX.
AMENDMENTS AND WAIVERS

Section 9.1. Without Consent of Holders.

Without the consent of any Holder of Securities of a Series, the Company and the Trustee may amend or supplement this Indenture or the Series of Securities in the following circumstances:

- (1) to cure any ambiguity, omission, defect or inconsistency;
- (2) to provide for the assumption of the Company's obligations under this Indenture by a successor upon any merger, consolidation or asset transfer;
- (3) to provide for uncertificated Securities in addition to or in place of Certificated Securities;
- (4) to provide any security for or guarantees of its Securities or for the addition of an additional obligor on its Securities;
- (5) to comply with any requirement to effect or maintain the qualification of this Indenture under the Trust Indenture Act of 1939, as amended, if applicable;

- (6) to add covenants that would benefit the Holders of its Securities or to surrender any rights the Company has under this Indenture;
- (7) to change or eliminate any of the provisions of this Indenture, *provided* that any such change or elimination shall not become effective with respect to any outstanding Securities of any Series created prior to the execution of such supplemental indenture which is entitled to the benefit of such provision;
- (8) to provide for the issuance of and establish forms and terms and conditions of a new series of Securities;
- (9) to permit or facilitate the defeasance and discharge of the Securities;
- (10) to issue additional Securities of any Series, *provided* that such additional Securities have the same terms as, and be deemed part of the same Series as, the applicable Series of Securities to the extent required under this Indenture;
- (11) to evidence and provide for the acceptance of and appointment by a successor trustee with respect to the Securities of one or more Series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trust by more than one trustee;
- (12) to add additional Events of Default with respect to Securities; and
- (13) to make any change that does not adversely affect any of its outstanding Securities in any material respect.

Section 9.2. With Consent of Holders.

This Indenture or the Securities of a Series may be amended or supplemented, and waivers may be obtained, with the consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Securities of such Series voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, such Securities of a Series), and any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium on, if any, interest or Additional Amounts, if any, on, such Securities of a Series, except a payment Default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture or the Securities of such Series may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Securities of such Series voting as a single class (including consents obtained in connection with a purchase of, or tender offer or exchange offer for, such Securities of a Series).

The Holders of a majority in principal amount of the outstanding Securities of a Series issued by the Company may waive any existing or past Default or Event of Default with respect to those Securities. Those Holders may not, however, waive any Default or Event of Default in any payment on any Security.

For the avoidance of doubt, any amendment, supplement or waiver to any Series of Securities made with the consent of Holders of such Series of Securities, shall be made with respect to that Series of Securities only, and not any other Series of Securities.

Section 9.3. Limitations.

Without the consent of each Holder of Securities of a Series affected thereby, an amendment, supplement or waiver may not (with respect to any Securities of such Series held by a non-consenting Holder):

- (1) reduce the amount of the Securities of such Series whose Holders must consent to an amendment, supplement or waiver;
- (2) reduce the rate of or change the time for payment of interest on the Securities of such Series;
- (3) reduce the principal of the Securities of such Series or change the Stated Maturity of the Securities of such Series;
- (4) reduce any premium payable on the redemption of the Securities of such Series or change the time at which the Securities of such Series may or must be redeemed;
- (5) change any obligation to pay Additional Amounts on the Securities of such Series;
- (6) make payments on the Security of such Series payable in currency other than as originally stated in such Security;
- (7) modify the subordination provisions of the Security of such Series in a manner adverse in any material respect to the Holder thereof;
- (8) impair the Holder's right to institute suit for the enforcement of any payment on the Security of such Series;
- (9) make any change in the percentage of principal amount of the Securities of such Series necessary to waive compliance with Sections 6.8 and 6.13 of this Indenture or to make any change in this Section 9.3(9); or
- (10) waive a continuing Default or Event of Default regarding any payment on Securities of such Series.

In the event that consent is obtained from some of the Holders but not from all of the Holders with respect to any amendments or waivers pursuant to clauses (1) through (10) of this Section 9.3, new Securities of such Series with such amendments or waivers will be issued to those consenting Holders. Such new Securities shall have separate CUSIP numbers and ISINs from those Securities of such Series held by non-consenting Holders.

Section 9.4. Form of Amendments.

