As filed with the Securities and Exchange Commission on August 2, 2012

UNITED STATES SECURITIES AND EXCHANGE COMMISSION Washington, D.C. 20549

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

Delaware
(State or other jurisdiction of incorporation or organization)

ANADIGICS, Inc.
(Exact name of registrant as specified in its charter)

22-2582106
(I.R.S. Employer Identification Number)

141 Mt. Bethel Road
Warren, New Jersey 07059
(908) 668-5000
(Address, including zip code, and telephone number, including area code, of registrant’s principal executive offices)

Terrence G. Gallagher
Vice President and Chief Financial Officer
ANADIGICS, Inc.
141 Mt. Bethel Road
Warren, New Jersey 07059
(908) 668-5000
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:
Stephen A. Greene, Esq.
Cahill Gordon & Reindel LLP
80 Pine Street
New York, New York 10005
(212) 701-3000

Approximate date of commencement of proposed sale to the public: From time to time after this registration statement becomes effective.

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 12-b2 of the Exchange Act.

Large accelerated filer ☐ Accelerated filer ☒
Non-accelerated filer ☐ Smaller reporting company ☐

**CALCULATION OF REGISTRATION FEE**

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<tr>
<th>Title of Each Class of Securities to Be Registered</th>
<th>Amount to Be Registered(1)</th>
<th>Proposed Maximum Offering Price Per Unit(1)</th>
<th>Proposed Maximum Aggregate Offering Price(1)</th>
<th>Amount of Registration Fee(2)</th>
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<tr>
<td>Convertible Debt</td>
<td>$60,000,000</td>
<td>100%</td>
<td>$60,000,000</td>
<td>$6,876</td>
</tr>
<tr>
<td>Convertible Preferred Stock</td>
<td></td>
<td></td>
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<tr>
<td>Common Stock, par value $.01 per share (including the associated preferred stock purchase rights)</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$60,000,000</td>
<td>100%</td>
<td>$60,000,000</td>
<td>$6,876</td>
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</table>

(1) An indeterminate number of or aggregate principal amount of the securities is being registered as may at various times be issued at indeterminate prices, with an aggregate public offering price not to exceed $60,000,000. The proposed maximum initial offering price per unit will be determined, from time to time, by the registrant in connection with the issuance by the registrant of the securities registered under this registration statement.

(2) The estimated registration fee for the securities has been calculated pursuant to Rule 457(o). The registrant has previously filed Registration Statement on Form S-3 (File No. 333-160404) (the “Prior Registration Statement”), which registered an aggregate of $60,000,000 of securities of the registrant, $60,000,000 of which remain unsold. The registrant paid an aggregate filing fee of $3,348 in connection with the Prior Registration Statement. Pursuant to Rule 457(p), this Registration Statement carries forward the filing fee of $3,348 relating to the $60,000,000 of unsold securities registered on the Prior Registration Statements. Therefore, a filing fee of $3,528 is being paid herewith. No additional consideration is being received for the associated preferred stock purchase rights.

*The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until this registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.*
The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities, and we are not soliciting offers to buy these securities, in any state where the offer or sale is not permitted.

Subject to Completion, dated August 2, 2012

PROSPECTUS

$60,000,000
ANADIGICS, Inc.

Convertible Debt
Convertible Preferred Stock
Common Stock

We may offer from time to time up to $60,000,000 of any combination of securities described in this prospectus. The securities:
· will have a maximum aggregate offering price of $60,000,000;
· will be offered at prices and on terms to be set forth in one or more accompanying prospectus supplements;
· may be denominated in U.S. dollars or in other currencies or currency units;
· may be offered separately or together, or in separate series; and
· may be listed on a national securities exchange, if specified in an accompanying prospectus supplement.

ANADIGICS, Inc.’s common stock is listed on the NASDAQ National Market under the symbol “ANAD.”

Investing in our securities involves risks. See “Risk Factors” on page 2.

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 securities may be sold from time to time directly, through agents or through underwriters and/or dealers. If any agent of the issuer or any underwriter is involved in the sale of the securities, the name of such agent or underwriter and any applicable commission or discount will be set forth in the accompanying prospectus supplement.

This prospectus may be used to offer and sell securities only if accompanied by a prospectus supplement.

The date of this prospectus is August 2, 2012

You should rely only on the information contained in or incorporated by reference in this prospectus and the accompanying prospectus supplement. No person has been authorized to give any information or to make any representation not contained or incorporated by reference in this prospectus or the accompanying prospectus supplement and, if given or made, such information or representation must not be relied upon as having been authorized by us or any underwriter, dealer or agent. Neither this prospectus nor the accompanying prospectus supplement constitutes an offer to sell or a solicitation of an offer to buy securities in any jurisdiction in which such offer or solicitation is not authorized or in which the person making such offer or solicitation is not qualified to do so or to any person to whom it is unlawful to make such offer or solicitation. You should not assume that the information provided by this prospectus or the accompanying prospectus supplement is accurate as of any date other than the respective dates on the front of those documents.

In this prospectus and in the accompanying prospectus supplement, unless the context requires otherwise, references to “ANADIGICS,” “Company,” “we,” “us” and “our” mean ANADIGICS, Inc. and its subsidiaries.
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ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we have filed with the Securities and Exchange Commission, the “Commission” or the “SEC,” utilizing a “shelf” registration process. Under this shelf registration process, we may sell the securities described in this prospectus in one or more offerings up to an aggregate offering price of $60,000,000. This prospectus provides you with a general description of the securities we may offer. This prospectus does not contain all of the information set forth in the registration statement as permitted by the rules and regulations of the SEC. For additional information regarding ANADIGICS and the offered securities, please refer to the registration statement. Each time we sell securities, we will provide a prospectus supplement that will contain specific information about the terms of that offering. The prospectus supplement may also add, update or change information contained in this prospectus. You should read both this prospectus and any prospectus supplement together with additional information described under the heading “Where You Can Find More Information.”

FORWARD-LOOKING INFORMATION

CERTAIN STATEMENTS IN THIS PROSPECTUS OR DOCUMENTS INCORPORATED HEREIN BY REFERENCE ARE FORWARD-LOOKING STATEMENTS (AS THAT TERM IS DEFINED IN THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED) THAT INVOLVE RISKS AND UNCERTAINTIES. THESE FORWARD-LOOKING STATEMENTS CAN GENERALLY BE IDENTIFIED AS SUCH BECAUSE THE CONTEXT OF THE STATEMENT WILL INCLUDE WORDS SUCH AS WE “BELIEVE,” “ANTICIPATE,” “EXPECT” OR WORDS OF SIMILAR IMPORT. SIMILARLY, STATEMENTS THAT DESCRIBE OUR FUTURE PLANS, OBJECTIVES, ESTIMATES OR GOALS ARE FORWARD-LOOKING STATEMENTS. THE CAUTIONARY STATEMENTS MADE IN THIS PROSPECTUS SHOULD BE READ AS BEING APPLICABLE TO ALL RELATED FORWARD-LOOKING STATEMENTS WHEREVER THEY APPEAR IN THIS PROSPECTUS. YOU ARE CAUTIONED THAT ANY SUCH FORWARD-LOOKING STATEMENTS ARE NOT GUARANTEES OF FUTURE PERFORMANCE AND INVOLVE RISK AND UNCERTAINTIES, AS WELL AS ASSUMPTIONS THAT IF THEY MATERIALIZE OR PROVE INCORRECT, COULD CAUSE RESULTS TO DIFFER MATERIALLY FROM THOSE EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. FURTHER, ALL STATEMENTS, OTHER THAN STATEMENTS OF HISTORICAL FACT, ARE STATEMENTS THAT COULD BE DEEMED FORWARD-LOOKING STATEMENTS. WE ASSUME NO OBLIGATION AND DO NOT INTEND TO UPDATE THESE FORWARD-LOOKING STATEMENTS, EXCEPT AS MAY BE REQUIRED BY LAW. IMPORTANT FACTORS THAT COULD CAUSE ACTUAL RESULTS AND DEVELOPMENTS TO BE MATERIALLY DIFFERENT FROM THOSE EXPRESSED OR IMPLIED BY THE FORWARD-LOOKING STATEMENTS PRESENTED HEREIN INCLUDE THE RISK FACTORS DISCUSSED IN THIS PROSPECTUS, AS WELL AS THOSE DISCUSSED IN THE DOCUMENTS WE INCORPORATE BY REFERENCE HEREIN.

ANADIGICS, INC.

We are a leading provider of semiconductor solutions in the growing broadband wireless and wireline communications markets. Our products include radio frequency (RF) power amplifiers (PAs), tuner integrated circuits, active splitters, line amplifiers and other components, which can be sold individually or packaged as integrated front end modules (FEMs). We believe that we are well-positioned to capitalize on the high growth and convergence occurring in the voice, data and video segments of the broadband wireless and wireline communications markets. Our RF power amplifier products enable mobile handsets, datacards and other devices to access third and fourth generation (3G and 4G) wireless networks utilizing international standards including LTE (Long Term Evolution), WCDMA (Wideband Code Division Multiple Access), HSPA (High Speed Packet Access), CDMA (Code Division Multiple Access), EVDO (Evolution Data Optimized) and WiMAX (Worldwide Interoperability for Microwave Access). Our WiFi products enable connectivity for wireless mobile devices and other computing devices. Our CATV (Cable Television) products enable fixed-point, wireline broadband communications over CATV infrastructure as well as cable modem and set-top box products. Our Wireless infrastructure products support operator commitments worldwide to optimize the increasing demands for subscriber data through deployment of new small-cell base stations as part of a heterogeneous network.
Our business strategy focuses on enabling anytime, anywhere connectivity which enhances the consumer’s broadband and wireless experience. We develop RF front end solutions for communications equipment manufacturers and we partner with industry-leading wireless and wireline chipset providers who incorporate our solutions into their reference designs. Our solutions cost-effectively enhance communications devices by improving RF performance, efficiency, reliability, time-to-market and integration while reducing the size, weight and cost of these products.

We were incorporated in Delaware. Our principal executive offices are located at 141 Mt. Bethel Road, Warren, New Jersey 07059. Our telephone number is (908) 668-5000.

**RISK FACTORS**

Investing in our securities involves risk. The prospectus supplement applicable to the securities we offer will contain a discussion of risks applicable to an investment in ANADIGICS and to the securities we are offering under that prospectus supplement. Prior to making a decision about investing in our securities, you should carefully consider the specific factors discussed under the heading “Risk Factors” in the applicable prospectus supplement together with all of the other information contained in the prospectus supplement or appearing or incorporated by reference in this prospectus.

**THE SECURITIES WE MAY OFFER**

We may offer our common shares, convertible preferred shares and/or convertible debt to purchase any of such securities, with a total value of up to $60,000,000, from time to time under this prospectus at prices and on terms to be determined by market conditions at the time of offering. This prospectus provides you with a general description of the securities we may offer. Each time we offer a type or series of securities, we may provide a prospectus supplement that will describe the specific amounts, prices and other important terms of the securities, including, to the extent applicable:

- designation or classification;
- aggregate principal amount or aggregate offering price;
- maturity, if applicable;
- rates and times of payment or interest or dividends, if any;
- redemption, conversion or sinking fund terms, if any;
- voting or other rights, if any;
- conversion prices, if any; and
- important federal income tax considerations.

The prospectus supplement also may add, update or change information contained in this prospectus or in documents we have incorporated by reference. However, no prospectus supplement shall offer a security that is not registered and described in this prospectus at the time of its effectiveness.

**Convertible Debt Securities.** We may offer convertible debt securities from time to time, in one or more series, as senior or subordinated debt. The convertible subordinated debt securities will be subordinate and junior in right of payment, to the extent and in the manner described in the instrument governing the debt, to all of our senior indebtedness. Convertible debt securities will be convertible into or exchangeable for our common shares or our other securities. Conversion may be mandatory or at your option and would be at prescribed conversion rates.
The convertible debt securities will be issued under one or more documents called indentures, which are contracts between us and a to be named national banking association or other eligible party, as trustee. In this prospectus, we have summarized certain general features of the debt securities. We urge you, however, to read the prospectus supplements related to the series of debt securities being offered, as well as the complete indentures that contain the terms of the debt securities. Forms of indentures have been filed as exhibits to the registration statement of which this prospectus is a part, and supplemental indentures and forms of debt securities containing the terms of debt securities being offered will be filed as exhibits to the registration statement of which this prospectus is a part or will be incorporated by reference from reports we file with the SEC.

Common Shares. We may issue common shares from time to time. Holders of common shares are entitled to one vote per share on all matters submitted to a vote of shareholders. Subject to the rights of any series of preferred shares issued from time to time, all actions submitted to a vote of shareholders shall be voted on by the holders of common shares, voting together as a single class, except as provided by law.

Preferred Shares. We may issue convertible preferred shares from time to time, in one or more series. Our board of directors shall determine the rights, preferences, privileges and restrictions of the preferred shares, including dividend rights, conversion rights, voting rights, terms of redemption, liquidation preferences, sinking fund terms and the number of shares constituting any series or the designation of any series. Convertible preferred shares will be convertible into our common shares or convertible into or exchangeable for our other securities. Conversion may be mandatory or at your option and would be at prescribed conversion rates.

If we sell any series of preferred shares under this prospectus and applicable prospectus supplements, we will fix the rights, preferences, privilege qualifications and restrictions of the preferred shares of such series in the resolutions creating that series. We will incorporate by reference into the registration statement of which this prospectus is a part the form of any resolutions that set out the terms of the series of preferred shares we are offering before the issuance of such series of preferred shares. We urge you to read the prospectus supplements related to the series of preferred shares being offered, as well as the complete resolutions that set out such series of preferred shares.

**RATIO OF EARNINGS TO FIXED CHARGES**

The following table sets forth our ratio of earnings to fixed charges and the amount of deficiency for periods in which the ratio indicates less than one-to-one coverage:

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</thead>
<tbody>
<tr>
<td>Ratio of Earnings to Fixed Changes (1)</td>
<td>N/A</td>
<td>N/A</td>
<td>1.94x</td>
<td>N/A</td>
<td>N/A</td>
<td>3.14x</td>
</tr>
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</table>

(1) For purposes of computing the ratio of earnings to fixed charges, earnings consist of (loss) income before benefit from income taxes and loss from discontinued operations plus fixed charges. Fixed charges consist of interest charges and that portion of rent expense that we believe to be representative of interest. Losses before income taxes and discontinued operations were not sufficient to cover fixed charges by $49.3 million, $57.4 million, and $41.9 million for the years ended December 31, 2011, 2009 and 2008 respectively. Losses before income taxes and discontinued operations were not sufficient to cover fixed charges by $15.8 million and $10.7 million for the three months ended March 31, 2012 and April 2, 2011, respectively.

**USE OF PROCEEDS**

Unless we set forth other uses of proceeds in the prospectus supplement, we will use the net proceeds of the sale of the securities described in this prospectus and any prospectus supplement for general corporate purposes. These may include, among other uses, the reduction of outstanding indebtedness, working capital purposes, capital expenditures or acquisitions.
PLAN OF DISTRIBUTION

We may sell the securities through underwriters or dealers, through agents, directly to one or more purchasers or any combination of such methods. A prospectus supplement or supplements will describe the terms of the offering of the securities, including:

- the name or names of any underwriters, if any;
- the purchase price of the securities and the proceeds we will receive from the sale;
- any over-allotment options under which underwriters may purchase additional securities from us;
- any agency fees or underwriting discounts and other items constituting agents’ or underwriters’ compensation;
- any public offering price;
- any discounts or concessions allowed or reallowed or paid to dealers; and
- any securities exchange or market on which the securities may be listed.

If underwriters are used in the sale, they will acquire the securities for their own account and may resell the securities from time to time in one or more transactions at a fixed public offering price or at varying prices determined at the time of sale. The obligations of the underwriters to purchase the securities will be subject to the conditions set forth in the applicable underwriting agreement. We may offer the securities to the public through underwriting syndicates represented by managing underwriters or by underwriters without a syndicate. Subject to certain conditions, the underwriters will be obligated to purchase all of the securities offered by the prospectus supplement. Any public offering price and any discounts or concessions allowed or reallowed or paid to dealers may change from time to time. We may use underwriters with whom we have a material relationship. We will describe in the prospectus supplement, naming the underwriter, the nature of any such relationship.

We may sell securities directly or through agents we designate from time to time. We will name any agent involved in the offering and sale of securities and we will describe any commissions we will pay the agent in the prospectus supplement. Unless the prospectus supplement states otherwise, our agent will act on a best-efforts basis for the period of its appointment.

We may authorize agents or underwriters to solicit offers by certain types of institutional investors to purchase securities from us at the public offering price set forth in the prospectus supplement pursuant to delayed delivery contracts providing for payment and delivery on a specified date in the future. We will describe the conditions to these contracts and the commissions we must pay for solicitation of these contracts in the prospectus supplement.

We may provide agents and underwriters with indemnification against civil liabilities related to this offering, including liabilities under the Securities Act, or contribution with respect to payments that the agents or underwriters may make with respect to those liabilities. Agents and underwriters may engage in transactions with, or perform services for, us in the ordinary course of business.

All securities we offer, other than common shares, will be new issues of securities with no established trading market. Any underwriters may make a market in these securities, but will not be obligated to do so and may discontinue any market making at any time without notice. We cannot guarantee the liquidity of the trading markets for any securities.

Any underwriter may engage in overallotment, stabilizing transactions, short covering transactions and penalty bids in accordance with Regulation M under the Exchange Act. Overallotment involves sales in excess of the offering size, which create a short position. Stabilizing transactions permit bids to purchase the underlying security so long as the stabilizing bids do not exceed a specified maximum. Short covering transactions involve purchases of the securities in the open market after the distribution is completed to cover short positions. Penalty bids permit the underwriters to reclaim a selling concession from a dealer when the securities originally sold by the dealer are purchased in a covering transaction to cover short positions. Those activities may cause the price of the securities to be higher than it would otherwise be. If commenced, the underwriters may discontinue any of the activities at any time.
In compliance with the guidelines of the Financial Industry Regulatory Authority, or FINRA, the maximum consideration or discount to be received by any FINRA member or independent broker dealer may not exceed 8% of the aggregate amount of securities offered pursuant to this prospectus and any supplemental prospectus.

DESCRIPTION OF CONVERTIBLE DEBT SECURITIES

The following description sets forth some general terms and provisions of the convertible debt securities we may offer, but is not complete. The particular terms of the convertible debt securities offered, and the extent to which the general provisions may or may not apply to the debt securities so offered, will be described in the prospectus supplement relating to the particular debt securities. For a more detailed description of the terms of the convertible debt securities, please refer to the indenture (as supplemented) relating to the issuance of the particular debt securities.

Any senior convertible debt securities will be issued under a senior indenture to be entered into between us and the trustee named in the senior indenture. Any subordinated debt securities will be issued under a subordinated indenture to be entered into between us and the trustee named in the subordinated indenture. As used in this registration statement, the term “indentures” refers to both the senior indenture and the subordinated indenture. The indentures will be qualified under the Trust Indenture Act of 1939, as amended. As used in this registration statement, the term “debt trustee” refers to either the senior trustee or the subordinated trustee, as applicable.

The following summaries of some material provisions of the convertible debt securities and the indentures are subject to, and qualified in their entirety by reference to, all the provisions of the indenture (as supplemented) applicable to a particular series of debt securities, including the definitions therein of some terms. Except as otherwise indicated, the terms of any senior indenture and subordinated indenture will be identical.

General

If applicable, each prospectus supplement will describe the following terms relating to a series of debt securities:

- the title of the debt securities;
- whether the debt securities are senior debt securities or subordinated debt securities and, if subordinated, the terms of subordination;
- any limit on the amount of debt securities that may be issued;
- whether any of the debt securities will be issuable, in whole or in part, in temporary or permanent global form or in the form of book-entry securities;
- the maturity dates of the debt securities;
- the annual interest rates (which may be fixed or variable) or the method for determining the rates and the dates interest will begin to accrue on the debt securities, the dates interest will be payable and the regular record dates for interest payment dates or the method for determining the dates;
- the places where payments with respect to the debt securities shall be payable;
our right, if any, to defer payment of interest on the debt securities and the maximum length of any deferral period;

- the date, if any, after which, and the prices at which, the series of debt securities may, pursuant to any optional redemption provisions, be redeemed at our option, and other related terms and provisions;

- the dates, if any, on which, and the prices at which we are obligated, pursuant to any mandatory sinking fund provisions or otherwise, to redeem, or at the holder’s option to purchase, the series of debt securities and other related terms and provisions;

- the denominations in which the series of debt securities will be issued, if other than denominations of $1,000 and any integral multiple thereof;

- any mandatory or optional sinking fund or similar provisions with respect to the debt securities;

- the currency or currency units of payment of the principal of, premium, if any, and interest on the debt securities;

- any index used to determine the amount of payments of the principal of, premium, if any, and interest on the debt securities and the manner in which the amounts shall be determined;

- the terms pursuant to which the debt securities are subject to defeasance;

- the terms and conditions, if any, pursuant to which the debt securities are secured; and

- any other terms (which terms shall not be inconsistent with the applicable indenture) of the debt securities.

Conversion or Exchange Rights

The terms on which a series of debt securities may be convertible into or exchangeable for common stock or other of our securities will be detailed in the prospectus supplement relating thereto. The terms will include provisions as to whether conversion or exchange is mandatory, at the option of the holder or at our option, and may include provisions pursuant to which the number of shares of common stock or other of our securities to be received by the holders of the series of debt securities would be subject to adjustment.

Consolidation, Merger or Sale

Unless otherwise noted in a prospectus supplement, the indentures will not contain any covenant which restricts our ability to merge or consolidate, or sell, convey, transfer or otherwise dispose of all or substantially all of our assets. However, any successor or acquirer of the assets must assume all of our obligations under the indentures or the debt securities, as appropriate.

Events of Default Under the Indentures

Unless otherwise noted in a prospectus supplement, the following will be events of default under the indentures with respect to any series of debt securities issued:

- failure to pay interest on the debt securities when due and the failure continues for 30 days and the time for payment has not been extended or deferred;

- failure to pay the principal or premium of the debt securities, if any, when due;
failure to deposit any sinking fund payment, when due, for any debt security and, in the case of the subordinated indenture, whether or not the deposit is prohibited by the subordination provisions;

failure to observe or perform any other covenant contained in the debt securities or the indentures other than a covenant specifically relating to another series of debt securities, and the failure continues for 60 days after we receive notice from the debt trustee or holders of at least 25% in aggregate principal amount of the outstanding debt securities of that series;

failure by us to deliver common stock or other securities when the holder or holders of the debt securities elect to convert the debt securities into shares of common stock or other of our securities; and

certain events of bankruptcy, insolvency or reorganization with respect to us.

The supplemental indenture or the form of note for a particular series of debt securities may include additional events of default or changes to the events of default described above. For any additional or different events of default applicable to a particular series of debt securities, see the prospectus supplement relating to the series.

If an event of default with respect to debt securities of any series occurs and is continuing, the debt trustee or the holders of at least 25% in aggregate principal amount of the outstanding debt securities of that series, by notice in writing to us (and to the debt trustee if notice is given by the holders), may declare the unpaid principal, premium, if any, and accrued interest, if any, due and payable immediately.

The holders of a majority in principal amount of the outstanding debt securities of an affected series may waive any default or event of default with respect to the series and its consequences, except defaults or events of default regarding:

- payment of principal, premium, if any, or interest on the debt securities, or
- certain covenants containing limitations on our ability to pay dividends and make payments on debt securities in certain circumstances.

Any waiver shall cure the default or event of default.

Subject to the terms of the indentures (as supplemented), if an event of default under an indenture shall occur and be continuing, the debt trustee will be under no obligation to exercise any of its rights or powers under the indenture at the request or direction of any of the holders of the applicable series of debt securities, unless the holders have offered the debt trustee reasonable indemnity. The holders of a majority in principal amount of the outstanding debt securities of any series will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the debt trustee, or exercising any trust or power conferred on the debt trustee, with respect to the debt securities of that series, provided that:

- it is not in conflict with any law or the applicable indenture;
- the debt trustee may take any other action deemed proper by it which is not inconsistent with the direction; and
- subject to its duties under the Trust Indenture Act of 1939, as amended, the debt trustee need not take any action that might involve it in personal liability or might be unduly prejudicial to the holders not involved in the proceeding.

A holder of the debt securities of any series will only have the right to institute a proceeding under the indentures, appoint a receiver or trustee, or to seek other remedies, if:
the holder has given written notice to the debt trustee of a continuing event of default with respect to that series;

the holders of at least 25% in aggregate principal amount of the outstanding debt securities of that series have made written request, and the holders have offered reasonable indemnity to the debt trustee to institute proceedings; and

the debt trustee does not institute a proceeding and holders of a majority in principal amount of the total outstanding securities have not given the debt trustee a direction inconsistent with such written request within 60 days after the notice, request and offer.

These limitations will not apply to a suit instituted by a holder of debt securities if we default in the payment of principal, premium, if any, or interest on the debt securities.

We will periodically file statements with the debt trustee regarding our compliance with certain of the covenants in the indentures.

**Modification of Indenture; Waiver**

We and the debt trustee may change an indenture without the consent of any holders with respect to specific matters, including:

- to fix any ambiguity, defect or inconsistency in the indenture;
- to change anything that does not materially adversely affect the interests of any holder of debt securities of any series;
- to provide for the assumption by a successor person or the acquirer of all or substantially all of our assets of our obligations under such indenture;
- to evidence and provide for successor trustees;
- to add, change or eliminate any provision affecting only debt securities not yet issued; and
- to comply with any requirement of the SEC in connection with qualification of an indenture under the Trust Indenture Act of 1939, as amended.

In addition, subject to the indentures (as supplemented), the rights of holders of a series of debt securities may be changed by us and the debt trustee with the written consent of the holders of at least a majority in aggregate principal amount of the outstanding debt securities of each series that is affected. However, the following changes may only be made with the consent of each holder of any outstanding debt securities affected:

- extend the fixed maturity of the series of debt securities;
- change any obligation of ours to pay additional amounts with respect to the debt securities;
- reduce the principal amount or reduce the rate of, or extend the time of payment of, interest, or any premium payable upon the redemption of any debt securities;
- reduce the amount of principal of an Original Issue Discount Security or any other debt security payable upon acceleration of the maturity thereof;
- change the currency in which any debt security or any premium or interest is payable;
• impair the right to enforce any payment on or with respect to any debt security;

• adversely change the right to convert or exchange, including decreasing the conversion rate or increasing the conversion price of, the debt security (if applicable);

• in the case of the subordinated indenture, modify the subordination provisions in a manner adverse to the holders of the subordinated debt securities;

• if the debt securities are secured, change the terms and conditions pursuant to which the debt securities are secured in a manner adverse to the holders of the secured debt securities;

• reduce the percentage in principal amount of outstanding debt securities of any series, the consent of whose holders is required for modification or amendment of the applicable indenture or for waiver of compliance with certain provisions of the applicable indenture or for waiver of certain defaults; or

• modify any of the above provisions.

Form, Exchange and Transfer

The debt securities of each series will be issuable only in fully registered form without coupons and, unless otherwise specified in the applicable prospectus supplement, in denominations of $1,000 and any integral multiple thereof. The indentures will provide that debt securities of a series may be issuable in temporary or permanent global form and may be issued as book-entry securities that will be deposited with, or on behalf of, The Depository Trust Company or another depository named by us and identified in a prospectus supplement with respect to the series.

At the option of the holder, subject to the terms of the indentures (as supplemented) and the limitations applicable to global securities described in the applicable prospectus supplement, debt securities of any series will be exchangeable for other debt securities of the same series, in any authorized denomination and of like tenor and aggregate principal amount.

Subject to the terms of the indentures and the limitations applicable to global securities detailed in the applicable prospectus supplement, debt securities may be presented for exchange or for registration of transfer (duly endorsed or with the form of transfer endorsed thereon duly executed if so required by us or the security registrar) at the office of the security registrar or at the office of any transfer agent designated by us for that purpose. Unless otherwise provided in the debt securities to be transferred or exchanged, no service charge will be made for any registration of transfer or exchange, but we may require payment of any taxes or other governmental charges. The security registrar and any transfer agent (in addition to the security registrar) initially designated by us for any debt securities will be named in the applicable prospectus supplement. We may at any time designate additional transfer agents or rescind the designation of any transfer agent or approve a change in the office through which any transfer agent acts, except that we will be required to maintain a transfer agent in each place of payment for the debt securities of each series.

If the debt securities of any series are to be redeemed, we will not be required to:

• issue, register the transfer of, or exchange any debt securities of that series during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption of any debt securities that may be selected for redemption and ending at the close of business on the day of the mailing, or

• register the transfer of or exchange any debt securities so selected for redemption, in whole or in part, except the unredeemed portion of any debt securities being redeemed in part.

Information Concerning the Debt Trustee

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The debt trustee, other than during the occurrence and continuance of an event of default under an indenture, undertakes to perform only the duties specifically detailed in the indentures and, upon an event of default under an indenture, must use the same degree of care as a prudent person would exercise or use in the conduct of his or her own affairs. Subject to this provision, the debt trustee is under no obligation to exercise any of the powers given it by the indentures at the request of any holder of debt securities unless it is offered reasonable security and indemnity against the costs, expenses, and liabilities that it might incur. The debt trustee is not required to spend or risk its own money or otherwise become financially liable while performing its duties unless it reasonably believes that it will be repaid or receive adequate indemnity.

**Payment and Paying Agents**

Unless otherwise indicated in the applicable prospectus supplement, payment of the interest on any debt securities on any interest payment date will be made to the person in whose name the debt securities (or one or more predecessor securities) are registered at the close of business on the regular record date for the payment of interest.

Principal of and any premium and interest on the debt securities of a particular series will be payable at the office of the paying agents designated by us, except that unless otherwise indicated in the applicable prospectus supplement, interest payments may be made by check mailed to the holder. Unless otherwise indicated in the prospectus supplement, the corporate trust office of the debt trustee in the City of New York will be designated as our sole paying agent for payments with respect to debt securities of each series. Any other paying agents initially designated by us for the debt securities of a particular series will be named in the applicable prospectus supplement. We will be required to maintain a paying agent in each place of payment for the debt securities of a particular series.

