As filed with the Securities and Exchange Commission on August 4, 2017

Registration No. 333-

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

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

MOHAWK INDUSTRIES, INC.	**MOHAWK CAPITAL LUXEMBOURG S.A.**
(Exact name of registrant as specified in its charter)	
Delaware	**Luxembourg**
(State or other jurisdiction of incorporation or organization)	
52-1604305	**Not Applicable**
(I.R. S. Employer Identification No.)	

Mohawk Industries, Inc.
P.O. Box 12069
160 S. Industrial Blvd.
Calhoun, Georgia 30701
(706) 629-7721
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Mohawk Capital Luxembourg S.A.
10B, rue des Mérovingiens
L-8070 Bertrange
Grand Duchy of Luxembourg
R.C.S. Luxembourg [●]
352 2700 4185
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

R. David Patton
Vice President-Business Strategy, General Counsel and Secretary
Mohawk Industries, Inc.
160 S. Industrial Blvd.
Calhoun, Georgia 30701
(706) 629-7721
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copy to:

Paul J. Nozick
M. Hill Jeffries
Alston & Bird LLP
One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309
(404) 881-7000

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

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

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

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 SEC pursuant to Rule 462(e) under the Securities Act, check the following box. x

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

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

Large accelerated filer x

Accelerated filer ☐

Non-accelerated filer ☐ (do not check if a smaller reporting company)

Smaller reporting company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act. ☐

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	**Amount to be registered/ Proposed maximum aggregate offering price per unit/ Proposed maximum offering price/ Amount of registration fee**
Mohawk Industries, Inc.	
Debt Securities	(1)
Guarantees of Debt Securities(2)	
Common Stock, par value $0.01 per share	
Preferred Stock, par value $0.01 per share	
Warrants(3)	
Purchase Contracts	
Units (4)	
Mohawk Capital Luxembourg S.A.	
Debt Securities	

(l) There is being registered herewith an indeterminate principal amount or number of the securities of each identified class as may from time to time be issued at indeterminate prices and as may from time to time be issued upon conversion, redemption, exchange, exercise or settlement of other securities registered hereunder, including under any applicable anti-dilution provisions. Any securities registered hereunder may be sold separately or together as units with other securities registered hereunder. Separate consideration may or may not be received for securities that are issuable upon conversion, exchange or exercise of other securities or that are issued in units with other securities registered hereunder. The proposed maximum offering price per security will be determined from time to time by the registrants in connection with the issuance of the securities registered hereunder. In accordance with Rules 456(b) and 457(r), the registrants are deferring payment of all of the registration fee.

(2) Mohawk Industries, Inc. will fully and unconditionally guarantee the payment of principal of, and premium (if any) and interest on, the debt securities of Mohawk Capital Luxembourg S.A. Pursuant to Rule 457(n), no separate registration fee will be paid in respect of the guarantees. The guarantees will not be traded separately.

(3) Represents warrants to purchase debt securities, shares of common stock or shares of preferred stock registered hereby.

(4) Each unit will be issued under a unit agreement or indenture and will represent an interest in two or more debt or equity securities, warrants or purchase contracts, which may or may not be separable from one another.

PROSPECTUS

MOHAWK INDUSTRIES, INC.

Debt Securities
Guarantees of Debt Securities
Common Stock
Preferred Stock
Warrants
Purchase Contracts
Units

MOHAWK CAPITAL LUXEMBOURG S.A.

Debt Securities

From time to time, Mohawk Industries, Inc., or Mohawk, may offer and sell debt securities (which may be issued in one or more series), guarantees of debt securities, common stock, preferred stock (which may be issued in one or more series), warrants, purchase contracts and units that include any of these securities. From time to time, Mohawk Capital Luxembourg S.A., or Mohawk Capital, may offer and sell debt securities (which may be issued in one or more series), and Mohawk will fully and unconditionally guarantee the payment of principal of, and premium (if any) and interest on, such debt securities.

We may offer and sell these securities from time to time in amounts, at prices and on terms that will be determined at the time of the applicable offering. We may offer and sell these securities to or through one or more underwriters, dealers and agents, or directly to purchasers, on a continuous or delayed basis. This prospectus provides a general description of the securities we may offer. Each time we offer securities pursuant to this prospectus, we will provide a prospectus supplement and attach it to this prospectus. The prospectus supplement will contain specific information about the offering and the terms of the securities.

Mohawk's common stock is listed on the New York Stock Exchange and trades under the ticker symbol "MHK." Each prospectus supplement will indicate if the securities offered thereby will be listed on any securities exchange.

You should refer to the risk factors included in our periodic reports and other information that we file with the Securities and Exchange Commission and carefully consider that information before buying our securities.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

The date of this prospectus is August 4, 2017.

TABLE OF CONTENTS

You should rely only on the information contained in this prospectus or any accompanying prospectus supplement, including the information incorporated by reference herein, as described under “Incorporation of Certain Information by Reference,” or any free writing prospectus that we prepare and distribute. We have not authorized anyone to provide you with information different from that contained in, or incorporated by reference into, this prospectus or any accompanying prospectus supplement or any free writing prospectus. This prospectus, any accompanying prospectus supplement and any free writing prospectus may be used only for the purposes for which they have been published, and no person has been authorized to give any information not contained in, or incorporated by reference into, this prospectus and the accompanying prospectus supplement or any free writing prospectus. If you receive any other information, you should not rely on it. You should not assume that the information contained in, or incorporated by reference into this prospectus is accurate of any date other than the date on the cover page of this prospectus. We are not making an offer of these securities in any jurisdiction where the offer is not permitted.

ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission, or SEC, using a "shelf" registration process. Under this shelf registration process, we may, from time to time, sell any combination of the securities described in this prospectus in one or more offerings. This prospectus provides you with a general description of the securities we may offer. Each time we offer securities, we will provide a prospectus supplement, together with this prospectus, that will contain specific information about the terms of that offering and the manner in which the securities will be offered. The prospectus supplement may also add to, update, modify or supersede the information contained in this prospectus. If information varies between this prospectus and the prospectus supplement, you should rely on the information in the prospectus supplement. We urge you to read this prospectus, the prospectus supplement and other offering material together with additional information described under the heading "Incorporation of Certain Information By Reference."

In this prospectus, we refer to debt securities, common stock, preferred stock, warrants, purchase contracts and units collectively as the "securities." The terms "we," "our," "ours," "us" and the "Company" refer to Mohawk Industries, Inc. and our consolidated subsidiaries, except where specifically indicated otherwise.

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC. You may read and copy any documents filed by us 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 further information on the public reference room. Our filings with the SEC are also available to the public through the SEC's Internet site at http://www.sec.gov and through the New York Stock Exchange, 20 Broad Street, New York, New York 10005, on which our common stock is listed.

We have filed with the SEC a registration statement on Form S-3 relating to the securities covered by this prospectus and any prospectus supplement. This prospectus is a part of the registration statement and does not contain all the information in the registration statement. Whenever a reference is made in this prospectus or any prospectus supplement to a contract or other document, the reference is only a summary and you should refer to the exhibits that are a part of the registration statement for a copy of the contract or other document. You may review a copy of the registration statement at the SEC's public reference room in Washington, D.C., as well as through the SEC's Internet site.

INCORPORATION OF CERTAIN INFORMATION BY REFERENCE

The SEC's rules allow us to incorporate by reference information into this prospectus. This means that we can disclose important information to you by referring you to another document. Any information referred to in this way is considered part of this prospectus from the date we file that document. Any reports filed by us with the SEC after the date of this prospectus will automatically update and, where applicable, supersede any information contained in this prospectus or incorporated by reference in this prospectus.

We incorporate by reference into this prospectus the following documents or information filed with the SEC (other than, in each case, documents or information deemed to have been furnished and not filed in accordance with SEC rules):

- our Annual Report on Form 10-K for the year ended December 31, 2016;
- portions of our definitive Proxy Statement for our 2017 Annual Meeting of Stockholders that are incorporated by reference into our Annual Report on Form 10-K for the year ended December 31, 2016;
- our Quarterly Reports on Form 10-Q for the quarters ended April 1, 2017 and July 1, 2017;
- our Current Reports on Form 8-K filed with the SEC on March 13, 2017 and May 22, 2017;
- the description of our common stock contained in our Registration Statement on Form 8-A filed on January 29, 1992; and

- all documents filed by us under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, or the Exchange Act, on or after the date of this prospectus and before the termination of this offering of securities.

We will provide without charge to each person, including any beneficial owner, to whom this prospectus is delivered, upon his or her written or oral request, a copy of any or all of the information that has been incorporated by reference into this prospectus, excluding exhibits to those documents, unless they are specifically incorporated by reference into those documents. These documents are available on our website at http://www.mohawkind.com. You can also request those documents from our Corporate Secretary at the following address and telephone number:

Mohawk Industries, Inc.
160 South Industrial Boulevard
Calhoun, Georgia 30701
(706) 629-7721

Except as expressly provided above, no other information, including information on our website, is incorporated by reference into this prospectus.

FORWARD-LOOKING STATEMENTS

Certain of the statements in this prospectus and the documents incorporated by reference in this prospectus, particularly those anticipating future performance, business prospects, growth and operating strategies, proposed acquisitions and similar matters and those that include the words “could,” “should,” “believes,” “anticipates,” “expects” and “estimates” or similar expressions, constitute “forward-looking statements,” for which Mohawk claims the protection of the safe harbor for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995.

There can be no assurance that the forward-looking statements will be accurate because they are based on many assumptions, which involve risks and uncertainties. The following important factors could cause future results to differ materially from those contemplated by our forward-looking statements: changes in economic or industry conditions; competition; inflation and deflation in raw material prices and other input costs; inflation and deflation in consumer markets; energy costs and supply; timing and level of capital expenditures; timing and implementation of price increases for the Company’s products; impairment charges; integration of acquisitions; international operations; introduction of new products; rationalization of operations; tax, product and other claims; litigation; and other risks identified in Mohawk’s SEC reports and public announcements. See “Risk Factors” below for further information regarding these and other important factors that could cause our actual results to differ materially from those contemplated by our forward-looking statements.

Our forward-looking statements contained herein speak only as of the date of this prospectus or, in the case of any document incorporated by reference into this prospectus, the date of that document. We make no commitment to revise or update any forward-looking statements to reflect events or circumstances after the date any such statements are made except as required by law.

MOHAWK INDUSTRIES, INC.

Mohawk is a leading global flooring manufacturer that creates products to enhance residential and commercial spaces around the world. The Company has transformed its business from an American carpet manufacturer into the world's largest flooring company based on revenue, with operations in Australia, Brazil, Canada, Europe, India, Malaysia, Mexico, New Zealand, Russia and the United States. We are a significant participant in every major project category across the global flooring industry, including carpet, rugs, ceramic tile, laminate, wood, stone, luxury vinyl tile, or LVT, and vinyl flooring. Our brands are among the most recognized in the industry and include American Olean®, Daltile®, Durkan®, IVC®, Karastan®, Marazzi®, Mohawk®, Pergo®, Quick-Step® and Unilin®. Our industry-leading innovation develops products and technologies that differentiate our brands in the marketplace and satisfy all flooring related remodeling and new construction requirements.

Our principal executive offices are located at 160 South Industrial Boulevard, Calhoun, Georgia 30701, and our telephone number is (706) 629-7721. Our website can be accessed at *www.mohawkind.com*. The contents of our website are not part of this prospectus or any accompanying prospectus.

MOHAWK CAPITAL LUXEMBOURG S.A.

Mohawk Capital serves as a financing subsidiary to provide financing for Mohawk on an ongoing basis through a commercial paper program, the issuance of various debt securities and other financing arrangements. The principal address of Mohawk Capital is is 10B, rue des Mérovingiens, L-8070 Bertrange, Grand Duchy of Luxembourg, R.C.S. Luxembourg B198.756, and its telephone number is 352 2700 4181.

There are no separate financial statements of Mohawk Capital in this prospectus, as permitted by SEC rules. We do not believe such financial statements would be helpful because:

- Mohawk Capital is a wholly owned subsidiary of Mohawk, and the financial information of Mohawk Capital is included in the consolidated financial statements and financial information of Mohawk, which is filed under the Exchange Act.
- Mohawk Capital does not have any independent operations other than providing for the ongoing financing needs of Mohawk.
- The obligations of Mohawk Capital will be fully and unconditionally guaranteed by Mohawk.

Mohawk Capital is not, and will not become, subject to the information reporting requirements of the Exchange Act.

RISK FACTORS

Our operations are subject to a number of risks. When considering an investment in our securities, you should carefully read and consider the risk factors included in our most recent annual report on Form 10-K as supplemented by our quarterly reports on Form 10-Q and other reports we file with the SEC, each of which is incorporated herein by reference, and those specific risk factors that may be included in the applicable prospectus supplement, together with all of the other information presented in this prospectus, any prospectus supplement and the documents we incorporate by reference. If any of the events described in those risk factors actually occurs, our business, financial condition or operating results, as well as the market price of our securities, could be materially adversely affected.

USE OF PROCEEDS

Unless otherwise specified in the applicable prospectus supplement, we intend to use the net proceeds from the sale of securities for general corporate purposes, which may include:

- working capital;
- capital expenditures;
- acquisitions of or investments in businesses or assets;
- redemption and repayment of short-term or long-term borrowings; and
- purchases of our common stock.

Pending application of the net proceeds, we may temporarily invest the net proceeds in short-term marketable securities.

RATIO OF EARNINGS TO FIXED CHARGES

Our consolidated ratios of earnings to fixed charges for each of the five fiscal years ended December 31, 2016 and for the six months ended July 1, 2017 are set forth in the table below. You should read this table in conjunction with our consolidated financial statements and related notes to financial statements incorporated by reference herein. See "Incorporation of Certain Information by Reference."

	Year Ended December 31,					Six Months Ended July 1,
	2012	2013	2014	2015[2]	2016	2017
Ratio of Earnings to Fixed Charges (unaudited) (1)	3.7x	4.1x	5.5x	7.5x	15.1x	15.4x

(1) For the purposes of determining the ratio of earnings to fixed charges, earnings consist of the aggregate of earnings from continuing operations before income taxes plus fixed charges and amortization of capitalized interest, less total capitalized interest. Fixed charges are defined as interest expensed and capitalized plus an estimate of interest included within rental expense.

(2) Earnings (as defined above) for the year ended December 31, 2015 reflect a $122.5 million charge related to the settlement and further defense of certain polyurethane foam litigation. Excluding this litigation-related charge, earnings for the year ended December 31, 2015 would have been $985.7 million and the ratio of earnings to fixed charges would have been 8.6x**.**

DESCRIPTION OF DEBT SECURITIES

The following description of the debt securities is a summary of the general terms and provisions of the debt securities. This summary may not contain all of the information that is important to you and is qualified in its entirety by reference to the applicable indenture and its associated documents, including the form of note. We have filed the indentures or forms thereof with the SEC as exhibits to the registration statement of which this prospectus forms a part. See "Where You Can Find More Information" for information on how to obtain copies of them. The specific terms and provisions of any series of debt securities will be described in the applicable prospectus supplement. If so described in a prospectus supplement, the terms and provisions of that series of debt securities may differ from the general description of terms and provisions presented below.

Please note that in this section titled "Description of Debt Securities," references to "we," "our" and "us" refer either to Mohawk or to Mohawk Capital, as the case may be, as the issuer of the applicable securities of debt securities and not to any subsidiaries, unless the context requires otherwise. Also, in this section, references to "holders" mean those who own debt securities registered in their own names on the books that we or the trustee maintain for this purpose and not those who own beneficial interests in debt securities registered in street name or in debt securities issued in book-entry form through one or more depositaries. Owners of beneficial interests in the debt securities should read the section titled "—Book-Entry Delivery and Settlement."

General

Either Mohawk or Mohawk Capital may issue debt securities. When describing any debt securities below, references to "we," "us" or "our" refer to the issuer of those securities.

The debt securities of Mohawk and of Mohawk Capital may be either senior or senior subordinated debt securities, as described in greater detail below. When we refer to "senior debt securities," we mean both the senior debt securities of Mohawk and the senior debt securities of Mohawk Capital unless the context requires otherwise. When we refer to "senior subordinated debt securities," we mean both the senior subordinated debt securities of Mohawk and the senior subordinated debt securities of Mohawk Capital unless the context requires otherwise. When we refer to "debt securities," we mean both the senior debt securities and the senior subordinated debt securities, unless the context requires otherwise. When we refer to a series of debt securities, we mean a series issued under the applicable indenture, as described below. When we refer to the prospectus supplement, we mean the prospectus supplement describing the specific terms of the debt security you purchase. The terms used in the prospectus supplement have the meanings described in this prospectus, unless otherwise specified.

We are not limited in the amount of debt securities that we may issue, and we may issue as many distinct series of debt securities as we wish. Additionally, the provisions of each indenture allow us to "reopen" a previous issue of a series of debt securities and issue additional debt securities of that series.

Neither the senior debt securities nor the senior subordinated debt securities will be secured by any property or assets of Mohawk, Mohawk Capital or any of their subsidiaries (Mohawk Capital has no subsidiaries). Thus, by owning a debt security, you are an unsecured creditor of Mohawk or Mohawk Capital, as the case may be. As a result, both the senior debt securities and the senior subordinated debt securities will be structurally subordinate to the secured indebtedness of Mohawk or Mohawk Capital, as the case may be, to the extent of the value of the applicable collateral.

Senior or Senior Subordinated Debt Securities

The senior debt securities of Mohawk and Mohawk Capital will be issued under the applicable indenture, as described in "-Indentures" below, and will rank equally with all the other senior unsecured and unsubordinated debt of Mohawk or Mohawk Capital, as the case may be.

The senior subordinated debt securities of Mohawk and Mohawk Capital will be issued under the applicable indenture, as described below, and payment of the principal of, and premium (if any) and interest on, the senior subordinated debt securities will be junior in right of payment to the prior payment in full of all of Mohawk's or Mohawk Capital's "senior indebtedness," as defined in the applicable indenture. The prospectus supplement for any series of senior subordinated debt securities will set forth the subordination terms of such debt securities, as well as the aggregate amount of senior indebtedness outstanding as of the end of the issuer's most recent fiscal quarter. The prospectus supplement will also set forth limitations, if any, on the issuance of additional senior indebtedness. Mohawk's senior indebtedness is, and any additional indebtedness of Mohawk will be, structurally subordinate to the indebtedness of Mohawk Capital. Mohawk Capital's indebtedness is, and any additional indebtedness of Mohawk Capital will be, structurally senior to any indebtedness of Mohawk (except to the extent that Mohawk Capital guarantees such indebtedness and solely to the extent of such guarantee).

Indentures

Mohawk's senior debt securities and senior subordinated debt securities are governed by an indenture, which is a contract between Mohawk, as the issuer of the debt securities, and U.S. Bank National Association, as trustee. The trustee has two main roles:

- First, the trustee can enforce your rights against us if we default. There are some limitations on the extent to which the trustee acts on your behalf, which we describe under "-Events of Default."

- Second, the trustee performs administrative duties for us, such as sending interest payments and notices.

The senior debt securities of Mohawk Capital and the senior subordinated debt securities of Mohawk Capital will each be governed by an indenture-a senior debt indenture, in the case of senior debt securities, and a senior subordinated debt indenture, in the case of senior subordinated debt securities. Each indenture is a contract between (i) Mohawk Capital, as issuer of the debt securities, (ii) Mohawk as guarantor, and (iii) U.S. Bank National Association, as trustee. The indentures governing the debt securities of Mohawk Capital are substantially identical, except for the provisions relating to subordination, which are included only in the senior subordinated debt indenture.

Under each of the indentures that govern the debt securities of Mohawk Capital, Mohawk will fully and unconditionally guarantee, jointly and severally, to each holder of debt securities, the full and prompt performance of Mohawk Capital's obligations under the indenture and the debt securities, including the payment of principal of, and premium (if any) and interest on, the debt securities. The guarantee of any senior subordinated debt securities by Mohawk will be subordinated to the senior indebtedness of Mohawk on the same basis as such senior subordinated debt securities are subordinated to the senior indebtedness of Mohawk Capital. The prospectus supplement will describe any additional terms of the guarantee. See "Description of Guarantees."

Terms Contained in the Prospectus Supplement

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

- whether the issuer of the debt securities is Mohawk or Mohawk Capital;

- the title of the debt securities and whether they are senior debt securities or senior subordinated debt securities;

- any limit on the aggregate principal amount of debt securities of such series;

- the date or dates on which the principal of any debt securities is payable;

- the rate or rates at which any debt securities of the series will bear interest, if any, and the date or dates from which any such interest will accrue;

- the dates on which any interest will be payable and the regular record date for determining who is entitled to the interest payable on any interest payment date;
- the person to whom any interest on a debt security of the series will be payable, if other than the person in whose name that debt security (or one or more predecessor debt securities) is registered at the close of business on the regular record date for such interest;
- the place or places where the principal of, and premium (if any) and interest on, any debt securities of the series will be payable and the manner in which any payment may be made;
- any provisions regarding the manner in which the amount of the principal of, and premium (if any) and interest on, any debt securities of the series may be determined with reference to a financial or economic measure or pursuant to a formula, if applicable;
- the period or periods within which, the price or prices at which and the terms and conditions upon which any debt securities of the series may be redeemed, in whole or in part, at our option, and, if other than by a board resolution, the manner in which our election to redeem the debt securities will be evidenced;
- our obligation, if any, to redeem or purchase any debt securities of the series pursuant to any sinking fund or analogous provision and the period or periods within which, the price or prices at which and the terms and conditions upon which any debt securities of the series will be redeemed or purchased, in whole or in part, pursuant to such obligation;
- the denominations of the debt securities if other than denominations of $1,000 and any integral multiple of $1,000 in excess thereof;
- if other than the currency of the United States, the currency, currencies or currency units in which the principal of, and premium (if any) and interest on, any debt securities of the series will be payable and the manner of determining the equivalent thereof in the currency of the United States for any purpose;
- if the principal of, and premium (if any) and interest on, any debt securities of the series is to be payable in one or more currencies or currency units other than that or those in which such debt securities are stated to be payable, the currency, currencies, or currency units in which the principal of, and premium (if any) and interest on, such debt securities will be payable, the periods within which and the terms and conditions upon which such payments are to be made, and the amount so payable (or the manner in which such amount will be determined);
- if other than the entire principal amount, the portion of the principal amount of any debt securities of the series which will be payable upon declaration of acceleration of the maturity;
- if the principal amount payable at the stated maturity of any debt securities of the series will not be determinable as of any one or more dates prior to the stated maturity, the amount which will be deemed to be the principal amount of such debt securities as of any such date for any purpose, including the principal amount which will be due and payable upon any maturity other than the stated maturity or which will be deemed to be outstanding as of any day prior to the stated maturity (or, in any such case, the manner in which such amount deemed to be the principal amount will be determined);
- that the debt securities of the series will be subject to full defeasance or covenant defeasance, if applicable;
- that any debt securities will be issuable in whole or in part in the form of one or more global securities and, in such case, the depositaries for such global securities and the form of any legend or legends which will be borne by such global security, if applicable;

- any addition to, elimination of, or other change in, the events of default which applies to any debt securities of the series and any change in the right of the trustee or the requisite holders of such debt securities to declare the principal amount due and payable;

- any addition to, elimination of or other change in the covenants which applies to any debt securities of the series;

- the terms, if any, upon which the debt securities may be converted into, or exchanged for, stock, other debt securities or other securities, including whether such conversion or exchange is mandatory, at the option of the holder or at our option, the period during which such conversion or exchange may occur, the initial conversion or exchange rate and the circumstances or manner in which the conversion or exchange ratio may be adjusted or calculated;

- in the case of debt securities issued by Mohawk Capital, any additional terms of the guarantee; and

- any other terms of the debt securities not inconsistent with the indenture.

Debt securities may bear interest at a fixed rate or a variable (or "floating") rate, as specified in the prospectus supplement. In addition, if specified in the prospectus supplement, we may sell debt securities bearing no interest or interest at a rate that at the time of issuance is below the prevailing market rate, or at a discount below their stated principal amount. We will describe in the prospectus supplement any material special federal income tax considerations applicable to any such discounted debt securities.

Some of the debt securities may be issued as original issue discount debt securities. Original issue discount debt securities bear no interest or bear interest at below market rates and will be sold at a discount below their stated principal amount. The prospectus supplement relating to an issue of original issue discount debt securities will contain information relating to United States federal income tax, accounting, and other special considerations applicable to original issue discount debt securities.

We will generally have no obligation to repurchase, redeem, or change the terms of debt securities upon any event (including a change in control) that might have an adverse effect on our credit quality.

Unless otherwise specified in the prospectus supplement, the debt securities will not be listed on any securities exchange.

Certain Covenants

The indenture may include covenants of Mohawk or Mohawk Capital, as the case may be. These covenants may impose limitations on our indebtedness, limitations on liens, limitations on the issuance of preferred stock of certain of our subsidiaries, limitations on certain distributions and limitations on transactions with our affiliates, or other limitations. Any such covenants applicable to a series of debt securities will be set forth in the prospectus supplement.

Consolidation, Merger, Conveyance, Transfer or Lease

Mohawk and/or Mohawk Capital, as applicable, may not consolidate or merge with or into, or transfer or lease its assets substantially as an entirety to, any entity, unless:

- Mohawk or Mohawk Capital is the surviving entity or, if not, the successor entity formed by such consolidation or into which we are merged or which acquires or leases our or Mohawk Capital's assets is organized and existing under the laws of any U.S. jurisdiction and expressly assumes our or Mohawk Capital's obligations with respect to the debt securities and under the applicable indenture;

- no default or event of default exists or will occur immediately after giving effect to the transaction; and

- we have delivered to the trustee the certificates and opinions required under the indenture.

Events of Default

The following are events of default under the Indenture with respect to any series of debt securities:

- failure to pay any installment of interest on such series of debt securities when due and the continuance of such failure for 30 days;
- failure to pay principal of, or premium, if any, on such series of debt securities when due;
- failure to deposit any sinking fund payment with respect to such series of debt securities when due and the continuance of such failure for 30 days;
- failure to observe or perform any other covenant or agreement in respect of such series of debt securities and the continuance of such failure for 60 days after receipt by us from the trustee or by us and the trustee from the holders of at least 25% of the principal amount of such series of debt securities outstanding of written notice of such failure specifying such failure and requiring the same to be remedied;
- certain events of bankruptcy, insolvency or reorganization of Mohawk or Mohawk Capital; and
- any other event of default we may provide for that series of debt securities.

If an event of default with respect to the outstanding debt securities of a particular series occurs and continues, either the trustee or the holders of at least 25% in aggregate principal amount of such series of outstanding debt securities may declare the principal amount of such series of debt securities to be due and payable immediately; provided that, in the case of certain events of bankruptcy, insolvency or reorganization, such principal amount, or portion thereof will automatically become due and payable without any action by the trustee or any holder. In the case of original issue discount debt securities, only a specified portion of the principal amount may be accelerated. However, at any time after an acceleration with respect to the debt securities of a particular series has occurred but before a judgment or decree based on such acceleration is entered, the holders of a majority in aggregate principal amount of the outstanding debt securities of such series may, under certain circumstances, rescind and annul such acceleration. For information as to waiver of defaults, see “Modification and Waiver” below.