Every amendment to this Indenture or the Securities of one or more Series shall be set forth in a supplemental indenture.

Section 9.5. Revocation and Effect of Consents.

Until an amendment is set forth in a supplemental indenture or a waiver becomes effective, a consent to it by a Holder of a Security is a continuing consent by the Holder and every subsequent Holder of a Security or portion of a Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent is not made on any Security. However, any such Holder or subsequent Holder may revoke the consent as to his Security or portion of a Security if the Trustee receives the written notice of revocation before the date of the supplemental indenture or the date the waiver becomes effective.

Any amendment or waiver once effective shall bind every Securityholder of each Series affected by such amendment or waiver unless it is of the type described in any of clauses (1) through (10) of Section 9.3. In that case, the amendment or waiver shall bind each Holder of a Security who has consented to it and every subsequent Holder of a Security or portion of a Security that evidences the same debt as the consenting Holder's Security.

Section 9.6. Notation on or Exchange of Securities.

The Trustee may place an appropriate notation about an amendment or waiver on any Security of any Series thereafter authenticated. The Company, in exchange for its Securities of that Series, may issue and the Trustee shall authenticate upon request new Securities of that Series that reflect the amendment or waiver.

Section 9.7. Trustee Protected.

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article IX or the modifications thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and (subject to Section 7.1) shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such supplemental

indenture is authorized or permitted by this Indenture. The Trustee may, but shall not be obligated to, enter into any supplemental indentures which affect the Trustee's own rights, duties, immunities, or indemnities under this Indenture, the Securities or otherwise.

ARTICLE X.
MISCELLANEOUS

Section 10.1. Notices.

Any request, direction, instruction, demand, document, notice or communication by the Company or the Trustee to the other, or by a Holder to the Company or the Trustee, shall be in English and in writing and delivered in person, mailed by first-class mail, delivered via facsimile or delivered by overnight courier as follows:

if to the Company:

Colfax Corporation
8170 Maple Lawn Blvd.
Suite 180
Fulton, Maryland 20769
Fax: (301) 323-9001
Attention: [Corporate Secretary]

with a copy to:

Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, New York 10166
Fax: (212) 351-4035
Attention: Andrew L. Fabens

if to the Trustee:

[]
[]
[]
Attention: []

with a copy to:

[]
[]
[]
Attention: []

Notices shall be effective upon the recipient's actual receipt thereof. Any party by notice to the other parties may designate additional or different addresses for subsequent notices or communications.

Any notice or communication to (i) a Securityholder of a Certificated Security shall be mailed by first-class mail to his address shown on the register kept by the Registrar (ii) a Securityholder of a Global Security shall be delivered to the Depositary in accordance with its applicable procedures. Failure to mail a notice or communication to a Securityholder of any Series or any defect in it shall not affect its sufficiency with respect to other Securityholders of that or any other Series.

If a notice or communication to any Securityholder is mailed or published in the manner provided above, within the time prescribed, it is duly given, whether or not the Securityholder receives it.

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

With respect to this Indenture, the Trustee shall not have any duty or obligation to verify or confirm that the Person sending instructions, directions, reports, notices or other communications or information by electronic transmission is, in fact, a Person authorized to give such instructions, directions, reports, notices or other communications or information on behalf of the party purporting to send such electronic transmission; and the Trustee shall not have any liability for any losses, liabilities, costs or expenses incurred or sustained by any party as a result of such reliance upon or compliance with such instructions, directions, reports, notices or other communications or information. Each other party agrees to assume all risks arising out of the use of electronic methods to submit instructions, directions, reports, notices or other communications or information to the Trustee, including the risk of the Trustee acting on unauthorized instructions, notices, reports or other communications or information, and the risk of interception and misuse by third parties.

Section 10.2. Communication by Holders with Other Holders.

Securityholders of a Series may communicate pursuant to TIA § 312(b), as if such section applied hereto, with other Securityholders of such Series with respect to their rights under this Indenture or the Securities.

Section 10.3. 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:

1. 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

2. an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

Section 10.4. Statements Required in Certificate or Opinion.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

1. a statement that the Person making such certificate or opinion has read such covenant or condition;
2. a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;
3. a statement that, in the opinion of such Person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and
4. a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

Section 10.5. Rules by Trustee and Agents.