All moneys paid by us to a paying agent or the debt trustee for the payment of the principal of or any premium or interest on any debt securities which remains unclaimed at the end of two years after the principal, premium, or interest has become due and payable will be repaid to us, and the holder of the security thereafter may look only to us for payment thereof.

**Governing Law**

The indentures and the debt securities will be governed by and construed in accordance with the laws of the State of New York, but without giving effect to applicable principles of conflicts of law to the extent that the application of the law of another jurisdiction would be required thereby.

**Subordination of Subordinated Debt Securities**

Any subordinated debt securities will be subordinate and junior in priority of payment to certain of our other indebtedness to the extent described in a prospectus supplement. Unless otherwise noted in a prospectus supplement, the subordinated indenture will not limit the amount of subordinated debt securities which we may issue, nor will it limit us from issuing any other secured or unsecured debt.

**Original Issue Discount**

The debt securities may be issued as original issue discount securities. An original issue discount security is a debt security, including any zero-coupon debt security, which:

- is issued at a price lower than the amount payable upon its stated maturity, and
- provides that upon redemption or acceleration of maturity, an amount less than the amount payable upon the stated maturity shall become due and payable.

United States federal income tax considerations applicable to debt securities sold at an original issue discount will be described in the applicable prospectus supplement. In addition, United States federal income tax or other considerations applicable to any debt securities which are denominated in a currency or currency unit other than United States dollars may be described in the applicable prospectus supplement.
Under the indentures, we will have the ability, in addition to the ability to issue debt securities with terms different from those of debt securities previously issued, to reopen a previous issue of a series without the consent of the holders of debt securities and issue additional debt securities of that series, unless the reopening was restricted when the series was created, in an aggregate principal amount determined by us.

**DESCRIPTION OF CAPITAL STOCK**

ANADIGICS has 150,000,000 authorized shares of capital stock, consisting of 144,000,000 shares of common stock, par value $.01 per share, 1,000,000 shares of non-voting common stock, par value $.01 per share, and 5,000,000 shares of preferred stock, par value $.01 per share. As of June 30, 2012, we had 70,975,885 shares of common stock outstanding and no shares of preferred stock or non-voting common stock outstanding.

The following is a summary of certain provisions of Delaware law and our certificate of incorporation and by-laws. This summary does not purport to be complete and is qualified in its entirety by reference to the corporate law of Delaware and our certificate of incorporation and by-laws.

**Description of Common Stock and Non-Voting Common Stock**

The rights of holders of common stock and non-voting common stock are identical except for voting and certain conversion privileges. Subject to the prior rights of the holders of any preferred stock, the holders of outstanding shares of common stock and non-voting common stock are entitled to receive dividends out of assets legally available therefore at such times and in such amounts as our board of directors may from time to time determine. The shares of common stock and non-voting common stock are not redeemable, and the holders thereof have no preemptive or subscription rights to purchase any of our securities. Upon liquidation, dissolution or winding up of ANADIGICS, the holders of common stock and non-voting common stock are entitled to receive pro rata our assets which are legally available for distribution, after payment of all debts and other liabilities and subject to the prior rights of any holders of preferred stock then outstanding. Each outstanding share of common stock is entitled to one vote on all matters submitted to a vote of stockholders. Holders of non-voting common stock are not entitled to vote, except as required by law or in the case of certain amendments to or modifications of our certificate of incorporation. There is no cumulative voting. Subject to restrictions in our certificate of incorporation, certain holders of common stock may convert, at any time, any or all of the shares of common stock held by such holders into non-voting common stock on a one-for-one basis. Subject to restrictions in our certificate of incorporation and to certain regulatory limitations which may be imposed upon a holder thereof, the non-voting common stock is convertible on a one-for-one basis into common stock at any time at the option of the holder thereof.

**Description of Preferred Stock**

Under our certificate of incorporation, our board of directors is authorized, without further stockholder vote or action, to issue up to 5,000,000 shares of preferred stock in one or more series, and to fix the rights, preferences, privileges and restrictions thereof, including dividend rights, dividend rates, conversion rights, voting rights, terms of redemption, redemption prices, liquidation preferences and the number of shares constituting any series of the designation of such series. As of April 4, 2009, our board of directors had authorized for issuance 30,000 shares of Series A Junior Participating Preferred Stock, par value $.01 per share, in connection with our Rights Plan (as described below) and no preferred shares were outstanding.

Issuances of preferred shares are subject to the applicable rules of the NASDAQ National Market or other regulatory organizations on whose systems our stock may then be quoted or listed. The issuance of shares of preferred stock may have the effect of delaying, deferring or preventing a change in control of the company without further action by our stockholders and may adversely affect the voting and other rights of the holders of our common stock, including the loss of voting control to others.
Our board of directors, in approving the issuance of a series of convertible preferred stock, has the authority to determine, and the applicable prospectus supplement may set forth with respect to such series, the following terms, among others:

- the number of shares constituting that series and the distinctive designation of that series;
- the dividend rate of that series, the conditions of and the time of payment thereof, whether dividends shall be cumulative, and, if so, the date or dates from which any cumulative dividends shall commence to accrue, and the relative rights of priority, if any, of payment of dividends on shares of that series over shares of any other class or series;
- the voting rights of that series, if any, and the terms of such voting rights;
- whether or not the shares of that series shall be redeemable, and, if so, the terms and conditions of any such redemption, including the date or dates upon or after which such shares shall be redeemable and the amount payable per share in case of redemption, which amount may vary under different conditions and at different redemption dates;
- whether that series shall have a sinking fund for the redemption or purchase of shares of that series, and, if so, the terms and conditions and amount of such sinking fund;
- the rights of shares of that series in the event of a merger, acquisition, voluntary or involuntary liquidation, dissolution, distribution of assets or winding-up of ANADIGICS, and the relative rights of priority, if any, of payment of shares of that series over shares of any other class or series;
- whether the issuance of any additional shares of that series, or of any shares of any other series, shall be subject to restrictions as to issuance, or as to the powers, preferences or rights of any such other series;
- whether the shares of that series shall be convertible into or exchangeable for shares of any other class or series, or any other security of ANADIGICS or any other corporation, and, if so, the specification of such other class, series or type of such other security, the conversion or exchange price or prices or rate or rates, any adjustments thereof, the date or dates at which the shares of the series shall be convertible or exchangeable and all other terms and conditions upon which such conversion or exchange may be made; and
- any other preferences, privileges and powers and relative, participating, optional or other special rights and qualifications, limitations or restrictions of that series as the board of directors may deem advisable and as shall not be inconsistent with the provisions of our certificate of incorporation and as permitted under the laws of the State of Delaware.

Description of Rights Plan

On December 17, 1998, our board of directors declared a dividend distribution of one right for each of our outstanding shares of common stock.

The distribution was payable to holders of record on December 31, 1998, the record date. The right also attached to each share of common stock issued after the record date but before the distribution date or expiration date. Each right entitles the registered holder to purchase from us one one-thousandth of a share of Series A Junior Participating Preferred Stock, at a price of $75.00 per one one-thousandth of a share, referred to as the purchase price, subject to adjustment. The description and terms of the rights are set forth in a rights agreement, as amended, between us and Computershare (formerly known as Mellon Investor Services, L.L.C.), as rights agent.

Distribution Date; Transfer of Rights
Until the earlier to occur of:

- ten calendar days following the shares acquisition date, the date of public announcement that a person or group of affiliated or associated persons has acquired, or obtained the right to acquire, beneficial ownership of common stock or other voting securities that have 18% or more of the voting power of the outstanding shares of our voting stock; or

- ten calendar days, or such later date as may be determined by action of the board of directors prior to the shares acquisition date, following the commencement or announcement of an intention to make a tender offer or exchange offer, the consummation of which would result in a person or group acquiring, or obtaining the right to acquire, beneficial ownership of voting stock having 18% or more of the voting power of the outstanding shares of voting stock,

the rights will be evidenced, with respect to any of our common stock certificates outstanding as of the record date or issued after the record date but before the expiration date, by such common stock certificates. We refer to the earlier of these two dates as the distribution date and we refer to any person or group that reaches such 18% threshold as an acquiring person. The rights agreement provides that, until the distribution date, the rights will be transferred with and only with our common stock. Until the distribution date, or earlier redemption or expiration of the rights, new common stock certificates issued after the record date will contain a notation incorporating the rights agreement by reference and the surrender for transfer of any of our common stock certificates outstanding as of the record date or issued after the record date but before the expiration date will also constitute the transfer of the rights associated with the common stock represented by such certificate. As soon as practicable following the distribution date, separate certificates evidencing the rights, each referred to as right certificates, will be mailed to holders of record of our common stock as of the close of business on the distribution date and such separate certificates alone will evidence the rights.

The rights are not exercisable until the distribution date. The rights will expire at the close of business on December 17, 2018, unless earlier redeemed or exchanged by us as described below. We refer to such earliest date as the expiration date.

**Exercise of Rights for Our Common Stock**

In the event that a person becomes an acquiring person, each holder of a right will thereafter have the right to receive, upon exercise, common stock or, in certain circumstances, cash, property or other of our securities having a value equal to two times the purchase price of the right. In contrast, all rights that are or, under certain circumstances specified in the rights agreement, were beneficially owned by any acquiring person will be null and void.

**Exercise of Rights for Shares of the Acquiring Company**

In the event that, at any time following the shares acquisition date:

- we are acquired in a merger or other business combination transaction, or
- 50% or more of our assets or earning power is sold or transferred,

each holder of a right, except rights which previously have been voided as set forth above, shall thereafter have the right to receive, upon exercise, common stock of the acquiring company having a value equal to two times the purchase price of the right.

**Adjustments to Purchase Price**

The purchase price payable, and the number of shares of this preferred stock (or common stock or other securities, as the case may be) issuable, upon exercise of the rights are subject to adjustment from time to time to prevent dilution:
in the event of a stock dividend on, or a subdivision, combination or reclassification of this preferred stock;

upon the grant to holders of this preferred stock of certain rights or warrants to subscribe or shares of this preferred stock or convertible securities at less than the current market price of this preferred stock; or

upon the distribution to holders of this preferred stock of evidence of indebtedness or assets, excluding regular periodic cash dividends out of earnings or retained earnings or dividends payable in this preferred stock, or of subscription rights or warrants, other than those referred to above.

With certain exceptions, no adjustment in the purchase price will be required after the earlier of three years from the date of the event giving rise to such adjustment or the expiration date. In addition, no adjustment is required unless cumulative adjustments require an adjustment of at least 1% in such purchase price. No fractional shares will be issued, and, instead of a fractional share issuance, an adjustment in cash will be made based on the market price of this preferred stock on the last trading date prior to the date of exercise.

Exchange and Redemption of Rights

At any time after the occurrence of the event set forth under “—Exercise of Rights for Our Common Stock” above, the board of directors may exchange the rights, other than the voided rights held by the acquiring person, in whole or in part, at an exchange ratio of one share of our common stock, or a fraction of a share of this preferred stock having the same market value, per right, subject to adjustment.

At any time prior to 5:00 P.M. New York City time on the tenth calendar day following the shares acquisition date, we may redeem the rights in whole, but not in part, at a price of $.001 per right, such price being referred to as the redemption price. Promptly upon the action of our board of directors electing to redeem the rights, we shall make a public announcement, and upon such action, the right to exercise the rights will terminate and the only right of the holders of rights will be to receive the redemption price. Until a right is exercised or exchanged, the holder thereof, as such, will have no rights as a stockholder of ANADIGICS, including, without limitation, the right to vote or to receive dividends.

Terms of This Preferred Stock

This preferred stock will rank junior to all other series of our preferred stock with respect to payment of dividends and as to distributions of assets in liquidation. Each share of this preferred stock will have a quarterly dividend rate per share equal to the greater of $1.00 or 1,000 times the per share amount of any dividend, other than a dividend payable in shares of common stock or a subdivision of the common stock, declared from time to time on the common stock, subject to certain adjustments. This preferred stock will not be redeemable. In the event of liquidation, the holders of this preferred stock will be entitled to receive a preferred liquidation payment per share of $1.00, plus accrued and unpaid dividends, or, if greater, an amount equal to 1,000 times the payment to be made per share of common stock, subject to certain adjustments. Generally, each share of this preferred stock will vote together with the common stock and any other series of cumulative preferred stock entitled to vote in such manner and will be entitled to 1,000 votes, subject to certain adjustments. In the event of any merger, consolidation, combination or other transaction in which shares of common stock are exchanged for or changed into other stock or securities, cash and/or other property, each share of this preferred stock will be entitled to receive 1,000 times the aggregate amount of stock, securities, cash and/or other property, into which or for which each share of common stock is changed or exchanged, subject to certain adjustments. The foregoing dividend, voting and liquidation rights of this preferred stock are protected against dilution in the event that additional shares of common stock are issued pursuant to a stock split or stock dividend or distribution. Because of the nature of this preferred stock’s dividend, voting, liquidation and other rights, the value of the one one-thousandth of a share of this preferred stock purchasable with each right is intended to approximate the value of one share of common stock.

Amendments to Terms of the Rights

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Any of the provisions of the rights agreement may be amended by our board of directors prior to the earlier of the distribution date or shares acquisition date. After the earlier of the distribution date or shares acquisition date, the provisions of the rights agreement may be amended by our board of directors in order to cure any ambiguity, defect or inconsistency, or to make changes which do not adversely affect the interests of holders of rights, excluding the interests of any acquiring person; provided, however, that no supplement or amendment may be made after the earlier of the distribution date or shares acquisition date that changes those provisions relating to the principal economic terms of the rights.

**Antitakeover Effects of Provisions of the Charter, By-laws and Certain Other Agreements**

Stockholders’ rights and related matters are governed by Delaware law and our certificate of incorporation and by-laws. Certain provisions of Delaware law and our certificate of incorporation and by-laws, which are summarized below, may discourage or make more difficult a takeover attempt that a stockholder might consider in its best interest. Such provisions may also adversely affect prevailing market prices for our common stock.

**Staggered Board of Directors**

Our certificate of incorporation provides that our board of directors is divided into three classes, each elected for a three-year term. This provision could discourage a takeover attempt because at no time is a majority of the board of directors standing for re-election.

**Advance Notice Requirements for Stockholder Proposals and Director Nominations**

Our by-laws contain advance notice procedures with regard to stockholder proposals and the nomination, other than by or at the direction of the board of directors or a committee thereof, of candidates for election as directors. These procedures provide that notice of stockholder proposals and stockholder nominations for the election of directors at an annual meeting must be in writing and received by our secretary no later than 90 days nor more than 120 days before the first anniversary date of our proxy statement in connection with our last annual meeting of stockholders. The notice of stockholder nominations must set forth certain information about each nominee who is not an incumbent director.

**Limitation of Liability of Directors**

Our certificate of incorporation provides that a director will not be personally liable to us or our stockholders for monetary damages for breach of a fiduciary duty as a director, except for liability for any breach of the director’s duty of loyalty to us or our stockholders, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, for the unlawful payment of dividends, stock purchases or redemptions or for any transaction from which the director or officer derived an improper personal benefit.

**Section 203 of the Delaware General Corporation Law**

Section 203 of the Delaware General Corporation Law prevents an “interested stockholder”, defined in Section 203, generally, as a person owning 15% or more of a corporation’s outstanding voting stock, from engaging in a “business combination” with us for three years following the date such person became an interested stockholder unless:

- before such person became an interested stockholder, our board of directors approved either the business combination or the transaction that resulted in the interested stockholder becoming an interested stockholder;
- upon consummation of the transaction that resulted in the interested stockholder becoming an interested stockholder, the interested stockholder owns at least 85% of our voting stock outstanding at the time the transaction commenced, excluding stock held by directors who are also officers and by employee stock plans that do not provide employees with the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or
following the transaction in which such person became an interested stockholder, the business
combination is approved by our board of directors and authorized at a meeting of stockholders by the
affirmative vote of the holders of two-thirds of our outstanding voting stock not owned by the
interested stockholder.

The statute contains provisions enabling a corporation to avoid the statute’s restrictions. We have not
sought to “elect out” of the statute, and therefore, the restrictions imposed by this statute will apply to us.

**LEGAL MATTERS**

Certain legal matters in connection with the validity of the securities of the Company will be passed upon
for us by Cahill Gordon & Reindel LLP, New York, New York.

**EXPERTS**

Ernst & Young LLP, independent registered public accounting firm, has audited our consolidated financial
statements and schedule included in our Annual Report on Form 10-K for the year ended December 31, 2011, and
the effectiveness of our internal control over financial reporting as of December 31, 2011, as set forth in their
reports, which are incorporated by reference in this prospectus and elsewhere in the registration statement. Our
financial statements and schedule and our management’s assessment of the effectiveness of internal control over
financial reporting as of December 31, 2011 are incorporated by reference in reliance on Ernst & Young LLP’s
reports, given on their authority as experts in accounting and auditing.

**WHERE YOU CAN FIND MORE INFORMATION**

We are a reporting company and file annual, quarterly and current reports, proxy statements and other
information with the SEC. These reports, proxy statements and the other information we file with the SEC contain
additional information about us. Our SEC filings are available to the public at the SEC’s web site at
http://www.sec.gov. You may also read and copy these reports, proxy statements and other information at the SEC’s
Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for
more information about the operation of the Public Reference Room. You can also inspect these materials at the
offices of the Nasdaq Stock Market, at 1735 K Street, N.W., Washington, D.C. 20006.

We have filed with the SEC a registration statement on Form S-3 under the Securities Act of 1933, as
amended, with respect to the securities that may be offered hereby. This prospectus does not contain all the
information set forth in the registration statement, certain parts of which are omitted in accordance with the rules and
regulations of the SEC. For more information about us and the securities covered by this prospectus, you should see
the registration statement and its exhibits and schedules. Any statement made in this prospectus concerning the
provisions of documents may be incomplete, and you should refer to the copy of such documents filed as an exhibit
to the registration statement with the SEC.

**INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE**

The SEC allows us to incorporate by reference the information we file with them, which means that we can
disclose important information to you by referring you to those documents. The information incorporated by
reference is an important part of this prospectus, and information we file with the SEC after the date of this
prospectus will automatically update and supersede the information included and the information incorporated by
reference in this prospectus.
We incorporate by reference the following documents and any future filings we will make with the SEC under Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, prior to the termination of this offering:

- Our Quarterly Report on Form 10-Q for the quarter ended March 31, 2012;
- Our Annual Report on Form 10-K for the year ended December 31, 2011;
- Our description of our common stock set forth in our registration statement on Form 8-A, filed with the SEC on March 8, 1995, including any amendments or report filed for the purpose of updating this description; and
- Our description of ANADIGICS’ preferred share purchase rights contained in our registration statement on Form 8-A12G filed with the SEC on October 2, 2008.

On written or oral request, we will provide without charge a copy of any or all of the above documents incorporated by reference (other than exhibits to documents, unless the exhibits are specifically incorporated by reference into the documents that this prospectus incorporates). You may request a copy of these documents by contacting us at: Terrence G. Gallagher, Vice President and Chief Financial Officer, ANADIGICS, Inc., 141 Mt. Bethel Road, Warren, New Jersey 07059, telephone: (908) 668-5000.
PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 14. Other Expenses of Issuance and Distribution.*

Securities and Exchange Commission Registration Fee $ 6,876
Independent Accountants’ Fees and Expenses 5,000
Legal Services and Expenses (including Blue Sky fees and expenses) 60,000
Trustees’ Fees and Expenses 15,000
Total $ 86,876

* Other than the Securities and Exchange Commission Registration Fee, all amounts set forth above are estimates.

ITEM 15. Indemnification of Directors and Officers.

Reference is made to information provided under Item 6 of the Company’s Registration Statement on Form S-8 (SEC File No. 333-172129), filed with the SEC on February 9, 2011, which information is incorporated herein by reference.

ITEM 16. Exhibits.

1.1** — Form of Equity Underwriting Agreement.
1.2** — Form of Convertible Debt Underwriting Agreement.
4.1 — Form of Convertible Senior/Subordinated Debt Indenture.
4.2* — Form of Common Stock Certificate. Filed as an exhibit to the Company’s Registration Statement on Form S-1 (Registration No. 33-89928), and incorporated herein by reference.
4.3** — Form of Senior Convertible Debt Security.
4.4** — Form of Subordinated Convertible Debt Security.
4.6* — Amendment No. 1 dated as of November 20, 2000 to the Rights Agreement dated as of December 17, 1998 between the Company and Computershare (formerly known as Mellon Investor Services, L.L.C.) (incorporated herein by reference to Form 8-K filed December 4, 2000).
4.7* — Amendment No. 2 dated as of October 2, 2008, to the Rights Agreement, dated as of December 17, 1998, as amended as of November 30, 2000, between the Company and Computershare (formerly known as Mellon Investor Services, L.L.C.) (incorporated herein by reference to Form 8-K filed on October 2, 2008).
5.1 — Opinion of Cahill Gordon & Reindel LLP.
12.1 — Statement of Computation of Ratio of Earnings to Fixed Charges.
23.1 — Consent of Independent Registered Public Accounting Firm — Ernst & Young LLP.
23.3 — Consent of Cahill Gordon & Reindel LLP (included as part of Exhibit 5.1).
24.1 — Power of Attorney (see page II-6).
25.1** — Form T-1 Statement of Eligibility of the Trustee under the ANADIGICS, Inc. Senior Indenture under the Trust Indenture Act of 1939, as amended.
ITEM 17. Undertakings.

a) The undersigned registrant hereby undertakes:

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

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

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities being 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 a 20% 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 the undertakings set forth in paragraphs (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) of this section 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 Commission 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 at that time shall be deemed to be the initial bona fide offering thereof.

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

b) The undersigned registrant hereby undertakes that, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:
(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 the 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.

c) The undersigned registrant hereby undertakes 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, in a primary offering of securities of the 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 an 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 an undersigned registrant to the purchaser.

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

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

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

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

   g) 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 (“Act”) in accordance
   with the rules and regulations prescribed by the Commission under section 305(b)(2) of the Act
SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant as amended, ANADIGICS, Inc. 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 Township of Warren, State of New Jersey, on the 2nd day of August, 2012.

ANADIGICS, INC.
By: /s/ Terrence G. Gallagher
Name: Terrence G. Gallagher
Title: Vice President and Chief Financial Officer
ANADIGICS, INC.
POWER OF ATTORNEY

Each person whose individual signature appears below hereby authorizes Ronald Michels and Terrence G. Gallagher, or either of them, as attorney-in-fact, with full power of substitution, to execute in the name and on behalf of such person, individually and in each capacity stated below, and to file, any and all amendments to this registration statement, including any and all post-effective amendments as well as any new registration statement pursuant to Rule 462(b) of the Securities Act of 1933.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities indicated on the 2nd day of August, 2012.

/s/ Ron Michels
Ron Michels  President, Chief Executive Officer and Director

/s/ Terrence G. Gallagher
Terrence G. Gallagher  Vice President and Chief Financial and Accounting Officer

/s/ Paul Bachow
Paul Bachow  Director

/s/ David Fellows
David Fellows  Director

/s/ Harry Rein
Harry Rein  Director

/s/ Ronald Rosenzweig
Ronald Rosenzweig  Director

/s/ Lewis Solomon
Lewis Solomon  Director

/s/ Dennis Strigl
Dennis Strigl  Director
ANADIGICS, INC., Issuer

to

, Trustee

INDENTURE

Dated as of , 201

Convertible [Subordinated] Debt Securities

Reconciliation and tie between Indenture, dated as of , 201 , and the Trust Indenture Act of 1939, as amended (“TIA”).

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EXHIBIT A – FORM OF FACE OF SECURITY  
FORM OF REVERSE OF SECURITY  

-\text{-v-}\)
INDENTURE

Indenture, dated as of , 201 , from ANADIGICS, Inc., a Delaware corporation (the “Company”), as issuer, and, , as Trustee (the “Trustee”).

RECITALS

The Company has duly authorized the execution and delivery of this Indenture to provide for the issuance from time to time of its convertible [subordinated] debentures, notes or other evidences of indebtedness (“Securities”) to be issued in one or more series as herein provided.

All things necessary to make the Securities, when executed by the Company, the valid obligations of the Company, and to make this Indenture a valid agreement of the Company, in accordance with their and its terms, have been done.

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

ARTICLE 1

Definitions and Other Provisions of General Application

Section 1.1 Definitions

(a) For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(i) the terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular;

(ii) all other terms used herein which are defined in the Trust Indenture Act, either directly or by reference therein, have the meanings assigned to them therein;

(iii) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles; and

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

“Additional Premium” has the meaning assigned in Section 12.16.

“Adjustment Event” has the meaning assigned in Section 12.4.

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

“Agent” means any Paying Agent or Registrar.
“**Authenticating Agent**” means any authenticating agent appointed by the Trustee pursuant to Section 6.14.

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

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

“**Business Day**” when used with respect to any Place of Payment or any other particular location referred to in this Indenture or in the Securities, means, unless otherwise specified with respect to any Securities pursuant to Section 3.1, each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in that Place of Payment or particular location are authorized or obligated by law or executive order to close.

“**Calculation Agent**” means the calculation agent from time to time appointed by the Company pursuant to Section 12.16(e).

“**Cash**” or “**cash**” means such coin or currency of the United States as at any time of payment is legal tender for the payment of public and private debts.

“**Closing Price**” of the Common Stock on any date means the closing price per share (or if no closing price is reported, the average of the closing bid and ask prices or, if more than one in either case, the average of the average closing bid and the average closing ask prices) on such date as reported in composite transactions for the principal United States securities exchange on which the Common Stock is traded (if other than the New York Stock Exchange) or, if the Common Stock is not listed on a United States national or regional securities exchange, the closing price as reported by Nasdaq or by the Pink OTC Markets Inc. In the absence of such a quotation, the Company shall determine the Closing Price on the basis that it considers appropriate.

“**Commission**” means the Securities and Exchange Commission, as from time to time constituted, created under the Securities Exchange Act of 1934, or, if at any time after the execution of this Indenture such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties at such time.

“**Common Stock**” includes any stock of any class of the Company which has no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding-up of the Company and which is not subject to redemption by the Company. However, subject to the provisions of Section 12.11, shares issuable on conversion of Securities shall include only shares of the class designated as Common Stock of the Company at the date of this instrument or shares of any class or classes resulting from any reclassification or reclassifications thereof and which have no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding-up of the Company and which are not subject to redemption by the Company; provided that if at any time there shall be more than one such resulting class, the shares of each such class then so issuable shall be substantially in the proportion which the total number of shares of such class resulting from all such reclassifications bears to the total number of shares of all such classes resulting from all such reclassifications.
“Company” means the Person named as the Company in the first paragraph of this Indenture until one or more successor corporations shall have become such pursuant to the applicable provisions of this Indenture, and thereafter means such successors.

“Company Order” and “Company Request” mean, respectively, a written order or request signed in the name of the Company by the Chairman of the Board, the President or any Vice President, or, with respect to Sections 3.3, 3.4, 3.5 and 6.1, any other employee of the Company named in an Officers’ Certificate delivered to the Trustee.

“Conversion Date” has the meaning assigned in Section 12.2.

“Conversion Rate” has the meaning assigned in Section 12.4.

“Corporate Trust Office” means the principal office of the Trustee at which at any particular time its corporate trust business shall be principally administered.

“corporation” includes corporations, associations, companies and business trusts.

“Current Market Price” has the meaning assigned in Section 12.4.

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

“Depositary” means the Depositary Trust Company or its successor depositary.

“Designated Event” means a Fundamental Change or a termination of trading.

“Designated Event Notice” has the meaning assigned in Section 12.14.

“Designated Event Repurchase Date” has the meaning assigned in Section 12.14.

“Determination Date” has the meaning assigned in Section 12.4.

“Distributed Property” has the meaning assigned in Section 12.4.

“Effective Date” has the meaning assigned in Section 12.16.

“Ex-Dividend Date” has the meaning assigned in Section 12.4.

“Expiration Time” has the meaning assigned in Section 12.4.

“Fair Market Value” has the meaning assigned in Section 12.4.

“Fundamental Change” shall be deemed to have occurred at the time after the Securities are originally issued upon the occurrence of any transaction or event (whether by means of an exchange offer, liquidation, tender offer, consolidation, merger, combination, reclassification, recapitalization or otherwise) in connection with which 90% or more of the Common Stock is exchanged for, converted into, acquired for or constitutes solely the right to receive consideration, less than 90% of which is common stock that (x) is listed on, or immediately after the transaction or event will be listed on, a U.S. national securities exchange, or (y) is approved, or immediately after the transaction or event will be approved, for quotation on Nasdaq or any similar U.S. system of automated dissemination of quotations of securities prices.
“Government Obligations” means securities which are (a) direct obligations of the United States or (b) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States, which are not callable or redeemable at the option of the issuer thereof, and shall also include a depositary 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 depositary 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 depositary receipt from any amount received by the custodian in respect of the Government Obligation evidenced by such depositary receipt.

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

“Indebtedness” means all indebtedness, whether or not represented by bonds, debentures, notes or other securities, created or assumed for the repayment of money borrowed.

“Indenture” means this Indenture as originally executed or as amended or supplemented from time to time and shall include the forms and terms (but not defined terms established in an Officers’ Certificate or a Board Resolution) of particular series of Securities established as contemplated by Section 2.1 and Section 3.1.

“Interest” when used with respect to an Original Issue Discount Security which by its terms bears interest only after maturity, means interest payable after maturity.

“Interest Payment Date” when used with respect to any Security, means the Stated Maturity of an installment of interest on such Security.

“Liquidated Damages” has the meaning specified in any registration rights agreement related to the Securities. Unless the context otherwise requires, all references herein and in the Security to “interest” shall include Liquidated Damages, if any.

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

“Non-Electing Share” has the meaning assigned in Section 12.11.

“Officer” means the Chief Executive Officer, the Chief Financial Officer, the President, any Vice President (whether or not designated by a number or numbers, or a word or words added before or after the title Vice President), the Treasurer, the Secretary or assistant Secretary of the Company.