If the principal or any premium or interest on any debt security is payable in a currency other than U.S. dollars and such currency is not available to us for making payment due to the imposition of exchange controls or other circumstances beyond our control, we are entitled to satisfy our obligations to holders of such debt securities by making such payment in U.S. dollars in an amount equal to the U.S. dollar equivalent of the amount payable in such other currency, as determined by the trustee as provided in the indenture. Any payment made under such circumstances in U.S. dollars where the required payment is in a currency other than U.S. dollars will not constitute an event of default under the indenture.

Subject to the duty of the trustee during an event of default to act with the required standard of care, the 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 unless such holders have offered the trustee security or indemnity reasonably satisfactory to the trustee. Subject to such indemnification and certain other limitations, the holders of a majority in aggregate principal amount of the outstanding debt securities of a particular series will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the trustee, or exercising any trust or power conferred on the trustee, with respect to the debt securities of such series.

Other than with respect to a lawsuit for the payment of principal, premium, if any, and interest on any series of debt securities when due, the indenture provides that no holder of such series of debt securities may institute any action against us under the indenture without first complying with the conditions set forth in the indenture.

We will furnish to the trustee an annual statement as to the performance of certain of our obligations under the indenture and as to any default in such performance.

Modification and Waiver

Modifications and amendments of the indenture with respect to any series of debt securities outstanding may be made by us and the trustee with the consent of holders of a majority in aggregate principal amount of such series, except that no such modification or amendment may, without the consent of the holder of each outstanding debt security of the applicable series affected thereby:

- extend the stated maturity date of the principal of, or any installment of principal of or interest on, any such debt security, or reduce the principal amount of or the rate (or extend the time for payment) of interest on, or any premium payable upon the redemption of, any such debt security;
- reduce the amount of principal payable upon acceleration of the maturity thereof;
- change the place or currency of payment of principal of, or premium, if any, or interest on, any such debt security;
- impair the right to institute suit for the enforcement of any payment on, or with respect to, any such debt security;
- reduce the percentage in aggregate principal amount of such series of outstanding debt securities, the consent of the holders of which is required for any amendment, supplemental indenture or waiver provided for in the indenture;
- modify any of the waiver provisions of the indenture, except to increase any required percentage or to provide that certain other provisions of the indenture cannot be modified or waived without the consent of the holder of each outstanding debt security of the series affected thereby;
- cause any such debt security to become subordinate in right of payment to any other debt, except to the extent provided in the terms of such security; or
- if such debt security provides that the holder may require us to repurchase or convert such debt security, impair such holder's right to require repurchase or conversion of such debt security on the terms provided therein.

We and the trustee may also modify and amend the indenture without the consent of any holder of debt securities in limited circumstances, such as clarifications and changes that would not adversely affect the holders.

The holders of a majority in aggregate principal amount of any series of outstanding debt securities may, on behalf of the holders of all such debt securities, waive our compliance with certain restrictive provisions of the indenture or such series of debt securities. The holders of a majority in aggregate principal amount of any series of outstanding debt securities may, on behalf of the holders of all such debt securities, waive any past default under the indenture, except a default in the payment of the principal of, or premium (if any) or interest on, such debt securities or in respect of any provision of the indenture that cannot be modified or amended without the consent of the holder of each outstanding debt security of such series affected thereby.

Legal Defeasance and Covenant Defeasance

The indenture provides that we may, at our option, elect to discharge our obligations with respect to any series of debt securities, which we refer to as legal defeasance. If legal defeasance occurs, we will be deemed to have paid and discharged all amounts owed under the applicable series of debt securities and the indenture will cease to be of further effect as to such series of debt securities, except that:

- holders will be entitled to receive timely payments for the principal of, premium, if any, and interest on, such series of debt securities, from the funds deposited for that purpose (as explained below);

- our obligations will continue with respect to the issuance of temporary debt securities, the registration of debt securities, and the replacement of mutilated, destroyed, lost or stolen debt securities of the applicable series;

- the trustee will retain its rights, powers, trusts, duties, and immunities under the indenture, and we will retain our obligations in connection therewith; and

- other legal defeasance provisions of the indenture will remain in effect.

In addition, we may, at our option and at any time, elect to cause the release of our obligations with respect to most of the covenants in the indenture, which we refer to as covenant defeasance, with respect to any series of debt securities. If covenant defeasance occurs, certain events (not including non-payment events and bankruptcy, insolvency and reorganization events) relating to us described under "—Events of Default" will no longer constitute events of default with respect to such series of debt securities. We may exercise legal defeasance regardless of whether we previously exercised covenant defeasance.

In order to exercise either legal defeasance or covenant defeasance, each of which we refer to as a defeasance, with respect to any series of debt securities:

(1) We must irrevocably deposit with the trustee, in trust, for the benefit of holders of the debt securities of such series, U.S. legal tender, U.S. government securities, a combination thereof or other obligations as may be provided with respect to such series of debt securities, in amounts that will be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants, to pay the principal of, premium, if any, and interest on, the applicable series of debt securities on the stated date for payment or any redemption date thereof, and the trustee must have, for benefit of holders of such debt securities, a valid and perfected security interest in the obligations so deposited;

(2) in the case of legal defeasance, we must deliver to the trustee an opinion of counsel in the United States reasonably acceptable to the trustee confirming that:

- we have received from, or there has been published by, the Internal Revenue Service, a ruling, or

- since the date of the indenture, there has been a change in the applicable federal income tax law,

in either case to the effect that holders of such series of debt securities will not recognize income, gain or loss for federal income tax purposes as a result of the legal 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 the legal defeasance had not occurred;

(3) in the case of covenant defeasance, we must deliver to the trustee an opinion of counsel in the United States reasonably acceptable to the trustee confirming that holders of such series of debt securities will not recognize income, gain or loss for federal income tax purposes as a result of the 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 the covenant defeasance had not occurred;

(4) no default or event of default with respect to such debt securities may have occurred and be continuing under the indenture on the date of the deposit with respect to such series of debt securities (other than a default or event of default resulting from the borrowing of funds to be applied to such deposit); in addition, no event of default relating to bankruptcy or insolvency may occur at any time from the date of the deposit to the 91st calendar day thereafter;

(5) the legal defeasance or covenant defeasance may not result in a breach or violation of, or constitute a default under any material agreement or instrument (excluding the indenture) to which Mohawk or any of its subsidiaries is a party or by which Mohawk or any of its subsidiaries is bound;

(6) we must deliver to the trustee an officers' certificate stating that the deposit was not made by us with the intent of preferring the holders of such debt securities over any other creditors of ours or the intent to hinder, delay or defraud any other of our creditors;

(7) the legal defeasance or covenant defeasance may not result in the trust arising from such deposit constituting an investment company within the meaning of the Investment Company Act of 1940, as amended, unless that trust is qualified, or exempt from regulation, under that Act; and

(8) we must deliver to the trustee an officers' certificate confirming the satisfaction of conditions in clauses (1) through (6) above and an opinion of counsel confirming the satisfaction of the conditions in clauses (1) (with respect to the validity and perfection of the security interest), (2), (3), (5) and (7) above.

If the amount deposited with the trustee to effect a covenant defeasance is insufficient to pay the principal of, and premium (if any) and interest on, the applicable series of debt securities when due, then our obligations under the indenture and such series of debt securities will be revived and such Defeasance will be deemed not to have occurred.

Form, Exchange and Transfer

We will issue the debt securities only in registered form, without interest coupons. Unless provided otherwise in the prospectus supplement relating to a particular series of debt securities, the debt securities will be issued in minimum denominations of $1,000 and integral multiples thereof. No service charge will be made for any registration of transfer or exchange of debt securities, but we may require payment of a sum sufficient to cover any tax or government charge payable in connection therewith. If any series of the debt securities are to be redeemed in part, we will not be required to issue, register the transfer of or exchange such series of the debt securities during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption and ending at the close of business on the day of such mailing or to register the transfer of or exchange any debt securities so selected for redemption in part, except the unredeemed portion of any debt securities being redeemed in part.

We will cause to be kept at the office of the registrar a register in which, subject to such reasonable regulations as we may prescribe, we will provide for the registration of the debt securities and registration of transfers of the debt securities. We initially will appoint the trustee as paying agent and registrar for the debt securities. We may change or terminate the appointment of any paying agent or registrar or appoint additional or other such agents or approve any change in the office through which any such agent acts. We must notify the trustee of the name and address of any registrar, co-registrar or paying agent that is not a party to the indenture.

The Trustee

U.S. Bank National Association will act as the trustee under the indentures. All payments of principal of, and premium (if any) and interest on, and all registration, transfer, exchange, authentication and delivery of, the debt securities will be effected by the trustee or its agent at an office designated by the trustee as its corporate trust office.

The indenture provides that, except during the continuance of an event of default, the trustee will perform only such duties as are specifically set forth in the indenture. During the existence of an event of default under the indenture, the trustee will exercise such rights and powers vested in it as a prudent person would exercise under the circumstances in the conduct of such person's own affairs. Subject to these provisions, the trustee will be under no obligation to exercise any of its rights or powers under the indenture at the request of any of the holders of the debt securities, unless they shall have offered to the trustee security or indemnity reasonably satisfactory to the trustee.

The indenture and provisions of the Trust Indenture Act contain limitations on the rights of the trustee, should it become a creditor of ours, to obtain payment of claims in certain cases or to liquidate certain property received by it in respect of any such claim as security or otherwise. The trustee is permitted to engage in other transactions with us or any of our affiliates. If the trustee acquires any conflicting interest, it must eliminate such conflict or resign.

Affiliates of the trustee may serve as agents and lenders under our credit facilities or engage in other transactions with us or our affiliates from time to time.

No Liability for Certain Persons

No director, officer, employee or stockholder of Mohawk or Mohawk Capital will have any liability for any payment obligations of Mohawk or Mohawk Capital, as the case may be, under the debt securities, the guarantees

thereof or the indenture based on, or by reason of, such obligations or their creation. Each holder, by accepting a debt security, waives and releases all such liability. The foregoing waiver and release are an integral part of the consideration for the issuance of the debt securities. Such waiver may not be effective to waive liabilities under the federal securities laws.

Governing Law

The indentures, the debt securities and any guarantees of those debt securities will be governed by New York law.

Book-Entry Delivery and Settlement

Global Notes

We will issue any debt securities in the form of one or more global notes in definitive, fully registered, book-entry form. The global notes will be deposited with or on behalf of the Depository Trust Company, or DTC, and registered in the name of Cede & Co., as nominee of DTC.

DTC, Clearstream and Euroclear

Beneficial interests in the global notes will be represented through book-entry accounts of financial institutions acting on behalf of beneficial owners as direct and indirect participants in DTC. Investors may hold interests in the global notes through either DTC (in the United States), Clearstream Banking, societe anonyme, Luxembourg, which we refer to as Clearstream, or Euroclear Bank S.A./ N.V., as operator of the Euroclear System, which we refer to as Euroclear, in Europe, either directly if they are participants in such systems or indirectly through organizations that are participants in such systems. Clearstream and Euroclear will hold interests on behalf of their participants through customers' securities accounts in Clearstream's and Euroclear's names on the books of their U.S. depositaries, which in turn will hold such interests in customers' securities accounts in the U.S. depositaries' names on the books of DTC.

DTC has advised us that:

- DTC is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code and a "clearing agency" registered under Section 17A of the Exchange Act.

- DTC holds securities that its participants deposit with DTC and facilitates the settlement among participants of securities transactions, such as transfers and pledges, in deposited securities through electronic computerized book-entry changes in participants' accounts, thereby eliminating the need for physical movement of securities certificates. Direct participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations and other organizations, some of whom, and/or their representatives, own DTC.

- DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation, or DTCC. DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries.

- Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks and trust companies that clear through or maintain a custodial relationship with a direct participant, either directly or indirectly.

- The rules applicable to DTC and its direct and indirect participants are on file with the SEC.

Clearstream has advised us that it is incorporated under the laws of Luxembourg as a professional depositary. Clearstream holds securities for its customers and facilitates the clearance and settlement of securities transactions between its customers through electronic book-entry changes in accounts of its customers, thereby eliminating the need for physical movement of certificates. Clearstream provides to its customers, among other things, services for

safekeeping, administration, clearance and settlement of internationally traded securities and securities lending and borrowing. Clearstream interfaces with domestic markets in several countries. As a professional depositary, Clearstream is subject to regulation by the Luxembourg Commission for the Supervision of the Financial Sector. Clearstream customers are recognized financial institutions around the world, including underwriters, securities brokers and dealers, banks, trust companies, clearing corporations and other organizations and may include the underwriters. Indirect access to Clearstream is also available to others, such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a Clearstream customer either directly or indirectly.

Euroclear has advised us that it was created in 1968 to hold securities for participants of Euroclear and to clear and settle transactions between Euroclear participants through simultaneous electronic book-entry delivery against payment, thereby eliminating the need for physical movement of certificates and any risk from lack of simultaneous transfers of securities and cash. Euroclear provides various other services, including securities lending and borrowing and interfaces with domestic markets in several countries. Euroclear is operated by Euroclear Bank S.A./ N.V., which we refer to as the Euroclear Operator. All operations are conducted by the Euroclear Operator, and all Euroclear securities clearance accounts and Euroclear cash accounts are accounts with the Euroclear Operator. Euroclear participants include banks (including central banks), securities brokers and dealers, and other professional financial intermediaries and may include the underwriters. Indirect access to Euroclear is also available to other firms that clear through or maintain a custodial relationship with a Euroclear participant, either directly or indirectly.

We understand that the Euroclear Operator is licensed by the Belgian Banking and Finance Commission to carry out banking activities on a global basis. As a Belgian bank, it is regulated and examined by the Belgian Banking and Finance Commission.

We have provided the descriptions of the operations and procedures of DTC, Clearstream and Euroclear in this prospectus solely as a matter of convenience. These operations and procedures are solely within the control of those organizations and are subject to change by them from time to time. None of us, the underwriters nor the trustee takes any responsibility for these operations or procedures, and you are urged to contact DTC, Clearstream and Euroclear or their participants directly to discuss these matters.

We expect that under procedures established by DTC:

- upon deposit of the global notes with DTC or its custodian, DTC will credit on its internal system the accounts of direct participants designated by the underwriters with portions of the principal amounts of the global notes; and
- ownership of the debt securities will be shown on, and the transfer of ownership thereof will be effected only through, records maintained by DTC or its nominee, with respect to interests of direct participants, and the records of direct and indirect participants, with respect to interests of persons other than participants.

The laws of some jurisdictions may require that purchasers of securities take physical delivery of those securities in definitive form. Accordingly, the ability to transfer interests in the debt securities represented by a global note to those persons may be limited. In addition, because DTC can act only on behalf of its participants, who in turn act on behalf of persons who hold interests through participants, the ability of a person having an interest in debt securities represented by a global note to pledge or transfer those interests to persons or entities that do not participate in DTC’s system, or otherwise to take actions in respect of such interest, may be affected by the lack of a physical definitive security in respect of such interest.

So long as DTC or its nominee is the registered owner of a global note, DTC or that nominee will be considered the sole owner or holder of the debt securities represented by that global note for all purposes under the indenture and under the debt securities. Except as provided below, owners of beneficial interests in a global note will not be entitled to have debt securities represented by that global note registered in their names, will not receive or be entitled to receive physical delivery of certificated notes and will not be considered the owners or holders thereof under the applicable indenture or under the debt securities for any purpose, including with respect to the giving of any direction, instruction or approval to the trustee. Accordingly, each holder owning a beneficial interest in a global note must rely on the procedures of DTC and, if that holder is not a direct or indirect participant, on the procedures of the participant through which that holder owns its interest, to exercise any rights of a holder of debt securities under the applicable indenture or a global note.

Neither we nor the trustee will have any responsibility or liability for any aspect of the records relating to or payments made on account of debt securities by DTC, Clearstream or Euroclear, or for maintaining, supervising or reviewing any records of those organizations relating to the debt securities.

Payments on the debt securities represented by the global notes will be made to DTC or its nominee, as the case may be, as the registered owner thereof. We expect that DTC or its nominee, upon receipt of any payment on the debt securities represented by a global note, will credit participants' accounts with payments in amounts proportionate to their respective beneficial interests in the global note as shown in the records of DTC or its nominee. We also expect that payments by participants to owners of beneficial interests in the global note held through such participants will be governed by standing instructions and customary practice as is now the case with securities held for the accounts of customers registered in the names of nominees for such customers. The participants will be responsible for those payments.

Distributions on the debt securities held beneficially through Clearstream will be credited to cash accounts of its customers in accordance with its rules and procedures, to the extent received by the U.S. depositary for Clearstream.

Securities clearance accounts and cash accounts with the Euroclear Operator are governed by the Terms and Conditions Governing Use of Euroclear and the related Operating Procedures of the Euroclear System, and applicable Belgian law, which we refer to collectively as the Terms and Conditions. The Terms and Conditions govern transfers of securities and cash within Euroclear, withdrawals of securities and cash from Euroclear, and receipts of payments with respect to securities in Euroclear. All securities in Euroclear are held on a fungible basis without attribution of specific certificates to specific securities clearance accounts. The Euroclear Operator acts under the Terms and Conditions only on behalf of Euroclear participants and has no record of or relationship with persons holding through Euroclear participants.

Distributions on the debt securities held beneficially through Euroclear will be credited to the cash accounts of its participants in accordance with the Terms and Conditions, to the extent received by the U.S. depositary for Euroclear.

Clearance and Settlement Procedures

Initial settlement for the debt securities will be made in immediately available funds. Secondary market trading between DTC participants will occur in the ordinary way in accordance with DTC rules and will be settled in immediately available funds. Secondary market trading between Clearstream customers and/or Euroclear participants will occur in the ordinary way in accordance with the applicable rules and operating procedures of Clearstream and Euroclear, as applicable, and will be settled using the procedures applicable to conventional eurobonds in immediately available funds.

Cross-market transfers between persons holding directly or indirectly through DTC, on the one hand, and directly or indirectly through Clearstream customers or Euroclear participants, on the other, will be effected through DTC in accordance with DTC rules on behalf of the relevant European international clearing system by its U.S. depositary; however, such cross-market transactions will require delivery of instructions to the relevant European international clearing system by the counterparty in such system in accordance with its rules and procedures and within its established deadlines (European time). The relevant European international clearing system will, if the transaction meets its settlement requirements, deliver instructions to the U.S. depositary to take action to effect final settlement on its behalf by delivering or receiving the debt securities in DTC and making or receiving payment in accordance with normal procedures for same-day funds settlement applicable to DTC. Clearstream customers and Euroclear participants may not deliver instructions directly to their U.S. depositaries.

Because of time-zone differences, credits of the debt securities received in Clearstream or Euroclear as a result of a transaction with a DTC participant will be made during subsequent securities settlement processing and dated the business day following the DTC settlement date. Such credits or any transactions in the debt securities settled during such processing will be reported to the relevant Clearstream customers or Euroclear participants on such business day. Cash received in Clearstream or Euroclear as a result of sales of the debt securities by or through a Clearstream customer or a Euroclear participant to a DTC participant will be received with value on the DTC settlement date but will be available in the relevant Clearstream or Euroclear cash account only as of the business day following settlement in DTC.

Although DTC, Clearstream and Euroclear have agreed to the foregoing procedures to facilitate transfers of the debt securities among participants of DTC, Clearstream and Euroclear, they are under no obligation to perform or continue to perform such procedures and such procedures may be changed or discontinued at any time.

Certificated Notes

Individual certificates in respect of any debt securities will not be issued in exchange for the global notes, except in very limited circumstances. We will issue or cause to be issued certificated notes to each person that DTC identifies as the beneficial owner of the debt securities represented by a global note upon surrender by DTC of the global note if:

- DTC notifies us that it is no longer willing or able to act as a depositary for such global note or ceases to be a clearing agency registered under the Exchange Act, and we have not appointed a successor depositary within 90 days of that notice or becoming aware that DTC is no longer so registered;
- an event of default has occurred and is continuing, and DTC requests the issuance of certificated notes; or
- we determine not to have the debt securities of such series represented by a global note.

Neither we nor the trustee will be liable for any delay by DTC, its nominee or any direct or indirect participant in identifying the beneficial owners of the debt securities. We and the trustee may conclusively rely on, and will be protected in relying on, instructions from DTC or its nominee for all purposes, including with respect to the registration and delivery, and the respective principal amounts, of the certificated notes to be issued.

DESCRIPTION OF GUARANTEES

The following description of Mohawk's guarantee of Mohawk Capital's debt securities is a summary of the general terms and provisions of the guarantee. This summary may not contain all of the information that is important to you and is qualified in its entirety by reference to the applicable indenture and its associated documents, including the form of guarantee. The specific terms and provisions of any guarantee will be described in the applicable prospectus supplement related to the guaranteed debt securities. If so described in a prospectus supplement, the terms and provisions of the guarantee may differ from the general description of terms and provisions presented below.

Mohawk will fully and unconditionally guarantee to each holder of debt securities of Mohawk Capital due and punctual payment of the principal of, and premium (if any) and interest on, the debt securities of Mohawk Capital. The guarantee applies whether the payment is due at the maturity date of the debt securities, on an interest payment date or as a result of acceleration, redemption, repayment or otherwise, in accordance with the terms of such guarantee and the applicable indenture. In case of the failure of Mohawk Capital to punctually pay any principal, premium or interest on any guaranteed debt security, Mohawk will cause any such payment to be made as it becomes due and payable, whether at the maturity date of the debt securities, on an interest payment date or as a result of acceleration, redemption, repayment or otherwise, and as if such payment were made by Mohawk.

The guarantee will include payment of interest on the overdue principal of, and premium (if any) and interest on, the debt securities, to the extent lawful. The obligations of Mohawk under its guarantee may be limited to the maximum amount that will not result in such guarantee obligations constituting a fraudulent conveyance or fraudulent transfer under federal or state law, after giving effect to all other contingent and fixed liabilities of Mohawk.

If a series of Mohawk Capital debt securities is so guaranteed, Mohawk will execute a supplemental indenture or notation of guarantee as further evidence of the guarantee.

DESCRIPTION OF COMMON STOCK

The following description of Mohawk's common stock is a summary of the material terms and provisions of Mohawk's common stock and associated rights and privileges. This summary may not contain all of the information that is important to you and is qualified in its entirety by reference to Mohawk's certificate of incorporation, bylaws and applicable Delaware law.

Please note that in this section entitled "Description of Common Stock," references to "we," "our" and "us" refer to Mohawk as the issuer of the common stock and not to any subsidiaries, unless the content requires otherwise.

General

Mohawk is authorized by its certificate of incorporation to issue up to 150,000,000 shares of common stock, par value $0.01 per share. As of August 1, 2017, there were 74,338,177 shares of common stock outstanding.

The rights, preferences and privileges of the holders of our common stock are subject to, and may be adversely affected by, the rights of the holders of any series of preferred stock that we may designate and issue in the future.

Dividend Rights

Subject to the rights of the holders of our preferred stock (if any), the holders of our common stock have the right to receive dividends and distributions, whether payable in cash or otherwise, as may be declared from time to time by our board of directors, from legally available funds. However, Mohawk has not paid dividends on its common stock since its initial public offering.

Voting Rights; Classified Board

Each share of our common stock entitles the holder to one vote on all matters submitted to a vote of the stockholders. Our bylaws require a director to be elected by a majority of votes cast with respect to such director in uncontested elections. Our certificate of incorporation provides that our board of directors is divided into three classes, consisting, as nearly as may be possible, of one-third of the total number of directors constituting the entire board of directors, with each class elected for staggered three-year terms expiring in successive years. To amend, alter or repeal the provision of our certificate of incorporation related to the classification of the board of directors, our certificate of incorporation requires the approval of the holders of not less than 80% of the votes entitled to be cast by the holders of all then outstanding shares of capital stock, voting together as a single class. Our certificate of incorporation does not provide for cumulative voting for the election of directors.

Liquidation Rights

Subject to the rights of the holders of our preferred stock (if any), in the event of our liquidation, dissolution or winding-up, holders of our common stock are entitled to share equally in the assets available for distribution after payment of all creditors.

No Redemption, Conversion or Preemptive Rights

Holders of our common stock have no redemption rights, conversion rights or preemptive rights to purchase or subscribe for our securities. There are no redemption provisions or sinking fund provisions applicable to our common stock.

Fully Paid and Nonassessable

When Mohawk issues shares of its common stock, the shares will be fully paid and nonassessable, which means that the full purchase price of the shares will have been paid and holders of the shares will not be assessed any additional monies for the shares.

No Restrictions on Transfer

Neither our certificate of incorporation nor our bylaws contains any restrictions on the transfer of our common stock. In the case of any transfer of shares, there may be restrictions imposed by applicable securities laws.

Issuance of Common Stock

In certain instances, the issuance of authorized but unissued shares of common stock may have an anti-takeover effect. The authority of our board of directors to issue additional shares of common stock may help deter or delay a change of control by increasing the number of shares needed to gain control.

Certain Provisions in our Certificate of Incorporation and Bylaws

Mohawk's certificate of incorporation and bylaws contain a number of provisions that may be deemed to have the effect of discouraging or delaying attempts to gain control of us, including provisions: (i) authorizing the board to issue preferred stock with rights and privileges, including voting rights, as it may deem appropriate; (ii) providing the board of directors with the exclusive power to determine the exact number of directors comprising the entire board, subject to the certificate of incorporation; (iii) authorizing the board of directors or a majority of the directors then in office or the sole remaining director to fill vacancies in the board; (iv) requiring advance notice to us of stockholder proposals; (v) requiring that any action required or permitted to be taken by our stockholders be taken only at an annual or special meeting and permitting stockholder action by written consent in lieu of a meeting only if all stockholders entitled to vote consent to the proposed action; (vi) providing that special meetings of stockholders may be called only by the board of directors or the chairman of the board; (vii) providing the board of directors with flexibility in scheduling the annual meeting (subject to state law requirements); and (viii) providing that certain of the provisions of the certificate of incorporation and bylaws may be amended by our stockholders only by the affirmative vote of at least 80% of the outstanding voting power of all shares entitled to vote.

Section 203 of the Delaware General Corporation Law

Mohawk is subject to the provisions of Section 203 of the Delaware General Corporation Law. In general, Section 203 prohibits a publicly held Delaware corporation from engaging in a "business combination" with an "interested stockholder" for a period of three years after the date of the transaction in which the person became an interested stockholder, unless the business combination is approved in a prescribed manner. A "business combination" includes a merger, asset sale or a transaction resulting in a financial benefit to the interested stockholder. An "interested stockholder" is a person who, together with affiliates and associates, owns (or, in certain cases, within the preceding three years, did own) 15% or more of the corporation's outstanding voting stock. Under Section 203, a business combination between Mohawk and an interested stockholder is prohibited unless it satisfies one of the following conditions:

- prior to the stockholder becoming an interested stockholder, the board of directors must have previously approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder;

- upon consummation of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of Mohawk outstanding at the time the transaction commenced, excluding, for purposes of determining the number of shares outstanding, shares owned by persons who are directors and officers; or

- the business combination is approved by our board of directors and authorized at an annual or special meeting of the stockholders by the affirmative vote of at least $66^{2}/_{3}$% of the outstanding voting stock which is not owned by the interested stockholder.

Listing

Mohawk's common stock is traded on the New York Stock Exchange and trades under the symbol "MHK."

Transfer Agent

The transfer agent for our shares of common stock is American Stock Transfer and Trust Company.