The Trustee may make reasonable rules for action by or a meeting of Securityholders of one or more Series. Any Agent may make reasonable rules and set reasonable requirements for its functions.

Section 10.6. Legal Holidays.

Unless otherwise provided by Board Resolution, Officer's Certificate or supplemental indenture for a particular Series, a "*Legal Holiday*" is any day that is not a Business Day. If a payment date is a Legal Holiday at a place of payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period.

Section 10.7. No Personal Liability of Directors, Officers, Employees and Certain Others.

No director, officer, employee, incorporator or similar founder, stockholder or member of the Company will have any liability for or any obligations of the Company under this Indenture or the Securities or for any claim based on, with respect to or by reason of, such obligations or their creation. Each Holder of Securities by accepting a Security waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Securities. The waiver may not be effective to waive liabilities under the federal securities laws.

Section 10.8. Counterparts.

This Indenture may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

Section 10.9. Governing Laws.

THIS INDENTURE AND THE SECURITIES, INCLUDING ANY CLAIM OR CONTROVERSY ARISING OUT OF OR RELATING TO THIS INDENTURE OR THE SECURITIES, SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAW OF THE STATE OF NEW YORK.

Section 10.10. No Adverse Interpretation of Other Agreements.

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

Section 10.11. Successors.

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

Section 10.12. Severability.

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

Section 10.13. Table of Contents, Headings, Etc.

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

Section 10.14. Judgment Currency.

The Company agrees, to the fullest extent that it may effectively do so under applicable law, that (a) if for the purpose of obtaining judgment in any court it is necessary to convert the sum due with respect to the principal of or interest or other amount on the Securities of any Series (the “*Required Currency*”) into a currency in which a judgment will be rendered (the “*Judgment Currency*”), the rate of exchange used shall be the rate at which in accordance with normal banking procedures the recipient could purchase in The City of New York the Required Currency with the Judgment Currency on the day on which final unappealable judgment is entered, unless such day is not a New York Banking Day, then the rate of exchange used shall be the rate at which in accordance with normal banking procedures the recipient could purchase in The City of New York the Required Currency with the Judgment Currency on the New York Banking Day preceding the day on which final unappealable judgment is entered and (b) its obligations under this Indenture to make payments in the Required Currency (i) shall not be discharged or satisfied by any tender, any recovery pursuant to any judgment (whether or not entered in accordance with subsection (a)), in any currency other than the Required Currency, except to the extent that such tender or recovery shall result in the actual receipt, by the payee, of the full amount of the Required Currency expressed to be payable with respect to such payments, (ii) shall be enforceable as an alternative or additional cause of action for the purpose of recovering in the Required Currency the amount, if any, by which such actual receipt shall fall short of the full amount of the Required Currency so expressed to be payable, and (iii) shall not be affected by judgment being obtained for any other sum due under this Indenture. For purposes of the foregoing, “*New York Banking Day*” means any day except a Saturday, Sunday or a Legal Holiday in The City of New York on which banking institutions are authorized or required by law, regulation or executive order to close.

Section 10.15. English Language.

This Indenture has been negotiated and executed in the English language. All certificates, reports, notices and other documents and communications delivered or delivered pursuant to this Indenture (including any modifications or supplements hereto), shall be in the English language, or accompanied by a certified English translation thereof. In the case of any document originally issued in a language other than English, the English language version of any such document shall for purposes of this Indenture, and absent manifest error, control the meaning of the matters set out therein.

Section 10.16. Submission to Jurisdiction; Appointment of Agent.