“Officers’ Certificate” means a certificate signed by the Chairman of the Board, the Chief Executive Officer, the Chief Financial Officer, the President or any Vice President.

“Opinion of Counsel” means a written opinion of legal counsel designated by the Company and who shall be reasonably acceptable to the Trustee.

“Original Issue Discount Security” means any Security which 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 5.2.
“Outstanding” when used with respect to Securities, means, as of the date of determination, all Securities theretofore authenticated and delivered under this Indenture, except:

(a) Securities theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;

(b) Securities, or portions thereof, for whose payment or redemption money in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent (other than the Company) in trust or set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent) for the Holders of such Securities provided that, if such Securities are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provisions therefor satisfactory to the Trustee have been made;

(c) Securities, except to the extent provided in Sections 4.4 and 4.5, with respect to which the Company has effected covenant defeasance as provided in Article 4; and

(d) Securities which have been paid pursuant to Section 3.6 or in exchange for or in lieu of which other Securities have been authenticated and delivered pursuant to this Indenture, other than any such Securities in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Securities are held by a bona fide purchaser in whose hands such Securities are valid obligations of the Company; provided, however, that in determining whether the Holders of the requisite principal amount of the Outstanding Securities have given any request, demand, authorization, direction, notice, consent or waiver hereunder, or whether sufficient funds are available for redemption or for any other purpose, and for the purpose of making the calculations required by section 313 of the Trust Indenture Act, (x) the principal amount of any Original Issue Discount Securities that may be counted in making such determination or calculation and that shall be deemed to be Outstanding for such purpose shall be equal to the amount of principal thereof that would be (or shall have been declared to be) due and payable, at the time of such determination, upon a declaration of acceleration of the maturity thereof pursuant to Section 5.2, and (y) Securities owned by the Company or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor shall be disregarded and deemed not to be outstanding, except that, in determining whether the Trustee shall be protected in making such calculation or in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Securities which the Trustee knows to be so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee’s right so to act with respect to such Securities and that the pledgee is not the Company or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor.

“Paying Agent” means any Person authorized by the Company to pay the principal of, premium, if any, or interest on any Securities on behalf of the Company.

“Periodic Offering” means an offering of Securities of a series from time to time the specific terms of which Securities, including, without limitation, the rate or rates of interest or formula for determining the rate or rates of interest thereon, if any, the Stated Maturity or Stated Maturities thereof, the original issue date or dates thereof, the redemption provisions, if any, with respect thereto, and any other terms specified as contemplated by Section 3.1 with respect thereto, are to be determined by the Company upon the issuance of such Securities.

“Person” means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.
“Place of Payment” when used with respect to the Securities of or within any series, means the place or places where, subject to the provisions of Section 9.2 the principal of, premium, if any, and interest on such Securities are payable as specified as contemplated by Section 3.1.

“Predecessor Security” of any particular Security means every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security; and, for the purposes of this definition, any Security authenticated and delivered under Section 3.6 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Security shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Security.

“Purchased Shares” has the meaning assigned in Section 12.4.

“Record Date” has the meaning assigned in Section 12.4.

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

“Redemption Price” when used with respect to any Security to be redeemed, in whole or in part, means the price at which it is to be redeemed pursuant to this Indenture.

“Regular Record Date” for the interest payable on any Interest Payment Date on the Securities of or within any series means the date specified for that purpose as contemplated by Section 3.1.

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

“Rights” has the meaning assigned in Section 12.12.

“Rights Plan” has the meaning assigned in Section 12.12.

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

“Senior Indebtedness” means all Indebtedness of the Company (other than the Securities), unless such Indebtedness, by its terms or the terms of the instrument creating or evidencing it, is subordinate in right of payment to or pari passu with the Securities.

“Special Record Date” for the payment of any Defaulted Interest on the Securities of any issue means a date fixed by the Trustee pursuant to Section 3.7.

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

“Stock Price” has the meaning assigned in Section 12.16.
“Stock Price Cap” has the meaning assigned in Section 12.16.

“Stock Price Threshold” has the meaning assigned in Section 12.16.

“Subsidiary” means any corporation of which the Company at the time owns or controls, directly or indirectly, more than 50% of the shares of outstanding stock having general voting power under ordinary circumstances to elect a majority of the Board of Directors of such corporation (irrespective of whether or not at the time stock of any other class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency).

“Trading Day” has the meaning assigned in Section 12.4.

“Trigger Event” has the meaning assigned in Section 12.4.

“Trust Indenture Act” means the Trust Indenture Act of 1939, as amended, as in effect on the date of this Indenture, except as provided in Section 8.3.

“Trustee” means the party named as such in the first paragraph of this Indenture until a successor Trustee replaces it pursuant to the applicable provisions of this Indenture, and thereafter means such successor Trustee and if, at any time, there is more than one Trustee.

(b) The following terms shall have the meanings specified in the Sections referred to opposite such term below:

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<tr>
<th>Term</th>
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<tr>
<td>“Act”</td>
<td>1.4(a)</td>
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<tr>
<td>“Bankruptcy Law”</td>
<td>5.1</td>
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<tr>
<td>“Custodian”</td>
<td>5.1</td>
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<tr>
<td>“Defaulted Interest”</td>
<td>3.7</td>
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<td>“Event of Default”</td>
<td>5.1</td>
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<tr>
<td>“Register”</td>
<td>3.5</td>
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<tr>
<td>“Registrar”</td>
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Section 1.2 Compliance Certificates and Opinions

Upon any application or request by the Company to the Trustee to take any action under any provision of this Indenture, the Company shall furnish to the Trustee an Officers’ Certificate stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent, if any, have been complied with, except that in the case of any such application or request as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or request, no additional certificate or opinion need be furnished.

Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than pursuant to Sections 3.3 and 9.6) shall include:

(a) a statement that each individual signing such certificate or opinion has read such condition or covenant and the definitions herein relating thereto;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;
(c) a statement that, in the opinion of each such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such condition or covenant has been complied with; and

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

Section 1.3 Form of Document Delivered to Trustee

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificates or opinions of an Officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate or Opinion of Counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company stating that the information with respect to such factual matters is in the possession of the Company, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations as to such matters are erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

Section 1.4 Acts of Holders

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

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of his authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other reasonable manner which the Trustee deems sufficient.
(c) The ownership of Securities shall be proved by the Register.

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

(e) If the Company shall solicit from the Holders any request, demand, authorization, direction, notice, consent, waiver or other Act, the Company may, at its option, by or pursuant to an Officers' Certificate delivered to the Trustee, fix in advance a record date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other Act, but the Company shall have no obligation to do so. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other Act may be given before or after such record date, but only the Holders of record at the close of business on such record date shall be deemed to be Holders for the purposes of determining whether Holders of the requisite proportion of Outstanding Securities have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the Outstanding Securities shall be computed as of such record date; provided that no such authorization, agreement or consent by the Holders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of clause (a) of this Section 1.4 not later than six months after the record date.

Section 1.5 Notices, etc., to Trustee and Company

Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other document provided or permitted by this Indenture to be made upon, given or furnished to, or filed with,

(a) the Trustee by any Holder or by the Company shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to or with the Trustee at its Corporate Trust Office, Attention: Corporate Trust Trustee Administration, or

(b) the Company by the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to the Company addressed to it at ANADIGICS, Inc., 141 Mt. Bethel Road, Warren, New Jersey 07059, Attention: Chief Financial Officer or at any other address previously furnished in writing to the Trustee by the Company.

Section 1.6 Notice to Holders; Waiver

Where this Indenture provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided or otherwise agreed to by a Holder) if in writing and mailed, first-class postage prepaid, to each Holder affected by such event, at his address as it appears in the Register, within the time prescribed for the giving of such notice.

In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Any notice mailed to a Holder in the manner herein prescribed shall be conclusively deemed to have been received by such Holder, whether or not such Holder actually receives such notice.
If by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give such notice as provided above, then such notification as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 1.7 Heads and Table of Contents

The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 1.8 Successors and Assigns

All covenants and agreements in this Indenture by the Company shall bind its successors and assigns, whether so expressed or not.

Section 1.9 Separability

In case any provision of this Indenture or 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 1.10 Benefits of Indenture

Nothing in this Indenture or in the Securities, expressed or implied, shall give to any Person, other than the parties hereto and their successors hereunder and the Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 1.11 Governing Law

THIS INDENTURE AND THE SECURITIES SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, AND FOR ALL PURPOSES SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF SAID STATE WITHOUT GIVING EFFECT TO THE PRINCIPLES OF CONFLICT OF LAWS THEREOF. This Indenture is subject to the Trust Indenture Act and if any provision hereof limits, qualifies or conflicts with the Trust Indenture Act, the Trust Indenture Act shall control.

Section 1.12 Legal Holidays

In any case where any Interest Payment Date, Redemption Date, sinking fund payment date, Stated Maturity or Maturity of any Security or the last date on which a Holder has the right to convert his Securities shall not be a Business Day at any Place of Payment, then (notwithstanding any other provision of this Indenture of any Security other than a provision in the Securities of any series which specifically states that such provision shall apply in lieu of this Section) payment of principal, premium, if any, or interest or conversion of the Securities need not be made at such Place of Payment on such date, but may be made on the next succeeding Business Day at such Place of Payment with the same force and effect as if made on such date; provided that no interest shall accrue on the amount so payable for the period from and after such Interest Payment Date, Redemption Date, sinking fund payment date, Stated Maturity or Maturity, or on such last day for conversion, as the case may be.
Section 1.13  No Recourse Against Others

No director, officer, employee or stockholder, as such, of the Company shall have any liability for any obligations of the Company under the Securities or the Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. Each Holder by accepting a Security waives and releases all such liability. The waiver and release are part of the consideration for the issue of the Securities.

ARTICLE 2

Security Forms

Section 2.1  Forms Generally

The Securities of each series shall be in substantially the form attached as Exhibit A and as set forth pursuant to this Article, or in such other form or forms as shall be established by delivery to the Trustee of an Officers’ Certificate or in one or more indentures supplemental hereto, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with the rules of any securities exchange or as may, consistently herewith, be determined by the officers executing such Securities as evidenced by their execution of the Securities. If temporary Securities of any series are issued as permitted by Section 3.4, the form thereof also shall be established as provided in the preceding sentence. If the form of Securities of any series is established by an Officers’ Certificate, such Officers’ Certificate shall be delivered to the Trustee at or prior to the delivery of the Company Order contemplated by Section 3.3 for the authentication and delivery of such Securities.

The permanent Securities shall be printed, lithographed or engraved or produced by any combination of these methods or may be produced in any other manner, all as determined by the officers executing such Securities as evidenced by their execution of such Securities.

Section 2.2  Form of Trustee’s Certificate of Authentication

The Trustee’s certificate of authentication shall be in substantially the following form:
This is one of the Securities of a series issued under the within-mentioned Indenture.

Dated: ____________________________

as Trustee

By:

Authorized Signature

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ARTICLE 3

The Securities

Section 3.1 Amount Unlimited; Issuable in Series

(a) The aggregate principal amount of Securities which may be authenticated and delivered under this Indenture is unlimited. The Securities may be issued from time to time in one or more series.

(b) The following matters shall be established and (subject to Section 3.3) set forth, or determined in the manner provided, in an Officers’ Certificate or a Board Resolution of the Company or one or more indentures supplemental hereto:

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

(ii) any limit upon the aggregate principal amount of the Securities of the series which may be authenticated and delivered under this Indenture (which limit shall not pertain to (A) 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 3.4, 3.5, 3.6, 8.6, or 10.7 and (B) any Securities which, pursuant to the last paragraph of Section 3.3, are deemed never to have been authenticated and delivered thereunder);

(iii) the date or dates on which the principal of the Securities of the series is payable or the method of determination thereof;

(iv) the rate or rates at which the Securities of the series shall bear interest, if any, or the method of calculating such rate or rates of interest, the date or dates from which such interest shall accrue or the method by which such date or dates shall be determined, the Interest Payment Dates on which any such interest shall be payable and the Regular Record Date, if any, for the interest payable on any Interest Payment Date;

(v) the place or places where, subject to the provisions of Section 9.2, the principal of, premium, if any, and interest, if any, on Securities of the series shall be payable;

(vi) the period or periods within which, the price or prices at which, and the other terms and conditions upon which, Securities of the series may be redeemed, in whole or in part, at the option of the Company and, if other than as provided in Section 10.3, the manner in which the particular Securities of such series (if less than all Securities of such series are to be redeemed) are to be selected for redemption;

(vii) the obligation, if any, of the Company to redeem or purchase Securities of the series pursuant to any sinking fund or analogous provisions or upon the happening of a specified event or at the option of a Holder thereof and the period or periods within which, the price or prices at which, and the other terms and conditions upon which, Securities of the series shall be redeemed or purchased, in whole or in part, pursuant to such obligation;

(viii) if other than denominations of $1,000 and any integral multiple thereof, the denominations in which Securities of the series shall be issuable;
(ix) if the amount of payments or principal of, premium, if any, and interest, if any, on the Securities of the series shall be determined with reference to an index, formula or other method, the index, formula or other method by which such amounts shall be determined;

(x) if other than the principal amount thereof, the portion of the principal amount of such Securities of the series which shall be payable upon declaration of the acceleration thereof pursuant to Section 5.2 or the method by which such portion shall be determined;

(xi) if other than as provided in Section 3.7, the Person to whom any interest on any Security of the series shall be payable and the extent to which, or the manner in which (including any certification requirement and other terms and conditions under which), any interest payable on a temporary Security on an Interest Payment Date will be paid if other than in the manner provided in Section 3.4, as applicable;

(xii) provisions, if any, granting special rights to the Holders of Securities of the series upon the occurrence of such events as may be specified;

(xiii) any deletions from, modifications of or additions to the Events of Default set forth in Section 5.1 or covenants of the Company set forth in Article 9 pertaining to the Securities of the series;

(xiv) under what circumstances, if any, the Company will pay additional amounts on the Securities of that series held by a Person who is not a U.S. Person in respect of taxes or similar charges withheld or deducted and, if so, whether the Company will have the option to redeem such Securities rather than pay such additional amounts (and the terms of any such option);

(xv) the date as of which any temporary Security representing outstanding Securities of the series shall be dated if other than the date of original issuance of the first Security of the series to be issued;

(xvi) the applicability, if any, to the Securities of or within the series of Sections 4.4 and 4.5, or such other means of covenant defeasance as may be specified for the Securities of such series;

(xvii) if other than the Trustee, the identity of the Registrar and any Paying Agent or transfer agent;

(xviii) any terms which may be related to warrants issued by the Company in connection with, or for the purchase of, Securities of such series, including whether and under what circumstances the Securities of any series may be used toward the exercise price of any such warrants;

(xix) [if applicable, insert—any deletions from, modifications of or additions to the subordination provisions set forth in Article 13 pertaining to the Securities of the series;]

(xx) the terms and conditions upon which Securities of the series will be convertible into shares of Common Stock of the Company; and

(xxi) any other terms of the series (which terms shall not be inconsistent with the provisions of this Indenture), including any terms which may be required by or advisable under United States laws or regulations or advisable in connection with the marketing of Securities of the series.
(c) All Securities of any one series shall be substantially identical except as to denomination and the rate or rates of interest, if any, and Stated Maturity, the date from which interest, if any, shall accrue and except as may otherwise be provided in or pursuant to an Officers’ Certificate pursuant to this Section 3.1 or in an indenture supplemental hereto. All Securities of any one series need not be issued at the same time and, unless otherwise provided, a series may be reopened, without the consent of the Holders, for issuances of additional Securities of such series or for the establishment of additional terms with respect to the Securities of such series.

(d) If any of the terms of the Securities of any series are established by action taken pursuant to a Board Resolution, a copy of such Board Resolution shall be certified by the Corporate Secretary or an Assistant Secretary of the Company and delivered to the Trustee at or prior to the delivery of the Officers’ Certificate setting forth, or providing the manner for determining, the terms of the Securities of such series, and an appropriate record of any action taken pursuant thereto in connection with the issuance of any Securities of such series shall be delivered to the Trustee prior to the authentication and delivery thereof. With respect to Securities of a series subject to a Periodic Offering, such Board Resolution or Officers’ Certificate may provide general terms for Securities of such series and provide either that the specific terms of particular Securities of such series shall be specified in a Company Order or that such terms shall be determined by the Company, or one or more of the Company’s agents designated in an Officers’ Certificate, in accordance with the Company Order as contemplated by the first proviso of the third paragraph of Section 3.3.

Section 3.2 Denominations

The Securities of each series shall be issuable only in definitive registered form without coupons and in such denominations as shall be specified as contemplated by Section 3.1. In the absence of any such provisions with respect to the Securities of any series, the Securities of such series shall be issuable in denominations of $1,000 and any integral multiple thereof.

Section 3.3 Execution, Authentication, Delivery and Dating

Securities shall be executed on behalf of the Company by the Chairman, President, any Vice President, Chief Executive Officer or Chief Financial Officer and attested to by the Secretary or Assistant Secretary of the Company. The signatures of such officers on the Securities may be manual or facsimile signatures of the present or any future such authorized officers and may be imprinted or otherwise reproduced on the Securities.

Securities bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the Company shall bind the Company, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Securities or did not hold such offices at the date of such Securities.

At any time and from time to time, the Company may deliver Securities of any series executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and make available for delivery such Securities, and the Trustee in accordance with the Company Order shall authenticate and deliver such Securities; provided, however, that 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 such other procedures (including, without limitation, the receipt by the Trustee of oral or electronic instructions from the Company or its duly authorized agents, promptly confirmed in writing) acceptable to the Trustee as may be specified by or pursuant to a Company Order delivered to the Trustee prior to the time of the first authentication of Securities of such series.

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If the form or terms of the Securities of a series have been established by or pursuant to one or more Officers’ Certificates as permitted by Sections 2.1 and 3.1, in authenticating such Securities and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall be entitled to receive, and (subject to section 315(a) through (d) of the Trust Indenture Act) shall be fully protected in relying upon, an Opinion of Counsel stating,

(a) that the forms and terms of such Securities have been established in conformity with the provisions of this Indenture; and

(b) that such Securities, when authenticated and delivered by the Trustee and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and legally binding obligations of the Company, enforceable in accordance with their terms, subject to customary exceptions; provided, however, that, with respect to Securities of a series subject to a Periodic Offering, the Trustee shall be entitled to receive such Opinion of Counsel only once at or prior to the time of the first authentication of Securities of such series and that the Opinion of Counsel above may state:

(x) that the forms of such Securities have been, and the terms of such Securities (when established in accordance with such procedures as may be specified from time to time in a Company Order, all as contemplated by and in accordance with a Board Resolution or an Officers’ Certificate pursuant to Section 3.1, as the case may be) will have been, established in conformity with the provisions of this Indenture; and

(y) that such Securities, when (1) executed by the Company, (2) completed, authenticated and delivered by the Trustee in accordance with this Indenture, and (3) issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and legally binding obligations of the Company, enforceable in accordance with their terms, subject to customary exceptions.

With respect to Securities of a series subject to a Periodic Offering, the Trustee may conclusively rely, as to the authorization by the Company of any of such Securities, the form and terms thereof and the legality, validity, binding effect and enforceability thereof, upon the Opinion of Counsel and other documents delivered pursuant to Sections 2.1 and 3.1, as applicable, at or prior to the time of the first authentication of Securities of such series unless and until it has received written notification that such opinion or other documents have been superseded or revoked. In connection with the authentication and delivery of Securities of a series subject to a Periodic Offering, the Trustee shall be entitled to assume that the Company’s instructions to authenticate and deliver such Securities do not violate any rules, regulations or orders of any governmental agency or commission having jurisdiction over the Company.

If the form or terms of the Securities of a series have been established by or pursuant to one or more Officers’ Certificates as permitted by Sections 2.1 and 3.1, the Trustee shall have the right to decline to authenticate such Securities if the issue of such Securities pursuant to this Indenture will adversely affect the Trustee’s own rights, duties or immunities under this Indenture or otherwise in a manner which is not reasonably acceptable to the Trustee.
Notwithstanding the provisions of Section 3.1 and of the two preceding paragraphs, if all of the Securities of any series are not to be issued at one time, it shall not be necessary to deliver the Officers’ Certificate otherwise required pursuant to Section 3.1 at or prior to the time of the authentication of each Security of such series if the Officers’ Certificate is delivered at or prior to the authentication upon original issuance of the first Security of such series to be issued.

Each Security shall be dated the date of its authentication.

No Security shall be entitled to any benefits under this Indenture or be valid or obligatory for any purpose until authenticated by the manual signature of one of the authorized signatories of the Trustee or an Authenticating Agent. Such signature upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered under this Indenture and is entitled to the benefits of this Indenture.

Notwithstanding the foregoing, if any Security shall have been authenticated and delivered hereunder but never issued and sold by the Company, and the Company shall deliver such Security to the Trustee for cancellation as provided in Section 3.9 together with a written statement (which need not comply with Section 1.2 and need not be accompanied by an Opinion of Counsel) stating that such Security has never been issued and sold by the Company, for all purposes of this Indenture such Security shall be deemed never to have been authenticated and delivered hereunder and shall not be entitled to the benefits of this Indenture.

Section 3.4 Temporary Securities

Pending the preparation of definitive Securities of any series, the Company may execute and, upon Company Order, the Trustee shall authenticate and deliver temporary Securities of such series which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor and form of the definitive Securities in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Securities may determine, as conclusively evidenced by their execution of such Securities.

If temporary Securities of any series are issued, the Company will cause permanent Securities of such series to be prepared without unreasonable delay. After preparation of such permanent Securities, the temporary Securities shall be exchangeable for such permanent Securities of like tenor upon surrender of the temporary Securities of such series at the office or agency of the Company pursuant to Section 9.2 in a Place of Payment for such series, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities of any series, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a like principal amount of permanent Securities of the same series of authorized denominations and of like tenor. Until so exchanged, the temporary Securities of any series shall in all respects be entitled to the same benefits under this Indenture as permanent Securities of such series except as otherwise specified as contemplated by Section 3.1.

Section 3.5 Registration, Registration of Transfer and Exchange

The Company shall cause to be kept at the Corporate Trust Office of the Trustee or in any office or agency to be maintained by the Company in accordance with Section 9.2 in a Place of Payment a register (the “Register”) in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Securities and the registration of transfers of Securities. The Register shall be in written form or any other form capable of being converted into written form within a reasonable time. The Trustee is hereby appointed “Registrar” for the purpose of registering Securities and transfers of Securities as herein provided.
Upon surrender for registration of transfer of any Security of any series at the office or agency maintained pursuant to Section 9.2 in a Place of Payment for that series, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities of the same series, of any authorized denominations and of a like aggregate principal amount and tenor.

At the option of the Holder, Securities of any series may be exchanged for other Securities of the same series, of any authorized denominations and of like aggregate principal amount containing identical terms and provisions, upon surrender of the Securities to be exchanged at such office or agency. Whenever any Securities are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive.

Whenever any Securities are surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive.

All Securities issued upon any registration of transfer or upon any exchange of Securities shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Securities surrendered upon such registration of such transfer or exchange.

Every Security presented or surrendered for registration of transfer or for exchange shall (if so required by the Company, the Registrar or the Trustee) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to those of the Company, the Registrar and the Trustee requiring such written instrument of transfer duly executed by the Holder thereof or his attorney duly authorized in writing.

No service change shall be made for any registration of transfer or for any exchange of Securities, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration or transfer or exchange of Securities, other than exchanges pursuant to Section 3.4 or 10.7 not involving any transfer.

The Company shall not be required (a) to issue, register the transfer of, or exchange any Securities for a period beginning at the opening of business 15 days before any selection for redemption of Securities of like tenor and of the series of which such Security is a part and ending at the close of business on the earliest date on which the relevant notice of redemption is deemed to have been given to all Holders of Securities of like tenor and of such series to be redeemed or (b) to register the transfer of or exchange of any Security so selected for redemption, in whole or in part, except the unredeemed portion of any Security being redeemed in part.

Section 3.6 Replacement Securities

If a mutilated Security is surrendered to the Trustee, together with, in proper cases, such security or indemnity as may be required by the Company or the Trustee to save each of them harmless, the Company shall execute and the Trustee shall authenticate and deliver a replacement Security of the same series and date of maturity, if the Trustee’s requirements are met.

If there shall be delivered to the Company and the Trustee (a) evidence to their satisfaction of the destruction, loss or theft of any Security and (b) such security or indemnity as may be required by them to save each of them and any agency 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 bona fide purchaser, the Company shall execute and the Trustee shall authenticate and deliver in lieu of any such destroyed, lost or stolen Security, a replacement Security of the same series and principal amount, containing identical terms and provisions 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, 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 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 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 3.7 Payment of Interest; Interest Rights Preserved**

Unless otherwise provided as contemplated by Section 3.1, interest, if any, on any Security which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest at the office or agency maintained for such purpose pursuant to Section 9.2; *provided, however,* that, at the option of the Company, interest on any series of Securities that bear interest may be paid (a) by check mailed to the address of the Person entitled thereto as it shall appear on the Register of Holders of Securities of such series or (b) to the extent specified as contemplated by Section 3.1, by wire transfer to an account maintained by the Person entitled thereto as specified in the Register of Holders of Securities of such series.

Unless otherwise provided as contemplated by Section 3.1, any interest on any Security of any series which is payable, but is not punctually paid or duly provided for, on any interest payment date (herein called “Defaulted Interest”) shall forthwith cease to be payable to the Holder on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Interest may be paid by the Company, at its election in each case, as provided in clause (i) or (ii) below:

(i) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Securities of such series (or their respective Predecessor Securities) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause (i) provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to each Holder of Securities of such series at his address as it appears in the Register, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been so mailed, such Defaulted Interest shall be paid to the Persons in whose names the Securities of such series (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following clause (ii).
(ii) The Company may make payment of any Defaulted Interest to the Persons in whose names the Securities of such series (or their respective Predecessor Securities) are registered at the close of business on a specified date in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Securities may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause (ii), such manner of payment shall be deemed practicable by the Trustee.

Subject to the foregoing provisions of this Section and Section 3.5, each Security delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security.

In the case of any Security which is converted after any Regular Record Date and on or prior to the next succeeding Interest Payment Date (other than any Security whose Maturity is prior to such Interest Payment Date), interest whose Stated Maturity is on such Interest Payment Date shall be payable on such Interest Payment Date notwithstanding such conversion, and such interest (whether or not punctually paid or duly provided for) shall be paid to the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on such Regular Record Date. Except as otherwise expressly provided in the immediately preceding sentence, in the case of any Security which is converted, interest whose Stated Maturity is after the date of conversion of such Security shall not be payable.

Section 3.8 Persons Deemed Owners

Prior to due presentment of any Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of principal of, premium, if any, and (subject to Section 3.7) interest on such Security and for all other purposes whatsoever, whether or not such Security be overdue, and neither the Company, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

Section 3.9 Cancellation

The Company at any time may deliver Securities to the Trustee for cancellation. The Registrar and any Paying Agent shall forward to the Trustee any Securities surrendered to them for replacement, for registration of transfer, or for exchange, conversion or payment. The Trustee shall cancel all Securities surrendered for replacement, for registration of transfer, or for exchange, conversion, payment, redemption or cancellation and may dispose of cancelled Securities and issue a certificate of disposition to the Company. The Company may not issue new Securities to replace Securities that it has paid or delivered to the Trustee for cancellation, except as expressly permitted in the terms of Securities for any particular series or as permitted pursuant to the terms of this Indenture.
Section 3.10 Computation of Interest

Except as otherwise specified as contemplated by Section 3.1 (a) interest of any Securities that bear interest at a fixed rate shall be computed on the basis of a 360−day year of twelve 30−day months and (b) interest on any Securities that bear interest at a variable rate shall be computed on the basis of the actual number of days in an interest period divided by 360 or the actual number of days in the year.

Section 3.11 CUSIP Numbers

The Company in issuing the Securities may use “CUSIP” numbers (if then generally in use), and, if so, the Trustee shall use “CUSIP” numbers (in addition to the other identification numbers printed on the Securities) 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 identification numbers printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such numbers.

ARTICLE 4

Satisfaction, Discharge and Covenant Defeasance

Section 4.1 Termination of Company’s Obligations Under this Indenture

Except as otherwise provided as contemplated by Section 3.1, this Indenture shall upon Company Request cease to be of further effect with respect to Securities of or within any series (except as to any surviving rights of registration of transfer or exchange of such Securities and replacement of such Securities which may have been lost, stolen or mutilated as herein expressly provided for) and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture with respect to such Securities when

(a) either
   (i) all such Securities previously authenticated and delivered (other than (i) such Securities which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 3.6, and (ii) such Securities for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 9.3) have been delivered to the Trustee for cancellation; or
   (ii) all Securities of such series not theretofore delivered to the Trustee for cancellation have become due and payable, or
   (3) if redeemable at the option of the Company, are to be called for redemption within one year under arrangements satisfactory to the Trustee for giving of notice of redemption by the Trustee in the name, and at the expense, of the Company,
and the Company, in the case of (1), (2) or (3) above, has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust for the purpose an amount sufficient to pay and discharge the entire indebtedness on such Securities not theretofore delivered to the Trustee for cancellation, for principal, premium, if any, and interest, with respect thereto, to the date of such deposit (in the case of Securities which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be;

(b) the Company has paid or caused to be paid all other sums payable hereunder by the Company; and
(c) the Company has delivered to the Trustee an Officers’ Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture as to such series have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture, the obligation of the Company to the Trustee and any predecessor Trustee under Section 6.11, the obligations of the Company to any Authenticating Agent under Section 6.14 and, if money shall have been deposited, with the Trustee pursuant to subclause (ii) of clause (a) of this Section, the obligations of the Trustee under Section 4.2 and the last paragraph of Section 9.3 shall survive.

Section 4.2 Application of Trust Funds

Subject to the provisions of the last paragraph of Section 9.3, all money deposited with the Trustee pursuant to Section 4.1 shall be held in trust and applied by it, in accordance with the provisions of the Securities and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal, premium, if any, and any interest for whose payment such money has been deposited with or received by the Trustee, but such money need not be segregated from other funds except to the extent required by law. All moneys deposited with the Trustee pursuant to Section 4.1 (and held by it or any Paying Agent) for the payment of Securities subsequently converted shall be returned to the Company upon Company Request.