DESCRIPTION OF PREFERRED STOCK

The following description of Mohawk's preferred stock is a summary of the general terms and provisions of the preferred stock. This summary may not contain all of the information that is important to you and is qualified in its entirety by reference to Mohawk's certificate of incorporation and bylaws and the certificate of designation relating to your series of preferred stock. The specific terms and provisions of any series of preferred stock will be described in the applicable prospectus supplement. If so described in a prospectus supplement, the terms and provisions of that series of preferred stock may differ from the general description of terms and provisions presented below.

Please note that in this section entitled "Description of Preferred Stock," references to "we," "our" and "us" refer to Mohawk as the issuer of the preferred stock and not to any subsidiaries, unless the content requires otherwise.

General

Mohawk is authorized by its certificate of incorporation to issue up to 60,000 shares of preferred stock, par value $0.01 per share, in one or more series. Currently, there are no shares of our preferred stock issued and outstanding.

Subject to the restrictions prescribed by law, our board of directors is authorized to fix the number of shares of any series of unissued preferred stock, to determine the designations, preferences, qualifications, limitations, restrictions and special or relative rights granted to or imposed upon any series of unissued preferred stock (including dividend rights (which may be cumulative or non-cumulative), voting rights, conversion rights, redemption rights and terms, sinking fund provisions, liquidation preferences, and any other preferences, qualifications, privileges, options and other relative or special rights and limitations of that series) and, within any applicable limits and restrictions established, to increase or decrease the number of shares of such series subsequent to its issue. Before Mohawk issues any series of preferred stock, our board will adopt resolutions creating and designating such series as a series of preferred stock. Stockholders will not need to approve these resolutions. The issuance of preferred stock could adversely affect the voting and other rights of holders of our common stock and may have the effect of delaying or preventing a change in control of Mohawk.

Terms Contained in the Prospectus Supplement

The applicable prospectus supplement will contain the dividend, voting, conversion, redemption, sinking fund, liquidation and other designations, preferences, qualifications, limitations, restrictions and special or relative rights granted to or imposed upon any series of preferred stock. The applicable prospectus supplement will describe the following terms of a series of preferred stock:

- the designation and stated value per share of preferred stock and the number of shares of preferred stock offered;
- the initial public offering price at which we will issue the preferred stock;
- whether the shares will be listed on any securities exchange;
- the dividend rate or method of calculation, the payment dates for dividends and the dates from which dividends will start to cumulate;
- any voting rights;
- any conversion rights;
- any redemption or sinking fund provisions;
- the amount of liquidation preference per share; and

- any additional dividend, voting, conversion, redemption, sinking fund, liquidation and other rights or restrictions.

The applicable prospectus supplement may also describe some of the U.S. federal income tax consequences of the purchase and ownership of the series of preferred stock.

No Preemptive Rights

The holders of our preferred stock will have no preemptive rights to buy any additional shares of preferred stock.

Fully Paid and Nonassessable

When we issue shares of our preferred stock, the shares will be fully paid and nonassessable, which means the full purchase price of the shares will have been paid and holders of the shares will not be assessed any additional monies for the shares.

No Restrictions on Transfer

Neither our certificate of incorporation nor our bylaws contains any restrictions on the transfer of our preferred stock. In the case of any transfer of shares, there may be restrictions imposed by applicable securities laws.

Issuance of Preferred Stock

In certain instances, the issuance of authorized but unissued shares of preferred stock may have an anti-takeover effect. The authority of the board of directors to issue preferred stock with rights and privileges, including voting rights, as it may deem appropriate, may enable the board to prevent a change of control despite a shift in ownership of our common stock.

DESCRIPTION OF WARRANTS

The following description is a summary of the general terms and provisions of the warrants and the warrant agreements. This summary may not contain all of the information that is important to you and is qualified in its entirety by reference to the relevant warrant agreement with respect to the warrants of any particular series. The specific terms and provisions of any series of warrants will be described in the applicable prospectus supplement. If so described in a prospectus supplement, the terms and provisions of that series of warrants may differ from the general description of terms and provisions presented below.

General

Mohawk may issue warrants for the purchase of debt securities, common stock or preferred stock. Warrants may be issued independently or together with such debt securities, common stock or preferred stock and may be attached to or separate from those securities. Currently, there are no warrants issued and outstanding.

Each series of warrants will be evidenced by certificates issued under a separate warrant agreement to be entered into between Mohawk and a bank, as warrant agent, selected by us with respect to such series, having its principal office in the United States and having combined capital and surplus of at least $50,000,000.

The applicable prospectus supplement relating to a series of warrants will state the name and address of the warrant agent. The applicable prospectus supplement will describe the terms of the warrant agreement and the series of warrants in respect of which this prospectus and the accompanying prospectus supplement are being delivered, including:

- the designation and terms of the securities with which the warrants are issued and the number of warrants issued with each such security or each principal amount of such security;
- the offering price;
- the aggregate number of warrants;
- whether the warrants or related securities will be listed on any securities exchange;
- the currency for which such warrants may be purchased;
- the date on which the warrants and the related securities will be separately transferable;
- in the case of warrants to purchase debt securities, the principal amount of debt securities that can be purchased upon exercise of one warrant, the price and currency for purchasing those debt securities upon exercise and, in the case of warrants to purchase common stock or preferred stock, the number of shares of common stock or preferred stock, as the case may be, that can be purchased upon the exercise of one warrant, and the price for purchasing such shares upon this exercise;
- the dates on which the right to exercise the warrants will commence and expire and, if the warrants are not continuously exercisable, any dates on which the warrants are not exercisable;
- the terms of the securities issuable upon exercise of those warrants;
- provisions for changes to or adjustments in the exercise price;
- whether the warrants will be issued in global or certificated form; and
- any other terms of the warrants.

Warrant certificates may be exchanged for new warrant certificates of different denominations, may be presented for transfer registration, and may be exercised at the warrant agent's corporate trust office or any other office indicated in the applicable prospectus supplement. If the warrants are not separately transferable from the securities with which they were issued, this exchange may take place only if the certificates representing such related securities are also exchanged. Prior to warrant exercise, warrantholders will not have any rights as holders of the securities purchasable upon such exercise, including, in the case of warrants to purchase debt securities, the right to receive the principal of, and premium (if any) or interest payments on, the debt securities purchasable upon such exercise or to enforce covenants in the applicable indenture or, in the case of warrants to purchase common stock or preferred stock, the right to receive any dividends, or payments upon our liquidation, dissolution or winding up or to exercise any voting rights.

Where appropriate, the applicable prospectus supplement will describe the U.S. federal income tax considerations relevant to the warrants.

Exercise of Warrants

Each warrant will entitle the holder to purchase the securities specified in the applicable prospectus supplement at the exercise price mentioned or calculated as described in the applicable prospectus supplement. Unless otherwise specified in the applicable prospectus supplement, warrants may be exercised at any time up to 5:00 p.m., New York time, on the expiration date mentioned in the applicable prospectus supplement. After the close of business on the expiration date, unexercised warrants will become void.

Warrants may be exercised by delivery of the warrant certificate representing the warrants to be exercised or, in the case of global securities, by delivery of an exercise notice for those warrants, together with certain information and payment to the warrant agent in immediately available funds, as provided in the applicable prospectus supplement, of the required purchase amount. The information required to be delivered will be on the reverse side of the warrant certificate and in the applicable prospectus supplement. Upon receipt of such payment and the warrant certificate or exercise notice properly executed at the warrant agent's corporate trust office or any other office indicated in the applicable prospectus supplement, we will, within the time period provided by the relevant warrant agreement, issue and deliver the securities purchasable upon such exercise. If fewer than all of the warrants represented by such warrant certificate are exercised, a new warrant certificate will be issued for the remaining amount of warrants.

If mentioned in the applicable prospectus supplement, securities may be surrendered as all or part of the exercise price for warrants.

Antidilution Provisions

In the case of warrants to purchase common stock, the exercise price payable and the number of shares of common stock to be purchased upon warrant exercise may be adjusted in certain events, including:

- the issuance of share dividends to stockholders or a combination, subdivision or reclassification of our common stock;
- the issuance of rights, warrants or options to all stockholders entitling them to purchase shares of common stock for aggregate consideration per share less than the current market price per share;
- any distribution by us to our stockholders or evidences of our indebtedness or of assets, excluding cash dividends or distributions referred to above; and
- any other events mentioned in the applicable prospectus supplement.

No adjustment in the number of shares purchasable upon warrant exercise will be required until cumulative adjustments require an adjustment of at least 1% of such number. No fractional shares will be issued upon warrant exercise, but we will pay the cash value of any fractional shares otherwise issuable.

Modification

We and the relevant warrant agent may amend any warrant agreement and the terms of the related warrants by executing a supplemental warrant agreement, without any such warrantholder's consent, for the purpose of:

- curing any ambiguity, any defective or inconsistent provision contained in the warrant agreement, or making any other corrections to the warrant agreement that are not inconsistent with the provisions of the warrant certificates;

- evidencing the succession of another corporation to us and their assumption of our covenants contained in the warrant agreement and the warrants;

- appointing a successor depositary, if the warrants are issued in the form of global securities;

- evidencing a successor warrant agent's acceptance of appointment with respect to the warrants;

- adding to our covenants for the warrantholders' benefit or surrendering any right or power conferred upon us under the warrant agreement;

- issuing warrants in definitive form, if such warrants are initially issued in the form of global securities; or

- amending the warrant agreement and the warrants as we deem necessary or desirable and that will not adversely affect the warrantholders' interests in any material respect.

We and the warrant agent may also amend any warrant agreement and the related warrants by a supplemental agreement with the consent of the holders of a majority of the unexercised warrants that such amendment affects, for the purpose of adding, modifying or eliminating any of the warrant agreement's provisions or of modifying the holders' rights. However, no such amendment that:

- changes the number or amount of securities purchasable upon warrant exercise so as to reduce the number of securities receivable upon this exercise;

- shortens the time period during which the warrants may be exercised;

- otherwise adversely affects the exercise rights of such warrantholders in any material respect; or

- reduces the number of unexercised warrants

may be made without the consent of each holder affected by that amendment.

Consolidation, Merger and Sale of Assets

Each warrant agreement will provide that we may consolidate or merge with or into any other corporation or sell, lease, transfer or convey all or substantially all of our assets to any other corporation; provided, however, that:

- either we must be the continuing corporation, or the corporation other than us formed by or resulting from any consolidation or merger or that receives the assets must be organized and existing under the laws of any U.S. jurisdiction (or any subdivision thereof) and must assume our obligations for the unexercised warrants and the performance of all covenants and conditions of the relevant warrant agreement; and

- we or that successor corporation must not immediately be in default under that warrant agreement.

Enforceability of Rights by Holders of Warrants

Each warrant agent will act solely as our agent under the relevant warrant agreement and will not assume any obligation or relationship of agency or trust for any warrantholder. A single bank or trust company may act as warrant agent for more than one issue of warrants. A warrant agent will have no duty or responsibility in case we default in performing its obligations under the relevant warrant agreement or warrant, including any duty or responsibility to initiate any legal proceedings or to make any demand upon us. Any warrantholder may, without the consent of the warrant agent or of any other warrantholder, enforce by appropriate legal action its right to exercise, and receive the securities purchasable upon exercise of, that warrant.

Replacement of Warrant Certificates

We will replace any destroyed, lost, stolen or mutilated warrant certificate upon delivery to us and the relevant warrant agent of satisfactory evidence of the ownership of that warrant certificate and of the destruction, loss, theft or mutilation of that warrant certificate, and (in the case of mutilation) surrender of that warrant certificate to the relevant warrant agent, unless we or the warrant agent has received notice that the warrant certificate has been acquired by a *bona fide* purchaser. That warrantholder will also be required to provide indemnity satisfactory to the relevant warrant agent and us before a replacement warrant certificate will be issued.

Title

We, the warrant agents and any of their agents may treat the registered holder of any warrant certificate as the absolute owner of the warrants evidenced by that certificate for any purpose and as the person entitled to exercise the rights attaching to the warrants so requested, despite any notice to the contrary.

DESCRIPTION OF PURCHASE CONTRACTS

The following description is a summary of the general terms and provisions of the purchase contracts and purchase contract agreements. This summary may not contain all of the information that is important to you and is qualified in its entirety by reference to the relevant purchase contract agreement. The specific terms and provisions of any purchase contract will be described in the applicable prospectus supplement. If so described in a prospectus supplement, the terms and provisions of that purchase contract may differ from the general description of terms and provisions presented below.

Mohawk may issue purchase contracts for the purchase or sale of:

- debt or equity securities issued by us or securities of third parties, a basket of such securities, an index or indices of such securities or any combination of the above as specified in the applicable prospectus supplement;
- currencies; or
- commodities.

Each purchase contract will entitle the holder thereof to purchase or sell, and obligate us to sell or purchase, on specified dates, such securities, currencies or commodities at a specified purchase price, which may be based on a formula, all as set forth in the applicable prospectus supplement. We may, however, satisfy our obligations, if any, with respect to any purchase contract by delivering the cash value of such purchase contract or the cash value of the property otherwise deliverable or, in the case of purchase contracts on underlying currencies, by delivering the underlying currencies, as set forth in the applicable prospectus supplement. The applicable prospectus supplement will also specify the methods by which the holders may purchase or sell such securities, currencies or commodities and any acceleration, cancellation or termination provisions or other provisions relating to the settlement of a purchase contract.

The purchase contracts may require us to make periodic payments to the holders thereof or vice versa, which payments may be deferred to the extent set forth in the applicable prospectus supplement, and those payments may be unsecured or prefunded on some basis. The purchase contracts may require the holders thereof to secure their obligations in a specified manner to be described in the applicable prospectus supplement. Alternatively, purchase contracts may require holders to satisfy their obligations thereunder when the purchase contracts are issued. Our obligation to settle such pre-paid purchase contracts on the relevant settlement date may constitute indebtedness.

DESCRIPTION OF UNITS

The following description is a summary of the general terms and provisions of the units and the unit agreements. This summary may not contain all of the information that is important to you and is qualified in its entirety by reference to the relevant unit agreement. The specific terms and provisions of any units will be described in the applicable prospectus supplement. If so described in a prospectus supplement, the terms and provisions of those units may differ from the general description of terms and provisions presented below.

Mohawk may, from time to time, issue units comprised of one or more of the other securities that may be offered under this prospectus, in any combination. Each unit will be issued so that the holder of the unit is also the holder of each security included in the unit. Thus, the holder of a unit will have the rights and obligations of a holder of each included security. The unit agreement under which a unit is issued may provide that the securities included in the unit may not be held or transferred separately at any time, or at any time before a specified date.

Any prospectus supplement related to any particular units will describe, among other things:

- the material terms of the units and of the securities comprising the units, including whether and under what circumstances those securities may be held or transferred separately;
- any material provisions relating to the issuance, payment, settlement, transfer or exchange of the units or of the securities comprising the units;
- if appropriate, any special United States federal income tax considerations applicable to the units; and
- any material provisions of the governing unit agreement that differ from those described above.

PLAN OF DISTRIBUTION

We may offer and sell the debt securities, common stock, preferred stock, warrants, purchase contracts or units in any one or more of the following ways:

- to or through underwriters, brokers or dealers;
- directly to one or more other purchasers;
- through a block trade in which the broker or dealer engaged to handle the block trade will attempt to sell the securities as agent but may position and resell a portion of the block as principal to facilitate the transaction;
- through agents on a best-efforts basis; or
- otherwise through a combination of any of the above methods of sale.

In addition, we may enter into option, share lending or other types of transactions that require us to deliver shares of common stock to an underwriter, broker or dealer, who will then resell or transfer the shares of common stock under this prospectus. We may also enter into hedging transactions with respect to our securities.

Each time we sell such securities, we will provide a prospectus supplement that will name the issuer of the securities and any underwriter, dealer or agent involved in the offer and sale of the securities. The prospectus supplement will also set forth the terms of the offering, including:

- the purchase price of the securities and the proceeds we will receive from the sale of the securities;
- any underwriting discounts and other items constituting underwriters' compensation;
- any public offering or purchase price and any discounts or commissions allowed or re-allowed or paid to dealers;
- any commissions allowed or paid to agents;
- any securities exchanges on which the securities may be listed;
- the method of distribution of the securities;
- the terms of any agreement, arrangement or understanding entered into with the underwriters, brokers or dealers; and
- any other information we think is important.

If underwriters or dealers are used in the sale, the securities will be acquired by the underwriters or dealers for their own account. The securities may be sold from time to time in one or more transactions:

- at a fixed price or prices, which may be changed;
- at market prices prevailing at the time of sale;
- at prices related to such prevailing market prices;
- at varying prices determined at the time of sale; or
- at negotiated prices.

Such sales may be effected:

- in transactions on any national securities exchange or quotation service on which the securities may be listed or quoted at the time of sale;
- in transactions in the over-the-counter market;
- in block transactions in which the broker or dealer so engaged will attempt to sell the securities as agent but may position and resell a portion of the block as principal to facilitate the transaction, or in crosses, in which the same broker acts as an agent on both sides of the trade;
- through the writing of options; or
- through other types of transactions.

The securities may be offered to the public either through underwriting syndicates represented by one or more managing underwriters or directly by one or more of such firms. Unless otherwise set forth in the prospectus supplement, the obligations of underwriters or dealers to purchase the securities offered will be subject to certain conditions precedent and the underwriters or dealers will be obligated to purchase all the offered securities if any are purchased. Any public offering price and any discount or concession allowed or reallowed or paid by underwriters or dealers to other dealers may be changed from time to time.

The securities may be sold directly by us or through agents designated by us from time to time. Any agent involved in the offer or sale of the securities in respect of which this prospectus is delivered will be named, and any commissions payable by us to such agent will be set forth, in the prospectus supplement. Unless otherwise indicated in the prospectus supplement, any such agent will be acting on a best efforts basis for the period of its appointment.

Offers to purchase the securities offered by this prospectus may be solicited, and sales of the securities may be made, by us directly to institutional investors or others, who may be deemed to be underwriters within the meaning of the Securities Act of 1933, as amended, or the Securities Act, with respect to any resale of the securities. The terms of any offer made in this manner will be included in the prospectus supplement relating to the offer.

If so indicated in the prospectus supplement, we will authorize underwriters, dealers or agents to solicit offers from certain specified institutions 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. Such contracts will be subject to any conditions set forth in the prospectus supplement and the prospectus supplement will set forth the commissions payable for solicitation of such contracts. The underwriters and other persons soliciting such contracts will have no responsibility for the validity or performance of any such contracts.

We may enter into derivative transactions with third parties, or sell securities not covered by this prospectus to third parties in privately negotiated transactions. If the applicable prospectus supplement indicates, in connection with those derivatives, the third parties may sell securities covered by this prospectus and the applicable prospectus supplement, including in short sale transactions. If so, the third party may use securities pledged by us or borrowed from us or others to settle those sales or to close out any related open borrowings of stock and may use securities received from us in settlement of those derivatives to close out any related open borrowings of stock. The third party in such sale transactions will be an underwriter and, if not identified in this prospectus, will be identified in the applicable prospectus supplement (or a post-effective amendment). In addition, we may otherwise loan or pledge securities to a financial institution or other third party that in turn may sell the securities short using this prospectus. Such financial institution or other third party may transfer its economic short position to investors in our securities or in connection with a concurrent offering of other securities.

Some of the underwriters, dealers or agents used by us in any offering of securities under this prospectus may be customers of, engage in transactions with and perform services for us or our subsidiaries in the ordinary course of business. Underwriters, dealers, agents and other persons may be entitled under agreements which may be entered into with us to indemnification against and contribution toward certain civil liabilities, including liabilities under the Securities Act, and to be reimbursed by us for certain expenses.

Subject to any restrictions relating to debt securities in bearer form, any securities initially sold outside the United States may be resold in the United States through underwriters, dealers or otherwise.

Any underwriters to which offered securities are sold by us for public offering and sale may make a market in such securities, but those underwriters will not be obligated to do so and may discontinue any market making at any time. No assurance can be given as to the liquidity of the trading market for any securities.

If so indicated in the prospectus supplement, we will authorize underwriters, dealers or agents to solicit offers from certain specified institutions 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. Such contracts will be subject to any conditions set forth in the prospectus supplement and the prospectus supplement

will set forth the commissions payable for solicitation of such contracts. The underwriters and other persons soliciting such contracts will have no responsibility for the validity or performance of any such contracts.

To comply with the securities laws of some states, if applicable, the securities may be sold in these jurisdictions only through registered or licensed brokers or dealers. In addition, in some states the securities may not be sold unless they have been registered or qualified for sale or an exemption from registration or qualification requirements is available and is complied with.

The anticipated date of delivery of the securities offered by this prospectus will be described in the applicable prospectus supplement relating to the offering.

ENFORCEMENT OF CIVIL LIABILITIES

Mohawk Capital is a corporation organized under the laws of Luxembourg. All of its assets are located outside of the United States, and most of its directors are residents of countries other than the United States. It may not be possible for you to effect service of process within the United States upon Mohawk Capital or such non-U.S. persons with respect to matters arising under the federal securities laws of the United States or otherwise or to enforce against Mohawk Capital or such non-U.S. persons judgments obtained in U.S. courts, including judgments with regard to the payment of principal of, and premium (if any) and interest on, notes issued by Mohawk Capital, whether or not predicated upon the civil liability provisions of the federal securities laws of the United States. Our Luxembourg counsel has advised us that, given the absence of an applicable convention between Luxembourg and the United States providing for the reciprocal recognition and enforcement of judgments in civil and commercial matters, a judgment rendered by a U.S. court against Mohawk Capital (separate and apart from Mohawk as guarantor of any notes issued by Mohawk Capital) or its Luxembourg directors will not be *ipso facto* recognized and enforced by the courts of Luxembourg. In order to enforce such a judgment against Mohawk Capital or its Luxembourg directors, you would have to file a claim with a court of competent jurisdiction in Luxembourg. In the course of those proceedings, you would be permitted to submit the judgment rendered by a U.S. court. If the Luxembourg court were to find that the jurisdiction of the U.S. court was based on grounds that are internationally acceptable and that the enforcement procedures set forth in Article 678 *et seq*. of the Luxembourg New Code of Civil Procedure were observed, the Luxembourg court would in principle grant the *exequatur* to the final judgment of the U.S. court unless such judgment would not meet the following requirements : (i) the foreign judgment must be enforceable in the country of origin, (ii) the court of origin must have had jurisdiction both according to its own domestic laws and to the Luxembourg conflict of jurisdiction rules, (iii) regularity of the procedural rules in light of the laws of the country of origin, (iv) the foreign procedure and decision must not have violated the rights of defense and due process norms, (v) the foreign court must have applied the law which is designated by the Luxembourg conflict of laws rules, or, at least, the judgment must not contravene the principles underlying these rules, (vi) the considerations of the foreign judgment as well as the judgment as such must not contravene Luxembourg international public order, and (vii) the foreign judgment must not have been rendered subsequent to an evasion of Luxembourg law (“*fraude à la loi*”).

LEGAL MATTERS

The validity of the securities offered by this prospectus will be passed upon for Mohawk and Mohawk Capital by Alston & Bird LLP. Certain matters under the laws of Luxembourg related to the debt securities of Mohawk Capital will be passed upon for Mohawk Capital by Arendt & Medernach. Certain legal matters related to the securities offered by this prospectus will be passed upon for any underwriters or agents by counsel named in the applicable prospectus supplement.

EXPERTS

The consolidated financial statements of Mohawk Industries, Inc. and subsidiaries as of December 31, 2016 and 2015, and for each of the years in the three-year period ended December 31, 2016, and management's assessment of the effectiveness of internal control over financial reporting as of December 31, 2016 (which is included in management's report on internal control over financial reporting), have been incorporated by reference herein and the registration statement in reliance upon the reports of KPMG LLP, independent registered public accounting firm, incorporated by reference herein, and upon the authority of said firm as experts in accounting and auditing.

MOHAWK INDUSTRIES, INC.

Debt Securities
Guarantees of Debt Securities
Common Stock
Preferred Stock
Warrants
Purchase Contracts
Units

MOHAWK CAPITAL LUXEMBOURG S.A.

Debt Securities

PROSPECTUS

August 4, 2017

PART II

Information Not Required in Prospectus

Item 14. ***Other Expenses of Issuance and Distribution***

The following is a statement of the expenses (all of which are estimated) we expect to incur in connection with the issuance and distribution of the securities registered under this registration statement, other than underwriting discounts and commissions:

		Amount to be paid
SEC registration fee	$	**
Legal fees and expenses		**
Accounting fees and expenses		**
Printing fees		**
Trustee's fees and expenses		**
Miscellaneous		**
Total	$	**

* We are registering an indeterminate amount of securities under this registration statement, and in accordance with Rules 456(b) and 457(r), we are deferring payment of any additional registration fee until the time that the securities are sold under this registration statement pursuant to a prospectus supplement.

**Estimates of these fees and expenses are not presently known. Estimates of the fees and expenses in connection with the sale and distribution of the securities being offered will be included in the applicable prospectus supplement.

Item 15. ***Indemnification of Directors and Officers***

Mohawk Industries, Inc.

Article 11 of Mohawk's Restated Certificate of Incorporation contains a provision, permitted by Section 102(b)(7) of the Delaware General Corporation Law, limiting the personal monetary liability of directors for breach of fiduciary duty as a director. This provision and Delaware law provides that the provision does not eliminate or limit liability for:

- any breach of the director's duty of loyalty to us or our stockholders;
- acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;
- unlawful payments of dividends or unlawful stock repurchases or redemptions, as provided in Section 174 of the Delaware General Corporation Law; or
- any transaction from which the director derived an improper benefit.

Section 145 of the Delaware General Corporation Law, or DGCL, permits indemnification against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with actions, suits or proceedings in which a director, officer, employee or agent is a party by reason of the fact that he or she is or was such a director, officer, employee or agent, if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the corporation and with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. However, in

connection with actions by or in the right of the corporation, such indemnification is not permitted if such person has been adjudged liable to the corporation unless the court determines that, under all of the circumstances, such person is nonetheless fairly and reasonably entitled to indemnity for such expenses as the court deems proper. Article 12 of Mohawk's Restated Certificate of Incorporation provides for such indemnification to the fullest extent permitted by Delaware law.

Section 145 of the DGCL also permits a corporation to purchase and maintain insurance on behalf of its directors and officers against any liability that may be asserted against, or incurred by, such persons in their capacities as directors or officers of the corporation whether or not the corporation would have the power to indemnify such persons against such liabilities under the provisions of such sections. Mohawk has purchased such insurance.

Section 145 of the DGCL further provides that the statutory provision is not exclusive of any other right to which those seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of stockholders or independent directors, or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office.

Article XII of Mohawk's Restated Bylaws contains provisions regarding indemnification that parallel those described above.

Mohawk Capital Luxembourg S.A.

Under Luxembourg law, liability of directors both to the corporation and to third parties is generally considered to be a matter of public policy. It is possible that Luxembourg courts would declare void an explicit or even an implicit contractual limitation on directors' liability to the corporation; the corporation, however, can validly agree to indemnify the directors against the consequences of certain liability actions brought by third parties (including shareholders if such shareholders have personally suffered a damage which is independent of and distinct from the damage caused to the corporation). Under Luxembourg law, director indemnification agreements and liability insurance policies are generally allowable but can never cover fraud, bad faith or gross negligence.