Any suit, action or proceeding against the Company or its respective properties, assets or revenues with respect to this Indenture or the Securities (a “*Related Proceeding*”) may be brought in any state or Federal court in the Borough of Manhattan in The City of New York, New York, as the Person bringing such Related Proceeding may elect in its sole discretion. The Company hereby consents to the non-exclusive jurisdiction of each such court for the purpose of any Related Proceeding and has irrevocably waived any objection to the laying of venue of any Related Proceeding brought in any such court and to the fullest extent it may effectively do so and the defense of an inconvenient forum to the maintenance of any Related Proceeding or any such suit, action or proceeding in any such court. The Company hereby agrees that service of all writs, claims, process and summonses in any Related Proceeding brought against it in the State of New York may be made upon Colfax Corporation, 8170 Maple Lawn Blvd., Suite 180, Fulton, Maryland 20769 Attention: [Corporate Secretary] (the “*Process Agent*”). The Company irrevocably appointed the Process Agent as its agent and true and lawful attorney in fact in its name, place and stead to accept such service of any and all such writs, claims, process and summonses, and hereby agrees that the failure of the Process Agent to give any notice to it of any such service of process shall not impair or affect the validity of such service or of any judgment based thereon. The Company hereby agrees to have an office or to maintain at all times an agent with offices in the United States of America to act as Process Agent. Nothing in this Indenture shall in any way be deemed to limit the ability to serve any such writs, process or summonses in any other manner permitted by applicable law.

Section 10.17. Waiver of Immunity.

To the extent that the Company has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution or execution, on the ground of sovereignty or otherwise) with respect to itself or its property, it hereby irrevocably waives, to the fullest extent permitted by applicable law, such immunity with respect to its obligations under this Indenture, and, Securities.

Section 10.18. Waiver of Jury Trial.

EACH OF THE COMPANY AND THE TRUSTEE HERETO HEREBY IRREVOCABLY WAIVE ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS INDENTURE, THE SECURITIES, OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

ARTICLE XI.
SUBORDINATION OF SECURITIES

Section 11.1. Subordination Terms.

The Securities of a Series issued hereunder shall be subordinated in right of payment to the extent provided in the subordination terms with respect to the Securities of such Series that are established pursuant to Section 2.2.

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

Colfax Corporation

By: _____
Name:
Its:

[Trustee]

By: _____

Name:

Title:

GIBSON DUNN

Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166-0193
Tel 212.351.4000
www.gibsondunn.com

February 23, 2012

Colfax Corporation
8170 Maple Lawn Blvd.
Suite 180
Fulton, MD 20769

Re: Colfax Corporation
Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as counsel to Colfax Corporation, a Delaware corporation (the "Company"), in connection with the preparation and filing with the Securities and Exchange Commission (the "Commission") of a Registration Statement on Form S-3 (the "Registration Statement") under the Securities Act of 1933, as amended (the "Securities Act"), relating to the registration under the Securities Act and the proposed issuance and sale from time to time pursuant to Rule 415 under the Securities Act, together or separately and in one or more series (if applicable) of:

- (i) the Company's unsecured debt securities, which may either be senior debt securities (the "Senior Debt Securities") or subordinated debt securities (the "Subordinated Debt Securities") and, collectively with the Senior Debt Securities, the "Debt Securities";
- (ii) shares of the Company's common stock, par value \$0.001 per share (the "Common Stock");
- (iii) shares of the Company's preferred stock, par value \$0.001 per share (the "Preferred Stock");
- (iv) depositary shares each representing a fraction of a share of a particular series of Preferred Stock (the "Depositary Shares");
- (v) contracts for the purchase or sale of Debt Securities, Preferred Stock or Common Stock or other securities, currencies or commodities (the "Purchase Contracts");
- (vi) warrants for the purchase of Common Stock, Preferred Stock, Depositary Shares or Debt Securities (the "Warrants"); and

(vii) units of the Company comprised of any combination of Common Stock, Preferred Stock, Depositary Shares, Purchase Contracts or Debt Securities (the "Units").

The Debt Securities, Common Stock, Preferred Stock, Depositary Shares, Purchase Contracts, Warrants and Units are collectively referred to herein as the "Securities." Any Senior Debt Securities are to be issued under an indenture to be entered into between the Company and a financial institution to be named at the time such indenture is executed (the "Trust Company"), as indenture trustee (the "Senior Base Indenture"). Any Subordinated Debt Securities are to be issued under an indenture to be entered into between the Company and the Trust Company, as indenture trustee (the "Subordinated Base Indenture" and together with the Senior Base Indenture, the "Base Indentures").