Section 4.3 Applicability of Defeasance Provisions; Company’s Option to Effect Covenant Defeasance

If pursuant to Section 3.1 provision is made for covenant defeasance of the Securities of or within a series under Section 4.4, then the provisions of such Section, together with the provisions of Sections 4.5 through 4.7 inclusive, with such modifications thereto as may be specified pursuant to Section 3.1 with respect to any Securities, shall be applicable to such Securities, and the Company may at its option by Board Resolution, at any time, with respect to such Securities, elect to have Section 4.4 (if applicable) be applied to such Outstanding Securities upon compliance with the conditions set forth below in this Article.

Section 4.4 Covenant Defeasance

Upon the Company’s exercise of the option specified in Section 4.3 applicable to this Section with respect to any Securities of or within a series, the Company shall be released from its obligations under Sections 7.1 and 9.4, and, if specified pursuant to Section 3.1, its obligations under any other covenant, with respect to such Securities on and after the date the conditions set forth in Section 4.5 are satisfied (hereinafter, “covenant defeasance”), and such Securities shall thereafter be deemed to be not “Outstanding” for the purposes of any direction, waiver, consent or declaration or Act of Holders (and the consequences of any thereof) in connection with Sections 7.1 and 9.4, or such other covenant, but shall continue to be deemed “Outstanding” for all other purposes hereunder. For this purpose, such covenant defeasance means that, with respect to such Securities, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such Section or such other covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such Section or such other covenant or by reason of reference in any such Section or such other covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 5.1(d) or otherwise, as the case may be, but, except as specified above, the remainder of this Indenture and such Securities shall be unaffected thereby.
Section 4.5  Conditions to Covenant Defeasance

The following shall be the conditions to application of Section 4.4 to any Securities of or within a series:

(a) The Company shall have deposited or caused to be deposited irrevocably with the Trustee (or another trustee satisfying the requirements of Section 6.11 who shall agree to comply with, and shall be entitled to the benefits of, the provisions of Sections 4.3 through 4.7 inclusive and the last paragraph of Section 9.3 applicable to the Trustee, for purposes of such Sections also a “Trustee”) as trust funds in trust for the purpose of making the payments referred to in clauses (x) and (y) of this Section 4.5(a), specifically pledged as security for, and dedicated solely to, the benefit of the Holders of such Securities, with instructions to the Trustee as to the application thereof, (i) money in an amount, or (ii) if Securities of such series are not subject to repayment at the option of Holders, Government Obligations which through the payment of interest and principal in accordance with their terms will provide, not later than one day before the due date of any payment referred to in clause (x) or (y) of this Section 4.5(a), money in an amount or (iii) a combination thereof in an amount, sufficient, in the opinion of a nationally recognized firm of independent certified public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge, and which shall be applied by the Trustee to pay and discharge, (x) the principal of, premium, if any, and interest, if any, on such Securities on the Maturity of such principal or installment of principal or interest and (y) any mandatory sinking fund payments applicable to such Securities on the day on which such payments are due and payable in accordance with the terms of this Indenture and such Securities. Before such a deposit the Company may make arrangements satisfactory to the Trustee for the redemption of Securities at a future date or dates in accordance with Article 10 which shall be given effect in applying the foregoing.

(b) Such covenant defeasance shall not result in a breach or violation of, or constitute a Default or Event of Default under, this Indenture or result in a breach or violation of, or constitute a default under, any other material agreement or instrument to which the Company is a party or by which it is bound.

(c) No Default or Event of Default under Section 5.1(f) or 5.1(g) with respect to such Securities shall have occurred and be continuing during the period commencing on the date of such deposit and ending on the 91st day after such date (it being understood that this condition shall not be deemed satisfied until the expiration of such period).

(d) The Company shall have delivered to the Trustee an Opinion of Counsel to the effect that the Holders of such Securities will not recognize income, gain or loss for Federal income tax purposes as a result of such covenant defeasance and will be subject to Federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such covenant defeasance had not occurred.
(e) The Company shall have delivered to the Trustee an Officers’ Certificate and an Opinion of Counsel, each stating that all conditions precedent to the covenant defeasance under Section 4.4 have been complied with and an Opinion of Counsel to the effect that either (i) as a result of a deposit pursuant to subsection (a) above and the related exercise of the Company’s option under Section 4.4, registration is not required under the Investment Company Act of 1940, as amended, by the Company, with respect to the trust funds representing such deposit or by the trustee for such trust funds or (ii) all necessary registrations under said act have been effected.

(f) Such covenant defeasance shall be effected in compliance with any additional or substitute terms, conditions or limitations which may be imposed on the Company in connection therewith as contemplated by Section 3.1.

Section 4.6 Deposited Money and Government Obligations to Be Held in Trust

Subject to the provisions of the last paragraph of Section 9.3, all money and Government Obligations (or other property as may be provided pursuant to Section 3.1) (including the proceeds thereof) deposited with the Trustee pursuant to Section 4.5 in respect of any Securities of any series shall be held in trust and applied by the Trustee, in accordance with the provisions of such Securities and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Holders of such Securities of all sums due and to become due thereon in respect of principal, premium, if any, and interest, if any, but such money need not be segregated from other funds except to the extent required by law.

Section 4.7 Transfers and Distribution at Company Request

To the extent permitted by the Financial Accounting Standards Board Statement of Financial Accounting Standards No. 76, as amended or interpreted by the Financial Accounting Standards Board from time to time, or any successor thereto (“Standard No. 76”), or to the extent permitted by the Commission, the Trustee shall, from time to time, take one or more of the following actions as specified in a Company Request:

(a) Retransfer, reassign and deliver to the Company any securities deposited with the Trustee pursuant to Section 4.5(a), provided that the Company shall in substitution therefor, simultaneously transfer, assign and deliver to the Trustee other Government Obligations appropriate to satisfy the Company’s obligations in respect of the relevant Securities; and

(b) The Trustee (and any Paying Agent) shall promptly pay to the Company upon Company Request any excess money or securities held by them at any time, including, without limitation, any assets deposited with the Trustee pursuant to Section 4.5(a) exceeding those necessary for the purposes of Section 4.5(a). The Trustee shall not take the actions described in subsections (a) and (b) of this Section 4.7 unless it shall have first received a written report of a nationally recognized independent public accounting firm selected by the Company, (i) expressing their opinion that the contemplated action is permitted by Standard No. 76 or the Commission, for transactions accounted for as extinguishment of debt under the circumstances described in paragraph 3.c of Standard No. 76 or any successor provision and (ii) verifying the accuracy, after giving effect to such action or actions, of the computations which demonstrate that the amounts remaining to be earned on the Government Obligations deposited with the Trustee pursuant to Section 4.5(a) will be sufficient for purposes of Section 4.5(a).
ARTICLE 5

Defaults and Remedies

Section 5.1  Events of Default

In case one or more of the following Events of Default (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body) shall have occurred and be continuing:

(a)  the Company defaults in the payment of interest on any Security of that series or any additional amount payable when the same becomes due and payable and such default continues for a period of 30 days and the time for payment has not been extended or deferred;

(b)  the Company defaults in the payment of the principal of or any premium on any Security of that series when the same becomes due and payable at its Maturity or on redemption or otherwise when and as due by the terms of the Securities of that series;

(c)  failure to deposit any sinking fund payment, when due, for any debt security and, in the case of the subordinated indenture, whether or not the deposit is prohibited by the subordination provisions;

(d)  failure to observe or perform any other covenant contained in the debt securities or the indentures other than a covenant specifically relating to another series of debt securities, and the failure continues for 60 days after we receive notice from the Trustee or Holders of at least 25% in aggregate principal amount of the outstanding debt securities of that series;

(e)  failure by us to deliver common stock or other securities when the Holder or Holders of the debt securities elect to convert the debt securities into shares of common stock or other of our securities;

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

(g)  an involuntary case or other proceeding shall be commenced against the Company seeking liquidation, reorganization or other relief with respect to the Company or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Company or any substantial part of the property of the Company, and such involuntary case or other proceeding shall remain undismissed and unstayed for a designated period of consecutive calendar days; or
any other Event of Default provided as contemplated by Section 5.1 with respect to Securities of that 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.

Section 5.2 Acceleration, Rescission and Annulment

If an Event of Default with respect to the Securities of any series at the time Outstanding occurs and is continuing, either the Trustee or the Holders of not less than twenty-five percent (25%) in aggregate principal amount of the Securities then Outstanding hereunder, by notice in writing to the Company (and to the Trustee if given by the Holders), may declare the principal of all the Securities and the interest accrued and unpaid thereon to be due and payable immediately, and upon any such declaration the same shall become and shall be immediately due and payable, anything in this Indenture or in the Securities contained to the contrary notwithstanding. If an Event of Default specified in Section 5.1(f) or 5.1(g) occurs, the principal of all the Securities and the interest accrued and unpaid thereon shall be immediately and automatically due and payable without necessity of further action. This provision, however, is subject to the conditions that if, at any time after the principal of the Securities shall have been so declared due and payable, and before any judgment or decree for the payment of the monies due shall have been obtained or entered as hereinafter provided, the Company shall pay or shall deposit with the Trustee a sum sufficient to pay all matured installments of interest upon all Securities and the principal of any and all Securities which shall have become due otherwise than by acceleration (with interest on overdue installments of interest (to the extent that payment of such interest is enforceable under applicable law) and on such principal at the default rate provided for in the Securities, to the date of such payment or deposit) and amounts due to the Trustee pursuant to Section 6.9, and if any and all defaults under this Indenture, other than the nonpayment of principal of and accrued and unpaid interest on the Securities which shall have become due by acceleration, shall have been cured or waived pursuant to Section 5.7, then and in every such case the holders of a majority in aggregate principal amount of the Securities then Outstanding, by written notice to the Company and to the Trustee, may waive all defaults or Events of Default and rescind and annul such declaration and its consequences; but no such waiver or rescission and annulment shall extend to or shall affect any subsequent default or Event of Default, or shall impair any right consequent thereon.

The Trustee may withhold notice to the Holders of the Securities of any Event of Default, except an Event of Default specified in Section 5.1(a) or 5.1(b). However, the Trustee must consider it to be in the interest of the Holders of the Securities to withhold this notice.

In case the Trustee shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned because of such waiver or rescission and annulment or for any other reason or shall have been determined adversely to the Trustee, then and in every such case, subject to any orders entered in such proceedings the Company, the holders of Securities, and the Trustee shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Company, the holders of Securities, and the Trustee shall continue as though no such proceeding had been taken.
Section 5.3 Collection of Indebtedness and Suits for Enforcement by Trustee

The Company covenants that (a) in case default shall be made in the payment of any installment of interest, including Liquidated Damages, if any, upon, or Make Whole Premium, if any, on any of the Securities as and when the same shall become due and payable, and such default shall have continued for a period of thirty (30) calendar days, or (b) in case default shall be made in the payment of the principal of any of the Securities as and when the same shall have become due and payable, whether at maturity of the Securities, in connection with any repurchase pursuant to Article 12, by declaration or otherwise, then, upon demand of the Trustee, the Company will pay to the Trustee, for the benefit of the Holders of the Securities, the whole amount that then shall have become due and payable on all such Securities for principal, interest and Make Whole Premium, if any, as the case may be, with interest upon the overdue principal, any Make Whole Premium and (to the extent that payment of such interest is enforceable under applicable law) upon the overdue installments of interest at the rate provided for in the Securities, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including reasonable compensation to the Trustee, its agents, attorneys and counsel, and all other amounts due the Trustee under Section 6.9. Until such demand by the Trustee, the Company may pay the principal of, interest on and Make Whole Premium, if any, on the Securities to the registered Holders, whether or not the Securities are overdue.

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

In case there shall be pending proceedings for the bankruptcy or for the reorganization of the Company or any other obligor on the Securities under Title 11 of the United States Code, or any other applicable law, or in case a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official shall have been appointed for or taken possession of the Company or such other obligor, the property of the Company or such other obligor, or in the case of any other judicial proceedings relative to the Company or such other obligor upon the Securities, or to the creditors or property of the Company or such other obligor, 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 pursuant to the provisions of this Section 5.3, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount of principal, interest and Make Whole Premium, if any, owing and unpaid in respect of the Securities, and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and of the Holders allowed in such judicial proceedings relative to the Company or any other obligor on the Securities, its or their creditors, or its or their property, and to collect and receive any monies or other property payable or deliverable on any such claims, and to distribute the same after the deduction of any amounts due the Trustee under Section 6.9, and to take any other action with respect to such claims, including participating as a member of any official committee of creditors, as it reasonably deems necessary or advisable, and, unless prohibited by law or applicable regulations, and any receiver, assignee or trustee in bankruptcy or reorganization, liquidator, custodian or similar official is hereby authorized by each of the Holders 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 reasonable compensation, expenses, advances and disbursements, including reasonable counsel fees and expenses incurred by it up to the date of such distribution. To the extent that such payment of reasonable compensation, expenses, advances and disbursements out of the estate in any such proceedings shall be denied for any reason, payment of the same shall be secured by a senior lien on, and shall be paid out of, any and all distributions, dividends, monies, securities and other property which the holders of the Securities may be entitled to receive in such proceedings, whether in liquidation or under any plan of reorganization or arrangement or otherwise.
All rights of action and of asserting claims under this Indenture, or under any of the Securities, may be enforced by the Trustee without the possession of any of the Securities, or the production thereof at any trial or other proceeding relative thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for 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.

In any proceedings brought by the Trustee (and in any proceedings involving the interpretation of any provision of this Indenture to which the Trustee shall be a party) the Trustee shall be held to represent all the holders of the Securities, and it shall not be necessary to make any holders of the Securities parties to any such proceedings.

Section 5.4 Trustee May File Proofs of Claim

The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders of Securities allowed in any judicial proceedings relating to the Company, its creditors or its property.

Section 5.5 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.

Section 5.6 Delay or Omission Not Waiver

No delay or omission by the Trustee or any Holder of any Securities to exercise any right or remedy accruing upon an Event of Default shall impair any such right or remedy or constitute a waiver of or acquiescence in any such Event of Default.

Section 5.7 Waiver of Past Defaults

The Holders of a majority in aggregate principal amount of Outstanding Securities of any series by notice to the Trustee may waive on behalf of the Holders of all Securities of such series a past Default or Event of Default with respect to that series and its consequences except (a) a Default or Event of Default in the payment of the principal of, premium, if any, or interest on any Security of such series or (b) in respect of a covenant or provision hereof which pursuant to Section 8.2 cannot be amended or modified without the consent of the Holder of each outstanding Security of such series adversely affected. 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.

Section 5.8 Control by Majority

The Holders of a majority in aggregate principal amount of the Outstanding Securities of each series affected (with each such series voting as a class) 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 it with respect to Securities of that series; provided, however, that (a) the Trustee may refuse to follow any direction that conflicts with law or this Indenture, (b) the Trustee may refuse to follow any direction that is unduly prejudicial to the rights of the Holders of Securities of such series not consenting, or that would in the good-faith judgment of the Trustee have a substantial likelihood of involving the Trustee in personal liability and (c) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.
Section 5.9  Limitation on Suits by Holders

No Holder of any Security of any series shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless:

(a) the Holder has given written notice to the Trustee of a continuing Event of Default with respect to that series;
(b) the Holders of at least 25% in aggregate principal amount of the Outstanding Securities of that series have made written request, and the Holders have offered reasonable indemnity to the Trustee to institute proceedings; and
(c) the Trustee does not institute a proceeding and Holders of a majority in principal amount of the total outstanding securities have not given the Trustee a direction inconsistent with such written request within 60 days after the notice, request and offer.

No one or more Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other of such Holders, or to obtain or to seek to obtain priority or preference over any other of such Holders or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all of such Holders.

Notwithstanding any other provision of this Indenture and any provision of any Security, the right of any holder of any Security to receive payment of the principal of, any Make Whole Premium on, and accrued and unpaid interest on such Security, on or after the respective due dates expressed in such Security, or to institute suit for the enforcement of any such payment on or after such respective dates against the Company shall not be impaired or affected without the consent of such holder.

Anything in this Indenture or the Securities to the contrary notwithstanding, the holder of any Security, without the consent of either the Trustee or the holder of any other Security, in its own behalf and for its own benefit, may enforce, and may institute and maintain any proceeding suitable to enforce, its rights of conversion as provided herein.

Section 5.10  Rights of Holders to Receive Payment

Notwithstanding any other provision of this Indenture, the right of any Holder of a Security to receive payment of principal of, premium, if any, and, subject to Section 3.7, interest on the Security, on or after the respective due dates expressed in the Security (or, in case of redemption, on the redemption dates) and to convert such Security in accordance with Article 12, and, subject to Section 5.9, to bring suit for the enforcement of any such payment and right to convert on or after such respective dates, shall not be impaired or affected without the consent of such Holder.
Section 5.11  Application of Money Collected

Any monies collected by the Trustee pursuant to this Article shall be applied in the following order, at the date or dates fixed by the Trustee for the distribution of such monies, upon presentation of the several Securities, and stamping thereon 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 6.9;

SECOND: In case the principal of the Outstanding Securities shall not have become due and be unpaid, to the payment of interest on the Securities in default in the order of the maturity of the installments of such interest, with interest (to the extent that such interest has been collected by the Trustee) upon the overdue installments of interest at the default rate provided for in the Securities, such payments to be made ratably to the Persons entitled thereto;

THIRD: In case the principal of the Outstanding Securities shall have become due, by declaration or otherwise, and be unpaid to the payment of the whole amount then owing and unpaid upon the Securities for principal, interest and Make Whole Premium, if any, with interest on the overdue principal, any Make Whole Premium, and (to the extent that such interest has been collected by the Trustee) upon overdue installments of interest at the default rate provided for in the Securities, and in case such monies shall be insufficient to pay in full the whole amounts so due and unpaid upon the Securities, then to the payment of such principal, any Make Whole Premium, and interest without preference or priority of principal over interest, or of interest over principal, Make Whole Premium over principal or interest, interest or principal over Make Whole Premium or of any installment of interest over any other installment of interest, or of any Security over any other Security, ratably to the aggregate of such principal, any Make Whole Premium and accrued and unpaid interest; and

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

Section 5.12  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 5.13  Rights and Remedies Cumulative

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in the last paragraph of Section 3.6, all powers and remedies given by this Article to the Trustee or to the Holders shall, to the extent permitted by law, be deemed cumulative and not exclusive of any thereof or of any other powers and remedies available to the Trustee or the holders of the Securities, by judicial proceedings or otherwise, to enforce the performance or observance of the covenants and agreements contained in this Indenture, and no delay or omission of the Trustee or of any holder of any of the Securities to exercise any right or power accruing upon any default or Event of Default occurring and continuing as aforesaid shall impair any such right or power, or shall be construed to be a waiver of any such default or any acquiescence therein, and, subject to the provisions of Section 5.9, every power and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or by the Holders.
ARTICLE 6
The Trustee

Section 6.1  Certain Duties and Responsibilities

(a) Except during the continuance of an Event of Default,

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

(ii) in the absence of bad faith 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; but in the case of any such certificates
    or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall
    be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture.

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

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

(i) this subsection shall not be construed to limit the effect of subsection (a) of this
    Section;

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

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

(d) No provision of this Indenture shall require the Trustee to expend or risk its own funds or
    otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of
    its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate
    indemnity against such risk or liability is not reasonably assured to it.

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Whether or not therein expressly so provided, every provision of this Indenture relating to
the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this
Section.

Section 6.2 Rights of Trustee

Subject to the provisions of the Trust Indenture Act:

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

(b) Any request or direction of the Company mentioned herein shall be sufficiently
evidenced by a Company Request or Company Order (other than delivery of any Security to the Trustee for
authentication and delivery pursuant to Section 3.3, which shall be sufficiently evidenced as provided therein) and
any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution.

(c) Whenever in the administration of this Indenture the Trustee shall deem it desirable
that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless
other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officers’
Certificate.

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

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

(f) The Trustee shall not be bound to make any investigation into the facts or matters
stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order,
bond, debenture, note or other paper or document, but the Trustee, in its discretion, may make such further inquiry
or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further
inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally
or by agent or attorney and shall incur no liability or additional liability of any kind by reason of such inquiry or
investigation.

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

(h) 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.

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(i) The Trustee shall not be required to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

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

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

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

### Section 6.3 Trustee May Hold Securities

The Trustee, any Paying Agent, any Registrar or any other agent of the Company, in its individual or any other capacity, may become the owner or pledgee of Securities and, subject to Sections 310(b) and 311 of the Trust Indenture Act, may otherwise deal with the Company, an Affiliate or Subsidiary with the same rights it would have if it were not Trustee, Paying Agent, Registrar or such other agent.

### Section 6.4 Money Held in Trust

Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed with the Company.

### Section 6.5 Trustee’s Disclaimer

The recitals contained herein and in the Securities, except the Trustee’s certificate of authentication, shall be taken as the statements of the Company, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representation as to the validity or adequacy of this Indenture or the Securities. The Trustee shall not be accountable for the Company’s use of the proceeds from the Securities or for monies paid over to the Company pursuant to the Indenture.

### Section 6.6 Notice of Defaults

If a Default occurs and is continuing with respect to the Securities of any series and if it is known to the Trustee, the Trustee shall, within 30 days after it occurs, transmit, in the manner and to the extent provided in Section 313(c) of the Trust Indenture Act, notice of all uncured Defaults known to it; provided, however, that, except in the case of a Default in payment on the Securities of any series, the Trustee may withhold the notice if and so long as the board of directors, the executive committee or a committee of its Responsible Officers in good faith determines that withholding such notice is in the interests of Holders of Securities of that series; provided further that, in the case of any default or breach of the character specified in Section 5.1(d) with respect to the Securities of such series, no such notice to Holders shall be given until at least 60 days after the occurrence thereof.
Section 6.7 Reports by Trustee to Holders

Within 60 days after each May 15 of each year commencing with the first May 15 after the first issuance of Securities pursuant to this Indenture, the Trustee shall transmit by mail to all Holders of Securities as provided in Section 313(c) of the Trust Indenture Act a brief report dated as of such May 15 if required by Section 313(a) of the Trust Indenture Act. The Trustee also shall comply with Sections 313(b) and (d) of the Trust Indenture Act, if applicable.

Section 6.8 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 Holders of Securities of each series. If the Trustee is not the Registrar, the Company shall furnish to the Trustee semiannually on or before the last day of June and December in each year, 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, containing all the information in the possession of the Registrar, the Company or any of its Paying Agents other than the Trustee as to the names and addresses of Holders of Securities of each such series.

Section 6.9 Compensation and Indemnity

(a) The Company shall pay to the Trustee from time to time such compensation as shall be agreed between the Company and the Trustee in writing for all services rendered by it hereunder. The Trustee’s compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee upon request for all reasonable out-of-pocket expenses incurred by it in connection with the performance of its duties under this Indenture, except any such expense as may be attributable to its negligence or bad faith. Such expenses shall include the reasonable compensation and expenses of the Trustee’s agents and counsel.

(b) The Company shall indemnify the Trustee for, and hold it harmless against, any loss, liability or expense incurred by it without negligence or bad faith on its part arising out of or in connection with its acceptance or administration of the trust or trusts hereunder. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. The Company shall defend the claim and the Trustee shall cooperate in the defense. The Trustee may have separate counsel and the Company shall pay the reasonable fees and expenses of such counsel. The Company need not pay for any settlement made without its consent.

(c) The Company need not reimburse any expense or indemnify against any loss or liability incurred by the Trustee through its negligence or bad faith.

(d) To secure the payment obligations of the Company pursuant to this Section, the Trustee shall have a lien prior to the Securities of any series on all money or property held or collected by the Trustee, except that held in trust to pay principal, premium, if any, and interest on particular Securities.

(e) when the Trustee incurs expenses or renders services in connection with an Event of Default specified in Section 5.1(f) or Section 5.1(g), 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.
The provisions of this Section shall survive the termination of this Indenture.

Section 6.10 Replacement of Trustee

(a) The resignation or removal of the Trustee and the appointment of a successor Trustee shall become effective only upon the successor Trustee’s acceptance of appointment as provided in Section 6.11.

(b) The Trustee may resign at any time with respect to the Securities of any series by giving written notice thereof to the Company. If the instrument of acceptance by a successor Trustee required by Section 6.11 shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities or such series.

(c) The Holders of a majority in aggregate principal amount of the Outstanding Securities of any series may remove the Trustee with respect to that series by so notifying the Trustee and the Company and may appoint a successor Trustee for such series with the Company’s consent.

(d) If at any time:

(i) the Trustee fails to comply with Section 310(b) of the Trust Indenture Act after written request therefor by the Company or by any Holder who has been a bona fide Holder of a Security for at least six months; or

(ii) the Trustee shall cease to be eligible under Section 310(a) of the Trust Indenture Act and shall fail to resign after written request therefor by the Company or by any Holder of a Security who has been a bona fide Holder of a Security for at least six months; or

(iii) the Trustee becomes incapable of acting, is adjudged a bankrupt or an insolvent or a receiver or public officer takes charge of the Trustee or its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (A) the Company by or pursuant to a Board Resolution may remove the Trustee with respect to all Securities, or (B) subject to Section 315(e) of the Trust Indenture Act, any Holder who has been a bona fide Holder of a Security for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee with respect to all Securities and the appointment of a successor Trustee or Trustees.

(e) If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, with respect to Securities of one or more series, the Company, by or pursuant to Board Resolution, shall promptly appoint a successor Trustee 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 and that at any time there shall be only one Trustee with respect to the Securities of any particular series) and shall comply with the applicable requirements of Section 6.11. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee with respect to the Securities of any series shall be appointed by Act of the Holders of a majority in principal amount of the Outstanding Securities of such series delivered to the Company and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment in accordance with the applicable requirements of Section 6.11, become the successor Trustee with respect to the Securities of such series and to that extent supersede the successor Trustee appointed by the Company. If no successor Trustee with respect to the Securities of any series shall have been so appointed by the Company or the Holders and accepted appointment in the manner required by Section 6.11, any Holder who has been a bona fide Holder of a Security of such series for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.
Section 6.11 Acceptance of Appointment by Successor

(a) In case of the appointment hereunder of a successor Trustee with respect to all Securities, every such successor Trustee shall execute, acknowledge and deliver to the Company and to the retiring Trustee an instrument accepting such appointment. Thereupon, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee, without further act, deed or conveyance, shall become vested with all the rights, powers and duties of the retiring Trustee; but, on the request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder.

(b) In case of the appointment hereunder of a successor Trustee with respect to the Securities of one or more (but not all) series, the Company, the retiring Trustee and such successor Trustee shall execute and deliver an indenture supplemental hereto wherein such successor Trustee shall accept such appointment and which (i) shall contain such provisions as shall be necessary or desirable to transfer and confirm to, and to vest in, such successor Trustee all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates, (ii) if the retiring Trustee is not retiring with respect to all Securities, shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee, and (iii) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust and that each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee and 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, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates; but, on request of the Company or any successor Trustee, such retiring Trustee shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder with respect to the Securities of that or those series to which the appointment of such successor Trustee relates.

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

(d) No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under the Trust Indenture Act.

(e) The Company shall give notice of each resignation and each removal of the Trustee with respect to the Securities of any series and each appointment of a successor Trustee with respect to the Securities of any series in the manner provided for notices to the Holders of Securities in Section 1.6. Each notice shall include the name of the successor Trustee with respect to the securities of such series and the address of its Corporate Trust Office.
Section 6.12  Eligibility; Disqualification

There shall at all times be a Trustee hereunder which shall be eligible to act as Trustee under Section 310(a)(1) of the Trust Indenture Act and shall have a combined capital and surplus of at least $100 million. If such corporation publishes reports of condition at least annually, pursuant to law or the requirements of Federal, State Territorial or District of Columbia supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.

Section 6.13  Merger, Conversion, Consolidation or Succession to Business

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

Section 6.14  Appointment of Authenticating Agent

The Trustee may appoint an Authenticating Agent or Agents with respect to one or more series of Securities which shall be authorized to act on behalf of the Trustee to authenticate Securities of such series issued upon original issue exchange, registration of transfer, partial conversion or partial redemption thereof, and Securities so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. Any such appointment shall be evidenced by an instrument in writing signed by a Responsible Officer of the Trustee, a copy of which instrument shall be promptly furnished to the Company. Wherever reference is made in this Indenture to the authenticating and delivery of Securities by the Trustee or the Trustee’s certificate of authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an Authenticating Agent and a certificate of authentication executed on behalf of the Trustee by an Authenticating Agent. Each Authenticating Agent shall be acceptable to the Company and, except as may otherwise be provided pursuant to Section 3.1, shall at all times be a bank or trust company or corporation organized and doing business and in good standing under the laws of the United States of America or of any State or the District of Columbia, authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of not less than $10 million and subject to supervision or examination by Federal or State authorities. If such Authenticating Agent publishes reports of condition at least annually, pursuant to law or the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such Authenticating Agent shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section.
Any corporation into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any corporation succeeding to the corporate agency or corporate trust business of an Authenticating Agent, shall continue to be an Authenticating Agent, provided such corporation shall be otherwise eligible under this Section, without the execution or filing of any paper or further act on the part of the Trustee or the Authenticating Agent.

An Authenticating Agent for any series of Securities may at any time resign by giving written notice of resignation to the Trustee for such series and to the Company. The Trustee for any series of Securities may at any time terminate the agency of an Authenticating Agent by giving written notice of termination to such Authenticating Agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time such Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, the Trustee for such series may appoint a successor Authenticating Agent which shall be acceptable to the Company and shall give notice of such appointment to all Holders of Securities of the series with respect to which such Authenticating Agent will serve in the manner set forth in Section 1.6. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent herein. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section.

The Company agrees to pay to each Authenticating Agent from time to time reasonable compensation, including reimbursement of its reasonable expenses for its services under this Section.

If an appointment with respect to one or more series is made pursuant to this Section, the Securities of such series may have endorsed thereon, in addition to or in lieu of the Trustee’s certificate of authentication, an alternate certificate of authentication substantially in the following form:

This is one of the Securities of a series issued under the within-mentioned Indenture.