Subject to the foregoing, Mohawk Capital has agreed to indemnify the directors of Mohawk Capital (Mohawk Capital has no officers) from and against all liabilities, costs and expenses incurred directly or indirectly by such persons as a consequence of their service as directors of Mohawk Capital, both in respect of actions taken or failure to act, except such as may arise from the willful default or gross negligence of such persons. Additionally, Mohawk maintains directors' liability insurance for the benefit of Mohawk Capital's directors.

Section 145 of the Delaware General Corporation Law authorizes Mohawk to indemnify persons who serve as directors or employees of Mohawk Capital at the request of Mohawk. Section 12 of Mohawk's Certificate of Incorporation and Article 12 of Mohawk's Bylaws provide that Mohawk shall indemnity directors of Mohawk Capital to the fullest extent permitted by Delaware law and may indemnify employees of Mohawk Capital to the extent authorized by Mohawk's board of directors.

Item 16. ***Exhibits***

Exhibit No.	Description	Incorporated by Reference to Filings Indicated
1.1	Form of Underwriting Agreement	**
4.1	Restated Certificate of Incorporation of Mohawk Industries, Inc., as amended	Exhibit 3.1 to Mohawk Industries, Inc. Annual Report on Form 10-K for the fiscal year ended December 31, 1998
4.2	Restated Bylaws of Mohawk Industries, Inc.	Exhibit 3.1 to Mohawk Industries, Inc. Current Report on Form 8-K filed on February 19, 2016
4.3	Articles of Association of Mohawk Capital Luxembourg S.A.	*
4.4	Form of Mohawk Industries, Inc. Preferred Stock Certificate and Form of Designation of Preferred Stock	**
4.5	Indenture, dated as of January 31, 2013, by and between Mohawk Industries, Inc., as Issuer, and U.S. Bank National Association, as Trustee	Exhibit 4.1 to Mohawk Industries, Inc. Current Report on Form 8-K dated January 31, 2013
4.6	Form of Senior Indenture among Mohawk Capital Luxembourg S.A., as Issuer, Mohawk Industries, Inc., as Guarantor, and U.S. Bank National Association, as Trustee	*
4.7	Form of Senior Subordinated Indenture among Mohawk Capital Luxembourg S.A., as Issuer, Mohawk Industries, Inc., as Guarantor, and U.S. Bank National Association, as Trustee	*
4.8	Form of Guarantee of Debt Securities between Mohawk Capital Luxembourg S.A., as Issuer, and Mohawk Industries, Inc., as Guarantor	**
4.9	Form of Warrant Agreement (including form of warrant)	**
4.10	Form of Purchase Contract Agreement	**
4.11	Form of Unit Agreement	**
5.1	Opinion of Alston & Bird LLP	*
5.2	Opinion of Arendt & Medernach	*
12.1	Statement regarding computation of ratio of earnings to fixed charges	*
23.1	Consent of KPMG LLP	*
23.2	Consent of Alston & Bird LLP (included in Exhibit 5.1)	
23.3	Consent of Arendt & Medernach (included in Exhibit 5.2)	
24.1	Power of Attorney (included on Mohawk Industries, Inc. signature page)	
25.1	Form T-1 Statement of Eligibility under the Trust Indenture Act of 1939, as amended, of U.S. Bank National Association, as Trustee for Mohawk Industries Inc.'s Debt Securities	Exhibit 25.1 to Mohawk Industries, Inc. Registration Statement on Form S-3 (No. 333-202351)

25.2	Form T-1 Statement of Eligibility under the Trust Indenture Act of 1939, as amended, of U.S. Bank National Association, as Trustee for Mohawk Capital Luxembourg S.A.'s Senior Debt Securities and Mohawk Industries, Inc.'s Guarantee of Senior Debt Securities	*
25.3	Form T-1 Statement of Eligibility under the Trust Indenture Act of 1939, as amended, of U.S. Bank National Association, as Trustee for Mohawk Capital Luxembourg S.A.'s Senior Subordinated Debt Securities and Mohawk Industries, Inc.'s Guarantee of Senior Subordinated Debt Securities	*

* Filed herewith.

** To be filed by amendment to the registration statement or as an exhibit to a Current Report on Form 8-K and incorporated herein by reference.

Item 17. ***Undertakings***

Each of the undersigned registrants hereby undertakes:

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

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

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

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

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

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.

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.

If the registrant is a foreign private issuer, to file a post-effective amendment to the registration statement to include any financial statements required by Items 8.A of Form 20-F at the start of any delayed offering or throughout a continuous offering. Financial statements and information otherwise required by Section 10(a)(3) of the Act need not be furnished, *provided*, that the registrant includes in the prospectus, by means of a post-effective amendment, financial statements required pursuant to this paragraph and other information necessary to ensure that all other information in the prospectus is at least as current as the date of those financial statements. Notwithstanding the foregoing, a post-effective amendment need not be filed to include financial statements and information required by Section 10(a)(3) of the Act or Item 8.A of Form 20-F if such financial statements and information are contained in periodic 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.

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

(A) 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

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

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

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

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

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

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

That, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant’s annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan’s annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating

to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

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

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

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Calhoun, State of Georgia, on the 3rd day of August, 2017.

MOHAWK INDUSTRIES, INC.

By: /s/ Jeffrey S. Lorberbaum

Jeffrey S. Lorberbaum
Chairman and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each of the individuals whose signature appears below constitutes and appoints Jeffrey S. Lorberbaum and Frank H. Boykin, and each of them (so long as each such individual is an employee of Mohawk Industries, Inc. or an affiliate of Mohawk Industries, Inc.), his or her true and lawful attorneys-in-fact and agents, with full and several power of substitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement, and to file the same, with all exhibits thereto and all documents in connection therewith, with the United States Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully for all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or either of them, or their substitutes, may lawfully do or cause to be done.

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

Signature	Title	Date
/s/ Jeffrey S. Lorberbaum **Jeffrey S. Lorberbaum**	Chairman and Chief Executive Officer (Principal Executive Officer)	August 3, 2017
/s/ Frank H. Boykin **Frank H. Boykin**	Chief Financial Officer and Vice President –Finance (Principal Financial Officer)	August 3, 2017
/s/ James F. Brunk **James F. Brunk**	Vice President and Corporate Controller (Principal Accounting Officer)	August 3, 2017
/s/ Bruce C. Buckmann **Bruce C. Bruckmann**	Director	August 3, 2017
/s/ Frans De Cock **Frans De Cock**	Director	August 3, 2017
/s/ Filip Balcaen **Filip Balcaen**	Director	August 3, 2017
/s/ Richard C. Ill **Richard C. Ill**	Director	August 3, 2017
/s/ Joseph A. Onorato **Joseph A. Onorato**	Director	August 3, 2017
/s/ William H. Runge, III **William H. Runge, III**	Director	August 3, 2017
/s/ Karen A. Smith Bogart **Karen A. Smith Bogart**	Director	August 3, 2017
/s/ W. Christopher Wellborn **W. Christopher Wellborn**	Director	August 3, 2017

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Calhoun, State of Georgia, on the 3rd day of August, 2017.

MOHAWK CAPITAL LUXEMBOURG S.A.

By: /s/ Cornelis Martinus Verhaaren
Cornelis Martinus Verhaaren
Class A Director

By: /s/ John Kleynhans
John Kleynhans
Class B Director

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

Signature	Title	Date
	Class A Director	
/s/ Cornelis Martinus Verhaaren **Cornelis Martinus Verhaaren**	(Principal Executive Officer, Principal Financial Officer and Principal Accounting Officer)	August 3, 2017
/s/ John Kleynhans **John Kleynhans**	Class B Director	August 3, 2017
/s/ Andrew Knight **Andrew Knight**	Class B Director	August 3, 2017
/s/ Christopher M. Rosselli **Christopher M. Rosselli**	Class A Director	August 3, 2017
/s/ R. David Patton **R. David Patton**	Authorized Representative in the United States	August 3, 2017

Exhibit Index

Exhibit No.	Description	Incorporated by Reference to Filings Indicated
1.1	Form of Underwriting Agreement	**
4.1	Restated Certificate of Incorporation of Mohawk Industries, Inc., as amended	Exhibit 3.1 to Mohawk Industries, Inc. Annual Report on Form 10-K for the fiscal year ended December 31, 1998
4.2	Restated Bylaws of Mohawk Industries, Inc.	Exhibit 3.1 to Mohawk Industries, Inc. Current Report on Form 8-K filed on February 19, 2016
4.3	Articles of Association of Mohawk Capital Luxembourg S.A.	*
4.4	Form of Mohawk Industries, Inc. Preferred Stock Certificate and Form of Designation of Preferred Stock	**
4.5	Indenture, dated as of January 31, 2013, by and between Mohawk Industries, Inc., as Issuer, and U.S. Bank National Association, as Trustee	Exhibit 4.1 to Mohawk Industries, Inc. Current Report on Form 8-K dated January 31, 2013
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23.1	Consent of KPMG LLP	*
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24.1	Power of Attorney (included on Mohawk Industries, Inc. signature page)	

25.1	Form T-1 Statement of Eligibility under the Trust Indenture Act of 1939, as amended, of U.S. Bank National Association, as Trustee for Mohawk Industries Inc.'s Debt Securities	Exhibit 25.1 to Mohawk Industries, Inc. Registration Statement on Form S-3 (No. 333-202351)
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* Filed herewith.

** To be filed by amendment to the registration statement or as an exhibit to a Current Report on Form 8-K and incorporated herein by reference.

Mohawk Capital Luxembourg S.A.

Société anonyme

Registered office: 10B, rue des Merovingiens, L-8070 Bertrange

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CONSTITUTION DE SOCIETE DU 16 juillet 2015
N° 1710/2015

In the year two thousand and fifteen, on the sixteenth day of July.

Before the undersigned, Carlo WERSANDT, notary, residing in Luxembourg.

There appeared:

Mohawk Global Investments S.àr.l., a company incorporated and existing under the laws of Luxembourg, with registered office address at 10B, rue des Merovingiens, L-8070 Bertrange, and registered with the Registrar of Companies in Luxembourg under number B111052 (the "**Shareholder**"),

here represented by Abdelrahime Benmoussa, having his professional address at 58, rue Charles Martel, L-2134 Luxembourg, by virtue of a proxy given under private seal.

The said proxy, after having been signed ne varietur by the appearing person and the undersigned notary, shall remain attached to this deed to be filed at the same time with the registration authorities.

Such party, acting in its capacity as representative of the Shareholder, has requested the officiating notary to enact the following articles of incorporation (the "**Articles**") of a company, which it declares to establish as follows:

Article 1. – Form and Name

There exists a public limited liability company (*société anonyme*) under the name of "**Mohawk Capital Luxembourg S.A.**" (the "**Company**").

The Company may have one shareholder (the "**Sole Shareholder**") or several shareholders. The Company will not be dissolved by the death, suspension of civil rights, insolvency, liquidation or bankruptcy of the Sole Shareholder.

Article 2. - Registered office

The registered office of the Company is established in Bertrange, Grand Duchy of Luxembourg ("**Luxembourg**"). It may be transferred within the boundaries of the municipality of Bertrange by a resolution of the board of directors of the Company (the "**Board**") or, in the case of a sole director (the "**Sole Director**") by a decision of the Sole Director.

Where the Board, or the Sole Director (as applicable), determines that extraordinary political or military developments or events have occurred or are imminent and that these developments or events would interfere with the normal activities of the Company at its registered office, or with the ease of communication between such office and persons abroad, the registered office may be temporarily transferred abroad until the complete cessation of these extraordinary circumstances. Such temporary measures

shall have no effect on the nationality of the Company which, notwithstanding the temporary transfer of its registered office, will remain a Luxembourg incorporated company.

Article 3. - **Duration**

The Company is incorporated for an unlimited duration.

The Company may be dissolved, at any time, by a resolution of the General Meeting (as defined below) adopted in the manner required for amendment of the Articles, as prescribed in article 22. below.

Article 4. - Corporate objects

The object of the Company is to procure cash management and pooling services under any form whatsoever to all and any companies that belong to the same group of companies than the one to which the Company belongs, and, to this effect, the Company may borrow money from and grant loans, advances and guarantees in any form whatsoever to all and any entities participating in such cash management and pooling services.

The Company may borrow in any form by issuing notes, bonds and debentures and any kind of debt and/or equity securities. The Company may lend funds including, without limitation, the proceeds of any borrowings and/or issues of debt or equity securities to its subsidiaries, affiliated companies and/or any other companies or persons that may or may not be shareholders of the Company to the extent permitted under Luxembourg law. The Company may also give guarantees and pledge, transfer, encumber or otherwise create and grant security over all or over some of its assets to guarantee its own obligations and undertakings and/or obligations and undertakings of any other companies or persons that may or may not be a shareholder of the Company, and, generally, for its own benefit and/or the benefit of any other company or person that may or may not be a shareholder of the Company.

In addition, the Company may acquire participations, in Luxembourg or abroad, in any companies or enterprises in any form whatsoever, and manage such participations. The Company may in particular acquire by subscription, purchase, and exchange or in any other manner any stock, shares and other participation securities, bonds, debentures, certificates of deposit and other debt instruments and more generally any securities and financial instruments issued by any public or private entity whatsoever. It may participate in the creation, development, management and control of any company or enterprise. The Company shall be considered as a "*Société de Participations Financières*" according to the applicable provisions.

The Company may generally employ any techniques and instruments relating to its investments for the purpose of their efficient management, including techniques and instruments designed to protect the Company against credit, currency exchange, interest rate risks and other risks.

In a general fashion it may grant assistance to affiliated companies, take any controlling and supervisory measures and carry out any operation, which it may deem useful in the accomplishment and development of its purposes.

The Company may carry out any commercial, financial or industrial operations and any transactions with respect to real estate, movable property or intellectual property, which directly or indirectly favour or relate to its object.

Article 5. - Share capital

The subscribed share capital is set at EUR 31,000 (thirty one thousand euro) consisting of 310 (three hundred and ten) ordinary shares in registered form with a nominal value of EUR 100 (one hundred euro) each.

Article 6. - Shares

The shares are and will remain in registered form (*actions nominatives*).

A register of the shareholder(s) of the Company shall be kept at the registered office of the Company, where it will be available for inspection by any shareholders. Such register shall set forth the name of each shareholder, his residence or elected domicile, the number of shares held by him, the amounts paid in on each such share, and the transfer of shares and the dates of such transfers. The ownership of the shares will be established by the entry in this register.

The Company may redeem its own shares within the limits set forth by law.

Article 7. - Transfer of shares

The shares are freely transferable in accordance with the provisions of the Companies Act 1915. The transfer of shares shall become effective (*opposable*) towards the Company and third parties either (i) by a written declaration of transfer entered in the register of the shareholder(s) of the Company, such declaration of transfer to be executed by the transferor and the transferee or by persons holding suitable powers of attorney or (ii) in accordance with the provisions applying to the transfer of claims provided for in article 1690 of the Luxembourg civil code.

The Company may also accept as evidence of transfer other instruments of transfer evidencing the consent of the transferor and the transferee satisfactory to the Company.

Article 8. – Debt securities

Debt securities issued by the Company in registered form (*obligations nominatives*) may, under no circumstances, be converted into debt securities in bearer form (*obligations au porteur*).

Article 9. - Meetings of the shareholders of the Company

In the case of a Sole Shareholder, the Sole Shareholder assumes all powers conferred to the General Meeting. In these Articles, decisions taken, or powers exercised, by the General Meeting shall be a reference to decisions taken, or powers exercised, by the Sole Shareholder as long as the Company has only one shareholder. The decisions taken by the Sole Shareholder are documented by way of minutes.

In the case of a plurality of shareholders, any regularly constituted meeting of the shareholders of the Company (the "**General Meeting**") shall represent the entire body of shareholders of the Company. It shall have the broadest powers to order, carry out or ratify acts relating to all the operations of the Company.

The annual General Meeting shall be held, in accordance with Luxembourg law, in Luxembourg at the address of the registered office of the Company or at such other place in the municipality of the registered office as may be specified in the convening notice of the meeting, on the last business day in June of each year at 10.00 a.m. If such day is not a business day for banks in Luxembourg, the annual General Meeting shall be held on the next following business day.

The annual General Meeting may be held abroad if, in the absolute and final judgment of the Board, exceptional circumstances so require.

Other meetings of the shareholders of the Company may be held at such place and time as may be specified in the respective convening notices of the meeting.

Article 10. - Notice, *quorum*, powers of attorney and convening notices

The notice periods and *quorum* provided for by law shall govern the notice for, and the conduct of, the General Meetings, unless otherwise provided herein.

Each share is entitled to one vote.

Except as otherwise required by law or by these Articles, resolutions at a duly convened General Meeting will be passed by a simple majority of those present or represented and voting.

A shareholder may act at any General Meeting by appointing another person as his proxy in writing whether in original, by telefax, cable, telegram, telex or e-mail to which an electronic signature, which is valid under Luxembourg law, is affixed.

If all the shareholders of the Company are present or represented at a General Meeting, and consider themselves as being duly convened and informed of the agenda of the meeting, the meeting may be held without prior notice.

The shareholders may vote in writing (by way of a ballot paper) on resolutions submitted to the General Meeting provided that the written voting bulletins include (1) the name, first name, address and the signature of the relevant shareholder, (2) the indication of the shares for which the shareholder will exercise such right, (3) the agenda as set forth in the convening notice and (4) the voting instructions (approval, refusal, abstention) for each point of the agenda. The original voting bulletins must be received by the Company 72 (seventy-two) hours before the relevant General Meeting.

Article 11. - Management

For so long as the Company has a Sole Shareholder, the Company may be managed by a Sole Director only, which Sole Director need not to be a shareholder of the Company.

Where the Company has more than one shareholder, the Company shall be managed by a Board composed of at least three (3) directors who need not be shareholders of the Company. In that case, the General Meeting must appoint at least two new directors in addition to the then existing Sole Director. The director(s) shall be elected for a term not exceeding six years and may be re-elected.

When a legal person is appointed as a director of the Company (the "**Legal Entity**"), the Legal Entity must designate a permanent representative (*représentant permanent*) who will represent the Legal Entity as Sole Director or as member of the Board in accordance with article 51*bis* of the Luxembourg act dated 10 August 1915 on commercial companies, as amended (the "**Companies Act 1915**").

The General Meeting shall appoint the directors and determine their number, their remuneration and the term of their office in accordance with the provisions of this article 11. Directors cannot be appointed for a term of office of more than six (6) years but are eligible for re-appointment at the expiry of their term of office. The General Meeting may decide to appoint one (1) or several A Director(s) and one (1) or several B Director(s). A director may be removed with or without cause and/or replaced, at any time, by resolution adopted by the General Meeting.

In the event of vacancy in the office of a director because of death, retirement or otherwise, the remaining directors may elect, by a majority vote, a director to fill such vacancy until the next General Meeting. In the absence of any remaining directors, a General Meeting shall promptly be convened by the auditor and held to appoint new directors.

Article 12. - Meetings of the Board

The Board shall appoint a chairman (the "**Chairman**") among its members and may choose a secretary, who need not be a director, and who shall be responsible for keeping the minutes of the meetings of the Board and of the resolutions passed at the General Meeting or of the resolutions passed by the Sole Shareholder. The Chairman will preside at all meetings of the Board and any General Meeting. In his/her absence, the General Meeting or the other members of the Board (as the case may be) will appoint another chairman *pro tempore* who will preside at the relevant meeting by simple majority vote of the directors present or by proxy at such meeting.

The Board shall meet upon request by the Chairman or any two directors at the place indicated in the notice of meeting, which place shall be in Luxembourg.

Written notice of any meeting of the Board shall be given to all the directors at least twenty-four (24) hours in advance of the date set for such meeting, except in circumstances of emergency, in which case the nature of such circumstances shall be set forth briefly in the convening notice of the meeting of the Board.

No such written notice is required if all the members of the Board are present or represented during the meeting and if they state to have been duly informed, and to have had full knowledge of the agenda, of the meeting. The written notice may be waived by the consent in writing, whether in original, by telefax, cable, telegram, telex or e-mail to which an electronic signature, which is valid under Luxembourg law, is affixed, of each member of the Board. Separate written notice shall not be required for meetings that are held at times and places prescribed in a schedule previously adopted by resolution of the Board.

Any member of the Board may act at any meeting of the Board by appointing, in writing whether in original, by telefax, cable, telegram, telex or e-mail to which an electronic signature, which is valid under Luxembourg law, is affixed, another director as his or her proxy.

One member of the Board may represent more than one member attending by proxy at a meeting of the Board provided always that at least two members who are either present in person or who assist at such meeting by way of any means of communication that complies with the requirements set forth in the next paragraph.

Any director may participate in a meeting of the Board by conference call, video conference, or similar means of communications equipment whereby (i) the directors attending the meeting can be identified, (ii) all persons participating in the meeting can hear and speak to each other, (iii) the transmission of the meeting is performed on an on-going basis and (iv) the directors can properly deliberate. Participating in a meeting by such means shall constitute presence in person of such director at such meeting.

The Board may only validly deliberate and act if a majority of its members are present or represented. Board Resolutions shall be validly adopted by a majority of the votes of the directors present or represented, provided that if the General Meeting has appointed one or several A Directors and one or several B Directors, at least one (1) class A Director and one (1) class B Director votes in favour of the resolution. The chairman shall have a casting vote in the event of a tied vote, except if the Board is composed of one or several A Directors and one or several B Directors.

Notwithstanding the foregoing a resolution in writing, signed by all the directors entitled to receive notice of a meeting of the Board, shall be as valid as if it had been passed at a meeting of the Board duly convened and held any may consist of several documents in the like form, each signed by one or more directors, and such resolution when duly signed may be delivered or transmitted (unless the Board shall otherwise determine

either generally or in any specific case) by facsimile transmission or some other similar means of transmitting the contents of documents. The date of such resolution shall be the date of the last signature.

Article 12 does not apply in the case that the Company is managed by a Sole Director.

Article 13. - Minutes of meetings of the Board or of resolutions of the Sole Director

The resolutions passed by the Sole Director are documented by written minutes which shall be kept at the Company's registered office.

The minutes of any meeting of the Board shall be signed by the Chairman or a member of the Board who presided at such meeting. The minutes relating to the resolutions taken by the Sole Director shall be signed by the Sole Director.

Copies or extracts of such minutes which may be produced in judicial proceedings or otherwise shall be signed by the Chairman, any two members of the Board or the Sole Director (as the case may be).

Article 14. - Powers of the Board and Sole Director

The Board is vested with the broadest powers to perform or cause to be performed all acts of disposition and administration in the Company's interest. All powers not expressly reserved by the Companies Act 1915 or by the Articles to the General Meeting fall within the competence of the Board.

The provisions of this Article 14 shall apply equally to the Sole Director where applicable.

Article 15. - Delegation of powers

The Board may appoint a person (*délégué à la gestion journalière*), either a shareholder or not, or a member of the Board or not, who shall have full authority to act on behalf of the Company in all matters concerned with the daily management and affairs of the Company.

The Board may appoint a person, either a shareholder or not, either a director or not, as permanent representative for any entity in which the Company is appointed as member of the board of directors. This permanent representative will act with all discretion, but in the name and on behalf of the Company, and may bind the Company in its capacity as member of the board of directors of any such entity.

The Board is also authorised to appoint a person, either director or not, for the purposes of performing specific functions at every level within the Company.

Article 16. – Binding signatures

The Company shall be bound towards third parties in all matters (including the daily management) by (i) the joint signature of any two (2) members of the Board or, if the General Meeting has appointed one or several A Directors and one or several B Directors, the joint signatures of at least one (1) A Director and one (1) B Director (ii) in the case of a Sole Director, the sole signature of the Sole Director or (iii) the joint signatures of any persons or sole signature of the person to whom such signatory power has been granted by the Board or the Sole Director, but only within the limits of such power.

Article 17. – Conflict of interests

No contract or other transaction between the Company and any other company or firm shall be affected or invalidated by the fact that any one or more of the directors or officers of the Company is interested in, or is a director, associate, officer or employee of such other company or firm.

Any director or officer of the Company who serves as director, officer or employee of any company or firm with which the Company shall contract or otherwise engage in business shall not, solely by reason of such affiliation with such other company or firm, be prevented from considering and voting or acting upon any matters with respect to such contract or other business.

In the event that any director of the Company may have any personal and opposite interest in any transaction of the Company, such director shall make known to the Board such personal and opposite interest and shall not consider or vote upon any such transaction, and such transaction, and such director's interest therein, shall be reported to the next following annual General Meeting. This paragraph does not apply for so long as the Company has a Sole Director.

For so long as the Company has a Sole Director, the minutes of the General Meeting shall set forth the transactions entered into by the Company and the Sole Director and in which the Sole Director has an opposite interest to the interest of the Company.

The two preceding paragraphs do not apply to resolutions of the Board or the Sole Director concerning transactions made in the ordinary course of business of the Company of which are entered into on arm's length terms.

Article 18. – Supervisory Auditor

Where the provisions of the Companies Act 1915 require, the operations of the Company shall be supervised by one or several supervisory auditors (*commissaire(s) aux comptes*), and/or independent auditors (*réviseur(s) d'entreprise agrée*) as applicable. Where the Company voluntarily appoints a *réviseur d'entreprise agrée*, it needs not to appoint a *commissaire aux comptes*.

The independent/supervisory auditor(s) shall be elected for a term not exceeding six years and shall be eligible for re-appointment.

The independent /supervisory auditor(s) will be appointed by the General Meeting which will determine their number, their remuneration and the term of their office. The supervisory auditor(s) in office may be removed at any time by the General Meeting with or without cause.

Article 19. - Accounting year

The accounting year of the Company shall begin on the 1 January and shall terminate on the 31 December of each year.

Article 20. - Allocation of profits

From the annual net profits of the Company, 5% (five *per* cent.) shall be allocated to the reserve required by law. This allocation shall cease to be required as soon as such legal reserve amounts to 10% (ten *per* cent.) of the capital of the Company as stated or as increased or reduced from time to time as provided in article 5 above.

The General Meeting shall determine how the remainder of the annual net profits shall be disposed of and it may alone decide to pay dividends from time to time, as in its discretion believes best suits the corporate purpose and policy.

The dividends may be paid in euro or any other currency selected by the Board and they may be paid at such places and times as may be determined by the Board. The Board may decide to pay interim dividends under the conditions and within the limits laid down in the Companies Act 1915.

Article 21. - Dissolution and liquidation

The Company may be dissolved, at any time, by a resolution of the General Meeting adopted in the manner required for amendment of these Articles, as prescribed in article

22. below. In the event of a dissolution of the Company, the liquidation shall be carried out by one or several liquidators (who may be physical persons or legal entities) appointed by the General Meeting deciding such liquidation. Such General Meeting shall also determine the powers and the remuneration of the liquidator(s).

Article 22. - Amendments

These Articles may be amended, from time to time, by an extraordinary General Meeting, subject to the *quorum* and majority requirements referred to in the Companies Act 1915.

Article 23. - Applicable law

All matters not expressly governed by these Articles shall be determined in accordance with the Companies Act 1915.

TRANSITORY PROVISIONS

The first business year begins today and ends on 31 December 2015.

The first annual General Meeting will be held in 2016.

SUBSCRIPTION AND PAYMENT

The Articles of the Company having thus been established, the party appearing hereby declares that it subscribes to 310 (three hundred and ten) shares representing the total share capital of the Company.