In arriving at the opinions expressed below, we have examined originals, or copies certified or otherwise identified to our satisfaction as being true and complete copies of the originals, of forms of the Base Indentures, forms of the Debt Securities, specimen Common Stock certificates and such other documents, corporate records, certificates of officers of the Company and of public officials and other instruments as we have deemed necessary or advisable to enable us to render these opinions. In our examination, we have assumed the genuineness of all signatures, the legal capacity and competency of all natural persons, the authenticity of all documents submitted to us as originals and the conformity to original documents of all documents submitted to us as copies. As to any facts material to these opinions, we have relied to the extent we deemed appropriate and without independent investigation upon statements and representations of officers and other representatives of the Company and others.

We have assumed without independent investigation that:

(i) at the time any Securities are sold pursuant to the Registration Statement (the "Relevant Time"), the Registration Statement and any supplements and amendments thereto (including post-effective amendments) will be effective and will comply with all applicable laws;

(ii) at the Relevant Time, a prospectus supplement will have been prepared and filed with the Commission describing the Securities offered thereby and all related documentation and will comply with all applicable laws;

(iii) all Securities will be issued and sold in the manner stated in the Registration Statement and the applicable prospectus supplement;

(iv) at the Relevant Time, all corporate or other action required to be taken by the Company to duly authorize each proposed issuance of Securities and any related documentation (including (i) the due reservation of any shares of Common Stock or Preferred Stock for issuance upon exercise, conversion or exchange of any Securities for

Common Stock or Preferred Stock (a “Convertible Security”), and (ii) the execution (in the case of certificated Securities), delivery and performance of the Securities and any related documentation referred to in paragraphs 1 through 7 below) shall have been duly completed and shall remain in full force and effect;

(v) upon issuance of any Common Stock or Preferred Stock, including upon exercise, conversion or exchange of any Convertible Security, the total number of shares of Common Stock or Preferred Stock issued and outstanding will not exceed the total number of shares of Common Stock or Preferred Stock, as applicable, that the Company is then authorized to issue under its certificate of incorporation and other relevant documents;

(vi) in the case of Debt Securities, at the Relevant Time, the relevant trustee shall have been qualified under the Trust Indenture Act of 1939, as amended (the “TIA”), a Statement of Eligibility of the Trustee on Form T-1 shall have been properly filed with the Commission and the relevant Base Indenture shall have been duly executed and delivered by the Company and all other parties thereto and duly qualified under the TIA; and

(vii) at the Relevant Time, a definitive purchase, underwriting or similar agreement and any other necessary agreement with respect to any Securities offered or issued will have been duly authorized by all necessary corporate or other action of the Company and duly executed and delivered by the Company and the other parties thereto.

Based on the foregoing and in reliance thereon, and subject to the assumptions, exceptions, qualifications and limitations set forth herein, we are of the opinion that:

1. With respect to any Debt Securities, when:
 - a. the terms and conditions of such Debt Securities have been duly established by supplemental indenture or officers’ certificate in accordance with the terms and conditions of the relevant Base Indenture,
 - b. any such supplemental indenture has been duly executed and delivered by the Company and the relevant trustee (together with the relevant Base Indenture, the “Indenture”), and
 - c. such Debt Securities have been executed (in the case of certificated Debt Securities), delivered and authenticated in accordance with the terms of the applicable Indenture and issued and sold for the consideration set forth in the applicable definitive purchase, underwriting or similar agreement,

such Debt Securities will be legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms.

2. With respect to any shares of Preferred Stock, when:
 - a. the certificate of designations relating to such Preferred Stock (the "Certificate of Designations") has been duly executed and filed with the Office of the Secretary of State of the State of Delaware,
 - b. such shares have been issued either (i) in accordance with the applicable definitive purchase, underwriting or similar agreement and for the consideration therefor provided for therein or (ii) upon exercise, conversion or exchange of any Convertible Security and for any additional consideration specified in such Convertible Security or the instrument governing such Convertible Security providing for such conversion or exercise, which consideration (including any consideration paid for such Convertible Security), on a per-share basis, shall in either event not be less than the par value of the Preferred Stock, and
 - c. any such Convertible Security was previously validly issued and is fully paid an non-assessable (in the case of an equity Security) or is a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms,

such shares of Preferred Stock will be validly issued, fully paid and non-assessable.