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<td>Authorized Officer</td>
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Section 6.15  Trustee’s Application for Instructions from the Company

Any application by the Trustee for written instructions from the Company may, at the option of the Trustee, set forth in writing any action proposed to be taken or omitted by the Trustee under this Indenture and the date on and/or after which such action shall be taken or such omission shall be effective. The Trustee shall not be liable for any action taken by, or omission of, the Trustee in accordance with a proposal included in such application on or after the date specified in such application (which date shall not be less than fifteen Business Days after the date any officer of the Company actually receives such application, unless any such officer shall have consented in writing to any earlier date) unless prior to taking any such action (or the effective date in the case of an omission), the Trustee shall have received written instructions in response to such application specifying the action to be taken or omitted.
ARTICLE 7
Consolidation, Merger or Sale by the Company

Section 7.1 Consolidation, Merger or Sale of Assets Permitted

The Company may merge or consolidate with or into any other corporation or sell, convey, transfer, lease or otherwise dispose of all or substantially all of its assets to any person, firm or corporation, if (a) (i) in the case of a merger or consolidation, the Company is the surviving corporation or (ii) in the case of a merger or consolidation where the Company is not the surviving corporation and in the case of any such sale, conveyance or other disposition, the successor or acquiring corporation is a corporation organized and existing under the laws of the United States or a State thereof and such corporation expressly assumes by supplemental indenture all of the obligations of the Company under the Securities and under this Indenture and shall have provided for conversion rights in accordance with Section 12.11, (b) immediately thereafter, giving effect to such merger or consolidation, or such sale, conveyance, transfer or other disposition, no Default or Event of Default shall have occurred and be continuing and (c) the company has delivered to the Trustee an Officers’ Certificate and an Opinion of Counsel each stating that such merger or consolidation, or such sale, conveyance, transfer or other disposition, complies with this Article and that all conditions precedent herein provided for relating to such transaction have been complied with. In the event of the assumption by a successor corporation of the obligations of the Company as provided in clause (a)(ii) of the immediately preceding sentence, such successor corporation shall succeed to and be substituted for the Company hereunder and under the Securities and all such obligations of the Company shall terminate.

Section 7.2 No Limitations

Nothing contained in this Indenture or in any of the Securities shall prevent the Company from merging into itself any other corporation or entity (whether or not affiliated with the Company) or acquiring by purchase or otherwise all or any part of the property of any other corporation or entity (whether or not affiliated with the Company).

ARTICLE 8
Supplemental Indentures

Section 8.1 Supplemental Indentures Without Consent of Holders

Without the consent of any Holders, the Company, when authorized by a Board Resolution, and the Trustee, at any time and from time to time, may enter into indentures supplemental hereto, in form reasonably satisfactory to the Trustee, for any of the following purposes:

(a) to evidence the succession of another corporation to the Company and the assumption by any such successor of the covenants of the Company herein and in the Securities; or

(b) to add to the covenants of the Company for the benefit of the Holders of all or any series of Securities (and if such covenants are to be for the benefit of less than all series of Securities, stating that such covenants are expressly being included solely for the benefit of such series) or to surrender any right or power herein conferred upon the Company; or
(c) to add any additional Events of Default with respect to all or any series of Securities; or

(d) to add to or change any of the provisions of this Indenture to such extent as shall be necessary to facilitate the issuance of Securities in bearer form, registrable or not registrable as to principal, and with or without interest coupons, or to facilitate the issuance of Securities in global form; or

(e) to add to, change or eliminate any of the provisions of this Indenture, provided that any such addition, change or elimination shall become effective only when there is no Security Outstanding of any series created prior to the execution of such supplemental indenture which is entitled to the benefit of such provision; or

(f) to secure the Securities; or

(g) to establish the form or terms of Securities of any series as permitted by Sections 2.1 and 3.2; or

(h) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the Securities of one or more series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Section 6.10; or

(i) to make provision with respect to the conversion rights of Holders pursuant to the requirements of Section 12.11; or

(j) to correct or supplement any provision herein which may be inconsistent with any other provision herein, to cure any ambiguity or correct any mistake or to make any other provisions with respect to matters or questions arising under this Indenture, provided such action shall not adversely affect the interests of the Holders of Securities of any series in any material respect; or

(k) to modify, eliminate or add to the provisions of this Indenture to such extent as shall be necessary to comply with any requirement of the Commission in connection with the qualifications of this Indenture under the Trust Indenture Act, or under any similar federal statute hereafter enacted; or

(l) make other changes to the Indenture or forms or terms of the Securities, provided no such change individually or in the aggregate with all other such changes has or will have an adverse effect on the interests of the Holders.

Section 8.2 With Consent of Holders

With the written consent of the Holders of a majority of the aggregate principal amount of the Outstanding Securities of each series adversely affected by such supplemental indenture, the Company and the Trustee may enter into an indenture or indentures supplemental hereto to add any provisions to or to change or eliminate any provisions of this Indenture or of any other indenture supplemental hereto or to modify the rights of the Holders of Securities of each such series; provided, however, that without the consent of the Holder of each Outstanding Security affected thereby, an amendment under this Section may not:

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(a) change the Stated Maturity of the principal of, or any installment of principal of or interest on, any Security, or reduce the principal amount thereof or the rate of interest thereon or any premium payable upon the redemption thereof, reduce the rate or extend the time of payment of interest, including Liquidated Damages, if any, or reduce the amount of the principal of an Original Issue Discount Security that would be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.2, or change the coin or currency in which, any Securities or any premium or the interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date), or adversely affect the right to convert any Security as provided in Article 12 (except as permitted by Section 8.1(i)) [if applicable, insert—, or modify the provisions of this Indenture with respect to the subordination of the Securities in a manner adverse to the Holders];

(b) reduce the percentage in principal amount of the Outstanding Securities of any series, the consent of whose Holders is required for any such supplemental indenture, or the consent of whose Holders is required for any waiver (of compliance with certain provisions of this Indenture or certain defaults hereunder and their consequences) provided for in this Indenture;

(c) change any obligation of the Company to maintain an office or agency in the places and for the purposes specified in Section 9.2; or

(d) make any change in Section 5.7 or Section 8.2(a) except to increase any percentage or to provide that certain other provisions of this Indenture cannot be modified or waived with the consent of the Holders of each Outstanding Security affected thereby.

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

It is not necessary under this Section 8.2 for the Holders to consent to the particular form of any proposed supplemental indenture, but it is sufficient if they consent to the substance thereof.

Section 8.3 Compliance with Trust Indenture Act

Every supplemental indenture executed pursuant to this Article shall comply with the requirements of the Trust Indenture Act as then in effect.

Section 8.4 Execution of Supplemental Indentures

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modification thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and 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 such supplemental indenture which affects the Trustee’s own rights, duties or immunities under this Indenture or otherwise.

Section 8.5 Effect of Supplemental Indentures

Upon the execution of any supplemental indenture under this article, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.
Section 8.6 Reference in Securities to Supplemental Indentures

Securities of any series authenticated and delivered after the execution of any supplemental indenture pursuant to this Article may, and shall if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Securities of any series so modified as to conform, in the opinion of the Trustee and the Company, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for Outstanding Securities.

ARTICLE 9

Covenants

Section 9.1 Payment of Principal, Premium, if Any, 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 the Securities of such series and this Indenture. An installment of principal or interest shall be considered paid on the date it is due if the Trustee or Paying Agent holds on that date money designated for and sufficient to pay the installment.

Section 9.2 Maintenance of Office or Agency

The Company will maintain in each Place of Payment for any series of Securities an office or agency where Securities of that series may be presented or surrendered for payment, where Securities of that series may be surrendered for registration of transfer or exchange, where Securities may be surrendered for conversion and where notices and demands to or upon the Company in respect of the Securities of that series and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of any such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and the Company hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

The Company may also from time to time designate one or more other offices or agencies where the Securities of one or more series may be presented or surrendered for payment, where Securities of that series may be surrendered for registration of transfer or exchange, where Securities may be surrendered for conversion and where notices and demands to or upon the Company in respect of the Securities of that series and this Indenture may be served. The Company will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency. Unless otherwise specified as contemplated by Section 3.1, the Trustee shall initially serve as Paying Agent.

Section 9.3 Money for Securities to Be Held in Trust; Unclaimed Money

If the Company shall at any time act as its own Paying Agent with respect to any series of Securities, it will, on or before each due date of the principal of, premium, if any, or interest on any of the Securities of that series, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal, premium, if any, or interest so becoming due until such sums shall be paid to such persons or otherwise disposed of as herein provided and will promptly notify the Trustee in writing of its action or failure so to act.
The Company will cause each Paying Agent for any series of Securities other than the Trustee to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section, that such Paying Agent will:

(a) hold all sums held by it for the payment of the principal of, premium, if any, or interest on Securities of that series in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided;

(b) give the Trustee notice of any default by the Company (or any other obligor upon the Securities of that series) in the making of any payment of principal, premium, if any, or interest on the Securities; and

(c) at any time during the continuance of any such default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of any principal, premium or interest on any Security of any series and remaining unclaimed for two years after such principal, premium, if any, or interest has become due and payable shall be paid to the Company on Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Security shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in a newspaper published in the English language, customarily published on each Business Day and of general circulation in The City of New York, or cause to be mailed to such Holder, notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication, any unclaimed balance of such money then remaining will be repaid to the Company.

Section 9.4 Corporate Existence

Subject to Article 7, the Company will at all times do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence and its rights and franchises; provided that nothing in this Section 9.4 shall prevent the abandonment or termination of any right or franchise of the Company if, in the opinion of the Company, such abandonment or termination is in the best interests of the Company and does not materially adversely affect the ability of the Company to operate its business or to fulfill its obligations hereunder.

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**Section 9.5  Reports by the Company**

The Company covenants:

(a) to file with the Trustee, within 30 days after the Company is required to file the same with the Commission, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may from time to time by rules and regulations prescribe) which the Company may be required to file with the Commission pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended; or, if the Company is not required to file information, documents or reports pursuant to either of such sections, then to file with the Trustee and the Commission, in accordance with rules and regulations prescribed from time to time by the Commission, such of the supplementary and periodic information, documents and reports which may be required pursuant to Section 13 of the Securities Exchange Act of 1934, as amended, in respect of a security listed and registered on a national securities exchange as may be prescribed from time to time in such rules and regulations;

(b) to transmit to all Holders of Securities, within 30 days after the filing thereof with the Trustee, in the manner and to the extent provided in section 313(c) of the Trust Indenture Act, such information, documents and reports required to be filed by the Company pursuant to subsection (a) of this Section 9.5, as may be required by rules and regulations prescribed from time to time by the Commission.

Such reports, information and documents will be deemed to be filed, furnished or transmitted to the Trustee and Holders of the Securities in compliance with this Section 9.5 on the date filed with the Commission. Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee’s receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company’s compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers’ Certificates).

**Section 9.6  Annual Review Certificate; Notice of Default**

The Company covenants and agrees to deliver to the Trustee, within 120 days after the end of each fiscal year of the Company, a brief certificate from the principal executive officer, principal financial officer, or principal accounting officer as to his or her knowledge of the Company’s compliance with all conditions and covenants under this Indenture. The Company shall file with the Trustee written notice of occurrence of any Event of Default within 30 Business Days of its becoming aware of any such Event of Default.

**Section 9.7  Provision of Financial Statements**

If the Company is not required to file with the Commission periodic reports and other information pursuant to section 13(a), 13(c) or 15(d) of the Securities Exchange Act of 1934, the Company shall furnish without cost to each Holder and file with the Trustee (a) within 135 days after the end of each fiscal year, annual reports containing the information required to be contained in Items 1, 2, 3, 5, 6, 7, 8 and 9 of Form 10-K promulgated under the Securities Exchange Act of 1934, or substantially the same information required to be contained in comparable items of any successor form, (b) within 60 days after the end of each of the first three fiscal quarters of each fiscal year, quarterly reports containing the information required to be contained in Form 10-Q promulgated under the Securities Exchange Act of 1934, or substantially the same information required to be contained in any successor form and (c) promptly from the time after the occurrence of an event required to be therein reported, such other reports containing information required to be contained in Form 8-K promulgated under the Securities Exchange Act of 1934, or substantially the same information required to be contained in any successor form.
ARTICLE 10
Redemption

Section 10.1 Applicability of Article

Securities of any series that are redeemable before their Stated Maturity shall be redeemable in accordance with their terms and (except as otherwise specified as contemplated by Section 3.1 for Securities of any series) in accordance with this Article.

Section 10.2 Election to Redeem; Notice to Trustee

The election of the Company to redeem any Securities shall be evidenced by or pursuant to a Board Resolution or any Officers’ Certificate. In the case of any redemption at the election of the Company of less than all the Securities, if any, of any series, the Company shall, at least 45 days prior to the Redemption Date fixed by the Company (unless a shorter notice shall be satisfactory to the Trustee), notify the Trustee of such Redemption Date, of the principal amount of Securities of such series to be redeemed and, if applicable, of the tenor of the Securities to be redeemed. In the case of any redemption of Securities (a) prior to the expiration of any restriction on such redemption provided in the terms of such Securities or elsewhere in this Indenture or (b) pursuant to an election of the Company that is subject to a condition specified in the terms of such Securities, the Company shall furnish the Trustee with an Officers’ Certificate evidencing compliance with such restriction or condition.

Section 10.3 Selection of Securities to Be Redeemed

Unless otherwise specified as contemplated by Section 3.1, if less than all the Securities of a series with the same original issue date, interest rate and Stated Maturity are to be redeemed, the Trustee, not more than 45 days prior to the redemption date, shall select the Securities of the series to be redeemed in such manner as the Trustee shall deem fair and appropriate. The Trustee shall make the selection from Securities of the series that are Outstanding and that have not previously been called for redemption and may provide for the selection for redemption of portions (equal to the minimum authorized denomination for Securities of that series or any integral multiple thereof) of the principal amount of Securities of such series of a denomination larger than the minimum authorized denomination for Securities of that series. The Trustee shall promptly notify the Company in writing of the Securities selected by the Trustee for redemption and, in the case of any Securities selected for partial redemption, the principal amount thereof to be redeemed.

For purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Securities shall relate, in the case of any Securities redeemed or to be redeemed only in part, to the portion of the principal amount of such Securities that has been or is to be redeemed.
Section 10.4 Notice of Redemption

Unless otherwise specified as contemplated by Section 3.1, notice of redemption shall be given in the manner provided in Section 1.6 not less than 30 days nor more than 60 days prior to the Redemption Date to the Holders of the Securities to be redeemed.

All notices of redemption shall state:

(a) the Redemption Date;

(b) the Redemption Price;

(c) if fewer than all the Outstanding Securities of a series are to be redeemed, the identification (and, in the case of partial redemption, the principal amounts) of the particular Security or Securities to be redeemed;

(d) in case any Security is to be redeemed in part only, the notice that relates to such Security shall state that on and after the Redemption Date, upon surrender of such Security, the Holder will receive, without a charge, a new Security or Securities of authorized denominations for the principal amount thereof remaining unredeemed;

(e) the conversion price, the date on which the right to convert the principal of the Securities to be redeemed will terminate and the place or places where such Securities may be surrendered for conversion;

(f) the Place or Places of Payment where such Securities maturing after the Redemption Date, are to be surrendered for payment for the Redemption Price;

(g) that Securities of the series called for redemption must be surrendered to the Paying Agent to collect the redemption price;

(h) that, on the Redemption Date, the Redemption Price will become due and payable upon each such Security, or the portion thereof, to be redeemed and, if applicable, that interest thereon will cease to accrue on and after said date;

(i) that the redemption is for a sinking fund, if such is the case; and

(j) the CUSIP number.

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

Section 10.5 Deposit of Redemption Price

On or prior to 10:00 a.m., New York City Time, on any Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 9.3) an amount of money sufficient to pay on the Redemption Date the Redemption Price of, and (unless the Redemption Date shall be an Interest Payment Date) interest accrued to the Redemption Date on, all Securities or portions thereof that are to be redeemed on that date other than any Securities called for redemption on that date that have been converted prior to the date of such deposit.
Unless any Security by its terms prohibits any sinking fund payment obligation from being satisfied by delivering and crediting Securities (including Securities redeemed otherwise than through a sinking fund), the Company may deliver such Securities to the Trustee for crediting against such payment obligation in accordance with the terms of such Securities and this Indenture.

If any Security called for redemption is converted, any money deposited with the Trustee or with any Paying Agent or so segregated and held in trust for the redemption of such Security shall (subject to any right of the Holder of such Security or any Predecessor Security to receive interest as provided in the last paragraph of Section 3.7) be paid to the Company upon Company Request or, if then held by the Company, shall be discharged from such trust.

Section 10.6 Securities Payable on Redemption Date

Notice of redemption having been given as aforesaid, the Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the Company shall default in the payment of the Redemption Price and accrued interest) such Securities shall cease to bear interest. Except as provided in the next succeeding paragraph, upon surrender of any such Security for redemption in accordance with said notice, such Security shall be paid by the Company at the Redemption Price, together with accrued interest to the Redemption Date; provided, however, that, unless otherwise specified as contemplated by Section 3.1, installments of interest on Securities whose Stated Maturity is prior to the Redemption Date shall be payable to the Holders of such Securities, or one or more Predecessor Securities, registered as such at the close of business on the relevant Record Dates according to their terms and the provisions of Section 3.7.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal (and premium, if any) shall, until paid, bear interest from the Redemption Date at the rate prescribed therefor in the Security.

Section 10.7 Securities Redeemed in Part

Upon surrender of a Security that is redeemed in part at any Place of Payment therefor (with, if the Company or the Trustee so require, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or its attorney duly authorized in writing), the Company shall execute and the Trustee shall authenticate and deliver to the Holder of that Security, without service charge, a new Security or Securities of the same series, the same form and the same Maturity in any authorized denomination equal in aggregate principal amount to the unredeemed portion of the principal of the Security surrendered.

ARTICLE 11

Sinking Funds

Section 11.1 Applicability of Article

The provisions of this Article shall be applicable to any sinking fund for the retirement of Securities of a series except as otherwise specified as contemplated by Section 3.1 for Securities of such series.

The minimum amount of any sinking fund payment provided for by the terms of Securities of any series is herein referred to as a “mandatory sinking fund payment,” and any payment in excess of such minimum amount provided for by the terms of Securities of any series is herein referred to as an “optional sinking fund payment.” If provided for by the terms of Securities of any series, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 11.2. 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 11.2 Satisfaction of Sinking Fund Payments with Securities

The Company (a) may deliver Outstanding Securities of a series (other than any previously called for redemption) and (b) may apply as a credit Securities of a series that have been converted pursuant to Article 12 or that have been redeemed either at the election of the Company pursuant to the terms of such Securities or through the application of permitted optional sinking fund payments pursuant to the terms of such Securities, in each case in satisfaction of all or any part of any sinking fund payment with respect to the Securities of such series required to be made pursuant to the terms of such Securities as provided for by the terms of such series; provided that such Securities have not been previously so credited. Such Securities shall be received and credited for such purpose by the Trustee at the Redemption Price specified in such Securities for redemption through operation of the sinking fund and the amount of such sinking fund payment shall be reduced accordingly.

Section 11.3 Redemption of Securities for Sinking Fund

Not less than 60 days prior to each sinking fund payment date for any series of Securities, the Company will deliver to the Trustee an Officers’ Certificate specifying the amount of the next ensuing sinking fund payment for that series pursuant to the terms of that series, the portion thereof, if any, that is to be satisfied by payment of cash and the portion thereof, if any, that is to be satisfied by delivering and crediting Securities of that series pursuant to Section 11.2 and will also 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 10.3 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 10.4. Such notice having been duly given, the redemption of such Securities shall be made upon the terms and in the manner stated in Sections 10.6 and 10.7.

ARTICLE 12

Conversion and Repurchase of Securities; Make Whole Premium

Section 12.1 Conversion Privilege

(a) Subject to and upon compliance with the provisions of this Indenture, at any time prior to 5:00 p.m., New York City time, on the Business Day immediately preceding the maturity date, the Holder of any Security shall have the right, at such Holder’s option, to convert the principal amount of the Security, or any portion of such principal amount that is a multiple of $1,000, into fully paid and non-assessable shares of Common Stock (as such Common Stock shall then be constituted) at the Conversion Rate in effect at such time by surrender of the Security to be so converted in whole or in part, together with any required funds, in the manner provided in Section 12.2. If a record date for a meeting of shareholders of the Company to be held after a Holder of the Securities converts its Securities has been fixed and falls before the Conversion Date, such Holder shall not have any voting rights at such meeting of shareholders with respect to the Common Stock into which its Securities are converted.

A Security in respect of which a Holder is electing to exercise its option to require the Company to repurchase such Holder’s Securities upon a Designated Event pursuant to Section 12.14 may be converted only if such Holder withdraws its election in accordance with Section 12.14. A Holder of Securities is not entitled to any rights of a holder of Common Stock until such Holder has converted its Securities into Common Stock and only to the extent such Securities are deemed to have been converted into Common Stock under this Article 12. Holders shall not have any right to receive dividends declared by the Company on the Common Stock, unless the Record Date for the payment of such dividends falls on or after the Conversion Date for such Holder’s Securities. In addition to the Designated Event Notice described in Section 12.14(b), in the case of a Designated Event that is also a Fundamental Change, at least ten (10) Trading Days prior to the anticipated Effective Date of such Fundamental Change, the Company or at its written request, the Trustee, in the name of and at the expense of the Company, shall mail or cause to be mailed to all Holders of record on such date a notice of such anticipated Effective Date.
(b) If a Holder converts its Securities at any time beginning on the date on which the Company gives notice to the Holders of Securities of the anticipated Effective Date of any Fundamental Change that occurs on or prior to (as set forth in Section 12.1(a) above) and ending at the close of business on the Designated Event Repurchase Date corresponding to such Fundamental Change, such Holder shall receive:

(i) the Make Whole Premium, if any, which shall be in an amount and form determined as set forth in this Article, and shall be paid on the Business Day immediately following the Designated Event Repurchase Date corresponding to such Fundamental Change; plus

(ii) the number of shares of Common Stock into which such Holder’s Securities are convertible (if such Securities are surrendered for conversion prior to the record date for receiving distributions in connection with the Fundamental Change or, if earlier, the effective date of the Fundamental Change) or the kind and amount of cash, securities and other assets or property that such Holder would have received if it had held the number of shares of Common Stock into which such Securities were convertible immediately prior to the transaction or event constituting a Fundamental Change (if such Securities are surrendered for conversion after such record date or effective date, as the case may be); plus

(iii) accrued but unpaid interest on such Securities, if any, to but excluding the Conversion Date, which interest shall be payable in Cash.

(c) Notwithstanding any provision of this Indenture, in no event will the total number of shares of Common Stock issuable upon conversion of the Securities (including any shares of Common Stock issued pursuant to this Article) exceed in the aggregate per $1,000 principal amount of Securities, such number subject to adjustment in the same manner as set forth in Section 12.4.

Section 12.2 Exercise of Conversion Privilege

In order to exercise the conversion privilege with respect to any Security in certificated form, the Company must receive at the office or agency of the Company maintained for that purpose or, at the option of such Holder, the Corporate Trust Office, such Security with the original or facsimile of the form entitled “Conversion Notice” on the reverse thereof, duly completed and signed by manual or facsimile signature, together with such Securities duly endorsed for transfer, accompanied by the funds, if any, required by this Section 12.2. Such notice shall also state the name or names (with address or addresses) in which the certificate or certificates for shares of Common Stock that shall be issuable on such conversion shall be issued, and shall be accompanied by transfer or similar taxes, if required pursuant to Section 12.8.

In order to exercise the conversion privilege with respect to any interest in a Global Security, the beneficial holder must complete, or cause to be completed, the appropriate instruction form for conversion pursuant to the Depositary’s book-entry conversion program, deliver, or cause to be delivered, by book-entry delivery an interest in such Global Security, furnish appropriate endorsements and transfer documents if required by the Company or the Trustee or conversion agent, and pay the funds, if any, required by this Section 12.2 and any transfer taxes if required pursuant to Section 12.8.
Promptly (but not later than two Business Days) after satisfaction of the requirements for conversion set forth above, subject to compliance with any restrictions on transfer if shares issuable on conversion are to be issued in a name other than that of the Holder (as if such transfer were a transfer of the Security or Securities (or portion thereof) so converted), the Company shall issue and shall deliver to such Holder at the office or agency maintained, or cause to be maintained, by the Company for such purpose pursuant to Section 9.2 a certificate or certificates for the number of shares of Common Stock issuable upon the conversion of such Security or portion thereof as determined by the Company in accordance with the provisions of this Article 12 and a check or cash in respect of any fractional interest in respect of a share of Common Stock arising upon such conversion, calculated by the Company as provided in Section 12.3. In case any Security of a denomination greater than $1,000 shall be surrendered for partial conversion, and subject to Section 3.3, the Company shall execute and the Trustee shall authenticate and deliver to the Holder of the Security so surrendered, without charge to such Holder of the Security, a new Security or Securities in authorized denominations in an aggregate principal amount equal to the unconverted portion of the surrendered Security.

Each conversion shall be deemed to have been effected as to any such Security (or portion thereof) on the date (the “Conversion Date”) on which the requirements set forth above in this Section 12.2 have been satisfied as to such Security (or portion thereof), and the Person in whose name any certificate or certificates for shares of Common Stock shall be issuable upon such conversion shall be deemed to have become on the Conversion Date the holder of record of the shares represented thereby; provided that any such surrender on any date when the stock transfer books of the Company shall be closed shall constitute the Person in whose name the certificates are to be issued as the record holder thereof for all purposes on the next succeeding day on which such stock transfer books are open, but such conversion shall be at the Conversion Rate in effect on the date upon which such Security shall be surrendered.

If any Security (or portion thereof) is converted into Common Stock during the period after a Record Date for the payment of interest to, but excluding, the next succeeding interest payment date and such Security (or portion thereof) has been tendered for repurchase on a Designated Event Repurchase Date that occurs during such period, the Company shall pay the full amount of interest on such interest payment date in respect of any such Security (or portion thereof) to the Holder of such Securities registered as such at the close of business on the applicable Record Date. Any Security or portion thereof surrendered for conversion during the period from the close of business on the Record Date for any interest payment date to the close of business on the Business Day preceding the immediately following interest payment date shall be accompanied by payment, in immediately available funds or other funds acceptable to the Company, of an amount equal to the interest otherwise payable on such interest payment date on the principal amount being converted; provided that no such payment need be made (1) if the Company has specified a Designated Event Repurchase Date following a Designated Event that is after a Record Date and on or prior to the next interest payment date or (2) to the extent of any overdue interest, if any overdue interest exists at the time of conversion with respect to such Security. Except as provided above in this Section 12.2, no payment or other adjustment shall be made for interest accrued and unpaid on any Security converted or for dividends on any shares issued upon the conversion of such Security as provided in this Article 12.

Upon the conversion of an interest in a Global Security, the Trustee (or other conversion agent appointed by the Company), or the Custodian at the direction of the Trustee (or other conversion agent appointed by the Company), shall make a notation on such Global Security as to the reduction in the principal amount represented thereby. The Company shall notify the Trustee in writing of any conversions of Securities effected through any conversion agent other than the Trustee.
Upon the conversion of a Security, that portion of the accrued but unpaid interest, including Liquidated Damages, if any, attributable to the period from the issue date of the Security to the Conversion Date with respect to the converted Security shall not be cancelled, extinguished or forfeited, but rather shall be deemed to be paid in full to the Holder thereof through delivery of the Common Stock (together with the cash payment, if any in lieu of fractional shares) in exchange for the Security being converted pursuant to the provisions hereof; and the Fair Market Value of such Common Stock (together with any such cash payment in lieu of fractional shares) shall be treated as issued, to the extent thereof, first in exchange for and in satisfaction of the Company’s obligation to pay the principal amount of the converted Security, the accrued but unpaid interest, including Liquidated Damages, if any, through the Conversion Date from the issue date, and the balance, if any, of such Fair Market Value of such Common Stock (and any such cash payment) shall be treated as issued in exchange for and in satisfaction of the right to convert the Security being converted pursuant to the provisions hereof.

Section 12.3 Fractions of Shares

In connection with the conversion of the Securities, no fractional shares of Common Stock shall be issued upon conversion of Securities. If more than one Security shall be surrendered for conversion at one time by the same Holder, the number of full shares that shall be issuable upon conversion shall be computed on the basis of the aggregate principal amount of the Securities (or specified portions thereof to the extent permitted hereby) so surrendered. If any fractional share of stock would be issuable upon the conversion of any Security or Securities, the Company shall make an adjustment and payment therefor in cash at the current market price thereof to the Holder of Securities. The current market price of a share of Common Stock shall be the Closing Price on the Trading Day immediately preceding the Conversion Date.