All these shares have been paid up by the Shareholder to an extent of 100% (one hundred *per* cent.) by payment in cash, so that the sum of EUR 31,000 (thirty one thousand euros) paid by the Shareholder is from now on at the free disposal of the Company, evidence thereof having been given to the officiating notary.

STATEMENT

The notary executing this deed declares that the conditions prescribed by article 26 of the Companies Act 1915 have been fulfilled and expressly bears witness to their fulfilment. Further, the notary executing this deed confirms that these conditions have been observed and further confirms that these Articles comply with the provisions of article 27 of the Companies Act 1915.

COSTS

The amount, approximately at least, of costs, expenses, salaries or charges, in whatever form it may be incurred or charged to the Company as a result of its formation, is approximately evaluated to one thousand one hundred Euros (EUR 1,100).-

RESOLUTIONS OF THE SHAREHOLDER

The above named party, representing the whole of the subscribed share capital has passed the following resolutions.

1. the number of director of the Company is set at 4 (four);

2. the following persons are appointed as Directors of the Company:

Class A Directors:

- Mr. Cornelis Martinus Verhaaren, born on January 2, 1966, in the Netherlands and with professional address at 10b, rue des Mérovingiens, L-8070 Bertrange, Grand Duchy of Luxembourg,

- Mr. Christopher Rosselli, born on 7 November 1972, in Washington D.C., United States of America and with professional address at 160, South Industrial Boulevard, 30701 Calhoun - Georgia, United States of America,

Class B Directors:

- Mr. John Kleynhans, born on October 30, 1969, in Oberholzer, South Africa and with professional address at 58, rue Charles Martel, L-2134 Luxembourg, Grand Duchy of Luxembourg,

- Mr. Hermanus Roelof Willem Troskie, born on May 24, 1970, in Amsterdam, Netherlands and with professional address at 56, rue Charles Martel, L-2134 Luxembourg, Grand Duchy of Luxembourg.

3. that the following company is appointed as supervisory auditor (*commissaire aux comptes*) of the Company:

   KPMG Luxembourg S.à r.l., a company incorporated and existing under the laws of Luxembourg, with registered office address at 39, Avenue John F. kennedy, 1855 Luxembourg and registered with the trade and companies register under number B 149133;

4. that the terms of mandates of the Directors and supervisory auditor (*commissaire aux comptes*) will expire after the annual General Meeting of the year 2021; and

5. that the address of the registered office of the Company is at 10B, rue des Merovingiens, L-8070 Bertrange.

The undersigned notary who understands and speaks English, states herewith that at the request of the above appearing party, the present deed is worded in English followed by a French version. At the request of the same appearing person and in case of divergences between English and the French versions, the English version will prevail.

Whereof the present notarial deed was drawn up in Luxembourg, on the day named at the beginning of this document.

The document having been read to the person appearing, all of whom are known to the notary by their surnames, names, civil status and residences, the said persons appearing signed together with the notary the present deed.

Suit la traduction en français du texte qui précède

L’an deux mille quinze, le seize juillet.

Par-devant Maître Wersandt, notaire, résident à Luxembourg.

A comparu :

Mohawk Global Investments S.àr.l., une société constituée selon les lois du Luxembourg, avec son siège social au 10B, rue des Merovingiens, L-8070 Luxembourg, immatriculée sous le numéro B111052 (l' “**Associé**”).

ici représentée par Abdelrahime Benmoussa, ayant son adresse professionnelle au 58, Charles Martel, L-2134 Luxembourg, en vertu d’une procuration donnée sous seing privé.

Ladite procuration après avoir été signée *ne varietur* par le mandataire de la partie comparante ainsi que par le notaire soussigné, restera annexée au présent acte pour être soumise à la formalité de l’enregistrement.

Lequel comparant, agissant en sa qualité de représentant de l'Associé Unique, a requis le notaire instrumentaire de dresser les statuts (ci-après, les “**Statuts**”) d'une société anonyme qu'il déclare constituer et qu'il a arrêté comme suit:

Article 1. - Forme - Dénomination

Il est établi une société anonyme sous la dénomination de "**Mohawk Capital Luxembourg S.A.**" (ci-après, la "**Société**").

La Société peut avoir un associé unique (l' "**Associé Unique**") ou plusieurs actionnaires. La société ne pourra pas être dissoute par la mort, la suspension des droits civiques, la faillite, la liquidation ou la banqueroute de l'Associé Unique.

Article 2. - Siège Social

Le siège social de la Société est établi à Luxembourg, Grand-Duché de Luxembourg ("**Luxembourg**"). Il pourra être transféré dans les limites de la commune de Luxembourg par simple décision du conseil d'administration de la Société (le "**Conseil d'Administration**") ou, dans le cas d'un administrateur unique (l' "**Administrateur Unique**") par une décision de l'Administrateur Unique.

Lorsque le Conseil d'Administration, ou l'Administrateur Unique (si applicable), estime que des événements extraordinaires d'ordre politique ou militaire de nature à compromettre l'activité normale au siège social, ou la communication aisée entre le siège social et l'étranger se produiront ou seront imminents, il pourra transférer provisoirement le siège social à l'étranger jusqu'à cessation complète de ces circonstances anormales. Cette mesure provisoire n'aura toutefois aucun effet sur la nationalité de la Société, qui restera une société luxembourgeoise.

Article 3. - Durée de la Société

La Société est constituée pour une période indéterminée.

La Société peut être dissoute, à tout moment, par résolution de l'Assemblée Générale (telle que définie ci-après) de la Société statuant comme en matière de modifications des Statuts, tel que prescrit à l'article 22. ci-après.

Article 4. - Objet Social

La Société a pour objet de procurer une gestion financière et des services communs de gestion sous quelque forme que ce soit à toutes les sociétés qui appartiennent au même groupe de sociétés que celui auquel la Société appartient et, à cet effet, elle pourra emprunter de l'argent et octroyer des prêts, des avances et des garanties sous quelque forme que ce soit à toutes les entités participant à cette gestion de fonds et services communs. La Société pourra emprunter de l'argent aux institutions de crédit qui participent à cette gestion de fonds et services communs sous quelque forme que ce soit, limitation, par voie de lignes de crédits, facilités, avances et autrement et donner des garanties sous quelque forme que ce soit dans ce but.

La Société pourra emprunter sous quelque forme que ce soit sauf par voie d'offre publique. Elle peut procéder, uniquement par voie de placement privé, à l'émission de parts sociales et obligations et d'autres titres représentatifs d'emprunts et/ou de créances. La Société pourra prêter des fonds, sans limitation, résultant des emprunts et/ou des émissions d'obligations ou de valeurs, à ses filiales, sociétés affiliées et/ou toute autre société ou personne qui peuvent être associés ou non de la Société, dans la limite de ce qui est permis par la loi luxembourgeoise. La Société pourra aussi donner des garanties et nantir, transférer, grever ou créer de toute autre manière et accorder des sûretés sur toutes ou partie de ses actifs afin de garantir ses propres obligations et engagements et/ou obligations et engagements de toute autre société ou personne qui peuvent être associés ou non de la Société, et, de manière générale, en sa faveur et/ou en faveur de toute autre société ou personne qui peuvent être associés ou non de la Société.

La Société pourra également prendre des participations, tant au Luxembourg qu'à l'étranger, dans toutes les sociétés ou entreprises sous quelque forme que ce soit et à ce titre participer à la gestion de ces sociétés ou entreprises ou participations. La Société pourra en particulier acquérir par souscription, achat, et échange ou de toute autre manière tous titres, actions et autres valeurs de participation, obligations, créances, certificats de dépôt et autres instruments de dette et en général toutes valeurs ou instruments financiers émis par toute entité publique ou privée. Elle pourra participer dans la création, le développement, la gestion et le contrôle de toute société ou entreprise. La Société sera considérée comme une Société de Participations Financières selon les mesures en vigueur.

Elle pourra en outre investir dans l'acquisition et la gestion d'un portefeuille de brevets ou d'autres droits de propriété intellectuelle de quelque nature ou origine que ce soit.

La Société peut, d'une manière générale, employer toutes techniques et instruments liés à des investissements en vue d'une gestion efficace, y compris des techniques et instruments destinés à la protéger contre les créanciers, fluctuations monétaires, fluctuations de taux d'intérêt et autres risques.

D'une manière générale, elle pourra prêter assistance à toute société affiliée, prendre toutes mesures de contrôle et de supervision et exécuter toutes opérations qu'elle estimera utiles dans l'accomplissement et le développement de son objet.

La société pourra acheter, vendre, échanger, financer, louer, améliorer, démolir, construire pour son propre compte, développer, diviser et gérer tous biens immobiliers. Elle pourra en outre effectuer tous travaux de rénovations et de transformations ainsi que la maintenance de ces biens.

La Société pourra accomplir toutes opérations commerciales, financières ou industrielles, ainsi que toutes transactions se rapportant à la propriété immobilière, mobilière ou propriété intellectuelle, qui directement ou indirectement favorisent ou se rapportent à la réalisation de son objet social.

Article 5. – Capital Social

Le capital social souscrit est fixé à EUR 31.000 (trente et un mille euros) représenté par 310 (trois cent dix) actions ordinaires sous forme nominative d'une valeur nominale de EUR 100 (cent euros) chacune.

Le capital social souscrit de la Société pourra être augmenté ou réduit par une résolution prise par l'Assemblée Générale statuant comme en matière de modifications des Statuts, tel que prescrit à l'article 22. ci-après.

Article 6. - Actions

Les actions sont et resteront nominatives.

Un registre de(s) actionnaire(s) sera tenu au siège social de la Société où il pourra être consulté par tout actionnaire. Ce registre contiendra le nom de tout actionnaire, sa résidence ou son domicile élu, le nombre d'actions qu'il détient, le montant libéré pour chacune de ces actions, ainsi que la mention des transferts des actions et les dates de ces transferts. La propriété des actions sera établie par inscription dans ledit registre.

La Société pourra racheter ses propres actions dans les limites prévues par la loi.

Article 7. - Transfert des Actions

Le transfert des actions peut se faire par une déclaration écrite de transfert inscrite au registre de(s) actionnaire(s) de la Société, cette déclaration de transfert devant être datée et signée par le cédant et le cessionnaire ou par des personnes détenant les pouvoirs de représentation nécessaires pour agir à cet effet ou, conformément aux

dispositions de l'article 1690 du code civil luxembourgeois relatives à la cession de créances.

La Société pourra également accepter comme preuve de transfert d'actions, d'autres instruments de transfert, dans lesquels les consentements du cédant et du cessionnaire sont établis, jugés suffisants par la Société.

Article 8. – Obligations

Les obligations émises par la Société sous forme nominative ne pourront, en aucun cas, être converties en obligations au porteur.

Article 9. – Réunions de l'assemblée des actionnaires de la Société

Dans l'hypothèse d'un Associé Unique, l'Associé Unique aura tous les pouvoirs conférés à l'Assemblée Générale. Dans ces Statuts, toute référence aux décisions prises ou aux pouvoirs exercés par l'Assemblée Générale sera une référence aux décisions prises ou aux pouvoirs exercés par l'Associé Unique tant que la Société n'a qu'un associé unique. Les décisions prises par l'Associé Unique sont enregistrées par voie de procès-verbaux.

Dans l'hypothèse d'une pluralité d'actionnaires, toute assemblée générale des actionnaires de la Société (l' « **Assemblée Générale** ») régulièrement constituée représente tous les actionnaires de la Société. Elle a les pouvoirs les plus larges pour ordonner, faire ou ratifier tous les actes relatifs aux opérations de la Société.

L'Assemblée Générale annuelle se tiendra conformément à la loi luxembourgeoise à Luxembourg au siège social de la Société ou à tout autre endroit de la commune du siège indiqué dans les convocations, chaque année le dernier jour ouvrable de juin à 10:00 heures. Si ce jour est férié pour les établissements bancaires à Luxembourg, l'Assemblée Générale annuelle se tiendra le premier jour ouvrable suivant.

L'Assemblé Générale pourra se tenir à l'étranger si le Conseil d'Administration constate souverainement que des circonstances exceptionnelles le requièrent.

Les autres Assemblées Générales pourront se tenir aux lieu et heure spécifiés dans les avis de convocation.

Article 10. - Délais de convocation, *quorum*, procurations, avis de convocation

Les délais de convocation et *quorum* requis par la loi seront applicables aux avis de convocation et à la conduite de l'Assemblée Générale, dans la mesure où il n'en est pas disposé autrement dans les Statuts.

Chaque action donne droit à une voix.

Dans la mesure où il n'en est pas autrement disposé par la loi ou par les Statuts, les décisions de l'Assemblée Générale dûment convoqués sont prises à la majorité simple des actionnaires présents ou représentés et votants.

Chaque actionnaire pourra prendre part aux assemblées générales des actionnaires de la Société en désignant par écrit, soit en original, soit par téléfax, par câble, par télégramme, par télex ou par courriel muni d'une signature électronique conforme aux exigences de la loi luxembourgeoise une autre personne comme mandataire.

Si tous les actionnaires sont présents ou représentés à l'Assemblée Générale, et déclarent avoir été dûment convoqués et informés de l'ordre du jour de l'assemblée générale des actionnaires de la Société, celle-ci pourra être tenue sans convocation préalable.

Les actionnaires peuvent voter par écrit (au moyen d'un bulletin de vote) sur les projets de résolutions soumis à l'Assemblée Générale à la condition que les bulletins de vote

incluent (1) les nom, prénom adresse et signature des actionnaires, (2) l'indication des actions pour lesquelles l'actionnaire exercera son droit, (3) l'agenda tel que décrit dans la convocation et (4) les instructions de vote (approbation, refus, abstention) pour chaque sujet de l'agenda. Les bulletins de vote originaux devront être envoyés à la Société 72 (soixante-douze) heures avant la tenue de l'Assemblée Générale.

Article 11. - Administration de la Société

Tant que la Société n'a qu'un Associé Unique, la Société peut être administrée seulement par un Administrateur unique qui n'a pas besoin d'être un associé de la Société (l' « **Administrateur Unique** »).

Si la Société a plus d'un actionnaire, la Société sera administrée par un Conseil d'Administration comprenant au moins trois membres, lesquels ne seront pas nécessairement actionnaires de la Société. Dans ce cas, l'Assemblée Générale doit nommer au moins 2 (deux) nouveaux administrateurs en plus de l'Administrateur Unique en place. L'Administrateur Unique ou, le cas échéant, les administrateurs seront élus pour un terme ne pouvant excéder six ans et ils seront rééligibles.

Toute référence dans les Statuts au Conseil d'Administration sera une référence à l'Administrateur Unique (lorsque la Société n'a qu'un associé unique) tant que la Société a un associé unique.

Lorqsu'une personne morale est nommée administrateur de la Société (la « **Personne Morale** »), la Personne Morale doit désignée un représentant permanent qui représentera la Personne Morale conformément à l'article 51*bis* de la loi luxembourgeoise en date du 10 août 1915 sur les sociétés commerciales, telle qu'amendée (la « **Loi sur les Sociétés de 1915** »).

L'Assemblée Générale nomme les administrateurs et fixe leur nombre, leur rémunération ainsi que la durée de leur mandat conformément aux dispositions du présent article 14. Les administrateurs ne peuvent être nommés pour plus de six (6) ans, mais sont rééligibles à la fin de leur mandat. L'Assemblée Générale peut décider de nommer un (1) ou plusieurs Administrateur(s) A et un (1) ou plusieurs Administrateur(s) B. Un administrateur peut être révoqué avec ou sans motif et/ou peut être remplacé à tout moment par décision de l’Assemblée Générale.

En cas de vacance d’un poste d'administrateur pour cause de décès, de retraite ou toute autre cause, les administrateurs restants pourront élire, à la majorité des votes, un administrateur pour pourvoir au remplacement du poste devenu vacant jusqu'à la prochaine Assemblée Générale. En l'absence d'administrateur disponible, l'Assemblée Générale devra être rapidement être réunie par le commissaire aux comptes et se tenir pour nommer de nouveaux administrateurs.

Article 12. - Réunion du Conseil d'Administration

Le Conseil d’Administration doit nommer un président (le « **Président** ») parmi ses membres et peut désigner un secrétaire, administrateur ou non, qui sera en charge de la tenue des procès-verbaux des réunions du Conseil d’Administration et des décisions de l'Assemblée Générale ou de l'Associé Unique. Le Président présidera toutes les réunions du Conseil d'Administration et de l'Assemblée Générale. En son absence, l'Assemblée Générale ou les autres membres du Conseil d'Administration, le cas échéant, nommeront un président *pro tempore* qui présidera la réunion en question, par un vote à la majorité simple des administrateurs présents ou par procuration à la réunion en question.

Les réunions du Conseil d'Administration seront convoquées par le Président ou par deux administrateurs, au lieu indiqué dans l'avis de convocation, lieu qui sera situé au Luxembourg.

Avis écrit de toute réunion du Conseil d'Administration sera donné à tous les administrateurs au moins 24 (vingt-quatre) heures avant la date prévue pour la réunion, sauf s'il y a urgence, auquel cas la nature (et les motifs) de cette urgence seront mentionnés brièvement dans l'avis de convocation.

La réunion peut être valablement tenue sans convocation préalable si tous les administrateurs de la Société sont présents ou représentés lors du Conseil d'Administration et déclarent avoir été dûment informés de la réunion et de son ordre du jour. Il peut aussi être renoncé à la convocation écrite avec l'accord de chaque administrateur de la Société donné par écrit soit en original, soit par téléfax, câble, télégramme, par télex ou par courriel muni d'une signature électronique conforme aux exigences de la loi luxembourgeoise. Une convocation spéciale ne sera pas requise pour une réunion du Conseil d'Administration se tenant à une heure et à un endroit prévus dans une résolution préalablement adoptée par le Conseil d'Administration.

Tout membre du Conseil d'Administration peut se faire représenter à toute réunion du Conseil d'Administration en désignant par écrit soit en original, soit par téléfax, câble, télégramme, par télex ou par courriel muni d'une signature électronique conforme aux exigences de la loi luxembourgeoise, un autre administrateur comme son mandataire.

Un membre du Conseil d'Administration peut représenter plusieurs autres membres du Conseil d'Administration participant par procuration, à la condition qu'au moins deux membres du Conseil d'Administration soient physiquement présents ou assistent à la réunion du Conseil d'Administration par le biais de tout moyen de communication qui est conforme aux exigences du paragraphe qui suit.

Tout administrateur peut participer à la réunion du Conseil d'Administration par conférence téléphonique, video-conférence ou tout autre moyen de communication similaire grâce auquel (i) les administrateurs participant à la réunion du Conseil d'Administration peuvent être identifiés, (ii) toute personne participant à la réunion du Conseil d'Administration peut entendre et parler avec les autres participants, (iii) la réunion du Conseil d'Administration est retransmise en direct et (iv) les membres du Conseils d'Administration peuvent valablement délibérer. La participation à une réunion du Conseil d'Administration par un tel moyen de communication équivaudra à une participation en personne de ce directeur à une telle réunion.

Le Conseil d'Administration ne pourra délibérer et/ou agir valablement que si la majorité au moins des administrateurs est présente ou représentée à une réunion du Conseil d'Administration. Les décisions sont prises à la majorité des voix des administrateurs présents ou représentés lors de ce Conseil d'Administration, à moins que l'Assemblée générale a nommé un ou plusieurs Administrateurs A et un ou plusieurs Administrateurs B, au moins un (1) administrateur de classe A et un (1) Administrateur de classe B votent en faveur de la résolution. Le président aura une voix prépondérante en cas de parité des voix, sauf si le Conseil est composé d'un ou de plusieurs administrateurs A et un ou plusieurs Administrateurs B.

Nonobstant les dispositions qui précèdent une résolution écrite, signée par tous les administrateurs autorisés à recevoir une convocation à une réunion du Conseil d'Administration, est valide comme si elle a été passée lors d'une réunion du Conseil d'Administration dûment organisée et peut être constituée de plusieurs documents de toute sorte, chacun étant signé par un ou plusieurs administrateurs. Cette résolution, dûment signée, peut être remise ou transmise (sauf si le Conseil d'Administration en décide autrement de manière générale ou spécifique) par facsimilé ou tout autre moyen

similaire de transmission du contenu des documents. La date d'une telle décision sera la date de la dernière signature.

L'article 12 ne s'applique pas au cas où la Société est administrée par un Administrateur Unique.

Article 13. - Procès-verbal de réunion du Conseil d'Administration et des résolutions de l'Administrateur Unique

Les résolutions prises par l'Administrateur Unique seront inscrites dans des procès-verbaux qui doivent être consérvés au siège social de la Société.

Les procès-verbaux des réunions du Conseil d'Administration seront signés par le Président qui en aura assumé la présidence. Les procès-verbaux des résolutions prises par l'Administrateur Unique seront signés par l'Administrateur Unique.

Les copies ou extraits de procès-verbaux destinés à servir en justice ou ailleurs seront signés par le Président, deux memebres du Conseil d'Administration ou l'Administrateur Unique, le cas échéant.

Article 14. - Pouvoirs du Conseil d'Administration et de l'Administrateur Unique

Le Conseil d'Administration est investi des pouvoirs les plus larges pour accomplir tous les actes de disposition et d'administration dans l'intérêt de la Société. Tous les pouvoirs non expressément réservés par la Loi sur les Sociétés de 1915 ou par les Statuts à l'Assemblée Générale sont de la compétence du Conseil d'Administration.

Les provisions du présent Article 14 s'appliqueront de manière identique à l'Administrateur Unique, si applicable.

Article 15. - Délégation de pouvoirs

Le Conseil d'Administration peut nommer un délégué à la gestion journalière, actionnaire ou non membre du Conseil d'Administration ou non, qui aura les pleins pouvoirs pour agir au nom de la Société pour tout ce qui concerne la gestion journalière.

Le Conseil d'Administration peut nommer une personne, actionnaire ou non, administrateur ou non, en qualité de représentant permanent de toute entité dans laquelle la Société est nommée membre du conseil d'administration. Ce représentant permanent agira de son propre chef, mais au nom et pour le compte de la Société et engagera la Société en sa qualité de membre du conseil d'administration de toute telle entité.

Le Conseil d'Administration est aussi autorisé à nommer une personne, administrateur ou non, sans l'autorisation préalable de l'Assemblée Générale, pour l'exécution de missions spécifiques à tous les niveaux de la Société.

Article 16. - Signatures autorisées

La Société sera engagée, en toutes circonstances (y compris dans le cadre de la gestion journalière), vis-à-vis des tiers par (i) la signature conjointe de deux administrateurs de la Société à moins que l'Assemblée générale a nommé un ou plusieurs Administrateurs A et un ou plusieurs Administrateurs B,la signature conjointe d'au moins un (1) Administrateur A et un (1) Administrateur B ou (ii) dans le cas d'un administrateur unique, la signature de l'Administrateur Unique, ou (iii) par les signatures conjointes de toutes personnes ou l'unique signature de toute personne à qui de tels pouvoirs de signature auront été délégués par le Conseil d'Administration et ce dans les limites des pouvoirs qui leur auront été conférés.

Article 17. - Conflit d'intérêts

Aucun contrat ou autre transaction entre la Société et une quelconque autre société ou entité ne seront affectés ou invalidés par le fait qu'un ou plusieurs administrateurs ou fondés de pouvoir de la Société auraient un intérêt personnel dans, ou sont administrateur, associé, fondé de pouvoir ou employé d'une telle société ou entité.

Tout administrateur ou fondé de pouvoir de la Société, qui est administrateur, fondé de pouvoir ou employé d'une société ou entité avec laquelle la Société contracterait ou s'engagerait autrement en affaires, ne pourra, en raison de sa position dans cette autre société ou entité, être empêchée de délibérer, de voter ou d'agir en relation avec un tel contrat ou autre affaire.

Au cas où un administrateur de la Société aurait un intérêt personnel et contraire dans une quelconque affaire de la Société, cet administrateur devra informer le Conseil d'Administration de son intérêt personnel et contraire et il ne délibérera et ne prendra pas part au vote sur cette affaire; rapport devra être fait au sujet de cette affaire et de l'intérêt personnel de cet administrateur à la prochaine Assemblée Générale. Ce paragraphe ne s'applique pas tant que la Société est administrée par un Administrateur Unique.

Tant que la Société est administrée par un Administrateur Unique, les procès-verbaux de l'Assemblée Générale devront décrire les opérations dans lesquelles la Société et l'Administrateur Unique se sont engagés et dans lequelles l'Administrateur Unique a un intérêt opposé à celui de la Société.

Les deux pragraphes qui précèdent ne s'appliquent pas aux résolutions du Conseil d'Administration ou de l'Administrateur Unique concernant les opérations réalisées dans le cadre ordinaire des affaires courantes de la Société lesquelles sont conclues à des conditions normales.

Article 18. – Commissaire aux comptes

Lorsque les provisions de le la Loi sur les Sociétés de 1915 le requièrent, les opérations de la Société seront surpervisées par un ou plusieurs commissaires aux comptes et/ou réviseurs d'entreprise agréé selon les cas. Si la Société décide volontairement de nommer un réviseur d'entreprise agréé, alors la nomination d'un commissaire aux comptes n'est pas nécessaire.

Le commissaire aux comptes / réviseur d'entreprise agréé sera élu pour une période n'excédant pas six ans et il sera rééligible.

Le commissaire aux comptes / réviseur d'entreprise agréé sera nommé par l'Assemblée Générale qui détermine leur nombre, leur rémunération et la durée de leur fonction. Le commissaire aux comptes en fonction peut être révoqué à tout moment, avec ou sans motif, par l'Assemblée Générale.

Article 19. - Exercice social

L'exercice social commencera le 1er janvier de chaque année et se terminera le 31 décembre de chaque année.

Article 20. - Affectation des Bénéfices

Il sera prélevé sur le bénéfice net annuel de la Société 5% (cinq pour cent) qui seront affectés à la réserve légale. Ce prélèvement cessera d'être obligatoire lorsque la réserve légale aura atteint 10% (dix pour cent) du capital social de la Société tel qu'il est fixé ou tel que celui-ci aura été augmenté ou réduit de temps à autre, conformément à l'article 5 des Statuts.

L’Assemblée Générale décidera de l'affectation du solde restant du bénéfice net annuel et décidera seule de payer des dividendes de temps à autre, comme elle estime à sa discrétion convenir au mieux à l'objet et à la politique de la Société.

Les dividendes pourront être payés en euros ou en toute autre devise choisie par le Conseil d'Administration et devront être payés aux lieu et place choisis par le Conseil d'Administration. Le Conseil d'Administration peut décider de payer des dividendes intérimaires sous les conditions et dans les limites fixées par la Loi sur les Sociétés de 1915.

Article 21. - Dissolution et Liquidation

La Société peut être dissoute, à tout moment, par une décision de l’Assemblée Générale de la Société statuant comme en matière de modifications des Statuts, tel que prescrit à l'article 22 ci-après. En cas de dissolution de la Société, il sera procédé à la liquidation par les soins d'un ou de plusieurs liquidateurs (qui peuvent être des personnes physiques ou morales), et qui seront nommés par la décision de l'Assemblée Générale décidant cette liquidation. L'Assemblée Générale déterminera également les pouvoirs et la rémunération du ou des liquidateurs.