3. With respect to Depositary Shares, when:
 - a. a deposit agreement relating to such Depositary Shares ("Deposit Agreement") has been duly executed and delivered by the Company and the depositary appointed by the Company,
 - b. the terms of the Depositary Shares have been established in accordance with the Deposit Agreement, and
 - c. the depositary receipts representing the Depositary Shares have been duly executed and countersigned (in the case of certificated Depositary Shares), registered and delivered in accordance with the related Deposit Agreement and the applicable definitive purchase, underwriting or similar agreement for the consideration provided therein,

the depositary receipts evidencing the Depositary Shares will be legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms.

4. With respect to shares of Common Stock, when:
 - a. such shares of Common Stock have been duly executed (in the case of certificated shares) and delivered either (i) in accordance with the applicable definitive purchase, underwriting or similar agreement for the consideration provided for therein, or (ii) upon conversion or exercise of any Convertible Security, in accordance with the terms of such Convertible Security or the instrument governing such Convertible Security providing for such conversion or exercise, and for any additional consideration specified therein, which consideration (including any consideration paid for such Convertible Security), on a per-share basis, shall in either event not be less than the par value of the Common Stock, and
 - b. any such Convertible Security was previously validly issued and is fully paid and non-assessable (in the case of an equity Security) or is a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms,

such shares of Common Stock will be validly issued, fully paid and non-assessable.

5. With respect to any Purchase Contracts, when:
 - a. the related purchase contract agreement ("Purchase Contract Agreement"), if any, has been duly executed by the Company and each other party thereto,
 - b. the terms of the Purchase Contracts have been established in accordance with the Purchase Contract Agreement, if any, or the applicable definitive purchase, underwriting or similar agreement,
 - c. the terms of any collateral or security arrangements relating to such Purchase Contracts have been established and the agreements thereto have been validly executed and delivered by each of the parties thereto and any collateral has been deposited with the collateral agent, if applicable, in accordance with such arrangements, and
 - d. such Purchase Contracts have been executed (in the case of certificated Purchase Contracts) and delivered in accordance with the Purchase Contract Agreement, if any, and the applicable definitive purchase, underwriting or similar agreement for the consideration provided for therein,

such Purchase Contracts will be legal, valid and binding obligations of the Company, enforceable in accordance with their terms.

6. With respect to any Warrants, when:

- a. the warrant agreement relating to such Warrants (the "Warrant Agreement"), if any, has been duly executed and delivered by the Company and each other party thereto,
- b. the terms of the Warrants have been established in accordance with the Warrant Agreement, if any, and the applicable definitive purchase, underwriting or similar agreement, and
- c. the Warrants have been duly executed (in the case of certificated Warrants) and delivered in accordance with the Warrant Agreement, if any, and the applicable definitive purchase, underwriting or similar agreement for the consideration provided for therein,

such Warrants will be legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms.

7. With respect to any Units, when:

- a. the unit agreement relating to the Units (the "Unit Agreement"), if any, has been duly executed and delivered by the Company and each other party thereto,
- b. the terms of the Units have been duly established in accordance with the Unit Agreement, if any, and the applicable definitive purchase, underwriting or similar agreement, and
- c. the Units have been duly executed (in the case of certificated Units) and delivered in accordance with the Unit Agreement, if any, and the applicable definitive purchase, underwriting or similar agreement for the consideration provided for therein,

the Units will be legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms.

The opinions expressed above are subject to the following exceptions, qualifications, limitations and assumptions:

A. We render no opinion herein as to matters involving the laws of any jurisdiction other than the State of New York and to the extent relevant for our opinions herein, the Delaware General Corporation Law. This opinion is limited to the effect of the current state of the laws of the State of New York and the Delaware General Corporation Law and the facts as they currently exist. We assume no obligation to revise or supplement this opinion in the event of future changes in such laws or the interpretations thereof or such facts.

B. The opinions above (other than those in paragraphs 2 and 4) are each subject to (i) the effect of any bankruptcy, insolvency, reorganization, moratorium, arrangement or similar laws affecting the rights and remedies of creditors' generally, including the effect of statutory or other laws regarding fraudulent transfers or preferential transfers and (ii) general principles of equity, including concepts of materiality, reasonableness, good faith and fair dealing and the possible unavailability of specific performance, injunctive relief or other equitable remedies regardless of whether enforceability is considered in a proceeding in equity or at law.