Section 12.4 Adjustment of Conversion Price

Each $1,000 principal amount of the Securities shall be convertible into the number of shares of Common Stock specified in the form of Security (herein called the “Conversion Rate”). The Conversion Rate shall be adjusted from time to time by the Company as follows:

(a) In case the Company shall hereafter pay a dividend or make a distribution to all holders of the outstanding Common Stock in Common Stock, the Conversion Rate shall be increased so that the same shall equal the rate determined by multiplying the Conversion Rate in effect at the opening of business on the date following the date fixed for the determination of stockholders entitled to receive such dividend or other distribution by a fraction,

(i) the numerator of which shall be the sum of the number of shares of Common Stock outstanding at the close of business on the date fixed for the determination of stockholders entitled to receive such dividend or other distribution plus the total number of shares Common Stock constituting such dividend or other distribution; and

(ii) the denominator of which shall be the number of shares of Common Stock outstanding at the close of business on the date fixed for such determination, such increase to become effective immediately after the opening of business on the day following the date fixed for such determination. If any dividend or distribution of the type described in this Section 12.4(a) is declared but not so paid or made, the Conversion Rate shall again be adjusted to the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

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(b) In case the Company shall issue rights or warrants to all holders of its outstanding shares of Common Stock entitling them (for a period expiring within forty-five (45) calendar days after the date fixed for determination of stockholders entitled to receive such rights or warrants) to subscribe for or purchase shares of Common Stock at a price per share less than the average of the Closing Prices of the Common Stock for the ten (10) consecutive Trading Days immediately preceding the declaration date for such distribution, the Conversion Rate shall be increased so that the same shall equal the rate determined by multiplying the Conversion Rate in effect immediately prior to the date fixed for determination of stockholders entitled to receive such rights or warrants by a fraction,

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\text{(i) the numerator of which shall be the number of shares of Common Stock outstanding at the close of business on the date fixed for determination of stockholders entitled to receive such rights or warrants plus the total number of additional shares of Common Stock offered for subscription or purchase; and}
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\text{(ii) the denominator of which shall be the sum of the number of shares of Common Stock outstanding at the close of business on the date fixed for determination of stockholders entitled to receive such rights or warrants plus the number of shares of Common Stock that the aggregate offering price of the total number of shares so offered would purchase at a price equal to the average of the Closing Prices of the Common Stock for the ten (10) consecutive Trading Days immediately preceding the declaration date for such distribution.}
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Such adjustment shall be successively made whenever any such rights or warrants are issued, and shall become effective immediately after the opening of business on the day following the date fixed for determination of stockholders entitled to receive such rights or warrants. To the extent that shares of Common Stock are not delivered after the expiration of such rights or warrants, the Conversion Rate shall be readjusted to the Conversion Rate that would then be in effect had the adjustments made upon the issuance of such rights or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights or warrants are not so issued, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such date fixed for the determination of stockholders entitled to receive such rights or warrants had not been fixed. In determining whether any rights or warrants entitle the holders to subscribe for or purchase shares of Common Stock at a price less than the average of the Closing Prices of the Common Stock for the ten (10) consecutive Trading Days immediately preceding the declaration date for such distribution, and in determining the aggregate offering price of such Common Stock, there shall be taken into account any consideration received by the Company for such rights or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by the Board of Directors.

(c) In case outstanding shares of Common Stock shall be subdivided into a greater number of shares of Common Stock, the Conversion Rate in effect at the opening of business on the day following the day upon which such subdivision becomes effective shall be proportionately increased, and conversely, in case outstanding shares of Common Stock shall be combined into a smaller number of shares of Common Stock, the Conversion Rate in effect at the opening of business on the day following the day upon which such combination becomes effective shall be proportionately reduced, such increase or reduction, as the case may be, to become effective immediately after the opening of business on the day following the day upon which such subdivision or combination becomes effective.

(d) In case the Company shall, by dividend or otherwise, distribute to all holders of its shares of Common Stock shares of any class of capital stock of the Company or evidences of its indebtedness or assets (including securities, but excluding any rights or warrants referred to in Section 12.4(b), and excluding any dividend or distribution (x) paid exclusively in cash or (y) referred to in Section 12.4(a)) (any of the foregoing hereinafter in this Section 12.4(d) called the “Distributed Property”), then, in each such case, the Conversion Rate shall be increased so that the same shall be equal to the rate determined by multiplying the Conversion Rate in effect immediately prior to the close of business on the Record Date with respect to such distribution by a fraction,
(i) the numerator of which shall be the Current Market Price of the Common Stock on such Record Date; and

(ii) the denominator of which shall be the Current Market Price of the Common Stock on such Record Date less the Fair Market Value (as determined by the Board of Directors, whose determination shall be conclusive, and described in a resolution of the Board of Directors) on the Record Date of the portion of the Distributed Property so distributed applicable to one share of Common Stock, such adjustment to become effective immediately prior to the opening of business on the day following such Record Date; provided that if the then Fair Market Value (as so determined) of the portion of the Distributed Property so distributed applicable to one share of Common Stock is equal to or greater than the Current Market Price on the Record Date, in lieu of the foregoing adjustment, adequate provision shall be made so that each Holder shall have the right to receive on the date of such dividend or distribution the amount of Distributed Property such Holder would have received had such Holder converted each Security on the Record Date. If such dividend or distribution is not so paid or made, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared. If the Board of Directors determines the Fair Market Value of any distribution for purposes of this Section 12.4(d) by reference to the actual or when issued trading market for any securities, it must in doing so consider the prices in such market over the same period used in computing the Current Market Price on the applicable Record Date.

Notwithstanding the foregoing, if the Distributed Property distributed by the Company to all holders of its Common Stock consist of capital stock of, or similar equity interests in, a Subsidiary or other business unit (unless such capital stock or similar equity interests are distributed to the Holders in such distribution as if such Holders had converted their Securities into Common Stock), the Conversion Rate shall be increased so that the same shall be equal to the rate determined by multiplying the Conversion Rate in effect immediately prior to the close of business on the Record Date with respect to such distribution by a fraction,

(i) the numerator of which shall be the sum of (A) the average of the Closing Prices of the Common Stock for the ten (10) consecutive Trading Days commencing on and including the fifth Trading Day after the date on which “ex-dividend trading” commences for such dividend or distribution on the New York Stock Exchange, Nasdaq or such other national or regional exchange or market on which such securities are then listed or quoted (the “Ex-Dividend Date”) plus (B) the average of the Closing Prices of the securities distributed in respect of each share of Common Stock for the ten (10) consecutive Trading Days commencing on and including the fifth Trading Day after the Ex-Dividend Date; and

(ii) the denominator of which shall be the average of the Closing Prices of the Common Stock for the ten (10) consecutive Trading Days commencing on and including the fifth Trading Day after the Ex-Dividend Date, such adjustment to become effective ten (10) Trading Days after the effective date of such distribution of capital stock of, or similar equity interests in, a Subsidiary or other business unit; provided that if (x) the average of the Closing Prices of the Common Stock for the ten (10) consecutive Trading Days commencing on and including the fifth Trading Day after the Ex-Dividend Date minus (y) the average of the Closing Prices of the securities distributed in respect of each share of Common Stock for the ten (10) consecutive Trading Days commencing on and including the fifth Trading Day after the Ex-Dividend Date is less than $1.00, then the adjustment provided by for by this paragraph shall not be made and in lieu thereof the provisions of the first paragraph of this Section 12.4(d) shall apply to such distribution. In any case in which this paragraph is applicable, Section 12.4(a), Section 12.4(b) and the first paragraph of this Section 12.4(d) shall not be applicable.
Rights or warrants distributed by the Company to all holders of Common Stock entitling the holders thereof to subscribe for or purchase shares of the Company’s capital stock (either initially or under certain circumstances), which rights or warrants, until the occurrence of a specified event or events (“Trigger Event”), (i) are deemed to be transferred with such Common Stock, (ii) are not exercisable and (iii) are also issued in respect of future issuances of Common Stock, shall be deemed not to have been distributed for purposes of this Section 12.4 (and no adjustment to the Conversion Rate under this Section 12.4 will be required) until the occurrence of the earliest Trigger Event, whereupon such rights and warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Conversion Rate shall be made under this Section 12.4(d). If any such right or warrant, including any such existing rights or warrants distributed prior to the date of this Indenture, are subject to events upon the occurrence of which such rights or warrants become exercisable to purchase different securities, evidences of indebtedness or other assets, then the date of the occurrence of any and each such event shall be deemed to be the date of distribution and Record Date with respect to new rights or warrants with such rights (and a termination or expiration of the existing rights or warrants without exercise by any of the holders thereof). In addition, in the event of any distribution (or deemed distribution) of rights or warrants, or any Trigger Event or other event of the type described in the preceding sentence with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to the Conversion Rate under this Section 12.4 was made, (1) in the case of any such rights or warrants that shall all have been redeemed or repurchased without exercise by any holders thereof, the Conversion Rate shall be readjusted upon such final redemption or repurchase to give effect to such distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per share redemption or repurchase price received by a holder or holders of Common Stock with respect to such rights or warrants (assuming such holder had retained such rights or warrants), made to all holders of Common Stock as of the date of such redemption or repurchase, and (2) in the case of such rights or warrants that shall have expired or been terminated without exercise by any holders thereof, the Conversion Rate shall be readjusted as if such rights and warrants had not been issued.

For purposes of this Sections 12.4(d) and Section 12.4(a) and (b), any dividend or distribution to which this Section 12.4(d) is applicable that also includes Common Stock, or rights or warrants to subscribe for or purchase Common Stock (or both), shall be deemed instead to be (1) a dividend or distribution of the evidences of indebtedness, assets or shares of capital stock other than such Common Stock or rights or warrants (and any Conversion Rate adjustment required by this Section 12.4(d) with respect to such dividend or distribution shall then be made) immediately followed by (2) a dividend or distribution of such Common Stock or such rights or warrants (and any further Conversion Rate adjustment required by Sections 12.4(a) and 12.4(b) with respect to such dividend or distribution shall then be made), except (A) the Record Date of such dividend or distribution shall be substituted as “the date fixed for the determination of stockholders entitled to receive such dividend or other distribution”, “the date fixed for the determination of stockholders entitled to receive such rights or warrants” and “the date fixed for such determination” within the meaning of Sections 12.4(a) and 12.4(b) and (B) any Common Stock included in such dividend or distribution shall not be deemed “outstanding at the close of business on the date fixed for the determination of stockholders entitled to receive such dividend or other distribution” or “outstanding at the close of business on the date fixed for such determination” within the meaning of Section 12.4(a).
(e) The reclassification of Common Stock into securities including securities other than Common Stock (other than any reclassification upon an event to which Section 12.11 applies) shall be deemed to involve (a) a distribution of such securities other than Common Stock to all holders of Common Stock (and the effective date of such reclassification shall be deemed to be the “Record Date” within the meaning of Section 12.4(d), and (b) a subdivision or combination, as the case may be, of the number of shares of Common Stock outstanding immediately prior to such reclassification into the number of shares of Common Stock outstanding immediately thereafter (and the effective date of such reclassification shall be deemed to be “the day upon which such subdivision becomes effective” or “the day upon which such combination becomes effective,” as the case may be, and “the day upon which such subdivision or combination becomes effective” within the meaning of Section 12.4(c)).

(f) In case the Company shall, by dividend or otherwise, distribute to all holders of its Common Stock cash (excluding any dividend or distribution in connection with the liquidation, dissolution or winding up of the Company, whether voluntary or involuntary), then, in such case, the Conversion Rate shall be increased so that the same shall equal the rate determined by multiplying the Conversion Rate in effect immediately prior to the close of business on such Record Date by a fraction,

(i) the numerator of which shall be the Current Market Price on such Record Date; and

(ii) the denominator of which shall be the Current Market Price on such Record Date less the amount of cash so distributed applicable to one share of Common Stock,

such adjustment to be effective immediately prior to the opening of business on the day following the Record Date; provided that if the portion of the cash so distributed applicable to one share of Common Stock is equal to or greater than the Current Market Price on the Record Date, in lieu of the foregoing adjustment, adequate provision shall be made so that each holder shall have the right to receive on the date of such dividend or distribution the amount of cash such holder would have received had such holder converted each Security on the Record Date. If such dividend or distribution is not so paid or made, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

(g) In case a tender or exchange offer made by the Company or any Subsidiary for all or any portion of the Common Stock shall expire and such tender or exchange offer (as amended up to the expiration thereof) shall require the payment to stockholders of consideration per share of Common Stock having a Fair Market Value (as determined by the Board of Directors, whose determination shall be conclusive and described in a resolution of the Board of Directors) that as of the last time (the “Expiration Time”) tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended) exceeds the Closing Price of a share of Common Stock on the Trading Day next succeeding the Expiration Time, the Conversion Rate shall be increased so that the same shall equal the rate determined by multiplying the Conversion Rate in effect immediately prior to the Expiration Time by a fraction,

(i) the numerator of which shall be the sum of (x) the Fair Market Value (determined as aforesaid) of the aggregate consideration payable to stockholders based on the acceptance (up to any maximum specified in the terms of the tender or exchange offer) of all shares validly tendered or exchanged and not withdrawn as of the Expiration Time (the shares deemed so accepted up to any such maximum, being referred to as the “Purchased Shares”) and (y) the product of the number of shares of Common Stock outstanding (less any Purchased Shares) at the Expiration Time and the Closing Price of a share of Common Stock on the Trading Day next succeeding the Expiration Time, and

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(ii) the denominator of which shall be the number of shares of Common Stock outstanding (including any tendered or exchanged shares) at the Expiration Time multiplied by the Closing Price of a share of Common Stock on the Trading Day next succeeding the Expiration Time, such adjustment to become effective immediately prior to the opening of business on the day following the Expiration Time. If the Company is obligated to purchase shares pursuant to any such tender or exchange offer, but the Company is permanently prevented by applicable law from effecting any such purchases or all such purchases are rescinded, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such tender or exchange offer had not been made.

(h) In the case of a tender or exchange offer made by a Person other than the Company or any Subsidiary for an amount that increases the offeror’s ownership of Common Stock to more than twenty-five percent (25%) of the Common Stock outstanding and shall involve the payment by such Person of consideration per share of Common Stock having a Fair Market Value (as determined by the Board of Directors, whose determination shall be conclusive, and described in a resolution of the Board of Directors) that as of the Expiration Time exceeds the Closing Price of the Common Stock on the Trading Day next succeeding the Expiration Time, and in which, as of the Expiration Time, the Board of Directors is not recommending rejection of the offer, the Conversion Rate shall be adjusted so that the same shall equal the rate determined by multiplying the Conversion Rate in effect immediately prior to the Expiration Time by a fraction,

(i) the numerator of which shall be the sum of (x) the Fair Market Value (determined as aforesaid) of the aggregate consideration payable to stockholders based on the acceptance (up to any maximum specified in the terms of the tender or exchange offer) of the Purchased Shares and (y) the product of the number of shares of Common Stock outstanding (less any Purchased Shares) at the Expiration Time and the Closing Price of a share of Common Stock on the Trading Day next succeeding the Expiration Time and

(ii) the denominator of which shall be the number of shares of Common Stock outstanding (including any tendered or exchanged shares) at the Expiration Time multiplied by the Closing Price of the Common Stock on the Trading Day next succeeding the Expiration Time, such adjustment to become effective immediately prior to the opening of business on the day following the Expiration Time. In the event that such Person is obligated to purchase shares pursuant to any such tender or exchange offer, but such Person is permanently prevented by applicable law from effecting any such purchases or all such purchases are rescinded, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such tender or exchange offer had not been made. Notwithstanding the foregoing, the adjustment described in this Section 12.4(h) shall not be made if, as of the Expiration Time, the offering documents with respect to such offer disclose a plan or intention to cause the Company to engage in a consolidation or merger or a sale of substantially all of its assets.

(i) For purposes of this Section 12.4, the following terms shall have the meaning indicated:

(i) “Current Market Price” shall mean the average of the daily Closing Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on the earlier of the date of determination and the day before the “ex date” with respect to the issuance, distribution, subdivision or combination requiring such computation. For purposes of this paragraph, the term “ex date” (1) when used with respect to any issuance or distribution, means the first date on which the Common Stock trades, regular way, on the relevant exchange or in the relevant market from which the Closing Price was obtained without the right to receive such issuance or distribution and (2) when used with respect to any subdivision or combination of Common Stock, means the first date on which the Common Stock trades, regular way, on such exchange or in such market after the time at which such subdivision or combination becomes effective.
If another issuance, distribution, subdivision or combination to which this Section 12.4 applies occurs during the period applicable for calculating “Current Market Price” pursuant to the definition in the preceding paragraph, “Current Market Price” shall be calculated for such period in a manner determined by the Board of Directors to reflect the impact of such issuance, distribution, subdivision or combination on the Closing Price of the Common Stock during such period.

(ii) “Fair Market Value” shall mean the amount which a willing buyer would pay a willing seller in an arm’s-length transaction.

(iii) “Record Date” shall mean, with respect to any dividend, distribution or other transaction or event in which the holders of Common Stock have the right to receive any cash, securities or other property or in which the Common Stock (or other applicable security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of stockholders entitled to receive such cash, securities or other property (whether such date is fixed by the Board of Directors or by statute, contract or otherwise).

(iv) “Trading Day” for any security means (x) if the applicable security is listed or admitted for trading on the New York Stock Exchange or another national securities exchange, a day on which the New York Stock Exchange or other national securities exchange is open for business, or (y) if the applicable security is quoted on Nasdaq, a day on which trades may be made thereon, or (z) if the applicable security is not so listed, admitted for trading or quoted, any day other than a Saturday or Sunday or a day on which banking institutions in the State of New York are authorized or obligated by law or executive order to close.

(j) To the extent permitted by applicable law (including applicable rules of The NASDAQ Global Select Market), the Company from time to time may increase the Conversion Rate by any amount if the Board of Directors shall have made a determination that such increase would be in the best interests of the Company, which determination shall be conclusive. Whenever the Conversion Rate is increased pursuant to the preceding sentence, the Company shall mail to holders of record of the Securities and file with the Trustee and any conversion agents other than the Trustee a notice of the increase, and such notice shall state the increased Conversion Rate and the period during which it will be in effect.

(k) All calculations under this Article 12 shall be made by the Company and shall be made to the nearest cent or to the nearest one-tenth thousandth (1/10,000) of a share (or if there is not a nearest one-tenth thousandth of a share, to the next lower one-tenth thousandth of a share), as the case may be.

(l) No adjustment need be made:

(1) upon the issuance of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on securities of the Company and the investment of additional optional amounts in Common Stock under any plan;
(2) upon the issuance of Common Stock or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by the Company or any Subsidiary;

(3) upon the issuance of Common Stock pursuant to any option, warrant, right, or exercisable, exchangeable or convertible security not described in (2) above and outstanding as of the date the Securities were first issued;

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

(5) any repurchases by the Company of the Common Stock not expressly described in this Section 12.4; or

(6) for accrued and unpaid interest.

To the extent the Securities become convertible into cash, assets, property or securities (other than capital stock of the Company or any other Person), no adjustment need be made thereafter as to the cash, assets, property or securities. Interest will not accrue on any cash into which the Securities are convertible.

(m) Whenever the Conversion Rate is adjusted as herein provided, the Company shall promptly file with the Trustee and any conversion agent other than the Trustee an Officers’ Certificate setting forth the Conversion Rate after such adjustment and setting forth a brief statement of the facts requiring such adjustment. Unless and until a Responsible Officer of the Trustee shall have received such Officers’ Certificate, the Trustee shall not be deemed to have knowledge of any adjustment of the Conversion Rate and may assume that the last Conversion Rate of which it has knowledge is still in effect. Promptly after delivery of such certificate, the Company shall prepare a notice of such adjustment of the Conversion Rate setting forth the adjusted Conversion Rate and the date on which each adjustment becomes effective and shall promptly mail such notice of such adjustment of the Conversion Rate to each Holder at its last address appearing on the Register provided for in Section 3.5 of this Indenture. Failure to deliver such notice shall not affect the legality or validity of any such adjustment.

(n) In any case in which this Section 12.4 provides that an adjustment shall become effective immediately after (1) a Record Date for an event, (2) the date fixed for the determination of stockholders entitled to receive a dividend or distribution pursuant to Section 12.4(a), (3) a date fixed for the determination of stockholders entitled to receive rights or warrants pursuant to Section 12.4(b) or (4) theExpiration Time for any tender or exchange offer pursuant to Section 12.4(g) (each a “Determination Date”), the Company may elect to defer until the occurrence of the applicable Adjustment Event (as hereinafter defined) (x) issuing to the holder of any Security converted after such Determination Date and before the occurrence of such Adjustment Event the additional shares of Common Stock or other securities issuable upon such conversion by reason of the adjustment required by such Adjustment Event over and above the shares of Common Stock issuable upon such conversion before giving effect to such adjustment and (y) paying to such holder any amount in cash in lieu of any fraction pursuant to Section 12.3. For purposes of this Section 12.4(n), the term “Adjustment Event” shall mean:

(i) in any case referred to in clause (1) hereof, the occurrence of such event,

(ii) in any case referred to in clause (2) hereof, the date any such dividend or distribution is paid or made,
(iii) in any case referred to in clause (3) hereof, the date of expiration of such rights or warrants, and

(iv) in any case referred to in clause (4) hereof, the date a sale or exchange of Common Stock pursuant to such tender or exchange offer is consummated and becomes irrevocable.

(o) For purposes of this Section 12.4, the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Company but shall include shares issuable in respect of scrip certificates issued in lieu of fractional shares of Common Stock. The Company will not pay any dividend or make any distribution on Common Stock held in the treasury of the Company.

Section 12.5 Notice of Adjustments of Conversion Price

Whenever the conversion price is adjusted as herein provided:

(a) the Company shall compute the adjusted conversion price in accordance with Section 12.4 and shall prepare a certificate signed by the Treasurer of the Company setting forth the adjusted conversion price and showing in reasonable detail the facts upon which such adjustment is based, and such certificate shall forthwith be filed at each office or agency maintained for the purpose of conversion of Securities pursuant to Section 9.2; and

(b) a notice stating that the conversion price has been adjusted and setting forth the adjusted conversion price shall forthwith be required, and as soon as practicable after it is required, such notice shall be mailed by the Company to all Holders at their last addresses as they shall appear in the Register.

Section 12.6 Notice of Certain Corporate Action

In case:

(a) the Company shall declare a dividend (or any other distribution) on its Common Stock that would require an adjustment in the Conversion Rate pursuant to Section 12.4; or

(b) the Company shall authorize the granting to the holders of all or substantially all of its Common Stock of rights or warrants to subscribe for or purchase any share of any class or any other rights or warrants; or

(c) of any reclassification or reorganization of the Common Stock of the Company (other than a subdivision or combination of its outstanding Common Stock, or a change in par value, or from par value to no par value, or from no par value to par value), or of any consolidation or merger to which the Company is a party and for which approval of any stockholders of the Company is required, or of the sale or transfer of all or substantially all of the assets of the Company; or

(d) of the voluntary or involuntary dissolution, liquidation or winding up of the Company; the Company shall cause to be filed with the Trustee and to be mailed to each holder of Securities at its address appearing on the Register provided for in Section 3.5 of this Indenture, as promptly as possible but in any event at least ten (10) calendar days prior to the applicable date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution or rights or warrants, or, if a record is not to be taken, the date as of which the holders of Common Stock of record to be entitled to such dividend, distribution or rights are to be determined, or (y) the date on which such reclassification, consolidation, merger, sale, transfer, dissolution, liquidation or winding up is expected to become effective or occur, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their Common Stock for securities or other property deliverable upon such reclassification, consolidation, merger, sale, transfer, dissolution, liquidation or winding up. Failure to give such notice, or any defect therein, shall not affect the legality or validity of such dividend, distribution, reclassification, consolidation, merger, sale, transfer, dissolution, liquidation or winding up.
Section 12.7  Company to Reserve Common Stock

The Company shall at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued Common Stock, for the purpose of effecting the conversion of Securities, the full number of shares of Common Stock then issuable upon the conversion of all outstanding Securities.

Section 12.8  Taxes on Conversions

The Company will pay any and all taxes that may be payable in respect of the issue or delivery of shares of Common Stock on conversion of Securities pursuant hereto. The Company shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock in a name other than that of the Holder of the Security or Securities to be converted, and no such issue or delivery shall be made unless and until the Person requesting such issue has paid to the Company the amount of any such tax, or has established to the satisfaction of the Company that such tax has been paid.

Section 12.9  Covenant as to Common Stock

The Company covenants that all shares of Common Stock which may be issued upon conversion of Securities will upon issue be fully paid and nonassessable and, except as provided in Section 12.8, the Company will pay all taxes, liens and charges with respect to the issue thereof.

Section 12.10  Cancellation of Converted Securities

All Securities delivered for conversion shall be delivered to the Trustee to be cancelled by or at the direction of the Trustee, which shall dispose of the same as provided in Section 3.9.

Section 12.11  Provisions in Case of Consolidation, Merger of Sale of Assets

If any of the following events occur, namely (i) any reclassification or change of the outstanding Common Stock (other than a change in par value or as a result of a subdivision or combination to which Section 12.4(c) applies), (ii) any consolidation, merger or combination of the Company with another Person as a result of which holders of Common Stock shall be entitled to receive stock, other securities or other property or assets (including cash) with respect to or in exchange for such Common Stock or (iii) any sale or conveyance of all or substantially all of the properties and assets of the Company to any other Person as a result of which holders of Common Stock shall be entitled to receive stock, other securities or other property or assets (including cash) with respect to or in exchange for such Common Stock, then the Company or the successor or purchasing Person, as the case may be, shall execute with the Trustee a supplemental indenture (which shall comply with the Trust Indenture Act as in force at the date of execution of such supplemental indenture) providing that each Security shall be convertible into the kind and amount of stock, other securities or other property or assets (including cash) receivable upon such reclassification, change, consolidation, merger, combination, sale or conveyance by a holder of a number of shares of Common Stock issuable upon conversion of such Securities (assuming, for such purposes, a sufficient number of authorized shares of Common Stock are available to convert all such Securities) immediately prior to such reclassification, change, consolidation, merger, combination, sale or conveyance assuming such holder of Common Stock did not exercise its rights of election, if any, as to the kind or amount of stock, other securities or other property or assets (including cash) receivable upon such reclassification, change, consolidation, merger, combination, sale or conveyance (provided that, if the kind or amount of stock, other securities or other property or assets (including cash) receivable upon such reclassification, change, consolidation, merger, combination, sale or conveyance is not the same for each share of Common Stock in respect of which such rights of election shall not have been exercised (“Non-Electing Share”), then for the purposes of this Section 12.11 the kind and amount of stock, other securities or other property or assets (including cash) receivable upon such reclassification, change, consolidation, merger, combination, sale or conveyance for each Non-Electing Share shall be deemed to be the kind and amount so receivable per share by a plurality of the Non-Electing Shares). Such supplemental indenture shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Article 12.
The Company shall cause notice of the execution of such supplemental indenture to be mailed to each Holder of Securities, at its address appearing on the Register provided for in Section 3.5 of this Indenture, within twenty (20) calendar days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of such supplemental indenture.

The above provisions of this Section shall similarly apply to successive reclassifications, changes, consolidations, mergers, combinations, sales and conveyances.

If this Section 12.11 applies to any event or occurrence, Section 12.4 shall not apply.

Section 12.12 Shareholder Rights Plans. Each share of Common Stock issued upon conversion of Securities shall be entitled to receive the appropriate number of common stock or preferred stock purchase rights, as the case may be, including, without limitation, the rights under the rights agreement (collectively, the “Rights”), if any, that shares of Common Stock are entitled to receive and the certificates representing the Common Stock issued upon such conversion shall bear such legends, if any, in each case as may be provided by the terms of any shareholder rights agreement adopted by the Company, as the same may be amended from time to time (in each case, a “Rights Plan”). Provided that such Rights Plan requires that each share Common Stock issued upon conversion of Securities at any time prior to the distribution of separate certificates representing the Rights be entitled to receive such Rights, then, notwithstanding anything else to the contrary in this Section, there shall not be any adjustment to the conversion privilege or Conversion Rate as a result of the issuance of Rights, but an adjustment to the Conversion Rate shall be made pursuant to Section 12.4(d) upon the separation of the Rights from the Common Stock.

Section 12.13 Issuer Determination Final. Any determination that the Company or Board of Directors of the Company must make pursuant to Section 12.1, Section 12.2, Section 12.3, Section 12.4 or Section 12.11 shall, absent manifest error, be conclusive. The Company shall be solely responsible for performing the duties and responsibilities contained in this Article and the Trustee shall have no responsibility therefor.

Section 12.14 Repurchase at Option of Holders upon a Designated Event. (a) If there shall occur a Designated Event at any time prior to the maturity date, then each Holder shall have the right, at such Holder’s option, to require the Company to repurchase all of such Holder’s Securities, or any portion thereof that is a multiple of $1,000 principal amount, as of a date (the “Designated Event Repurchase Date”) specified by the Company that is not less than twenty (20) nor more than thirty-five (35) Business Days after the date on which the Designated Event Notice with respect to such Designated Event has been mailed to Holders of the Securities pursuant to Section 12.14(b) at a repurchase price equal to one hundred percent (100%) of the principal amount thereof, together with accrued and unpaid interest and Liquidated Damages, if any, to but excluding, the Designated Event Repurchase Date (the “Designated Event Repurchase Price,” such Designated Event Repurchase Price to be paid in Cash), plus the Make Whole Premium, if any, in connection with any Designated Event that is also a Fundamental Change (the form and amount of any such Make Whole Premium determined pursuant to this Article); provided that if such Designated Event Repurchase Date falls after a Record Date and on or prior the corresponding interest payment date, then the full amount of interest payable on such interest payment date, including Liquidated Damages, if any, shall be paid to the Holders of record of the Securities on the applicable Record Date instead of the Holders surrendering the Securities for repurchase on the Designated Event Repurchase Date.
Repurchases of Securities under this Section 12.14 shall be made, at the option of the Holder thereof, upon:

(i) delivery to the Company and the Trustee (or other paying agent appointed by the Company) by a Holder of a duly completed and executed notice (the “Designated Event Repurchase Notice”) in the form set forth on the reverse of the Security prior to the close of business on the Designated Event Repurchase Date; and

(ii) delivery or book-entry transfer of the Securities to the Trustee (or other paying agent appointed by the Company) at any time simultaneous with or after delivery of the Designated Event Repurchase Notice (together with all necessary endorsements) at the Corporate Trust Office of the Trustee (or other paying agent appointed by the Company) in the Borough of Manhattan as provided in Section 9.2, such delivery being a condition to receipt by the Holder of the Designated Event Repurchase Price therefor; provided that such Designated Event Repurchase Price and the Make Whole Premium, if any, shall be so paid pursuant to this Section 12.14 only if the Security so delivered to the Trustee (or other paying agent appointed by the Company) shall conform in all respects to the description thereof in the related Designated Event Repurchase Notice.

The Company may purchase from the Holder thereof, pursuant to this Section 12.14, any Security, in whole or in part, so long as the principal amount of any such part is $1,000 or a whole multiple of $1,000. Provisions of this Indenture that apply to the purchase of all of a Security also apply to the purchase of such portion of such Security.