Article 22. - Modifications statutaires

Les présents Statuts pourront être modifiés de temps en temps par l'Assemblée Générale extraordinaire dans les conditions de *quorum* et de majorité requises par la Loi sur les Sociétés de 1915.

Article 23. - Droit applicable

Toutes les questions qui ne sont pas régies expressément par les présents Statuts seront tranchées en application de la Loi sur les Sociétés de 1915.

DISPOSITIONS TRANSITOIRES

Le premier exercice social commence aujourd’hui et se terminera le 31 décembre 2015.

La première Assemblée Générale annuelle se tiendra en 2016.

SOUSCRIPTION ET LIBERATION

Les Statuts de la Société ayant ainsi été arrêtés, le comparant déclare qu’il a souscrit les 310 (trois cent dix) actions représentant la totalité du capital social de la Société.

Toutes ces actions ont été libérées par l'Associé Unique à hauteur de 100% (cent pour cent) par paiement en numéraire, de sorte que le montant de EUR 31.000 (trente et un mille euros) est à la libre disposition de la Société, ainsi qu'il a été prouvé au notaire instrumentaire qui le constate expressément.

DECLARATION

Le notaire soussigné déclare avoir vérifié l’existence des conditions énumérées à l’article 26 de la Loi sur les Sociétés de 1915, et en constate expressément l’accomplissement. Il confirme en outre que ces Statuts sont conformes aux dispositions de l’article 27 de la Loi sur les Sociétés de 1915.

ESTIMATION DES FRAIS

Le montant des frais, dépenses, rémunérations ou charges, sous quelque forme que ce soit, qui incombent à la Société ou qui sont mis à sa charge en raison de sa constitution, s'élèvent approximativement à la somme de mille cent euros (EUR 1.100).-

RESOLUTIONS DE L'ASSOCIE UNIQUE

Le comparant préqualifié, représentant l'intégralité du capital social souscrit, a pris les résolutions suivantes :

1. le nombre d'administrateur de la Société est fixé à 4 (quatre) ;

2. sont nommés Administrateur de la Société les personnes suivantes :

Administrateurs de categorie A:

- Mr. Cornelis Martinus Verhaaren, né le 2 janvier, 1966, aux Pays Bas et ayant pour adresse professionelle le 10b, rue des Mérovingiens, L-8070 Bertrange, Grand Duché du Luxembourg,

- Mr. Christopher Rosselli, né le 7 novembre 1972, à Washington D.C., Etats Unis d'Amerique et ayant pour adresse professionelle le 160, South Industrial Boulevard, 30701 Calhoun - Georgia, Etats Unis d'Amerique,

Administrateurs de categorie B:

- Mr. John Kleynhans, né le 30 octobre 1969, à Oberholzer, Afrique du Sud et ayant pour adresse professionnelle le 58, rue Charles Martel, L-2134 Luxembourg, Grand Duché du Luxembourg,

- Mr. Hermanus Roelof Willem Troskie, né le 24 mai 1970, à Amsterdam, Pays Bas et ayant pour adresse professionnelle le 56, rue Charles Martel, L-2134 Luxembourg, Grand Duché du Luxembourg,

3. est nommé commissaire aux comptes de la Société la société suivante:

KPMG Luxembourg S.à r.l., une société constituée selon les lois du Luxembourg, avec son siège social au 39, Avenue John F. Kennedy,1855 Luxembourg, immatriculée sous le numéro B 149133 ;

4. les mandats des administarteurs et du commissaire aux comptes prendront fin à l'issue de l'Assemblée Générale annuelle de l'année 2021; et

5. le siège social de la société est fixé au 10b, rue des Mérovingiens, L-8070 Bertrange, Grand Duché du Luxembourg.

Le notaire soussigné qui comprend et parle l'anglais, déclare qu'à la requête de la partie comparante, le présent acte a été établi en anglais, suivi d'une version française. A la requête de cette même partie comparante et en cas de distorsions entre la version anglaise et française, la version anglaise prévaudra.

Dont acte, fait et passé, date qu'en tête des présentes à Luxembourg.

Et après lecture faite aux comparants, connus du notaire par noms, prénoms usuels, états et demeures, les comparants ont signé avec le notaire le présent acte.

Exhibit 4.6

MOHAWK CAPITAL LUXEMBOURG S.A.,
as Issuer,

MOHAWK INDUSTRIES, INC.,
as Guarantor,
and

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

_____

FORM OF SENIOR INDENTURE

Dated as of [ ], 20[ ]

_____

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_____

N.A. means Not Applicable.

Note: This Cross-Reference Table shall not, for any purpose, be deemed to be a part of this Indenture.

Exhibit 4.6

SENIOR INDENTURE, dated as of [ ], 20[ ], by and among Mohawk Capital Luxembourg S.A., a Luxembourg company having its registered office at 10B, rue des Mérovingiens, L-8070 Bertrange, registered with the Luxembourg Trade and Companies' Register under number B 198.756 (the "*Company*"), Mohawk Industries, Inc., a Delaware corporation (the "*Guarantor*"), and U.S. Bank National Association, a national banking association, as trustee (the "*Trustee*").

The Company has duly authorized the execution and delivery of this Indenture to provide for the issuance from time to time of its unsecured debentures, notes or other evidences of indebtedness, to be issued in one or more series as in this Indenture provided.

The Guarantor has duly authorized the execution and delivery of this Indenture to make the Guarantee provided herein.

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

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

For and in consideration of the premises and the purchase of the Securities by the Holders thereof, it is mutually agreed, for the equal and proportionate benefit of all Holders of the Securities or of series thereof, as follows:

ARTICLE I

DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.1. DEFINITIONS

"Acceleration Notice" shall have the meaning specified in Section 8.2.

"*Act*", when used with respect to any Holder, has the meaning specified in Section 13.3.

"*Affiliate*" means any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or another specified Person. For purposes of this definition, the term "control" means the power to direct the management and policies of a Person, directly or through one or more intermediaries, whether through the ownership of voting securities, by contract, or otherwise.

"*Agent*" means any Registrar, Paying Agent or co-Registrar.

"*Applicable Procedures*" of a Depositary means, with respect to any matter at any time, the policies and procedures of such Depositary, if any, that are applicable to such matter at such time.

"*Bankruptcy Law*" means Title 11, U.S. Code, or any similar Federal, state or foreign law for the relief of debtors.

"*Beneficial Owner*" or "*beneficial owner*" for purposes of the definition of Affiliate has the meaning attributed to it in Rules 13d-3 and 13d-5 under the Exchange Act, whether or not applicable; the term "beneficial ownership" shall have a corresponding meaning.

"*Board of Directors*" means the board of directors of the Company or the Guarantor, as the case may be, or any duly authorized committee of the board of directors of the Guarantor.

"*Board Resolution*" means (i) in the case of the Company, a copy of a resolution certified by the chairman of the Board of Directors or by any two members of the Board of Directors or (ii) in the case of the Guarantor, a copy of a resolution certified by the Secretary or an Assistant Secretary of the Guarantor, in each case, to have been duly adopted by the Board of Directors of the Company or the Guarantor, as applicable, 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, means each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in that Place of Payment are authorized or obligated by law or executive order to close; *provided* that, when used with respect to any Security, "Business Day" may have such other meaning, if any, as may be specified for such Security as contemplated by Section 3.1.

"*Cash*" or "*cash*" means such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public or private debts.

"*Code*" means the Internal Revenue Code of 1986, as amended.

"*Company*" means the Person named as such in the first paragraph of this Indenture until a successor Person shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Company" means such successor.

"*Company Request*" or "*Company Order*" means, respectively, a written request or order signed in the name of the Company by an Officer and delivered to the Trustee from time to time.

"*Consolidated Subsidiary*" means a Subsidiary of the Company whose financial statements are consolidated with those of the Company in accordance with GAAP.

"*Corporate Trust Office*" means the principal office of the Trustee at which at any time its corporate trust business shall be administered, which office at the date hereof is located at Two Midtown Plaza, 1349 Peachtree Street, N.W., Suite 1050, Atlanta, Georgia 30309, Attention: Global Corporate Trust Services, or such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the principal corporate trust office of any successor Trustee (or such other address as a successor Trustee may designate from time to time by notice to the Holders and the Company).

"*Covenant Defeasance*" shall have the meaning specified in Section 10.3.

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

"*Debt*" means, at any time, all obligations of the Company and each Consolidated Subsidiary, to the extent such obligations would appear as a liability upon the consolidated balance sheet of the Company and the Consolidated Subsidiaries, in accordance with GAAP, (1) for borrowed money, (2) evidenced by bonds, debentures, notes or other similar instruments, and (3) in respect of any letters of credit supporting any Debt of others, and all guarantees by the Company or any Consolidated Subsidiary of Debt of others.

"*Default*" means any event that is or with the passage of time or the giving of notice or both would be an Event of Default.

"*Defaulted Interest*" shall have the meaning specified in Section 3.9.

"*Depositary*" means, with respect to Securities of any series issuable in whole or in the form of one or more Global Securities, a clearing agency registered under the Exchange Act or other applicable law or regulation that is designated to act as the Depositary for such Securities as contemplated by Section 3.1, until a successor shall have been appointed and become such pursuant to the applicable provision of this Indenture, and, thereafter, "Depositary" shall mean or include such successor.

"*Event of Default*" shall have the meaning specified in Section 8.1.

"*Exchange Act*" means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

"*Expiration Date*" has the meaning specified in Section 13.3.

"*GAAP*" means United States generally accepted accounting principles as of the date of any computation required hereunder. All ratios and computations based on GAAP contained in this Indenture shall be computed in conformity with GAAP.

"*Global Security*" means a Security that evidences all or part of the Securities of any series and bears the legend set forth in Section 2.3 (or such legend as may be specified as contemplated by Section 3.1 for such Securities).

"*guarantee*" means, as applied to any obligation, (i) a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner, of any part or all of such obligation and (ii) an agreement, direct or indirect, contingent or otherwise, the practical effect of which is to assure in any way the payment or performance (or payment of damages in the event of nonperformance) of all or any part of such obligation, including, without limiting the foregoing, the payment of amounts available to be drawn down under letters of credit of another Person. The term "guarantee" used as a verb has a corresponding meaning. The term "guarantor" shall mean any Person providing a guarantee of any obligation.

"*Guarantee*" means each guarantee of the Securities contained in Article XI given by the Guarantor.

"*Guarantee Obligations*" shall have the meaning specified in Section 11.1.

"*Guarantor*" means the Person named as "Guarantor" in the first paragraph of this instrument, each successor to the Guarantor or any other Person who becomes a Guarantor in accordance with the terms of this Indenture.

"Holder" means a Person in whose name a Security is registered in the Security Register.

"Indenture" means this instrument as originally executed and as it may from time to time be supplemented or amended by one or more Supplemental Indentures, including, for all purposes of this instrument and any such Supplemental Indenture, the provisions of the Trust Indenture Act that are deemed to be a part of and govern this instrument and any such Supplemental Indenture, respectively. The term "Indenture" shall also include the terms of particular series of Securities established as contemplated by 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 due date of an installment of interest on such Security.

"*Judgment Conversion Date*" shall have the meaning specified in Section 13.13(a).

"*Judgment Currency*" shall have the meaning specified in Section 13.13(a).

"*Legal Defeasance*" shall have the meaning specified in Section 10.2.

"*Lien*" means any mortgage, pledge, hypothecation, encumbrance, security interest, statutory or other lien, or preference, priority or other security or similar agreement or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement having substantially the same economic effect as any of the foregoing).

"*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.

"*Maximum Interest Rate*" shall have the meaning specified in Section 3.13.

"*Obligation Currency*" shall have the meaning specified in Section 13.13(a).

"*Officer*" means (i) with respect to the Company, any authorized signatory of the Company, including as the case may be the Chief Executive Officer, the President, any Vice President, the Chief Financial Officer, the Treasurer, the Controller, the General Counsel or the Secretary of the Company, if any, an (ii) with respect to the guarantor, the Chief Executive Officer, the President,

any Vice President, the Chief Financial Officer, the Treasurer, the Controller, the General Counsel or the Secretary of the Guarantor or any authorized signatory of the Guarantor, designated in an Officers' Certificate and delivered to the Trustee.

"Officers' Certificate" means a certificate signed by two Officers or by an Officer and an Assistant Secretary of the Company or the Guarantor, as the case may be, delivered to the Trustee from time to time and otherwise complying with the requirements of Sections 13.6 and 13.7, if applicable.

"*Opinion of Counsel"* means a written opinion from legal counsel who is reasonably acceptable to the Trustee and, if applicable, complying with the requirements of Sections 13.6 and 13.7.

"*Original Issue Discount Security"* means any Security which provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 8.2.

"*Outstanding"*, when used with respect to Securities or Securities of any series, means, as of the date of determination, all such Securities theretofore authenticated and delivered under this Indenture, except:

(1) such Securities theretofore canceled by the Trustee or delivered to the Trustee for cancellation;

(2) such Securities 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 provision therefor satisfactory to the Trustee has been made;

(3) such Securities as to which Legal Defeasance has been effected pursuant to Section 10.2;

(4) such Securities which have been paid pursuant to Section 3.8 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; and

(5) such Securities as to which any property deliverable upon conversion thereof has been delivered (or such delivery has been duly provided for), or as to which any other particular conditions have been satisfied, in each case as may be provided for such Securities as contemplated in Section 3.1;

provided, however, that in determining whether the Holders of the requisite principal amount of the Outstanding Securities have given, made or taken any request, demand, authorization, direction, notice, consent, waiver or other action hereunder as of any date, (A) the principal amount of an Original Issue Discount Security which shall be deemed to be Outstanding shall be the amount of the principal thereof which would be due and payable as of such date upon acceleration of the Maturity thereof to such date pursuant to Section 8.2, (B) if, as of such date, the principal amount payable at the Stated Maturity of a Security is not determinable, the principal amount of such Security which shall be deemed to be Outstanding shall be the amount as specified or determined as contemplated by Section 3.1, (C) the principal amount of a Security denominated in one or more foreign currencies, composite currencies or currency units which shall be deemed to be Outstanding shall be the U.S. dollar equivalent, determined as of such date in the manner provided as contemplated by Section 3.1, of the principal amount of such Security (or, in the case of a Security described in Clause (A) or (B) above, of the amount determined as provided in such clause), and (D) 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 relying upon any such request, demand, authorization, direction, notice, consent, waiver or other action, only Securities which a Trust Officer of the Trustee actually 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*" shall have the meaning specified in Section 3.6.

"*Person*" or "*person*" means any corporation, individual, limited liability company, joint stock company, joint venture, partnership, unincorporated association, governmental regulatory entity, country, state or political subdivision thereof, trust, municipality or other entity.

"*Place of Payment*", when used with respect to the Securities of any series and subject to Section 3.6 and Section 6.2, means the place or places where the principal of and any premium and interest on the Securities of that series 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 3.8 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.

"*Principal*" of any Debt means the principal amount of such Debt as of any date of determination.

"*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, means the price at which it is to be redeemed pursuant to this Indenture.

"*Registrar*" shall have the meaning specified in Section 3.6.

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

"*Regulation S-X*" means Regulation S-X promulgated under the Securities Act, as it may be amended from time to time, and any successor provision thereto.

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

"*Securities*" means unsecured debentures, notes, related book entries or other evidences of indebtedness of any series, as the case may be, issued by the Company from time to time, and authenticated and delivered under this Indenture.

"*Securities Act*" means the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

"*Securities Custodian*" means the Trustee, as custodian with respect to the Global Securities, or any successor entity thereto.

"*Security Register*" shall have the meaning specified in Section 3.6.

"*Special Record Date*" for the payment of any Defaulted Interest means a date fixed by the Trustee pursuant to Section 3.9.

"*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.

"*Subsidiary*" means any Person of which the Guarantor, or the Guarantor and one or more Subsidiaries, or any one or more Subsidiaries, directly or indirectly own more than 50% of the Voting Stock.

"*Supplemental Indenture*" means an indenture supplemental to this Indenture, which supplements, amends or modifies this Indenture and is entered into by the parties to this Indenture as provided in Article XII.

"*TIA*" means the Trust Indenture Act of 1939, as amended, (15 U.S. Code §§ 77aaa-77bbbb) as in effect on the date of the execution of this Indenture; *provided*, *however*, that if the Trust Indenture Act of 1939 is amended after the date hereof, the term "TIA" shall mean, to the extent required by such amendment, the Trust Indenture Act of 1939 as so amended.

"*Trust Officer*" means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president,

assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject.

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

"*U.S. Government Obligations*" means direct non-callable obligations of, or noncallable obligations guaranteed by, the United States of America for the payment of which obligation or guarantee the full faith and credit of the United States of America is pledged.

"*Voting Stock*" means outstanding shares of capital stock or similar equity interests having under ordinary circumstances voting power for the election of directors, managers or the substantial equivalent thereof whether at all times or only so long as no senior class of stock or similar equity interest has such voting power by reason of the happening of any contingency.

SECTION 1.2. INCORPORATION BY REFERENCE OF TIA

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

"*Commission*" means the SEC.

"*indenture securities*" means the Securities.

"*indenture security holder*" means a Holder.

"*indenture to be qualified*" means this Indenture.

"*indenture trustee*" or "*institutional trustee*" means the Trustee.

"*obligor*" on the indenture securities means the Company, the Guarantor and any other obligor on any Security.

All other terms used in this Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by SEC rule and not otherwise defined herein have the meanings assigned to them thereby.

SECTION 1.3. RULES OF CONSTRUCTION

Unless the context otherwise requires:

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

(2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(3) "or" is not exclusive;

(4) "including" means including, without limitation;

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

(6) provisions apply to successive events and transactions;

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

(8) references to Sections or Articles means reference to such Section or Article in this Indenture, unless stated otherwise.

ARTICLE II

SECURITY FORMS

SECTION 2.1. FORMS GENERALLY

All Securities and all Guarantees shall have 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 Depositary therefor or as may, consistently herewith, be determined by the Officers executing such Securities and Guarantees, as evidenced by their execution thereof. The definitive Securities and Guarantees shall be printed, typewritten, lithographed or engraved or produced by any combination of these methods on any type of paper, or may be produced in any other manner permitted by the rules of any securities exchange all as determined by the Officers executing such Securities and Guarantees, as evidenced by their execution of such Securities and Guarantees.

SECTION 2.2. FORM OF SECURITIES AND GUARANTEES

Each Security in a series and each Guarantee shall be in a form approved by or pursuant to a Supplemental Indenture hereto and a Board Resolution or by an Officer or Officers pursuant to authority delegated to that Officer or those Officers pursuant to a Board Resolution. If the form of the Securities of a series and the related Guarantee is not prescribed by the Supplemental Indenture relating to that series, upon or prior to the delivery to the Trustee for authentication of the first Security to be issued of that series, the Company shall deliver to the Trustee, the Board Resolution

by or pursuant to which such form of the Security for that series and the related Guarantee has been approved, which Board Resolution shall have attached thereto a copy of the form of the Security and related Guarantee approved, or a certificate of an Officer, attested to by the Secretary or an Assistant Secretary of the Company, certifying that an Officer, acting pursuant to delegated authority from the Board of Directors, approved the form of the Securities of that series and the related Guarantee and attaching a copy of the form of the Security approved and related Guarantee and a true and complete copy of the resolutions of the Board of Directors delegating authority to that Officer to approve the form of Securities and related Guarantee. If temporary Securities of any series are issued in global form as permitted by Section 3.4, the form thereof also shall be established as provided in this Section 2.2.

SECTION 2.3. GLOBAL SECURITIES

If Securities of a series are issuable in whole or in part in global form, as contemplated by Section 3.1, then, notwithstanding Section 3.1 and Section 3.2, such Global Security shall represent such of the Outstanding Securities of that series as shall be specified in such Global Security and may provide that it shall represent the aggregate amount of Outstanding Securities from time to time endorsed thereon and that the aggregate amount of Outstanding Securities represented thereby may from time to time be reduced or increased to reflect exchanges or partial redemptions or increased to reflect the issuance of additional uncertificated Securities of that series. Any endorsement of a Global Security to reflect the amount, or any increase or decrease in the amount, of Outstanding Securities of a series represented thereby shall be made in such manner and upon instructions given by such Person or Persons as shall be specified therein or in the Company Order to be delivered to the Trustee pursuant to Section 3.3.

Unless otherwise specified as contemplated by Section 3.1 for the Securities evidenced thereby, every Global Security authenticated and delivered hereunder shall bear a legend in substantially the following form:

> THIS SECURITY IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE OF A DEPOSITARY. THIS SECURITY IS EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITARY OR ITS NOMINEE ONLY IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE AND MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY.
>
> UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE [OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”),] TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF [CEDE & CO.] OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE [OF DTC] (AND ANY

PAYMENT IS TO BE MADE TO [CEDE & CO.] OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE [OF DTC]), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, [CEDE & CO.], HAS AN INTEREST HEREIN.

SECTION 2.4. FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION

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

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

U.S. Bank National Association,
as Trustee

Dated: By: _____
Authorized Signatory

ARTICLE III

THE SECURITIES

SECTION 3.1. AMOUNT UNLIMITED; ISSUABLE IN SERIES

The aggregate principal amount of Securities which may be authenticated and delivered under this Indenture is unlimited. The Securities may be issued in one or more series. There shall be established in or pursuant to a Board Resolution and, subject to Section 3.3, set forth, or determined in the manner provided, in an Officers' Certificate, or established in one or more Supplemental Indentures hereto, prior to the issuance of Securities of any series,

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

(2) any limit upon the aggregate principal amount of the Securities of the series which may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of the series pursuant to Section 3.4 or 4.7 and except for any Securities which, pursuant to Section 3.3, are deemed never to have been authenticated and delivered hereunder); *provided, however*, that the authorized aggregate principal amount of such series may from time to time be increased above such amount by a Board Resolution to such effect;

(3) the Person to whom any interest on a Security of the series shall be payable, if other than 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;

(4) the date or dates on which the principal of any Securities of the series is payable or the method by which such date or dates shall be determined or extended;

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

(6) the Place of Payment;

(7) the period or periods within which or the date or dates on which, the price or prices at which, and the terms and conditions upon which, any Securities of the series may be redeemed, in whole or in part, at the option of the Company (including any amendments or modifications to the provisions of Article IV hereof) and, if other than by a Board Resolution, the manner in which any election by the Company to redeem the Securities shall be evidenced;

(8) the obligation and/or right, if any, of the Company to redeem or purchase any Securities of the series pursuant to any sinking fund or analogous provisions or at the option of the Holder thereof and the period or periods within which, the price or prices at which and all terms and conditions upon which any Securities of the series may or shall be redeemed or purchased, in whole or in part, pursuant to such obligation and/or right;

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

(10) if the amount of principal of or any premium or interest on any Securities of the series may be determined with reference to an index or pursuant to a formula, the manner in which such amounts shall be determined;

(11) if other than the currency of the United States of America, the currency, currencies, composite currency, composite currencies or currency units in which the principal of or any premium or interest on any Securities of the series shall be payable and the manner of determining the equivalent thereof in the currency of the United States of America for any purpose, including for the purposes of making payment in the currency of the United States of America and applying the definition of "*Outstanding*" in Section 1.1;

(12) if the principal of or any premium or interest on any Securities of the series is to be payable, at the election of the Company or the Holder thereof, in one or more currencies, composite currencies or currency units other than that or those in which such Securities are stated to be payable, the currency, currencies, composite currency, composite

currencies or currency units in which the principal of or any premium or interest on such Securities as to which such election is made shall be payable, the periods within which and the terms and conditions upon which such election is to be made and the amount so payable (or the manner in which such amount shall be determined);

(13) if other than the entire principal amount thereof, the portion of the principal amount of any Securities of the series which shall be payable upon declaration of acceleration of the Maturity thereof pursuant to Section 8.2 or the method by which such portion shall be determined;

(14) if the principal amount payable at the Stated Maturity of any Securities of the series will not be determinable as of any one or more dates prior to the Stated Maturity, the amount which shall be deemed to be the principal amount of such Securities as of any such date for any purpose thereunder or hereunder, including the principal amount thereof which shall be due and payable upon any Maturity other than the Stated Maturity or which shall be deemed to be Outstanding as of any date prior to the Stated Maturity (or, in any such case, the manner in which such amount deemed to be the principal amount shall be determined);

(15) if applicable, that the Securities of the series, in whole or any specified part, shall be defeasible pursuant to Section 10.2 or Section 10.3 or both such Sections, or pursuant to a manner varying from such Sections, any provisions to permit a pledge of obligations other than U.S. Government Obligations (or the establishment of other arrangements) to satisfy the requirements of Section 10.4 for defeasance of such Securities and, if other than by a Board Resolution, the manner in which any election by the Company to defease such Securities shall be evidenced;

(16) if applicable, that any Securities of the series shall be issuable in whole or in part in the form of one or more Global Securities and, in such case, the respective Depositaries for such Global Securities, the form of any legend or legends which shall be borne by any such Global Security in addition to or in lieu of that set forth in Section 2.3, any addition to, elimination of or other change in the circumstances set forth in clause (2) of the last paragraph of Section 3.7 in which any such Global Security may be exchanged in whole or in part for Securities registered, and any transfer of such Global Security in whole or in part may be registered, in the name or names of Persons other than the Depositary for such Global Security or a nominee thereof and any other provisions governing exchanges or transfers of any such Global Security;

(17) any addition to, elimination of or other change in the Events of Default which applies to any Securities of the series and any change in the right of the Trustee or the requisite Holders of such Securities to declare the principal amount thereof due and payable pursuant to Section 8.2;

(18) any addition to, elimination of or other change in the covenants set forth in Article VI which applies to Securities of the series;

(19) any provisions necessary to permit or facilitate the issuance, payment or conversion of any Securities of the series that may be converted into securities or other property other than Securities of the same series and of like tenor, whether in addition to, or in lieu of, any payment of principal or other amount and whether at the option of the Company or otherwise;

(20) the terms and conditions, if any, pursuant to which the Securities of the series are secured;

(21) any restriction or condition on the transferability of the Securities of such series;

(22) the exchanges, if any, on which the Securities may be listed; and

(23) any other terms of the series (which terms shall not be inconsistent with the provisions of this Indenture, except as permitted by Section 12.1(4)).

All Securities of any one series shall be substantially identical except as to denomination and except as may otherwise be provided in or pursuant to the Board Resolution referred to above and (subject to Section 3.3) set forth, or determined in the manner provided, in the Officers' Certificate referred to above or in any such Supplemental Indenture hereto. If any of the terms of the series are established by action taken pursuant to a Board Resolution, a copy of an appropriate record of such action shall be certified by the Secretary or an Assistant Secretary of the Company, if any, otherwise by one class A director and one class B director of the Company, and delivered to the Trustee at or prior to the delivery of the Officers' Certificate setting forth the terms of the series.

SECTION 3.2. DENOMINATIONS

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

SECTION 3.3. EXECUTION, AUTHENTICATION, DELIVERY AND DATING

The Securities shall be executed on behalf of the Company by two Officers by manual or facsimile signature. The Guarantee endorsed thereon shall be executed on behalf of the Guarantor by any Officer of the Guarantor by manual or facsimile signature.

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 after the execution and delivery of this Indenture, the Company may deliver Securities of any series executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Securities,

and the Trustee shall, upon receipt of the Company Order, authenticate and deliver such Securities as this Indenture provides and not otherwise.