C. We express no opinion regarding the effectiveness of (i) any waiver of stay, extension or usury laws or of unknown future rights and (ii) provisions relating to indemnification, exculpation or contribution, to the extent such provisions may be held unenforceable as contrary to public policy or federal or state securities laws.

D. To the extent relevant to our opinions in paragraphs 3, 5, 6 and 7 and not covered by our opinions in paragraphs 1, 2 or 4, we have assumed that any securities, currencies or commodities underlying, comprising or issuable upon exchange, conversion or exercise of any Depositary Shares, Purchase Contracts, Warrants or Units are validly issued, fully paid and non-assessable (in the case of an equity security) or a legal, valid and binding obligation of the issuer thereof, enforceable against such issuer in accordance with its terms.

You have informed us that you intend to issue Securities from time to time on a delayed or continuous basis, and we understand that prior to issuing any Securities pursuant to the Registration Statement (i) you will advise us in writing of the terms thereof and (ii) you will afford us an opportunity to (x) review the operative documents pursuant to which such Securities are to be issued or sold (including the applicable offering documents) and (y) file such supplement or amendment to this opinion (if any) as we may reasonably consider necessary or appropriate.

We consent to the filing of this opinion as an exhibit to the Registration Statement, and we further consent to the use of our name under the caption "Legal Matters" in the Registration

Colfax Corporation
February 23, 2012
Page 8

Statement and the prospectus that forms a part thereof. In giving these consents, we do not thereby admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission promulgated thereunder.

Very truly yours,

/s/ Gibson, Dunn & Crutcher LLP

Colfax Corporation
Computation of Ratio of Earnings to Fixed Charges
(Dollars in thousands, except ratios)

	Year Ended December 31,				
	2011	2010	2009	2008	2007
Earnings:					
Income before income taxes	\$19,987	\$27,688	\$32,418	\$ 5,996	\$105,103
Plus: fixed charges	7,542	8,214	8,811	13,517	20,779
Earnings available to cover fixed charges	<u>\$27,529</u>	<u>\$35,902</u>	<u>\$41,229</u>	<u>\$19,513</u>	<u>\$125,882</u>
Fixed Charges:					
Interest expense, including amortization of deferred financing costs	\$ 5,919	\$ 6,684	\$ 7,212	\$11,822	\$ 19,246
Interest portion of rental payment	1,623	1,530	1,599	1,695	1,533
Total fixed charges	7,542	8,214	8,811	13,517	20,779
Dividends on preferred stock	—	—	—	3,492	25,816
Total fixed charges and dividends on preferred stock	<u>\$ 7,542</u>	<u>\$ 8,214</u>	<u>\$ 8,811</u>	<u>\$17,009</u>	<u>\$ 46,595</u>
Ratio of earnings to fixed charges	<u>3.65</u>	<u>4.37</u>	<u>4.68</u>	<u>1.44</u>	<u>6.06</u>
Ratio of earnings to fixed charges and dividends on preferred stock	<u>3.65</u>	<u>4.37</u>	<u>4.68</u>	<u>1.15</u>	<u>2.70</u>

Consent of Independent Registered Public Accounting Firm

We consent to the reference to our firm under the caption "Experts" in this Registration Statement (Form S-3) and related Prospectus of Colfax Corporation for the registration of its debt securities, common stock, preferred stock, warrants, depositary shares, purchase contracts and units and to the incorporation by reference therein of our reports dated February 23, 2012, with respect to the consolidated financial statements and schedule of Colfax Corporation, and the effectiveness of internal control over financial reporting of Colfax Corporation, included in its Annual Report (Form 10-K) for the year ended December 31, 2011, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

Richmond, Virginia
February 23, 2012

CONSENT OF INDEPENDENT AUDITOR

We hereby consent to the incorporation by reference in this Registration Statement on Form S-3 of Colfax Corporation of our report dated October 7, 2011 relating to the financial statements of Charter International plc as of December 31, 2010 and 2009 and for the years ended December 31, 2010, 2009 and 2008, which appears in the proxy statement filed by Colfax Corporation (File no. 001-34045) on December 19, 2011. We also consent to the reference to us under the heading "Experts" in such Registration Statement.

/s/ PricewaterhouseCoopers LLP
London
February 23, 2012