Notwithstanding anything herein to the contrary, any Holder delivering to the Trustee (or other paying agent appointed by the Company) the Designated Event Repurchase Notice contemplated by this Section 12.14 shall have the right to withdraw such Designated Event Repurchase Notice at any time prior to the close of business on the Designated Event Repurchase Date by delivery of a written notice of withdrawal to the Trustee (or other paying agent appointed by the Company) in accordance with Section 12.14(c) below.

The Trustee (or other paying agent appointed by the Company) shall promptly notify the Company of the receipt by it of any Designated Event Repurchase Notice or written notice of withdrawal thereof.
(b) Within 15 calendar days after the effective date of a Designated Event, the Company or at its written request, the Trustee, in the name of and at the expense of the Company, shall mail or cause to be mailed to all Holders of record on the date of the Designated Event a notice (the “Designated Event Notice”) of the occurrence of such Designated Event and of the repurchase right at the option of the Holders arising as a result thereof. Such Designated Event Notice shall be mailed to each Holder at its last address as the same appears on the Register. Such mailing shall be by first class mail. Such Designated Event Notice, if mailed in the manner herein provided, shall be conclusively presumed to have been duly given, whether or not the Holder receives such Designated Event Notice. In any case, failure to give such Designated Event Notice by mail or any defect in the Designated Event Notice shall not affect the validity of the Designated Event Notice or any proceedings for the repurchase of any Security that any holder may elect to have the Company repurchase as provided in this Section 12.14. If the Company shall give such notice, the Company shall also deliver a copy of the Designated Event Notice to the Trustee at such time as it is mailed to Holders. Concurrently with the mailing of any Designated Event Notice, the Company shall issue a press release announcing such Designated Event referred to in the Designated Event Notice and publish such information on its website, the form and content of which press release and publication shall be determined by the Company in its sole discretion. The failure to issue any such press release or any defect therein shall not affect the validity of the Designated Event Notice or any proceedings for the repurchase of any Security that any Holder may elect to have the Company repurchase as provided in this Section 12.14.

Each Designated Event Notice shall specify the events causing the Designated Event, the date of such Designated Event, the Designated Event Repurchase Date, the Designated Event Repurchase Price that will be payable with respect to the Securities as of the Designated Event Repurchase Date, the last date on which the purchase right may be exercised, the name and address of the Trustee or other Paying Agent, the applicable Conversion Rate and any adjustments thereto, the requirement that any Designated Event Repurchase Notice delivered with respect to a Security must be withdrawn in accordance with the terms of this Section 12.14 prior to conversion of the relevant Security, the procedures that a Holder must follow to exercise such repurchase right (including a form of Designated Event Repurchase Notice) and to withdraw any surrendered Securities (including a form of withdrawal notice), and the CUSIP number or numbers of the Securities (if then generally in use).

(c) Notwithstanding anything herein to the contrary, any Holder of Securities delivering to the office of the Trustee (or other paying agent appointed by the Company) the Designated Event Repurchase Notice shall have the right to withdraw such Designated Event Repurchase Notice in whole or as to a portion thereof that is an integral multiple of $1,000 of outstanding principal amount of the Securities thereof at any time prior to the close of business on the Designated Event Repurchase Date by delivery of a written notice of withdrawal to the Trustee (or other paying agent appointed by the Company) in accordance with provisions of this Section 12.14(c). The Trustee (or other paying agent appointed by the Company) shall promptly notify the Company of the receipt by it of any Designated Event Repurchase Notice or written withdrawal thereof. A Designated Event Repurchase Notice may be withdrawn by means of a written notice of withdrawal delivered to the office of the Trustee (or other paying agent appointed by the Company) in accordance with the Designated Event Repurchase Notice at any time prior to the close of business on the applicable Designated Event Repurchase Date specifying:

(i) the certificate number, if any, of the Securities in respect of which such notice of withdrawal is being submitted, or the appropriate Depositary information if the Securities in respect of which such notice of withdrawal is being submitted are represented by a Global Security,

(ii) the principal amount of the Securities with respect to which such notice of withdrawal is being submitted, and
The principal amount, if any, of such Security that remains subject to the original Designated Event Repurchase Notice and that has been or will be delivered for purchase by the Company.

The Trustee (or other paying agent appointed by the Company) will promptly return to the respective holders thereof any Securities with respect to which a Designated Event Repurchase Notice has been withdrawn in compliance with this Indenture, in which case, upon such return, the Designated Event Repurchase Notice with respect thereto shall be deemed to have been withdrawn.

Upon receipt by the Trustee of the Designated Event Repurchase Notice, the Holder of the Securities in respect of which such Designated Event Repurchase Notice was given shall (unless such Designated Event Repurchase Notice is withdrawn as specified below) thereafter be entitled to receive the Designated Event Repurchase Price with respect to such Securities, plus the Make Whole Premium, if any, in connection with any Designated Event that is also a Fundamental Change (the form and amount of any such Make Whole Premium determined pursuant to this Article), subject to the satisfaction of the conditions set forth in this Section 12.14. Such Designated Event Repurchase Price and any Make Whole Premium shall be paid to such Holder at the later of (a) the Business Day immediately following the Designated Event Repurchase Date with respect to such Securities and (b) the time of delivery of such Securities to the Trustee by the Holder thereof in the manner required by this Section. Securities in respect of which a Designated Event Repurchase Notice has been given by the Holder thereof may not be converted into Common Stock on or after the date of the delivery of such Designated Event Repurchase Notice unless such Designated Event Repurchase Notice has first been validly withdrawn as specified below.

Prior to 12:00 p.m. (New York City time) on the Business Day immediately following the Designated Event Repurchase Date, the Company shall deposit with the Trustee (or other paying agent appointed by the Company) an amount of cash (in immediately available funds if deposited on such Business Day) and other consideration, as applicable, sufficient to pay the aggregate Designated Event Repurchase Price of, and the Make Whole Premium (if any) on, all Securities or portions thereof that are to be repurchased as of the Designated Event Repurchase Date. The manner in which the deposit required by this Section 12.14 is made by the Company shall be at the option of the Company; provided, however, that such deposit shall be made in a manner such that the Trustee shall have immediately available funds on the date of deposit.

If, on the Business Day immediately following the Designated Event Repurchase Date, the Trustee (or other paying agent appointed by the Company) holds, in accordance with the terms hereof, cash and other consideration, as applicable, sufficient to pay the Designated Event Repurchase Price of, and the Make Whole Premium (if any) on, any Securities for which a Designated Event Repurchase Notice has been tendered and not withdrawn in accordance with this Indenture, then, as of the Designated Event Repurchase Date, such Securities will cease to be Outstanding, interest will cease to accrue thereon and the rights of the Holder in respect thereof shall terminate (other than the right to receive the Designated Event Repurchase Price as aforesaid). The Company shall publicly announce the number of Securities repurchased as a result of such Designated Event on or as soon as practicable after the Designated Event Repurchase Date.

The Trustee shall return to the Company any cash or other consideration that remains unclaimed for two years, subject to applicable unclaimed property law, together with interest, if any, thereon held by them for the payment of the Designated Event Repurchase Price; provided, however, that to the extent that the aggregate amount of cash and other consideration, as applicable, deposited by the Company pursuant to this Section exceeds the aggregate Designated Event Repurchase Price of, and the Make Whole Premium (if any) on, the Securities or portions thereof that the Company is obligated to purchase as of the Business Day immediately following the Designated Event Repurchase Date, then on the second Business Day immediately following the Designated Event Repurchase Date, the Trustee shall return any such excess cash and other consideration to the Company. Thereafter, any Holders entitled to payment must look to the Company for payment as general creditors, unless an applicable abandoned property law designates another Person.
(d) The Company will comply with the provisions of Rule 13e-4 and any other tender offer rules under the Exchange Act of 1934 (including, without limitation, filing a Schedule TO or other schedule) to the extent then applicable in connection with the repurchase rights of the holders of Securities in the event of a Designated Event.

**Section 12.15. Securities Repurchased in Part.** Upon presentation of any Security repurchased pursuant to Section 12.14 only in part, the Company shall execute and the Trustee shall authenticate and make available for delivery to the Holder thereof, at the expense of the Company, a new Security or Securities, of any authorized denomination, in aggregate principal amount equal to the unrepurchased portion of the Securities presented.

**Section 12.16. Make Whole Premium.** (a) If a Fundamental Change occurs on or prior to , the Company shall pay the Make Whole Premium to holders of Securities who convert their Securities in connection with such Fundamental Change pursuant to Section 12.1(b) and to Holders of Securities who tender their Securities for repurchase in connection with such Fundamental Change pursuant to Section 12.14. The Make Whole Premium shall be paid on the Business Day immediately following that Designated Event Repurchase Date, in either case, and shall be paid solely in shares of the Common Stock (other than Cash paid in lieu of fractional shares) or in the same form of consideration into which 90% or more of the shares of Common Stock have been converted or exchanged in connection with such Fundamental Change, as described below. No Make Whole Premium shall be paid if the Stock Price (as defined below) is less than $ per share. The Make Whole Premium shall be equal to (x) 1% plus (y) a percentage (the “Additional Premium”) of the principal amount of the Securities. The Make Whole Premium will be in addition to, and not in substitution for, any Cash, securities, or other assets otherwise due to Holders of Securities upon conversion or repurchase as described in this Indenture.

(b) The Make Whole Premium shall be determined as follows:

(i) “**Effective Date**” means the date that a Fundamental Change becomes effective.

(ii) “**Stock Price**” means the price paid (or deemed to be paid) per share of Common Stock in the transaction constituting the Fundamental Change, determined as follows:

(A) If holders of the Common Stock receive only Cash in the Fundamental Change, the Stock Price shall be the Cash amount paid per share of Common Stock; or

(B) Otherwise, the Stock Price shall be the average Closing Price of the Common Stock for the 10 consecutive Trading Days immediately prior to but not including the Effective Date.

(iii) The Additional Premium shall be the percentage set forth in a table (the “**Additional Premium Table**”) for the Stock Price and the Effective Date.
The exact Stock Price and Effective Dates may not be set forth on the table, in which case, if the Stock Price is between two Stock Prices on the table or the Effective Date is between two Effective Dates on the table, the Additional Premium shall be determined by straight-line interpolation between Additional Premium amounts set forth for the higher and lower Stock Prices and the two Effective Dates, as applicable, based on a 365-day year. The Stock Prices set forth in the column headers are subject to adjustment pursuant to Section 12.17.

(iv) “Make Whole Premium” means the amount per $1,000 principal amount of Securities equal to:

(A) if the Effective Date is after , $ ;

(B) if the Stock Price is less than $ per share (subject to adjustment pursuant to Section 12.17) (the “Stock Price Threshold”), $ ;

(C) if the Stock Price is equal to or exceeds $ per share (subject to adjustment pursuant to Section 12.17) (the “Stock Price Cap”), $ ; and

(D) otherwise, the dollar amount equal to (I) the sum of (x) 1% plus (y) the Additional Premium (expressed as a percentage) times (II) $1,000.

c) The Company shall pay the Make Whole Premium solely in shares of Common Stock (other than Cash paid in lieu of fractional shares) or in the same form of consideration into which 90% or more of the shares of Common Stock have been converted or exchanged in connection with the Fundamental Change (except that the Company will pay Cash in lieu of fractional interests in any security or other property delivered in connection with such fundamental change). If holders of Common Stock receive or have the right to receive more than one form of consideration in connection with such Fundamental Change, then for purposes of the foregoing, the forms of consideration in which the Make Whole Premium will be paid will be in proportion to the relative values, determined as described in Section 12.16(d) below, of the different forms of consideration paid to holders of Common Stock in connection with such Fundamental Change.

d) The value of the shares of Common Stock or other consideration for purposes of determining the number of shares of Common Stock or other consideration to be issued or delivered, as the case may be, in respect of the Make Whole Premium shall be calculated as follows:

(i) securities that are traded on a United States national securities exchange or approved for quotation on Nasdaq or any similar system of automated dissemination of quotations of securities prices shall be valued at 98% of the average Closing Price or last sale price, as the case may be, for the 10 consecutive Trading Days immediately prior to but excluding the Designated Event Repurchase Date,

(ii) other securities, assets or property (other than Cash) that holders will have the right to receive shall be valued based on 98% of the average of the Fair Market Value of such securities, assets or property (other than Cash) as determined three Business Days immediately prior to the Designated Event Repurchase Date by two independent nationally recognized investment banks selected by the Trustee and
(iii) 100% of any Cash.

Notwithstanding the foregoing, in no event shall the value of each share of Common Stock be less than 50% of the Stock Price used to determine the amount of the Make Whole Premium.

(e) A Calculation Agent appointed from time to time by the Company shall, on behalf of and on request by the Company, calculate (A) the Stock Price and (B) the Additional Premium and Make Whole Premium with respect to such Stock Price, based on the Effective Date specified by the Company, and shall deliver its calculation of the Stock Price, Additional Premium and Make Whole Premium to the Company and the Trustee within three Business Days of the request by the Company or the Trustee. In addition, the Calculation Agent shall, on behalf of and upon request by the Company or the Trustee, make the determinations described in Section 12.16(d) above and deliver its calculations to the Company or the Trustee by 9:00 p.m., New York City time, on the day prior to the Designated Event Repurchase Date. The Company, or at the Company’s request, the Trustee in the name and at the expense of the Company, (X) shall notify the holders of the Stock Price and Make Whole Premium per $1,000 principal amount of Securities with respect to a Fundamental Change as part of the Designated Event Notice and (Y) shall notify the holders by registered first-class mail, sent promptly upon the opening of business on the Designated Event Repurchase Date, of the number of shares of Common Stock (or such other securities, assets or property (including Cash) into which 90% or more of the shares of Common Stock have been converted as of the Effective Date as described above) to be paid in respect of the Make Whole Premium in connection with such Fundamental Change, in the manner provided in this Indenture, and the Company shall also publicly announce such information. Any notice so given shall be conclusively presumed to have been duly given, whether or not the holder receives such notice. The Company shall verify, in writing, all calculations made by the Calculation Agent pursuant to this Section 12.16(e).

(f) On or prior to the Business Day immediately following the Designated Event Re-purchase Date, the Company shall deposit with the Trustee or with one or more paying agents a number of shares of Common Stock (or in the case of a Fundamental Change in which 90% or more of the shares of Common Stock have been, as of the Effective Date, converted into or exchanged for the right to receive securities or other assets or property (including Cash), an amount of such other securities or other assets or property (including Cash)) sufficient to pay the Make Whole Premium with respect to all Securities to be repurchased on such date and all Securities converted in connection with such Fundamental Change; provided that if such deposit is made on the Business Day immediately following the Designated Event Repurchase Date it must be received by the Trustee or paying agent, as the case may be, by 12:00 p.m., New York City time, on such date. Payment of the Make Whole Premium for Securities surrendered for repurchase (and not withdrawn) within the period described in Section 12.14 or surrendered for conversion within the period described in Section 12.1(b) shall be made promptly on the Business Day immediately following the Designated Event Repurchase Date by mailing checks in respect of Cash (or if the Securities are represented by a Global Security, by wire transfer of immediately available funds to the Depositary or its nominee) and otherwise delivering entitlements to securities, other assets or property for the amount payable to the Holders of such Securities entitled thereto as they shall appear in the register kept by the Registrar.

Section 12.17. Adjustments Relating To Make Whole Premium. Whenever the Conversion Rate shall be adjusted from time to time by the Company pursuant to Section 12.4, the Stock Price Threshold and the Stock Price Cap shall be adjusted and each of the Stock Prices set forth in the Additional Premium Table shall be adjusted. The adjusted Stock Price Threshold, Stock Price Cap and Stock Prices set forth in the Additional Premium Table shall equal the Stock Price Threshold, Stock Price Cap and such Stock Prices, as the case may be, immediately prior to such adjustment multiplied by a fraction, the numerator of which is the Conversion Rate immediately prior to the adjustment giving rise to such adjustment and the denominator of which is the Conversion Rate so adjusted.
ARTICLE 13

Subordination of Securities

Section 13.1 Securities Subordinated to Senior Indebtedness

(a) The Company agrees, and each Holder of the Securities by acceptance thereof likewise agrees, that the payment of the principal of, premium, if any, and interest on the Securities is subordinated, to the extent and in the manner provided in this Article 13, to the prior payment in full of all Senior Indebtedness of the Company.

(b) All provisions of this Article 13 shall be subject to Section 13.14.

Section 13.2 Company Not to Make Payments with Respect to Securities in Certain Circumstances; Limitations on Acceleration of Securities

(a) Upon the maturity of any Senior Indebtedness of the Company by lapse of time, acceleration or otherwise, all obligations with respect thereto shall first be paid in full, or such payment duly provided for, in cash or in a manner satisfactory to the holders of such Senior Indebtedness, before any payment is made on account of the principal of, premium, if any, or interest on the Securities or to redeem, retire, purchase, deposit moneys for covenant defeasance of or acquire any of the Securities.

(b) Upon the happening of (i) any default in payment of any Senior Indebtedness of the Company, or (ii) any other default on Senior Indebtedness of the Company and acceleration of the maturity of such Senior Indebtedness is accelerated in accordance with its terms, then, unless (A) such default relates to Senior Indebtedness of the Company in an aggregate amount equal to or less than $ million, (B) such default shall have been cure or waived or shall have ceased to exist, (C) any such acceleration has been rescinded, or (D) such Senior Indebtedness has been paid in full, no direct or indirect payment in cash, property or securities, by set-off or otherwise (except payment of the Securities from funds previously deposited in accordance with Section 4.1 at any time such deposit was not prohibited by this Indenture), shall be made or agreed to be made by the Company on account of the principal of or premium, if any, or interest on the Securities, or in respect of any redemption, retirement, purchase, deposit of moneys for the covenant defeasance or other acquisition of any of the Securities in the case of such a default in Senior Indebtedness of the Company and the Company shall not deposit money for any such payment or distribution with the Trustee or any Paying Agent nor shall the Company (if the Company is acting as its own Paying Agent) segregate and hold in trust money for any such payment or distribution.

(c) Upon the happening of an event of default (other than under circumstances when the terms of paragraph (b) of this Section 13.2 are applicable) with respect to any Senior Indebtedness of the Company pursuant to which the holders thereof are entitled under the terms of such Senior Indebtedness to immediately accelerate the maturity thereof (without further notice or expiration of any applicable grace periods), upon written notice thereof given to each of the Company and the Trustee by the trustee for or other representative of the holders of at least $ million of Senior Indebtedness of the Company (a “Payment Notice”), then, unless and until such event of default shall have been cured or waived or shall have ceased to exist, no direct or indirect payment in cash, property or securities, by set-off or otherwise (except payment of the Securities from funds previously deposited in accordance with Section 4.1 at any time such deposit was not prohibited by this Indenture), shall be made or agreed to be made by the Company on account of the principal of or premium, if any, or interest on the Securities, or in respect of any redemption, retirement, purchase, deposit of moneys for the covenant defeasance or other acquisition of any of the Securities, in the case of Senior Indebtedness of the Company, and the Company shall not deposit money for any such payment or distribution with the Trustee or any Paying Agent nor shall the Company or a Subsidiary (if the Company or such Subsidiary is acting as Paying Agent) segregate and hold in trust money for any such payment or distribution (a “Payment Block”); provided, however, that this Section 13.2(c) shall not prevent the making of any payment for more than 120 days after a Payment Notice shall have been given unless the Senior Indebtedness in respect of which such event of default exists has been declared due and payable in its entirety, in which case no such payment shall be made until such acceleration has been rescinded or annulled or such Senior Indebtedness has been paid in full in accordance with its terms. Notwithstanding the foregoing, (i) not more than one Payment Notice shall be given with respect to a particular event of default (which shall not bar subsequent Payment Notices for other such events of default), (ii) all events of default under Senior Indebtedness occurring within any 30–day period shall be treated as one event of default to the extent that one or more Payment Notices are issued in connection therewith and (iii) no more than two Payment Blocks shall be permitted within any period of 12 consecutive months. Any payment made in contravention of the provisions of this Section 13.2(c) shall be returned to the Company.
(d) In the event that, notwithstanding the provisions of Section 13.2(a) or 13.2(b), the Trustee or the Holder of any Security shall have received any payment on account of the principal of or premium, if any, or interest on the Securities in contravention of Section 13.2(a) or 13.2(b) or after the happening of a default in payment of any Senior Indebtedness of the Company or any acceleration of the maturity of any Senior Indebtedness of the Company then, in either such case, except in the case of any such default which shall have been cured or waived or shall have ceased to exist, such payment shall be held for the benefit of, and shall be paid over and delivered to, the holders of such Senior Indebtedness of the Company (pro rata as to each of such holders on the basis of the respective amounts of Senior Indebtedness of the Company held by them) or their representative or the trustee under the indenture or other agreement (if any) pursuant to which Senior Indebtedness of the Company may have been issued, as their respective interests may appear, for application to the payment of all Senior Indebtedness of the Company remaining unpaid to the extent necessary to pay all Senior Indebtedness of the Company in full in accordance with its terms, after giving effect to any concurrent payment or distribution to or for the holders of Senior Indebtedness of the Company.

(e) (i) Upon the occurrence of an Event of Default under Sections 5.1(a) through (e), the Trustee or Holders of 25% of the outstanding principal amount of the Securities of any series must give notice of such Event of Default and the intention to accelerate to the Company and any holders of Senior Indebtedness that have theretofore requested of the Trustee such notice, and no acceleration of the Securities of any series shall be effective unless and until such Event of Default is continuing on the 60th day after the date of delivery of such notice. The Company may pay the Holders of the Securities of any series any defaulted payment and all other amounts due following any such acceleration of the maturity of the Securities if Section 13.2(a) would not prohibit such payment to be made at that time.

(ii) Nothing in this Article 13 shall prevent or delay the Trustee or the Holders of the Securities from taking any action in connection with the acceleration of the maturity of the Securities pursuant to Section 5.2 upon the occurrence of an Event of Default under either of Section 5.1(f) or 5.1(g).

(iii) Except as provided in Section 13.2(e)(i), a failure to make any payment with respect to the Securities as a result of the rights of holders of Senior Indebtedness of the Company described in Section 13.2(b) or 13.2(c) will not have any effect on the right of Holders of the Securities to accelerate the maturities thereof as a result of such payment default. The Company shall give prompt written notice to the Trustee of any default in the payment of principal of or interest on any Senior Indebtedness of the Company and, in the event of any such default, shall provide to the Trustee, in the form of an Officers’ Certificate, the names, addresses and respective amounts due holders of such Senior Indebtedness or the name and address of the trustee acting on their behalf, if any. The Trustee shall be entitled to rely conclusively on such Officers’ Certificate without independent verification.
Section 13.3 Securities Subordinated to Prior Payment of All Senior Indebtedness on Dissolution, Liquidation or Reorganization of the Company

Upon the distribution of assets of the Company in any dissolution, winding up, liquidation (total or partial) or similar proceeding relating to the Company (whether in bankruptcy, insolvency or receivership proceedings or upon an assignment for the benefit of creditors or otherwise):

(a) the holders of all Senior Indebtedness of the Company shall first be entitled to receive payment in full of all Senior Indebtedness (or to have such payment duly provided for in a manner satisfactory to them) in cash or in a manner satisfactory to the holders of Senior Indebtedness of the Company before the Holders of the Securities are entitled to receive any payment on account of the principal of, premium, if any, or interest on the Securities;

(b) any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities (other than securities of the Company as reorganized or readjusted or securities of the Company or any other company, trust or corporation provided for by a plan of reorganization or readjustment, the payment of which is junior or otherwise subordinate, at least to the extent provided in this Article 13 with respect to the Securities to the payment of all Senior Indebtedness of the Company at the time outstanding and to the payment of all securities issued in exchange therefor to the holders of the Senior Indebtedness of the Company at the time outstanding), to which the Holders of the Securities or the Trustee on behalf of the Holders of the Securities would be entitled except for the provisions of this Article 13, shall be paid by the liquidating trustee or agent or other Person making such payment or distribution directly to the holders of the Senior Indebtedness of the Company or their representatives or to the trustee under any indenture under which such Senior Indebtedness may have been issued (pro rata as to each such holder, representative or trustee on the basis of respective amounts of unpaid Senior Indebtedness held or represented by each), to the extent necessary to make payment in full of all Senior Indebtedness of the Company remaining unpaid, after giving effect to any concurrent payment or distribution or provision therefor to the holders of such Senior Indebtedness; and

(c) in the event that notwithstanding the foregoing provisions of this Section 13.3, any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities (other than securities of the Company as reorganized or readjusted or securities of the Company or any other company, trust or corporation provided for by a plan of reorganization or readjustment, the payment of which is junior or otherwise subordinate, at least to the extent provided in this Article 13 with respect to the Securities to the payment of all Senior Indebtedness of the Company at the time outstanding and to the payment of all securities issued in exchange therefor to the holders of the Senior Indebtedness of the Company as the case may be, at the time outstanding), shall be received by the Trustee or the Holders of the Securities on account of principal of, premium, if any, or interest on the Securities before all Senior Indebtedness of the Company is paid in full in cash or in a manner satisfactory to the holders of such Senior Indebtedness in accordance with its terms, or effective provision made for its payment, such payment or distribution (subject to the provisions of Sections 13.6 and 13.7) shall be received and held for the benefit of and paid over to the holders of the Senior Indebtedness of the Company remaining unpaid or unprovided for or their representative, or to the trustee under any indenture under which such Senior Indebtedness of the Company may have been issued (pro rata as provided in Section 13.2(e)(ii)), for application to the payment of such Senior Indebtedness of the Company to the extent necessary to pay all such Senior Indebtedness of the Company in full in cash or in a manner satisfactory to the holders of Senior Indebtedness of the Company in accordance with its terms, after giving effect to any concurrent payment or distribution or provision therefor to the holders of such Senior Indebtedness of the Company.
The Company shall give prompt written notice to the Trustee of any dissolution, winding up, liquidation or
reorganization of the Company or any assignment for the benefit of the Company’s creditors, tending toward the
liquidation of the business and assets of the Company.

Section 13.4  Holders to Be Subrogated to Rights of Holders of Senior Indebtedness

Upon the payment in full of all Senior Indebtedness of the Company in cash or in a manner satisfactory to
the holders of such Senior Indebtedness, the Holders of the Securities shall be subrogated equally and ratably to
the rights of the holders of Senior Indebtedness of the Company to receive payments or distributions of assets of the
Company applicable to the Senior Indebtedness of the Company until all amounts owing on the Securities shall be
paid in full, and for the purpose of such subrogation no payments or distributions to the holders of Senior
Indebtedness of the Company by or on behalf of the Company or by or on behalf of Holders of the Securities by
virtue of this Article 13 that otherwise would have been made to the Holders of the Securities shall, as between the
Company and the Holders of the Securities, be deemed to be payment by the Company to or on account of Senior
Indebtedness of the Company, it being understood that the provisions of this Article 13 are intended solely for the
purpose of defining the relative rights of the Holders of the Securities, on the one hand, and the holders of Senior
Indebtedness of the Company, on the other hand.

Section 13.5  Obligation of the Company Unconditional

Nothing contained in this Article 13 or elsewhere in this Indenture or in any Security is intended to or shall
impair, as between the Company and the Holders of the Securities, the obligations of the Company, which are
absolute and unconditional, to pay to the Holders of the Securities the principal of (premium, if any) and interest on
the Securities as and when the same shall become due and payable in accordance with their terms, or is intended to
or shall affect the relative rights of the Holders of the Securities and creditors of the Company other than the holders
of Senior Indebtedness of the Company nor, except as expressly provided in this Article 13, shall anything herein or
in the Securities prevent the Trustee or the Holder of any Security from exercising all remedies otherwise permitted
by applicable law upon default under this Indenture, subject to the rights, if any, under this Article 13 of the holders
of Senior Indebtedness of the Company, in respect of cash, property or securities of the Company received upon the
exercise of any such remedy. Upon any distribution of assets of the Company referred to in this Article 13, the
Trustee, subject to the provisions of Section 6.1, and the Holders of the Securities endorsed thereon shall be entitled
to rely upon any order or decree by any court of competent jurisdiction in which such dissolution, winding up,
liquidation or reorganization proceedings are pending, or a certificate of the liquidating trustee or agent or other
Person making any distribution to the Trustee or the Holders of the Securities for the purpose of ascertaining the
Persons entitled to participate in such distribution, the holders of Senior Indebtedness of the Company and other
indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed
thereon and all other facts pertinent thereto or to this Article 13.

Nothing contained in this Article 13 or elsewhere in this Indenture or in any Security is intended to or shall
affect the obligations of the Company to make, or prevent the Company from making, at any time except during the
pendency of any dissolution, winding up, liquidation (total or partial) or similar proceeding, and except during the
continuance of any event specified in Section 13.2 (not cured or waived), payments at any time of the principal of
(or premium, if any) or interest on the Securities.
Section 13.6  Knowledge of Trustee

Notwithstanding any provision of this Indenture, the Trustee shall not at any time be charged with knowledge of the existence of any facts which would prohibit the making of any payment of moneys to or by the Trustee until three Business Days after a Responsible Officer of the Trustee on behalf of the Trustee shall have received at the Corporate Trust Office of the Trustee written notice thereof from the Company, any Holder, or the holder or representative of any class of Senior Indebtedness of the Company identifying the specific sections of this Indenture involved and describing in detail the facts that would obligate the Trustee to withhold payments to Holders of Securities, and prior to such time, the Trustee, subject to the provisions of Section 6.1, shall be entitled in all respects conclusively to assume that no such facts exist. The Trustee shall be entitled to rely on the delivery to it of a written notice by an individual representing himself to be a holder of Senior Indebtedness of the Company (or a trustee on behalf of such holder) to establish that such notice has been given by a holder of any such Senior Indebtedness or a trustee on behalf of any such holder.

In the event that the Trustee determines in good faith that further evidence is required with respect to the right of any Person as a holder of Senior Indebtedness of the Company to participate in any payment or distribution pursuant to this Article, the Trustee may request such Person to furnish evidence to the reasonable satisfaction of the Trustee as to amount of Senior Indebtedness of the Company held by such Person, the extent to which such Person is entitled to participate in such payment or distribution and any other facts pertinent to the rights of such Person under this Article, and if such evidence is not furnished, the Trustee may defer any payment to such Person pending judicial determination as to the right of such Person to receive such payment.