If the form or terms of the Securities of the series have been established by or pursuant to one or more Board Resolutions as permitted by Sections 2.2 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 9.1) shall be fully protected in relying upon, an Opinion of Counsel stating,

(1) if the form of such Securities has been established by or pursuant to Board Resolution as permitted by Section 2.2, that such form has been established in conformity with the provisions of this Indenture;

(2) if the terms of such Securities have been established by or pursuant to Board Resolution as permitted by Section 3.1, that such terms have been established in conformity with the provisions of this Indenture; and

(3) 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 bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

If such form or terms have been so established, the Trustee shall not be required to authenticate such Securities if the issue of such Securities pursuant to this Indenture will affect the Trustee's own rights, duties, liabilities or immunities under the Securities and 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 preceding paragraph, if all Securities of a series are not to be originally issued at one time, it shall not be necessary to deliver the Board Resolution or the Officers' Certificate otherwise required pursuant to Section 3.1 or the Company Order and Opinion of Counsel otherwise required pursuant to such preceding paragraph at or prior to the authentication of each Security of that series if such documents are delivered at or prior to the authentication upon original issuance of the first Security of that series to be issued.

Each Security shall be dated the date of its authentication.

No Security shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein executed by the Trustee by manual signature, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder. 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 3.12,

for all purposes of this Indenture such Security shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

SECTION 3.4. TEMPORARY SECURITIES

Pending the preparation of definitive Securities of any series, the Company and the Guarantor may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary Securities having duly executed Guarantees endorsed thereon, which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor 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 and Guarantees may determine, as evidenced by their execution of such Securities and Guarantees.

If temporary Securities of any series are issued, the Company and the Guarantor will cause definitive Securities of that series to be prepared without unreasonable delay. After the preparation of definitive Securities of that series, the temporary Securities of that series shall be exchangeable for definitive Securities of that series upon surrender of the temporary Securities of that series at the office or agency of the Company in a Place of Payment for that series, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities of any series, the Company and the Guarantor shall execute and the Trustee shall authenticate and deliver in exchange therefor one or more definitive Securities of the same series having Guarantees duly endorsed thereon of any authorized denominations and of like tenor and aggregate principal amount. Until so exchanged, the temporary Securities of any series shall in all respects be entitled to the same benefits under this Indenture as definitive Securities of that series and tenor.

SECTION 3.5. HOLDER LISTS

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

SECTION 3.6. REGISTRAR, PAYING AGENT AND DEPOSITARY

For Luxembourg law purposes, the Company will hold at its registered office a register of the Securities in which [Euroclear/Clearstream] will be recorded as the holder of the Securities.

The Company shall also maintain an office or agency where Securities may be presented for registration of transfer or for exchange (*"Registrar"*) and an office or agency where Securities may be presented for payment (*"Paying Agent"*). The Registrar shall keep a register (the *"Security Register"*) of each series of Securities and of their transfer and exchange. The Company may appoint one or more co-registrars and one or more additional paying agents. The term "Registrar" includes

any co-registrar and the term “Paying Agent” includes any additional paying agent. The Company may change any Paying Agent or Registrar with respect to the Securities of any series without notice to any Holder. The Company shall notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Company fails to appoint or maintain an entity other than the Trustee as either Registrar or Paying Agent for the affected series of Securities, the Trustee shall act as such. The Company or any of its Subsidiaries may act as Paying Agent or Registrar. The Company initially appoints The Depository Trust Company to act as Depositary with respect to the Global Securities. The Company initially appoints the Trustee to act as Registrar and Paying Agent and to act as Securities Custodian with respect to the Global Securities.

SECTION 3.7. REGISTRATION OF TRANSFER AND EXCHANGE

Upon surrender for registration of transfer of any Security of a series at the office or agency of the Company in a Place of Payment for that series, the Company and the Guarantor 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 having a duly executed Guarantee for such series endorsed thereon of any authorized denominations and of like tenor and aggregate principal amount.

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 tenor and aggregate principal amount, upon surrender of the Securities to be exchanged at such office or agency of the Company. 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.

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

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

No service charge shall be made for any registration of transfer or 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 of transfer or exchange of Securities, other than exchanges pursuant to Section 3.4, 3.7 or 11.5 not involving any transfer.

If the Securities of any series (or of any series and specified tenor) are to be redeemed in part, the Company shall not be required (A) to issue, register the transfer of or exchange any Securities of that series (or of that series and specified tenor, as the case may be) during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of any such Securities selected for redemption under Section 4.3 and ending at the close of business on the day of such mailing, or (B) to register the transfer of or exchange any Security so selected

for redemption in whole or in part, except the unredeemed portion of any Security being redeemed in part.

The provisions of clauses (1), (2), (3) and (4) below shall apply only to Global Securities:

(1) Each Global Security authenticated under this Indenture shall be registered in the name of the Depositary designated for such Global Security or a nominee thereof and delivered to such Depositary or a nominee thereof or custodian therefor, and each such Global Security shall constitute a single Security for all purposes of this Indenture.

(2) Notwithstanding any other provision in this Indenture, and subject to such applicable provisions, if any, as may be specified as contemplated by Section 3.1, a Global Security may not be transferred except as a whole by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. All Global Securities will be exchanged by the Company for other certificated Securities if (i) the Company delivers to the Trustee written notice from the Depositary that (x) the Depositary is unwilling or unable to continue to act as Depositary for the Global Securities and the Company thereupon fails to appoint a successor Depositary within 90 days or (y) the Depositary is no longer a clearing agency registered under the Exchange Act, (ii) the Company, in its sole discretion, determines that the Global Securities (in whole but not in part) should be exchanged for other certificated Global Securities and delivers a written notice to such effect to the Trustee or (iii) upon request of the Trustee or Holders of a majority of the aggregate principal amount of Outstanding Securities of the applicable series if there shall have occurred and be continuing a Default or Event of Default with respect to such Securities. If the Company designates a successor Depositary as aforesaid, such Global Security shall promptly be exchanged in whole for one or more other Global Securities registered in the name of the successor Depositary, whereupon such designated successor shall be the Depositary for such successor Global Security or Global Securities and the provisions of Clauses (1), (2), (3) and (4) of this Section shall continue to apply thereto.

(3) Subject to Clause (2) above and to such applicable provisions, if any, as may be specified as contemplated by Section 3.1, any exchange of a Global Security for other Securities may be made in whole or in part, and all Securities issued in exchange for a Global Security or any portion thereof shall be registered in such names as the Depositary for such Global Security shall direct.

(4) Every Security authenticated and delivered upon registration of transfer of, or in exchange for or in lieu of, a Global Security or any portion thereof, whether pursuant to this Section, Section 3.4, 3.6 or 11.5 or otherwise, shall be authenticated and delivered in the form of, and shall be, a Global Security, unless such Security is registered in the name of a Person other than the Depositary for such Global Security or a nominee thereof.

SECTION 3.8. MUTILATED, DESTROYED, LOST AND STOLEN SECURITIES

If any mutilated Security is surrendered to the Trustee together with such security or indemnity as may be required by the Company or the Trustee to save each of them harmless, the Company and the Guarantor shall execute and the Trustee shall authenticate and deliver in exchange therefor a new Security of the same series having a duly executed Guarantee and of like tenor and principal amount and bearing a number not contemporaneously outstanding.

If there shall be delivered to the Company, the Guarantor and the Trustee (i) evidence to their satisfaction of the destruction, loss or theft of any Security and (ii) such security or indemnity as may be required by them to save each of them and any agent of either of them harmless, then, in the absence of written notice to the Company, the Guarantor or the Trustee that such Security has been acquired by a bona fide purchaser, the Company and the Guarantor shall execute and the Trustee shall authenticate and deliver, in lieu of any such destroyed, lost or stolen Security, a new Security of the same series having a duly executed Guarantee and of like tenor and principal amount and bearing a number not contemporaneously outstanding.

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

Upon the issuance of any new Security under this Section, 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 and the Guarantee, if endorsed thereon, 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, and any Guarantee endorsed thereon, 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 3.9. PAYMENT OF INTEREST; INTEREST RIGHTS PRESERVED

Except as otherwise provided as contemplated by Section 3.1 with respect to any Securities of a series, interest 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 (whether or not such day is a Business Day).

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 (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Interest payable on any Securities of a series to the Persons in whose names such Securities (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 notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each of such Securities and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as provided in this clause (1). 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 given to each Holder of such Securities in the manner set forth in Section 13.4, 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 such Securities (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 (2).

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

Except as may otherwise be provided in this Section 3.9 or as contemplated in Section 3.1 with respect to any Securities of a series, the Person to whom interest shall be payable on any Security that first becomes payable on a day that is not an Interest Payment Date shall be the Holder of such Security on the day such interest is paid.

Subject to the foregoing provisions of this Section, 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. Notwithstanding the foregoing, the terms of any Security that may be converted may provide that the provisions of this paragraph do not apply, or apply with such additions, changes or omissions as may be provided thereby, to such Security.

SECTION 3.10. PAYING AGENT TO HOLD MONEY IN TRUST

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

SECTION 3.11. PERSONS DEEMED OWNERS

Prior to due presentment of a Security for registration of transfer, the Company, the Guarantor, the Trustee and any agent of the Company, Guarantor 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 and any premium and (subject to Section 3.9) any interest on such Security and for all other purposes whatsoever, whether or not such Security be overdue, and neither the Company, the Guarantor, the Trustee nor any agent of the Company, Guarantor or the Trustee shall be affected by notice to the contrary.

SECTION 3.12. CANCELLATION

All Securities surrendered for payment, redemption, registration of transfer or exchange or conversion or for credit against any sinking fund payment shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and shall be promptly cancelled by the Trustee. The Company may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and may deliver to the Trustee (or to any other Person for delivery to the Trustee) for cancellation any Securities previously authenticated hereunder which the Company has not issued and sold, and all Securities so delivered shall be promptly cancelled by the Trustee. No Securities

shall be authenticated in lieu of or in exchange for any Securities cancelled as provided in this Section, except as expressly permitted by this Indenture. All cancelled Securities held by the Trustee shall be disposed of as directed by a Company Order; *provided, however*, that the Trustee shall not be required to destroy such cancelled Securities.

SECTION 3.13. COMPUTATION OF INTEREST; USURY

Except as otherwise specified as contemplated by Section 3.1 for Securities of any series, interest on the Securities of each series shall be computed on the basis of a 360-day year of twelve 30-day months.

The amount of interest (or amounts deemed to be interest under applicable law) payable or paid on any Security shall be limited to an amount which shall not exceed the maximum nonusurious rate of interest allowed by the applicable laws of the State of New York, or any applicable law of the United States permitting a higher maximum nonusurious rate that preempts such applicable New York law, which could lawfully be contracted for, taken, reserved, charged or received (the "Maximum Interest Rate"). If, as a result of any circumstances whatsoever, the Company or any other Person is deemed to have paid interest (or amounts deemed to be interest under applicable law) or any Holder of a Security is deemed to have contracted for, taken, reserved, charged or received interest (or amounts deemed to be interest under applicable law), in excess of the Maximum Interest Rate, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of validity, and if under any such circumstance, the Trustee, acting on behalf of the Holders, or any Holder shall ever receive interest or anything that might be deemed interest under applicable law that would exceed the Maximum Interest Rate, such amount that would be excessive interest shall be applied to the reduction of the principal amount owing on the applicable Security or Securities and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance of any such Security or Securities, such excess shall be refunded to the Company; provided that the Company and not the Trustee shall be responsible for collecting any such refund from the Holders. In addition, for purposes of determining whether payments in respect of any Security are usurious, all sums paid or agreed to be paid with respect to such Security for the use, forbearance or detention of money shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such Security.

SECTION 3.14. CUSIP NUMBERS

The Company in issuing the Securities may use CUSIP numbers (if then generally in use) and, if so, the Trustee shall use CUSIP numbers in notices of redemption as a convenience to 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 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. The Company will promptly notify the Trustee in writing of any change in the "CUSIP" numbers.

ARTICLE IV

REDEMPTION

SECTION 4.1. APPLICABILITY OF ARTICLE

Securities of any series which are redeemable before their Stated Maturity shall be redeemable in accordance with their terms and, except as otherwise specified as contemplated by such terms and/or Section 3.1 for such Securities, in accordance with this Article.

SECTION 4.2. ELECTION TO REDEEM; NOTICE TO TRUSTEE

The election of the Company to redeem any Securities shall be established in or pursuant to a Board Resolution or in another manner specified as contemplated by Section 3.1 for such Securities. In case of any redemption at the election of the Company of less than all the Securities of any series (including any such redemption affecting only a single Security), the Company shall, at least 30 days prior to the Redemption Date fixed by the Company (unless a shorter notice shall be agreed to in writing by the Trustee), notify the Trustee in writing of such Redemption Date, of the principal amount of Securities of that series to be redeemed and, if applicable, of the tenor of the Securities to be redeemed. In the case of any redemption of Securities (i) prior to the expiration of any restriction on such redemption provided in the terms of such Securities or elsewhere in this Indenture or (ii) pursuant to an election of the Company that is subject to a condition specified in the terms of those Securities, the Company shall furnish the Trustee with an Officers' Certificate evidencing compliance with such restriction or condition and if requested by the Trustee under Section 9.2(b) hereof, an Opinion of Counsel. Any obligation of the Company to redeem any Securities may be subject to the satisfaction of one or more conditions precedent, each as may be specified by the Company in the notice of redemption referenced to in Section 4.4 hereof.

SECTION 4.3. SELECTION BY TRUSTEE OF SECURITIES TO BE REDEEMED

If less than all the Securities of any series are to be redeemed (unless all the Securities of that series and of a specified tenor are to be redeemed or unless such redemption affects only a single Security), the particular Securities to be redeemed shall be selected not more than 30 days prior to the Redemption Date by the Trustee, from the Outstanding Securities of that series not previously called for redemption, by such method as the Trustee shall deem fair and appropriate and which may provide for the selection for redemption of a portion of the principal amount of any Security of that series; provided that the unredeemed portion of the principal amount of any Security shall be in an authorized denomination (which shall not be less than the minimum authorized denomination) for such Security. If less than all the Securities of that series and of a specified tenor are to be redeemed (unless such redemption affects only a single Security), the particular Securities to be redeemed shall be selected not more than 30 days prior to the Redemption Date by the Trustee, from the Outstanding Securities of that series and specified tenor not previously called for redemption in accordance with the preceding sentence.

If any Security selected for partial redemption is converted in part before termination of the conversion right with respect to the portion of the Security so selected, the converted portion of such Security shall be deemed (so far as may be) to be the portion selected for redemption. Securities

which have been converted during a selection of Securities to be redeemed shall be treated by the Trustee as Outstanding for the purpose of such selection.

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

The provisions of the two preceding paragraphs shall not apply with respect to any redemption affecting only a single Security, whether such Security is to be redeemed in whole or in part. In the case of any such redemption in part, the unredeemed portion of the principal amount of the Security shall be in an authorized denomination (which shall not be less than the minimum authorized denomination) for such Security.

For all 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 which has been or is to be redeemed.

SECTION 4.4. NOTICE OF REDEMPTION

Notice of redemption shall be given by first-class mail, postage prepaid, mailed not less than 30 days nor more than 60 days prior to the Redemption Date, to each Holder of Securities to be redeemed, at such Holder's current address appearing in the Security Register.

All notices of redemption shall identify the Securities to be redeemed (including CUSIP numbers, if any) and shall state:

(1) the Redemption Date,

(2) the Redemption Price,

(3) if less than all the Outstanding Securities of any series consisting of more than a single Security are to be redeemed, the identification (and, in the case of partial redemption of any such Securities, the principal amounts) of the particular Securities to be redeemed and, if less than all the Outstanding Securities of any series consisting of a single Security are to be redeemed, the principal amount of the particular Security to be redeemed,

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

(5) the place or places where each such Security is to be surrendered for payment of the Redemption Price,

(6) for any Securities that by their terms may be converted, the terms of conversion, the date on which the right to convert the Security to be redeemed will terminate and the place or places where such Securities may be surrendered for conversion,

(7) any condition or conditions to the obligation of the Company to redeem the Securities (which may be included at the sole and absolute discretion of the Company), and

(8) that the redemption is for a sinking fund, if such is the case.

Notice of redemption of Securities to be redeemed at the election of the Company shall be given by the Company or, at the Company's written request, by the Trustee in the name and at the expense of the Company and shall be irrevocable (subject to the satisfaction of any condition or conditions set forth in such notice). The failure to give such notice by mail or any defect in the notice to the Holder of any Security designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Security.

In addition, if such redemption or purchase is subject to the satisfaction of one or more conditions precedent, as permitted above, such notice shall describe each such condition, and if applicable, shall state that, in the Company's discretion, the Redemption Date may be delayed until such time as any or all such conditions shall be satisfied, or such redemption or purchase may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied by the Redemption Date, or by the Redemption Date as so delayed.

SECTION 4.5. DEPOSIT OF REDEMPTION PRICE

On or before 12:00 Noon, New York City time on any Redemption Date, and subject to the satisfaction of any condition or conditions set forth in the notice of redemption delivered pursuant to Section 4.4, 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 3.10) an amount of money sufficient to pay the Redemption Price of, and (except if the Redemption Date shall be an Interest Payment Date) accrued interest on, all the Securities which are to be redeemed on that date, other than any Securities called for redemption on that date which have been converted prior to the date of such deposit.

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 3.9 or in the terms of such Security) be paid to the Company upon Company Request or, if then held by the Company, shall be discharged from such trust.

SECTION 4.6. SECURITIES PAYABLE ON REDEMPTION DATE

Notice of redemption having been given as aforesaid, the Securities so to be redeemed (but subject to the satisfaction of any condition or conditions set forth in the notice of redemption delivered pursuant to Section 4.4) 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. 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 whose Stated Maturity is on or prior to the Redemption Date will 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 any premium shall, until paid, bear interest from the Redemption Date at the rate prescribed therefor in the Security.

SECTION 4.7. SECURITIES REDEEMED IN PART

Any Security which is to be redeemed only in part shall be surrendered at a Place of Payment therefor (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or his attorney duly authorized in writing), and the Company shall execute, and the Trustee shall authenticate and deliver to the Holder of such Security without service charge (other than payment by the Company of charges previously agreed to by the Company and the Trustee in writing), a new Security or Securities of the same series and of like tenor, of any authorized denomination as requested by such Holder, in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Security so surrendered.

ARTICLE V

SINKING FUNDS

SECTION 5.1. APPLICABILITY OF ARTICLE

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

The minimum amount of any sinking fund payment provided for by the terms of any Securities 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 such Securities is herein referred to as an “optional sinking fund payment”. If provided for by the terms of any Securities, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 5.2. Each sinking fund payment shall be applied to the redemption of Securities as provided for by the terms of such Securities.

SECTION 5.2. SATISFACTION OF SINKING FUND PAYMENTS WITH SECURITIES

The Company (1) may deliver Outstanding Securities of a series (other than any previously called for redemption) and (2) may apply as a credit Securities of a series which have been converted in accordance with their terms or which 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 any Securities of that series required to be made pursuant to the terms of such Securities as and to the extent provided for by the terms of such Securities; provided that the Securities to be so credited have not been previously so credited. The Securities to be so credited shall be received and credited for such purpose by the Trustee at the Redemption Price, as specified in the Securities so to be redeemed (or at such other prices as may be specified for such Securities as contemplated in Section 3.1), for redemption through operation of the sinking fund and the amount of such sinking fund payment shall be reduced accordingly.

SECTION 5.3. REDEMPTION OF SECURITIES FOR SINKING FUND

Not less than 90 days (or such shorter period as shall be agreed to in writing by the Trustee) prior to each sinking fund payment date for any Securities, the Company will deliver to the Trustee an Officers' Certificate specifying the amount of the next ensuing sinking fund payment for such Securities pursuant to the terms of such Securities, the portion thereof, if any, which is to be satisfied by payment of cash and the portion thereof, if any, which is to be satisfied by delivering and crediting Securities pursuant to Section 5.2 and will also deliver to the Trustee any Securities to be so delivered. Not less than 30 days prior to 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 4.3 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 4.4. Such notice having been duly given, the redemption of such Securities shall be made upon the terms and in the manner stated in Sections 4.6 and 4.7.

ARTICLE VI

COVENANTS

SECTION 6.1. PAYMENT OF SECURITIES

The Company shall pay the principal of and any premium and interest on the Securities of any series on the dates and in the manner provided herein and in the applicable Security. An installment of principal of or interest on any Security of any series shall be considered paid on the date it is due if the Trustee or Paying Agent (other than the Company or an Affiliate of the Company) holds for the benefit of the Holders of such Security (on or before 10:00 a.m. New York City time to the extent necessary to provide the funds to the Depositary in accordance with the Depositary's procedures) on that date cash deposited and designated for and sufficient to pay the installment.

The Company shall pay interest on overdue principal and on overdue installments of interest at the rate specified in the Security of that series compounded semi-annually, to the extent lawful.

SECTION 6.2. MAINTENANCE OF OFFICE OR AGENCY

The Company shall maintain in each Place of Payment for any series of Securities, an office or agency (which may be an office of the Trustee, of the Registrar or of an agent of the Trustee or the Registrar) 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 and where notices and demands to or upon the Company or the Guarantor in respect of the Securities of that series, any Guarantee and this Indenture may be served. The Company shall give prompt written notice to the Trustee of the location, and any change in the location, of 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 and the Guarantor hereby appoint 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 any or all such purposes and may from time to time rescind such designations; *provided*, *however*, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in each Place of Payment for Securities of any series for such purposes. The Company shall 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.

With respect to any Global Security, and except as otherwise may be specified for such Global Security as contemplated by Section 3.1, the Corporate Trust Office of the Trustee shall be the Place of Payment where such Global Security may be presented or surrendered for payment or for registration of transfer or exchange, or where successor Securities may be delivered in exchange therefor; *provided*, *however*, that any such payment, presentation, surrender or delivery effected pursuant to the Applicable Procedures of the Depositary for such Global Security shall be deemed to have been effected at the Place of Payment for such Global Security in accordance with the provisions of this Indenture.

SECTION 6.3. CORPORATE EXISTENCE

Except as otherwise permitted by Article VII, the Company and Guarantor shall do or cause to be done all things necessary to preserve and keep in full force and effect its legal existence and its material rights (charter, statutory and/or articles of association); *provided*, *however*, that the Company and Guarantor shall not be required to preserve any such right if the Board of Directors of the Company or Guarantor shall determine that the preservation thereof is no longer necessary or desirable in the conduct of the business of the Company or Guarantor, as applicable.

SECTION 6.4. COMPLIANCE CERTIFICATE; NOTICE OF DEFAULT

(a) The Company shall deliver to the Trustee within 120 days after the end of each fiscal year of the Company an Officers' Certificate, one of the signers of which shall be the principal executive officer, principal financial officer or principal accounting officer of the Company,

complying with TIA § 314(a)(4) and stating that a review of its activities during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Indenture (without regard to notice requirements or grace periods) and further stating, as to each such Officer signing such certificate, whether or not the signer knows of any failure by the Company to comply with any conditions or covenants in this Indenture and, if such signer does know of such a failure to comply, the certificate shall describe such failure with particularity. The Officers' Certificate shall also notify the Trustee in writing should the relevant fiscal year end on any date other than the current fiscal year end date. The Officer's Certificate to be provided under this Section 6.4 need not comply with Section 13.6 hereof.

(b) The Company shall, so long as any Security of any series is Outstanding, deliver to the Trustee, promptly upon becoming aware of any Default or Event of Default with respect to such series, an Officers' Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto. The Trustee shall not be deemed to have knowledge of any Default, any Event of Default or any such fact unless one of its Trust Officers receives written notice thereof from the Company or any of the Holders.

SECTION 6.5. REPORTS

So long as any of the Securities remain Outstanding, the Guarantor shall file with the SEC or, if the Guarantor is not subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, post on the Guarantor's website, in either case within the time periods specified in the SEC's rules and regulations, including the additional periods provided by Rule 12b-25 under the Exchange Act, annual reports and other reports or statements prepared in accordance with the reporting provisions under Section 13 or Section 15(d) of the Exchange Act.

ARTICLE VII

SUCCESSOR CORPORATION

SECTION 7.1. LIMITATION ON MERGER, SALE OR CONSOLIDATION

The Company shall not consolidate or merge with or into, or transfer or lease its assets substantially as an entirety, whether in a single transaction or a series of related transactions, to another Person, unless:

(1) either (a) the Company is the surviving entity or (b) the resulting, surviving or transferee entity formed by such consolidation or into which the Company is merged or which acquires or leases the Company's assets is a corporation, partnership, trust or limited liability company organized and existing under the laws of the United States, any state thereof or the District of Columbia and expressly assumes by a Supplemental Indenture (in form and substance reasonably satisfactory to the Trustee) all of the Company's obligations in connection with the Securities and this Indenture;

(2) no Default or Event of Default will exist immediately after giving effect to such transaction (applying Article 11 of Regulation S-X to such transaction as and to the extent applicable); and

(3) the Company delivers to the Trustee an Officers' Certificate and an Opinion of Counsel meeting the requirements of Sections 13.6 and 13.7 hereof.

For purposes of the foregoing, the transfer (by lease, assignment, sale or otherwise) of the assets, substantially as an entirety, of one or more Subsidiaries of the Company, the Company's interest in which constitutes the Company's assets substantially as an entirety, shall be deemed to be the transfer of the Company's assets substantially as an entirety.

SECTION 7.2. SUCCESSOR CORPORATION SUBSTITUTED

Upon any consolidation or merger or any transfer or lease of the assets of the Company substantially as an entirety in accordance with Section 7.1, the surviving entity formed by such consolidation or into which the Company is merged or to which such transfer or lease is made shall succeed to and (except in the case of a lease) be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such surviving entity had been named herein as the Company, and (except in the case of a lease) when a surviving entity duly assumes all of the obligations of the Company pursuant hereto and pursuant to the Securities, the Company shall be released from such obligations (except with respect to any obligations that arise from, or are related to, such transaction).