Section 13.7  Application by Trustee of Moneys Deposited with It

If two Business Days prior to the date on which by the terms of this Indenture any moneys deposited with the Trustee or any Paying Agent (other than the Company or a Subsidiary) may become payable for any purpose (including, without limitation, the payment of the principal of, premium, if any, or interest on any Security) the Trustee shall not have received with respect to such moneys the notice provided for in Section 13.6, then the Trustee shall have full power and authority to receive the same and to apply the same to the purpose for which they were received and shall not be affected by any notice to the contrary that may be received by it on or after such date. This Section 13.7 shall be construed solely for the benefit of the Trustee and Paying Agent and shall not otherwise affect the rights of holders of such Senior Indebtedness.

Section 13.8  Subordination Rights Not Impaired by Acts or Omissions of Company or Holders of Senior Indebtedness

No right of any present or future holders of any Senior Indebtedness of the Company to enforce subordination as provided herein shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Company or by any act or failure to act by any such holder, or by any noncompliance by the Company with the terms of this Indenture, regardless of any knowledge thereof which any such holder may have or be otherwise charged with.
Section 13.9  Holders Authorize Trustee to Effectuate Subordination of Securities

Each Holder of the Securities by its acceptance thereof authorizes and expressly directs the Trustee on his behalf to take such action as may be necessary or appropriate in the discretion of the Trustee to effectuate the subordination provided in this Article 13 and appoints the Trustee his attorney-in-fact for such purpose, including, without limitation, in the event of any dissolution, winding up, liquidation or reorganization of the Company (whether in bankruptcy, insolvency or receivership proceedings or upon an assignment for the benefit of creditors or otherwise) tending towards liquidation of the business and assets of the Company the timely filing of a claim for the unpaid balance of its or his Securities in the form required in said proceedings. If the Trustee does not file a proper claim or proof of debt in the form required in such proceedings before the expiration of the time to file such claim or claims, then the holders of Senior Indebtedness of the Company are hereby authorized to have the right to file and are hereby authorized to file an appropriate claim for and on behalf of the Holders of said Securities.

Section 13.10  Right of Trustee to Hold Senior Indebtedness

The Trustee shall be entitled to all of the rights set forth in this Article 13 in respect of any Senior Indebtedness of the Company at any time held by it to the same extent as any other holder of such Senior Indebtedness of the Company and nothing in this Indenture shall be construed to deprive the Trustee of any of its rights as such holder. With respect to the holders of Senior Indebtedness of the Company the Trustee undertakes to perform or to observe only such of its covenants and obligations as are specifically set forth in this Article 13, and no implied covenants or obligations with respect to the holders of Senior Indebtedness of the Company shall be read into this Indenture against the Trustee. The Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Indebtedness of the Company and the Trustee shall not be liable to any holder of Senior Indebtedness of the Company if it shall mistakenly pay over or deliver to Holders of Securities, the Company or any other Person monies or assets to which any holder of such Senior Indebtedness shall be entitled by virtue of this Article 13 or otherwise.

Section 13.11  Article 13 Not to Prevent Events of Default

The failure to make a payment on account of principal or interest by reason of any provision in this Article 13 shall not be construed as preventing the occurrence of an Event of Default under Section 5.1.

Section 13.12  Paying Agents Other Than the Trustee

In case at any time any Paying Agent (including, without limitation, the Company or any Subsidiary) other than the Trustee shall have been appointed by the Company and be then acting hereunder, the term “Trustee” as used in this Article 13 shall in such case (unless the context shall otherwise require) be construed as extending to and including such Paying Agent (except the Company and its Subsidiaries in the case of Sections 13.6 and 13.7) within its meaning as fully for all intents and purposes as if such Paying Agent were named in this Article 13 in addition to or in place of the Trustee.

Section 13.13  Trustee’s Compensation Not Prejudiced

Nothing in this Article 13 shall apply to amounts due to the Trustee pursuant to Section 6.9.

Section 13.14  Trust Moneys Not Subordinated
Notwithstanding anything contained herein to the contrary, payments from money held in trust under Article 4 by the Trustee for the payment of principal of, premium, if any, and interest on the Securities shall not be subordinated to the prior payment of any Senior Indebtedness of the Company or subject to the restrictions set forth in this Article 13 and none of the Holders shall be obligated to pay over any such amount to the Company or any holder of Senior Indebtedness of the Company or any other creditor of the Company.]
This Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one instrument.

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

ANADIGICS, INC.

By:_____________________________, TRUSTEE

Title:_____________________________, TRUSTEE

By:_____________________________, TRUSTEE

Title:_____________________________

Attest

Title:_____________________________

Attest

Title:_____________________________
EXHIBIT A
FORM OF FACE OF SECURITY

[If the Security is an Original Issue Discount Security, insert—] FOR PURPOSES OF SECTIONS 1273 AND 1275 OF THE UNITED STATES INTERNAL REVENUE CODE, THE AMOUNT OF ORIGINAL ISSUE DISCOUNT ON THIS SECURITY IS % OF ITS PRINCIPAL AMOUNT AND THE ISSUE DATE IS , 201 [, AND] THE YIELD TO MATURITY IS %. [THE METHOD USED TO DETERMINE THE YIELD IS AND THE AMOUNT OF ORIGINAL ISSUE DISCOUNT APPLICABLE TO THE SHORT ACCRUAL PERIOD OF , 201 TO , 201 IS % OF THE PRINCIPAL AMOUNT OF THIS SECURITY.]]

ANADIGICS, INC.

% Convertible [Subordinated] Due

$ No.

ANADIGICS, INC., a corporation duly organized and existing under the laws of the State of Delaware (herein called the “Company,” which term includes any successor corporation under the Indenture hereinafter referred to), for value received, hereby promises to pay to or registered assigns, the principal sum of dollars on [If the Security is to bear interest prior to Maturity, insert—], and to pay interest thereon from or from the most recent Interest Payment Date to which interest has been paid or duly provided for, semiannually on and in each year, commencing , [If the Security is to bear interest at a fixed rate, insert—at the rate of % per annum] [if the Security is to bear interest at an adjustable rate, insert—at a rate per annum computed or determined in accordance with the provisions below], until the principal hereof is paid or made available for payment [If applicable, insert—], and (to the extent that the payment of such interest shall be legally enforceable) at the rate of % per annum on any overdue principal and premium and on any overdue installment of interest. The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in such Indenture, be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, which shall be the or (whether or not a Business Day), as the case may be, next preceding such Interest Payment Date. Any such interest not so punctually paid or duly provided for will forthwith cease to be payable to the Holder on such Regular Record Date and may either be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on a Special Record Date for the payment of such Defaulted Interest to be fixed by the Trustee, notice whereof shall be given to Holders of Securities of this series not less than 10 days prior to such Special Record Date, or be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities of this series may be listed, and upon such notice as may be required by such exchange, all as more fully provided in said Indenture.

[If the Security is not to bear interest prior to Maturity, insert—] The principal of this Security shall not bear interest except in the case of a default in payment of principal upon acceleration or redemption or at the Stated Maturity and in such case the overdue principal of this Security shall bear interest at the rate of % per annum (to the extent that the payment of such interest shall be legally enforceable), which shall accrue from the date of such default in payment to the date payment of such principal has been made or duly provided for. Interest on any overdue principal shall be payable on demand. Any such interest on any overdue principal that is not so paid on demand shall bear interest at the rate of % per annum (to the extent that the payment of such interest shall be legally enforceable), which shall accrue from the date of such demand for payment to the date payment of such interest has been made or duly provided for, and such interest shall also be payable on demand.]
Payment of the principal of (and premium, if any, on) and [if applicable, insert—any such] interest on this Security will be made at the office or agency of the Company maintained for that purpose in the City and State of New York in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts [if applicable, insert—; provided, however, that at the option of the Company payment of interest may be made by check mailed on or before the relevant Interest Payment Date to the address of the Person entitled thereto as such address shall appear in the Register].

Reference is hereby made to the further provisions of this Security set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof by manual signature, this Security shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

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

ANADIGICS, INC.

By: ________________________________

Title: ________________________________

Dated:

Attest:

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FORM OF REVERSE OF SECURITY

This Security is one of a duly authorized issue of securities of the Company (herein called the “Securities”) issued and to be issued in one or more series under an Indenture, dated as of , 201 (herein called the “Indenture”), between the Company (which term includes any successor corporation under the Indenture) and , as Trustee (herein called the “Trustee,” which term includes any successor trustee under the Indenture with respect to the series of which this Security is a part), to which the Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Trustee and the Holders of the Securities and of the terms upon which the Securities are, and are to be, authenticated and delivered. This Security is one of the series designated on the face hereof [, limited in aggregate principal amount to $ ].

Subject to and upon compliance with the provisions of the Indenture, the Holder of this Security is entitled, at his option, at any time on or before the close of business on , or in case this Security or a portion hereof is called for redemption, then in respect of this Security or such portion hereof until and including, but (unless the Company defaults in making the payment due upon redemption) not after, the close of business on the Business Day which is ten days prior to the Redemption Date, to convert this Security (or any portion of the principal amount hereof which is $1,000 or an integral multiple thereof), at the principal amount hereof, or of such portion, into fully paid and non-assessable shares (calculated as to each conversion to the nearest 1/100 of a share) of Common Stock of the Company at a conversion price equal to $ aggregate principal amount of Securities for each share of Common Stock (or at the current adjusted conversion price if an adjustment has been made as provided in the Indenture) by surrender of this Security, duly endorsed or assigned to the Company or in blank, to the Company at its office or agency in , accompanied by written notice to the Company that the Holder hereof elects to convert this Security, or if less than the entire principal amount hereof is to be converted, the portion hereof to be converted, and, in case such surrender shall be made during the period from the close of business on any Regular Record Date next preceding any Interest Payment Date to the opening of business on such Interest Payment Date (unless this Security or the portion thereof being converted has been called for redemption on a Redemption Date within such period), also accompanied by payment in New York Clearing House or other funds acceptable to the Company of an amount equal to the interest payable on such Interest Payment Date on the principal amount of this Security then being converted. Subject to the aforesaid requirement for payment and, in the case of a conversion after the Regular Record Date next preceding any Interest Payment Date and on or before such Interest Payment Date, to the right of the Holder of this Security (or any Predecessor Security) of record at such Regular Record Date to receive an installment of interest (with certain exceptions provided in the Indenture), no payment or adjustment is to be made on conversion for interest accrued hereon or for dividends on the Common Stock issued on conversion. No fractions of shares or scrip representing fractions of shares will be issued on conversion, but instead of any fractional interest the Company shall pay a cash adjustment as provided in the Indenture. The conversion price is subject to adjustment as provided in the Indenture. In addition, the Indenture provides that in case of certain consolidations or mergers to which the Company is a party or the transfer of substantially all of the assets of the Company, the Indenture shall be amended, without the consent of any Holders of Securities, so that this Security, if then outstanding, will be convertible thereafter, during the period this Security shall be convertible as specified above, only into the kind and amount of securities, cash and other property receivable upon the consolidation, merger or transfer by a holder of the number of shares of Common Stock into which this Security might have been converted immediately prior to such consolidation, merger or transfer (assuming such holder of Common Stock failed to exercise any rights of election and received per share the kind and amount received per share by a plurality of nonelecting shares).
[If applicable, insert]—The indebtedness evidenced by the Securities is, to the extent provided in the Indenture, subordinate and subject in right of payment to the prior payment in full of all indebtedness and obligations of the Company as are defined in the Indenture as “Senior Indebtedness,” and this Security is issued subject to the provisions of the Indenture with respect thereto, and each Holder of this Security, by accepting the same, agrees to and shall be bound by such provisions. Each Holder of this Security, by accepting the same, agrees that each holder of Senior Indebtedness, whether created or acquired before or after the issuance of this Security, shall be deemed conclusively to have relied on such subordination provisions in acquiring and continuing to hold, or in continuing to hold, such Senior Indebtedness.]

[If applicable, insert]—The Securities of this series are subject to redemption upon not less than 30 days’ notice by mail, [if applicable, insert]—(a) on in any year commencing with the year and ending with the year at a Redemption Price equal to % of the principal amount and (b) at any time [on or after 20__], as a whole or in part, at the election of the Company, at the following Redemption Prices (expressed as percentages of the principal amount): If redeemed [on or before , %, and if redeemed] during the 12-month period beginning of the years indicated, and thereafter at a Redemption Price equal to % of the principal amount, together in the case of any such redemption with accrued interest to the Redemption Date, but interest installments whose Stated Maturity is on or prior to such Redemption Date will be payable to the Holders of such Securities, or one or more Predecessor Securities, of record at the close of business on the relevant Regular Record Dates referred to on the face hereof, all as provided in the Indenture.]

[If applicable, insert]—The Securities of this series are subject to redemption upon not less than 30 days’ notice by mail, (a) on in any year commencing with the year and ending with the year through operation of the sinking fund for this series at the Redemption Prices for redemption through operation of the sinking fund (expressed as percentages of the principal amount) set forth in the table below and (b) at any time [on or after ], as a whole or in part, at the election of the Company, at the Redemption Prices for redemption otherwise than through operation of the sinking fund (expressed as percentages of the principal amount) set forth in the table below: If redeemed during the 12-month period beginning of the years indicated, and thereafter at a Redemption Price equal to % of the principal amount, together in the case of any such redemption (whether through operation of the sinking fund or otherwise) with accrued interest to the Redemption Date, but interest installments whose Stated Maturity is on or prior to such Redemption Date will be payable to the Holders of such Securities, or one or more Predecessor Securities, of record at the close of business on the relevant Regular Record Dates referred to on the face hereof, all as provided in the Indenture.]

[Notwithstanding the foregoing, the Company may not, prior to , redeem any Securities of this series as contemplated by [clause (b) of] the preceding paragraph as a part of, or in anticipation of, any refunding operation by the application, directly or indirectly, of moneys borrowed having an interest cost to the Company (calculated in accordance with generally accepted financial practice) of less than % per annum.]

[The sinking fund for this series provides for the redemption on in each year beginning with the year and ending with the year of [not less than] $ [(“mandatory sinking fund payment”)] and not more than $ aggregate principal amount of Securities of this series. [Securities of this series converted pursuant to the Indenture or acquired or redeemed by the Company otherwise than through [mandatory] sinking fund payments may be credited against subsequent [mandatory] sinking fund payments otherwise required to be made in the [describe order] order in which they become due.]]
[In the event of redemption or conversion of this Security in part only, a new Security or Securities of this series for the unredeemed or unconverted portion hereof will be issued in the name of the Holder hereof upon the cancellation hereof.]

[If applicable, insert—The Securities of this series are subject to the covenant defeasance provisions set forth in Article Four of the Indenture.]

[If the Security is not an Original Issue Discount Security, insert—If an Event of Default with respect to Securities of this series shall occur and be continuing, the principal of the Securities of this series may be declared due and payable in the manner and with the effect provided in the Indenture.]

[If the Security is an Original Issue Discount Security, insert—If an Event of Default with respect to Securities of this series shall occur and be continuing, an amount of principal of the Securities of this series may be declared due and payable in the manner and with the effect provided in the Indenture. Such amount shall be equal to—insert formula for determining the amount. Upon payment (a) of the amount of principal so declared due and payable and (b) of interest on any overdue principal and overdue interest (in each case to the extent that the payment of such interest shall be legally enforceable), all the Company’s obligations in respect of the payment of the principal of and interest, if any, on the Securities of this series shall terminate.]

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of a majority in principal amount of the Outstanding Securities of each series to be affected. The Indenture also contains provisions permitting the Holders of specified percentages in principal amount of the Outstanding Securities of each series, on behalf of the Holders of all Outstanding Securities of such series, to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange or in lieu hereof, whether or not notation of such consent or waiver is made upon this Security.

No reference herein to the Indenture and no provision of this Security or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the amount of principal of (and premium, if any, on) and interest, if any, on this Security herein provided, and at the times, place and rate, and in the coin or currency, herein prescribed or to convert this Security as provided in the Indenture.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Security is registrable in the Security Register, upon surrender of this Security for registration of transfer at the office or agency of the Company in any place where the principal of (and premium, if any, on) and interest, if any, on this Security are payable, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed by, the Holder hereof or his attorney duly authorized in writing, and thereupon one or more new Securities of this series, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.
The Securities of this series are issuable only in registered form without coupons in denominations of $ and any integral multiple thereof. As provided in the Indenture and subject to certain limitations therein set forth, Securities of this series are exchangeable for a like aggregate principal amount of Securities of this series of different authorized denominations as requested by the Holder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Security is registered as the owner hereof for all purposes, whether or not this Security be overdue, and neither the Company nor the Trustee nor any such agent shall be affected by notice to the contrary.

All terms used in this Security which are defined in the Indenture shall have the meanings assigned to them in the Indenture.
FORM OF CONVERSION NOTICE

To: ANADIGICS, INC.

The undersigned owner of this Security hereby irrevocably exercises the option to convert this Security, or portion hereof (which is $1,000 or an integral multiple thereof) below designated, into shares of Common Stock of ANADIGICS, INC., in accordance with the terms of the Indenture referred to in this Security, and directs that the shares issuable and deliverable upon the conversion, together with any check in payment for fractional shares and any Securities representing any unconverted principal amount hereof, be issued and delivered to the registered holder hereof unless a different name has been indicated below. If shares are to be issued in the name of a person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto. Any amount required to be paid by the undersigned on account of interest accompanies this Security.

Dated:

Fill in for registration of shares of Common Stock and Securities if to be issued otherwise than to the registered holder.

Name

Address

(Please print name and address (including zip code number))

SOCIAL SECURITY OR OTHER TAXPAYER IDENTIFYING NUMBER

Principal amount to be converted (in an integral multiple of $1,000, if less than all):

$}

Signature

-5-
August 2, 2012

ANADIGICS, Inc.
141 Mt. Bethel Road
Warren, New Jersey 07059

Re: Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as counsel to ANADIGICS, Inc., a Delaware corporation (the “Company”) in connection with the Registration Statement on Form S-3 (the “Registration Statement”), filed by the Company with the Securities and Exchange Commission. The Registration Statement relates to the issuance and sale from time to time, pursuant to Rule 415 of the rules and regulations promulgated under the Securities Act of 1933, as amended (the “Act”), of the following securities with an aggregate initial offering price of up to $60,000,000, as shall be designated by the Company: (i) shares of common stock of the Company, par value $0.01 per share (the “Common Stock”), (ii) shares of preferred stock of the Company (the “Preferred Stock”), (iii) Convertible Senior Debt Securities of the Company, in one or more series (the “Senior Debt Securities”), which are to be issued under a senior indenture proposed to be executed between the Company and a trustee to be named (the “Trustee”) (the “Senior Indenture”), the form of which is filed as an exhibit to the Registration Statement, and (iv) Convertible Subordinated Debt Securities of the Company, in one or more series (the “Subordinated Debt Securities”), which are to be issued under a subordinated indenture proposed to be executed between the Company and the Trustee (the “Subordinated Indenture”), the form of which is filed as an exhibit to the Registration Statement. The Common Stock, the Preferred Stock, the Senior Debt Securities and the Subordinated Debt Securities are referred to collectively as the “Securities” and individually as a “Security”.

In connection with this opinion, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such corporate records, documents, certificates and instruments as we deemed necessary and appropriate to enable us to render the opinion expressed below.

In our examination, we have assumed (a) the authenticity of original documents and the genuineness of all signatures, (b) the conformity to the originals of all documents submitted to us as copies, (c) the truth, accuracy and completeness of the information, representations and warranties contained in the records, documents, instruments and certificates we have reviewed and (d) the due authorization, execution and delivery of each document named below by each party other than the Company.

We advise you that, in our opinion:

(a) With respect to the shares of Common Stock, when (i) the Registration Statement, as finally amended (including all necessary post-effective amendments), has become effective under the Act; (ii) an appropriate prospectus supplement or term sheet with respect to the Common Stock has been prepared, delivered and filed in compliance with the Act and the applicable rules and regulations promulgated thereunder; (iii) if the Common Stock is to be sold pursuant to an underwriting agreement or any other duly authorized, executed and delivered valid and binding purchase or agency agreement; (iv) the Board of Directors, including any appropriate committee appointed thereby, and appropriate officers of the Company have taken all necessary corporate action to approve the issuance of the Common Stock and related matters; (v) the terms of the issuance and sale of the Common Stock have been duly established in conformity with the Certificate of Incorporation and the By-laws of the Company so as not to violate any applicable law, the Certificate of Incorporation or the By-laws of the Company or result in default under or breach of any agreement or instrument binding upon the Company and so as to comply with any requirement or restriction imposed by any court or governmental body having jurisdiction over the Company; and (vi) certificates representing the shares of Common Stock have been duly executed, countersigned, registered and delivered upon payment of the agreed-upon consideration therefor (provided that such consideration is not less than the par value thereof), the shares of Common Stock (including any Common Stock duly reserved for issuance and issued upon conversion of any other Security), when issued and sold in accordance with the applicable underwriting agreement or any other duly authorized, executed and delivered valid and binding purchase or agency agreement, will be duly authorized, validly issued, fully paid and nonassessable.
(b) With respect to the shares of Preferred Stock, when (i) the Registration Statement, as finally amended (including all necessary post-effective amendments), has become effective under the Act; (ii) an appropriate prospectus supplement or term sheet with respect to the Preferred Stock has been prepared, delivered and filed in compliance with the Act and the applicable rules and regulations promulgated thereunder; (iii) if the Preferred Stock is to be sold pursuant to a firm commitment underwritten offering, an underwriting agreement with respect to the Preferred Stock has been duly authorized, executed and delivered by the Company and the other parties thereto; (iv) the Board of Directors, including any appropriate committee appointed thereby, and appropriate officers of the Company have taken all necessary corporate action to approve the issuance and terms of the Preferred Stock and related matters, including the adoption of a Certificate of Designation for the Preferred Stock in accordance with the applicable provisions of Delaware law (the “Certificate of Designation”); (v) the filing of the Certificate of Designation with the Secretary of State of the State of Delaware has duly occurred; (vi) the terms of the Preferred Stock and of their issuance and sale have been duly established in conformity with the Company’s Certificate of Incorporation, including the Certificate of Designation related to the Preferred Stock, and the By-laws of the Company so as not to violate any applicable law, the Certificate of Incorporation or the By-laws of the Company or result in default under or breach of any agreement or instrument binding upon the Company and so as to comply with any requirement or restriction imposed by any court or governmental body having jurisdiction over the Company; and (vii) certificates representing the shares of Preferred Stock have been duly executed, countersigned, registered and delivered upon payment of the agreed-upon consideration therefor (provided that such consideration is not less than the par value thereof), the shares of Preferred Stock (including any Preferred Stock duly issued upon conversion of any other Security), when issued and sold in accordance with the applicable underwriting agreement or any other duly authorized, executed and delivered valid and binding purchase or agency agreement, will be duly authorized, validly issued, fully paid and nonassessable.

(c) With respect to the Senior Debt Securities, when (i) the Registration Statement, as finally amended (including all necessary post-effective amendments), has become effective under the Act; (ii) the Senior Indenture has been duly authorized, executed and delivered by the Company and the other parties thereto and duly qualified under the Trust Indenture Act of 1939, as amended (the “TIA”); (iii) an appropriate prospectus supplement or term sheet with respect to the Senior Debt Securities has been prepared, delivered and filed in compliance with the Act and the applicable rules and regulations promulgated thereunder; (iv) if the Senior Debt Securities are to be sold pursuant to a firm commitment underwritten offering, an underwriting agreement with respect to the Senior Debt Securities has been duly authorized, executed and delivered by the Company and the other parties thereto; (v) the Board of Directors, including any appropriate committee appointed thereby, and appropriate officers of the Company have taken all necessary corporate action to approve the issuance and terms of the Senior Debt Securities and related matters; (vi) the terms of the Senior Debt Securities and their issuance and sale have been duly established in conformity with the Senior Indenture so as not to violate any applicable law, the Certificate of Incorporation or the By-laws of the Company or result in default under or breach of any agreement or instrument binding upon the Company and so as to comply with any requirement or restriction imposed by any court or governmental body having jurisdiction over the Company; and (vii) the Senior Debt Securities have been duly executed and authenticated in accordance with the provisions of the Senior Indenture and duly delivered to the purchasers thereof upon payment of the agreed-upon consideration therefor, the Senior Debt Securities, when issued and sold in accordance with the provisions of the Senior Indenture and in accordance with the applicable underwriting agreement, if any, or any other duly authorized, executed and delivered valid and binding purchase or agency agreement, will constitute valid and binding obligations of the Company enforceable against the Company in accordance with their terms, except as enforcement thereof may be limited by (a) bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer, moratorium or other laws now or hereafter in effect related to or affecting creditors’ rights generally and (b) general principles of equity (regardless of whether enforceability is considered in a proceeding at law or in equity).

(d) With respect to the Subordinated Debt Securities, when (i) the Registration Statement, as finally amended (including all necessary post-effective amendments), has become effective under the Act; (ii) the Subordinated Indenture has been duly authorized, executed and delivered by the Company and the other parties thereto and duly qualified under the TIA; (iii) an appropriate prospectus supplement or term sheet with respect to the Subordinated Debt Securities has been prepared, delivered and filed in compliance with the Act and the applicable rules and regulations promulgated thereunder; (iv) if the Subordinated Debt Securities are to be sold pursuant to a firm commitment underwritten offering, an underwriting agreement with respect to the Subordinated Debt Securities has been duly authorized, executed and delivered by the Company and the other parties thereto; (v) the Board of
Directors, including any appropriate committee appointed thereby, and appropriate officers of the Company have taken all necessary corporate action to approve the issuance and terms of the Subordinated Debt Securities and related matters; (vi) the terms of the Subordinated Debt Securities and their issuance and sale have been duly established in conformity with the Subordinated Indenture so as not to violate any applicable law, the Certificate of Incorporation or the By-laws of the Company or result in default under or breach of any agreement or instrument binding upon the Company and so as to comply with any requirement or restriction imposed by any court or governmental body having jurisdiction over the Company; and (vii) the Subordinated Debt Securities have been duly executed and authenticated in accordance with the provisions of the Subordinated Indenture and duly delivered to the purchasers thereof upon payment of the agreed-upon consideration therefor, the Subordinated Debt Securities, when issued and sold in accordance with the provisions of the Subordinated Indenture and in accordance with the applicable underwriting agreement, if any, or any other duly authorized, executed and delivered valid and binding purchase or agency agreement, will constitute valid and binding obligations of the Company enforceable against the Company in accordance with their terms, except as enforcement thereof may be limited by (a) bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer, moratorium or other laws now or hereafter in effect related to or affecting creditors’ rights generally and (b) general principles of equity (regardless of whether enforceability is considered in a proceeding at law or in equity).

In rendering the opinion set forth above, we express no opinion as to the laws of any jurisdiction other than the laws of the State of New York, the General Corporation law of the State of Delaware, including the applicable provisions of the Delaware Constitution and the reported judicial decisions interpreting such laws, and the federal laws of the United States of America. The Securities may be issued from time to time on a delayed or continuous basis, and our opinion is limited to the laws as in effect on the date hereof.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement and to the reference of our firm under the caption “Legal Matters” in the Registration Statement and the prospectus forming a part thereof. Our consent to such reference does not constitute a consent under Section 7 of the Act, as in consenting to such reference we have not certified any part of the Registration Statement and do not otherwise come within the categories of persons whose consent is required under Section 7 of the Act or under the rules and regulations of the Securities and Exchange Commission thereunder.

Very truly yours,

/s/ Cahill Gordon & Reindel LLP
### Statement of Computation of Ratio of Earnings to Fixed Charges

**ANADIGICS, INC.**

**CALCULATION OF RATIO OF EARNINGS TO FIXED CHARGES**

**FOR THE THREE MONTHS ENDED MARCH 31, 2012 AND APRIL 2, 2011**


(in thousands, except ratios)

<table>
<thead>
<tr>
<th></th>
<th>Year ended December 31,</th>
<th>Three months ended Mar. 31,</th>
<th>Apr. 2,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2011</td>
<td>2010</td>
<td>2009</td>
</tr>
<tr>
<td>Fixed Charges:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Portion of rental</td>
<td>$872</td>
<td>$874</td>
<td>$854</td>
</tr>
<tr>
<td>expense representing</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>interest</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest and</td>
<td>$25</td>
<td>$154</td>
<td>$1,897</td>
</tr>
<tr>
<td>amortization of debt</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>issuance costs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fixed charges, total</td>
<td>$897</td>
<td>$1,028</td>
<td>$2,751</td>
</tr>
<tr>
<td>Earnings:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Loss) earnings</td>
<td>$(49,323)</td>
<td>$963</td>
<td>$57,404</td>
</tr>
<tr>
<td>before income taxes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>and discontinued</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>operations</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Earnings, as defined</td>
<td>$(48,426)</td>
<td>$1,991</td>
<td>$54,653</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ratio of earnings to</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>fixed charges</td>
<td>NA</td>
<td>1.94</td>
<td>NA</td>
</tr>
<tr>
<td>(1)</td>
<td></td>
<td>NA</td>
<td>3.14</td>
</tr>
</tbody>
</table>

(1) For purposes of computing the ratio of earnings to fixed charges, earnings consist of (loss) income before benefit from income taxes and loss from discontinued operations plus fixed charges. Fixed charges consist of interest charges and that portion of rent expense that we believe to be representative of interest. Losses before income taxes and discontinued operations were not sufficient to cover fixed charges by $49.3 million, $57.4 million and $41.9 million for the years ended December 31, 2011, 2009 and 2008 respectively. Losses before income taxes and discontinued operations were not sufficient to cover fixed charges by $15.8 million and $10.7 million for the three months ended March 31, 2012 and April 2, 2011, respectively.
Exhibit 23.1

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 ANADIGICS, Inc. for the registration of convertible debt, preferred stock and common stock and to the incorporation by reference therein of our reports dated March 15, 2012, with respect to the consolidated financial statements and schedule of ANADIGICS, Inc., and the effectiveness of internal control over financial reporting of ANADIGICS, Inc., 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

MetroPark, NJ
August 2, 2012