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

SECTION 8.1. EVENTS OF DEFAULT

"Event of Default" with respect to Securities of any series, wherever used herein, means any one of the following events (whatever reason for such Event of Default and whether it shall be caused voluntarily or involuntarily or effected, without limitation, 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):

(i) the Company's failure to pay any installment of interest on any Security of that series as and when the same becomes due and payable and the continuance of any such failure for 30 days; or

(ii) the Company's failure to pay all or any part of the principal of, or premium, if any, on any Security of that series when and as the same becomes due and payable at maturity, redemption, by acceleration or otherwise; or

(iii) the Company's failure to deposit any sinking fund payment, when and as due by the terms of a Security of that series, and continuance of any such failure for 30 days; or

(iv) with respect to the Securities of that series, the Company's failure to observe or perform any other covenant or agreement in respect of any Security of that series contained in this Indenture or in such Security (other than a covenant or agreement a default in whose performance is elsewhere in this Section specifically dealt with or that has been expressly included in this Indenture by means of a Supplemental Indenture solely for the benefit of Securities of a series other than that series) or in the applicable Board Resolution under which that series is issued as contemplated by Section 3.01 and, the continuance of such failure for a period of 60 days after written notice of such failure, specifying such failure and requiring the same to be remedied, has been given to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of the Outstanding Securities of that series; or

(v) a decree, judgment, or order by a court of competent jurisdiction shall have been entered adjudicating the Company or the Guarantor as bankrupt or insolvent, or approving as properly filed a petition seeking reorganization of the Company or the Guarantor under any bankruptcy or similar law, and such decree or order shall have continued undischarged and unstayed for a period of 60 days; or a decree, judgment or order of a court of competent jurisdiction appointing a receiver, liquidator, trustee, or assignee in bankruptcy or insolvency for the Company or the Guarantor, or any substantial part of the property of the Company or the Guarantor, or for the winding up or liquidation of the affairs of the Company or the Guarantor, shall have been entered, and such decree, judgment, or order shall have remained in force undischarged and unstayed for a period of 60 days; or

(vi) the Company or the Guarantor shall institute proceedings to be adjudicated a voluntary bankrupt, or shall consent to the filing of a bankruptcy proceeding against it, or shall file a petition or answer or consent seeking reorganization under any bankruptcy or similar law or similar statute, or shall consent to the filing of any such petition, or shall consent to the appointment of a custodian, receiver, liquidator, trustee, or assignee in bankruptcy or insolvency of it or any substantial part of its assets or property, or shall make a general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or take any corporate action in furtherance of any of the foregoing; or

(vii) any Guarantee ceases to be in full force and effect or any Guarantee is declared to be null and void and unenforceable or any Guarantee is found to be invalid or the Guarantor denies its liability under its Guarantee (other than by reason of release of the Guarantor in accordance with the terms of this Indenture); or

(viii) any other event or occurrence that is designated to be an Event of Default provided with respect to Securities of that series in the Supplemental Indenture or Board Resolution that establishes the terms of the Securities of that series.

Notwithstanding the foregoing provisions of this Section 8.1, if the principal or any premium or interest on any Security is payable in a currency other than the currency of the United States of America and such currency is not available to the Company for making payment thereof due to the imposition of exchange controls or other circumstances beyond the control of the Company, the Company will be entitled to satisfy its obligations to Holders of the Securities by making such payment in the currency of the United States of America in an amount equal to the currency of the United States of America equivalent of the amount payable in such other currency, as determined by the Trustee (and confirmed by the Company in writing) by reference to the noon buying rate in The City of New York for cable transfers for such currency (the "Exchange Rate"), as such Exchange Rate is reported or otherwise made available by the Federal Reserve Bank of New York on the date of such payment, or, if such rate is not then available, on the basis of the most recently available Exchange Rate. The Trustee shall not be liable for the calculation of the Exchange Rate as provided herein. Notwithstanding the foregoing provisions of this Section 8.1, any payment made under such circumstances in the currency of the United States of America where the required payment is in a currency other than the currency of the United States of America will not constitute an Event of Default under this Indenture.

SECTION 8.2. ACCELERATION OF MATURITY DATE; RESCISSION AND ANNULMENT

If an Event of Default with respect to Securities of any series at the time Outstanding occurs and is continuing (other than an Event of Default specified in Section 8.1(v) or Section 8.1(vi)), then in every such case, unless the principal of the Outstanding Securities of that series shall have already become due and payable, either the Trustee or the Holders of at least 25% in aggregate principal amount of the Outstanding Securities of that series, by notice in writing to the Company specifying the respective Event of Default (and to the Trustee if given by Holders) (an *"Acceleration Notice"*), may declare all principal, determined as set forth below, and accrued interest on such series (or, if the Securities of that series are Original Issue Discount Securities, such portion of the principal amount as may be specified in, or determined in accordance with, the terms of that series) to be due and payable immediately. If an Event of Default specified in Section 8.1(v) or Section 8.1(vi) occurs, all principal and accrued interest on such series (or, in the case of any Security of that series which specifies an amount to be due and payable thereon upon acceleration of the Maturity thereof, such amount as may be specified by the terms thereof) will be immediately due and payable on all Outstanding Securities of that series without any declaration or other act on the part of the Trustee or any Holders.

The Holders of a majority in aggregate principal amount of the Outstanding Securities of any series, by written notice to the Trustee, may rescind and annul any acceleration and its consequences with respect to the Securities of that series so long as (a) such rescission occurs before a judgment or decree is entered based on such acceleration and (b) all existing Events of Default, other than the non-payment of the principal of, premium, if any, and interest, if any, on all Securities of that series that have become due solely because of the acceleration, have been cured or waived as provided in Section 8.12.

SECTION 8.3. COLLECTION OF DEBT AND SUITS FOR ENFORCEMENT BY TRUSTEE

Each of the Company and the Guarantor covenants that if an Event of Default in payment of principal, premium or interest specified in clause (i) or (ii) of Section 8.1 hereof occurs and is continuing with respect to Securities of any series, the Company or the Guarantor shall, upon demand of the Trustee, pay to it, for the benefit of the Holders of Securities of that series, the whole amount then due and payable on Securities of that series for principal, premium (if any), and interest, and, to the extent that payment of such interest shall be legally enforceable, interest on any overdue principal (and premium, if any), and on any overdue interest, at the rate borne by such Securities, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including reasonable compensation to, and expenses, disbursements and advances of the Trustee and its agents and counsel and all other amounts due the Trustee under Section 9.7.

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

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

SECTION 8.4. TRUSTEE MAY FILE PROOFS OF CLAIM

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

(1) to file and prove a claim for the whole amount of principal (and premium, if any) and interest owing and unpaid in respect of such Securities and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee and its agent and counsel and all other amounts due the Trustee under Section 9.7) and of the Holders of Securities of that series allowed in such judicial proceeding, and

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

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Holder of a series to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to such Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee and its agents and counsel, and any other amounts due the Trustee under Section 9.7 hereof.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder of Securities of any series any plan of reorganization, arrangement, adjustment or composition affecting Securities of that series or the rights of any Holder thereof or to authorize the Trustee to vote in respect of the claim of any such Holder in any such proceeding; *provided, however*, that the Trustee may, on behalf of the Holders, vote for the election of a trustee in bankruptcy or similar official and be a member of a creditors' or other similar committee with respect to any such proceeding relating to the Guarantor.

SECTION 8.5. 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 such Securities or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust in favor of the Holders of such Securities, and any recovery of judgment shall, after provision for the payment of compensation to, and expenses, disbursements and advances of the Trustee and its agents and counsel and all other amounts due the Trustee under Section 9.7, be for the ratable benefit of such Holders of such Securities in respect of which such judgment has been recovered.

SECTION 8.6. PRIORITIES

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

1: To the Trustee in payment of all amounts due pursuant to Section 9.7 hereof, including payment of all compensation, expense and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection, as provided in such Section;

2: To the Holders of such Securities in payment of the amounts then due and unpaid for principal of, premium (if any), and interest on, such Securities in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind,

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

3: To the Company, the Guarantor or such other Person as may be lawfully entitled thereto, the remainder, if any, each as their respective interests may appear.

The Trustee may, but shall not be obligated to, fix a record date and payment date for any payment to the Holders under this Section 8.6.

SECTION 8.7. LIMITATION ON SUITS

No Holder of any Security of any series shall have any right to institute, or to order or direct the Trustee 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 with respect to such Security, unless:

(A) such Holder has previously given written notice to the Trustee of a continuing Event of Default with respect to the Securities of that series;

(B) the Holders of not less than 25% in aggregate principal amount of the Outstanding Securities of that series shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

(C) such Holder or Holders have offered to the Trustee security or indemnity reasonably satisfactory to it against the costs, expenses and liabilities to be incurred or reasonably probable to be incurred in compliance with such request;

(D) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and

(E) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority in aggregate principal amount of the Outstanding Securities of that series;

it being understood and intended that no one or more Holders of Securities of that series shall have any right in any manner whatsoever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other Holders of Securities of that series, or to obtain or to seek to obtain priority or preference over any other 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 the Holders of Securities of that series.

SECTION 8.8. UNCONDITIONAL RIGHT OF HOLDERS TO RECEIVE PRINCIPAL, PREMIUM AND INTEREST

Notwithstanding any other provision of this Indenture, the Holder of any Security shall have the right, which is absolute and unconditional, to receive payment of the principal of, and premium (if any), and (subject to Section 3.9) interest on, such Security on the Maturity Dates of such payments

as expressed in such Security (in the case of redemption, the Redemption Price on the applicable Redemption Date), and, if the terms of such Security so provide, to convert such Security in accordance with its terms, and to institute suit for the enforcement of any such payment after such respective dates, and such rights shall not be impaired without the consent of such Holder.

SECTION 8.9. RIGHTS AND REMEDIES CUMULATIVE

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in Section 3.8 hereof, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

SECTION 8.10. DELAY OR OMISSION NOT WAIVER

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

SECTION 8.11. CONTROL BY HOLDERS

The Holder or Holders of a majority in aggregate principal amount of the Outstanding Securities of any series shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred upon the Trustee with respect to the Securities of that series; provided that

(1) such direction shall not be in conflict with any applicable rule of law or with this Indenture;

(2) the Trustee shall not determine that the action so directed would be unduly prejudicial to the Holders not taking part in such direction; and

(3) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

SECTION 8.12. WAIVER OF EXISTING OR PAST DEFAULT

The Holder or Holders of not less than a majority in aggregate principal amount of the Outstanding Securities of any series may, on behalf of all Holders of all the Securities of that series, waive any existing or past Default or Event of Default with respect to the Securities of that series and its consequences under this Indenture, except a continuing Default or Event of Default with respect to the Securities of that series:

(A) in the payment of the principal of, premium, if any, or interest on, any Security of that series as specified in clauses (i) and (ii) of Section 8.1 hereof and not yet cured; or

(B) with respect to any covenant or provision hereof which, under Article XII, cannot be modified or amended without the consent of the Holder of each Outstanding Security of that series affected.

Upon any such waiver, such Default or Event of Default shall cease to exist, and any other Default or Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture, but no such waiver shall extend to any subsequent or other Default with respect to the Securities of that series or impair the exercise of any right arising therefrom. The Company shall deliver to the Trustee an Officers' Certificate stating that the requisite percentage of Holders have consented to such waiver and attaching copies of such consents (or other evidence of such consents as may be reasonably satisfactory to the Trustee).

This Section 8.12 shall be in lieu of TIA §§ 316(a)(1)(A) and 316(a)(1)(B) and such sections of the TIA are hereby expressly excluded from this Indenture, as permitted by the TIA.

SECTION 8.13. UNDERTAKING FOR COSTS

All parties to this Indenture agree, and each Holder of any Security of any series by his acceptance thereof shall be deemed to have agreed, that in any suit for the enforcement of any right or remedy under this Indenture with respect to the Security of that series, or in any suit against the Trustee for any action taken, suffered or omitted to be taken by it as Trustee with respect to that series, any court may in its discretion require the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 8.13 shall not apply to any suit instituted by the Trustee, to any suit instituted by any Holder of the Security of that series, or group of Holders of the Security of that series, holding in the aggregate more than 10% in aggregate principal amount of the Outstanding Security of that series, or to any suit instituted by any Holder of that series for enforcement of the payment of principal of, or premium (if any), or interest on, any Security of that series on or after the respective Maturity Date expressed in such Security (including, in the case of redemption, on or after the Redemption Date).

SECTION 8.14. RESTORATION OF RIGHTS AND REMEDIES

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture with respect to any Security of any series 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 case, subject to any determination in such proceeding, the Company, the Guarantor, the Trustee and all Holders of the Security of that series 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 8.15. WAIVER OF STAY, EXTENSION OR USURY LAWS

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

ARTICLE IX

TRUSTEE

The Trustee hereby accepts the trust imposed upon it by this Indenture and covenants and agrees to perform the same, as herein expressed, subject to the terms hereof.

SECTION 9.1. DUTIES OF TRUSTEE

(a) If an Event of Default has occurred and is continuing (and has not been cured or waived in accordance with the terms of this Indenture) with respect to Securities of any series, the Trustee shall exercise such of the rights and powers vested in it by this Indenture with respect to such Securities and use the same degree of care and skill in its exercise as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

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

(1) the Trustee need perform only those duties as are specifically set forth in this Indenture and no others; no covenants or obligations shall be implied in or read into this Indenture which are adverse to the Trustee; and any rights of the Trustee to take any action that is permitted, but not required, to be taken by this Indenture shall not be construed as an obligation or duty to do so; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; *provided*, *however*, 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 examine the certificates and opinions to determine whether or not they conform to the

requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

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

(1) this paragraph does not limit the effect of paragraph (b) of this Section 9.1;

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

(3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 8.11 hereof.

(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 to take or omit to take any action under this Indenture or at the request, order or direction of the Holders or in the exercise of any of its rights or powers.

(e) Reserved.

(f) The Trustee shall not be liable for interest on any assets received by it except as the Trustee may agree in writing with the Company (including without limitation to the extent the Trustee receives funds prior to the interest payment date in order to comply with the provisions of Section 6.1). Assets held in trust by the Trustee need not be segregated from other assets except to the extent required by law.

(g) The Trustee shall not be required to give any bond or surety with respect to the performance of its duties or the exercise of its powers under this Indenture.

(h) 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 9.1 and to the provisions of the TIA.

SECTION 9.2. RIGHTS OF TRUSTEE

Subject to Section 9.1 hereof, with respect to Securities of any series:

(a) The Trustee may conclusively rely on any document reasonably believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in such document.

(b) Before the Trustee acts or refrains from acting, it may consult with counsel and may require an Officers' Certificate or an Opinion of Counsel, which shall conform to Sections 13.6 and

13.7 hereof, except as specifically provided herein. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such certificate or advice of counsel.

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

(d) The Trustee shall not be liable for any action it or its agent takes or omits to take in good faith which it reasonably believes to be authorized or within its rights or powers conferred upon it by this Indenture.

(e) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, notice, request, direction, consent, order, bond, debenture or other paper or document, but the Trustee, in its sole discretion, may make such further inquiry or investigation into such facts or matters as it may see fit.

(f) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Holders, pursuant to the provisions of 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 may be incurred therein or thereby.

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

(h) The Trustee shall have no duty to inquire as to the performance of the Company's covenants in Article VI hereof or as to the performance by any Agent of its duties hereunder. In addition, the Trustee shall not be deemed to have knowledge of any Default or Event of Default except any Default or Event of Default of which the Trustee shall have received written notification or obtained actual knowledge of an event which is in fact such a default (and such notice references the Securities and this Indenture), and in the absence of any such notice or any such actual knowledge, the Trustee may conclusively assume that no Default or Event of Default exists.

(i) 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, an Opinion of Counsel, or both.

(j) 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 as so authorized in any such certificate previously delivered and not superseded.

(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 under this Indenture, and to each Agent, Custodian and other person employed by the Trustee in furtherance of carrying out its duties under this Indenture.

SECTION 9.3. INDIVIDUAL RIGHTS OF TRUSTEE

The Trustee, or any of its Affiliates, in its individual or any other capacity may become the owner or pledgee of Securities of any series and may otherwise deal with the Company, the Guarantor, any of its Subsidiaries, or their respective Affiliates with the same rights it would have if it were not Trustee. Any Agent or Custodian may do the same with like rights. However, the Trustee must comply with Sections 9.10 and 9.11 hereof.

SECTION 9.4. TRUSTEE'S DISCLAIMER

The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Securities of any series, and it shall not be accountable for the Company's use of the proceeds from the Securities, and it shall not be responsible for any statement of the Company in the Indenture or any statement in the Securities of any series (other than the Trustee's certificate of authentication) or in any prospectus or other disclosure materials distributed with respect to the Securities of any series (other than information provided by the Trustee concerning the Trustee), or for the use or application of any funds received by a Paying Agent other than the Trustee.

SECTION 9.5. NOTICE OF DEFAULT

If a Default or an Event of Default occurs and is continuing with respect to Securities of any series and if it is known to the Trustee as provided in Section 9.2(h) hereof, the Trustee shall mail to each Holder of that series notice of the uncured Default or Event of Default within 90 days after such Default or Event of Default occurs. Except in the case of a Default in the payment of principal of or interest on any Security (including payments pursuant to the mandatory redemption provisions of any Security, if any), the Trustee may withhold the notice if and so long as a committee of its Trust Officers in good faith determines that withholding the notice is in the interest of the Holders.

SECTION 9.6. REPORTS BY TRUSTEE TO HOLDERS

Within 60 days after each March 15 beginning with the March 15 following the date of this Indenture, the Trustee shall, if required by law, mail to each Holder a brief report dated as of such March 15 that complies with TIA § 313(a). The Trustee also shall comply with TIA §§ 313(b) and 313(c).

The Company shall promptly notify the Trustee in writing if the Securities of any series become listed on any securities exchange or automated quotation system or of any delisting thereof.

A copy of each report at the time of its mailing to Holders shall be mailed to the Company and filed with the SEC and each securities exchange, if any, on which any Securities are listed.

SECTION 9.7. COMPENSATION AND INDEMNITY

The Company agrees to pay to the Trustee (in its capacity as such) from time to time such reasonable compensation for its services as the Company and the Trustee shall from time to time agree in writing. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. In addition to such compensation for services, the Company shall promptly reimburse the Trustee (and any predecessor Trustee with respect to all matters and events existing or alleged to exist on or prior to the date such person ceased to be a Trustee) upon request for all reasonable disbursements, expenses (including costs of collection) and advances actually incurred or made by it in accordance with this Indenture or carrying out its duties hereunder. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents, accountants, experts and counsel.

The Company agrees to indemnify the Trustee (in any capacity under this Indenture including as Trustee, Agent or Securities Custodian) and each of its officers, directors, attorneys-in-fact and agents for, and hold it harmless against, any claim, demand, expense (including but not limited to reasonable compensation, disbursements and expenses of the Trustee's agents and counsel), loss or liability incurred by it without negligence, willful misconduct or bad faith on the part of the Trustee, arising out of or in connection with the acceptance and the administration of this trust and its rights or duties hereunder, including, without limitation, the reasonable costs and expenses of defending itself against any investigation, claim or liability (whether asserted by the Company, any Holder or any other person) in connection with the exercise or performance of any of its powers or duties hereunder. The Trustee shall notify the Company promptly of any claim asserted against the Trustee for which it may seek indemnity; *provided*, *however*, that any failure to so notify the Company shall not relieve the Company of its indemnity obligations hereunder. The Company shall defend the claim and the Trustee shall provide reasonable cooperation at the Company's expense in the defense. The Trustee may have separate counsel and the Company shall pay the reasonable fees and expenses of such counsel; *provided* that the Company will not be required to pay such fees and expenses if it assumes the Trustee's defense and if the Trustee is advised by its counsel that there is no conflict of interest between the Company and the Trustee in connection with such defense. The Company need not pay for any settlement made without its written consent, which shall not be unreasonably withheld. The Company need not reimburse any expense or indemnify against any loss or liability to the extent incurred by the Trustee through its negligence, bad faith or willful misconduct.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 8.1(v) or (vi) of this Indenture occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under any Bankruptcy Law.

The Company's obligations under this Section 9.7 shall survive the resignation or removal of the Trustee, the discharge of the Company's obligations pursuant to Article X of this Indenture and any rejection or termination of this Indenture under any Bankruptcy Law.

SECTION 9.8. REPLACEMENT OF TRUSTEE

The Trustee may resign by so notifying the Company in writing. The Holder or 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 Company and the Trustee in writing and

may appoint a successor trustee with the Company's consent. The Company or the Guarantor may remove the Trustee with respect to any series of Securities if:

(a) the Trustee fails to comply with Section 9.10 hereof;

(b) the Trustee is adjudged bankrupt or insolvent;

(c) a receiver, Custodian or other public officer takes charge of the Trustee or its property; or

(d) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason with respect to Securities of any series, the Company shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holder or Holders of a majority in principal amount of that series of Securities may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Immediately after that and, provided that all sums owing to the retiring Trustee provided for in Section 9.7 hereof have been paid, the retiring Trustee shall transfer all property held by it as trustee to the successor Trustee, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. A successor Trustee shall mail notice of its succession to each Holder of the affected series at the current address of each such Holder as set forth in the Security Register.

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

If the Trustee fails to comply with Section 9.10 hereof, any Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

Notwithstanding replacement of the Trustee pursuant to this Section 9.8, the Company's obligations under Section 9.7 hereof shall continue for the benefit of the retiring Trustee.

SECTION 9.9. SUCCESSOR TRUSTEE BY MERGER, ETC.

If the Trustee consolidates with, merges or converts into, or transfers all or substantially all of its corporate trust business or assets to, another corporation or banking association, the resulting, surviving or transferee corporation without any further act shall, if such resulting, surviving or transferee corporation is otherwise eligible hereunder, be the successor Trustee.

SECTION 9.10. ELIGIBILITY; DISQUALIFICATION

The Trustee shall at all times satisfy the requirements of TIA § 310(a)(1), (2) and (5). The Trustee shall have a combined capital and surplus of at least $50,000,000, as set forth in its most recent published annual report of condition. The Trustee shall comply with TIA § 310(b).

SECTION 9.11. PREFERENTIAL COLLECTION OF CLAIMS AGAINST COMPANY OR GUARANTOR

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

ARTICLE X

LEGAL DEFEASANCE AND COVENANT DEFEASANCE

SECTION 10.1. OPTION TO EFFECT LEGAL DEFEASANCE OR COVENANT DEFEASANCE

The Company, at the Company's option and at any time, may elect to have Section 10.2 or Section 10.3 of this Indenture applied to all Outstanding Securities of any series upon compliance with the conditions set forth below in this Article X.

SECTION 10.2. LEGAL DEFEASANCE AND DISCHARGE

Upon the Company's exercise under Section 10.1 hereof of the option applicable to this Section 10.2 with respect to the Outstanding Securities of any series, the Company and the Guarantor shall be deemed to have been discharged from its obligations with respect to all Outstanding Securities as to which this option provided in Section 10.1 is exercised, on the date the conditions set forth below are satisfied (hereinafter, *"Legal Defeasance"*). For this purpose, such Legal Defeasance means that the Company shall be deemed to have paid and discharged the entire indebtedness represented by such Outstanding Securities, and this Indenture shall cease to be of further effect as to all such Outstanding Securities, except as to be deemed to be Outstanding only for the purposes of the Sections of this Indenture referred to in (a) and (b) below, and the Company shall be deemed to have satisfied all other of its obligations under such Outstanding Securities and this Indenture with respect to such Securities (and the Trustee, on written demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following which shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of Outstanding Securities to receive payments in respect of the principal of, premium, if any, and interest on such Securities when such payments are due from the trust described in Section 10.5, (b) the Company's obligations with respect to such Securities under Sections 3.4, 3.5, 3.6, 3.7, 3.8, 3.10, 6.2, 10.5, 10.6 and 10.7 hereof, and (c) the rights, powers, trusts, duties and immunities of the Trustee hereunder, and the Company's obligations in connection therewith. If the Company exercises its option under this Section 10.2 with respect to the Outstanding Securities of any series, then payment of the Securities of such series may not be accelerated because of an Event

of Default. Subject to compliance with this Article X, the Company may exercise its option under this Section 10.2 notwithstanding the prior exercise of its option under Section 10.3 hereof with respect to such Securities.

SECTION 10.3. COVENANT DEFEASANCE

Upon the Company's exercise under Section 10.1 hereof of the option applicable to this Section 10.3 with respect to the Outstanding Securities of any series, the Company and the Guarantor shall be released from its obligations under any covenants provided pursuant to Section 3.1(18) and the covenants contained in Sections 6.3, 6.4 and 6.5 and Article VII hereof and the Guarantor shall be released from its obligations under Article XI and the Guarantee with respect to all Outstanding Securities as to which this option provided in Section 10.1 is exercised, on and after the date the conditions set forth below are satisfied (hereinafter, *"Covenant Defeasance"*), and such Outstanding Securities shall thereafter be deemed 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 such covenants, but shall continue to be deemed Outstanding for all other purposes hereunder. For this purpose, such Covenant Defeasance means that, with respect to the Outstanding Securities of any series as to which the Covenant Defeasance has occurred, the Company and the Guarantor shall not need to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant with respect to such Securities, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such 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 8.1(iv) with respect to such Securities, but, except as specified above, the remainder of this Indenture and such Securities shall be unaffected thereby.

SECTION 10.4. CONDITIONS TO LEGAL OR COVENANT DEFEASANCE

(a) The following shall be the conditions to the application of either Section 10.2 or 10.3 hereof to any Securities or any series of Securities, as the case may be, to be defeased:

(i) the Company shall irrevocably deposit with the Trustee, in trust, for the benefit of the Holders of the Securities as to which Legal Defeasance or Covenant Defeasance will occur, U.S. legal tender, U.S. Government Obligations, a combination thereof, or other obligations as may be provided as contemplated by Section 3.1(15) with respect to such Securities, in such amounts as will be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants, to pay the principal of, premium, if any, and interest on such Securities on the stated date for payment thereof or on the redemption date of such principal or installment of principal of, premium, if any, or interest on such Securities, and the Trustee, for the benefit of the Holders of such Securities, has a valid and perfected security interest in obligations so deposited;

(ii) in the case of Legal Defeasance, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably acceptable to the Trustee confirming that: (A) the Company has received from, or there has been published by the Internal Revenue Service, a ruling or (B) since the date of this Indenture, there has been a change in the

applicable federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the Holders of such Securities will not recognize income, gain or loss for federal income tax purposes as a result of such Legal 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 Legal Defeasance had not occurred;

(iii) in the case of Covenant Defeasance, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably acceptable to such Trustee confirming 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;

(iv) no Default or Event of Default with respect to such Securities shall have occurred and be continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit) and no Default or Event of Default under Section 8.1(v) or Section 8.1(vi) occurs, at any time in the period ending on the 91st day after the date of deposit;

(v) such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under any material agreement or instrument (excluding this Indenture) to which the Company, the Guarantor or any of its Subsidiaries is a party or by which the Company, the Guarantor or any of its Subsidiaries is bound;

(vi) the Company shall have delivered to the Trustee an Officers' Certificate stating that the deposit was not made by the Company with the intent of preferring the Holders of such Securities over any other creditors of the Company or the Guarantor or with the intent of defeating, hindering, delaying or defrauding any other creditors of the Company, the Guarantor or others;

(vii) such Legal Defeasance or Covenant Defeasance shall not result in the trust arising from such deposit constituting an investment company within the meaning of the Investment Company Act of 1940, as amended, unless such trust shall be qualified under such Act or exempt from regulation thereunder; and

(viii) the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that the conditions precedent provided for in, in the case of the Officers' Certificate, (i) through (vi) and, in the case of the Opinion of Counsel, clauses (i) (with respect to the validity and perfection of the security interest), (ii), (iii) and (v) of this paragraph have been complied with.

(a) If the funds deposited with the Trustee to effect Covenant Defeasance are insufficient to pay the principal of, premium, if any, and interest on the Securities to be so defeased when due, then the obligations of the Company under this Indenture with respect to such Securities will be revived and no such defeasance will be deemed to have occurred.

SECTION 10.5. DEPOSITED CASH AND U.S. GOVERNMENT OBLIGATIONS TO BE HELD IN TRUST; OTHER MISCELLANEOUS PROVISIONS

Subject to Section 10.6 hereof, all cash and U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 10.5, the "*Paying Agent*") pursuant to Section 10.4 hereof in respect of any Securities to be defeased shall be held in trust and applied by the Paying Agent, in accordance with the provisions of such Securities and this Indenture, to the payment, either directly or through any other 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, but such money need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. Government Obligations deposited pursuant to Section 10.4 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of such Securities.

SECTION 10.6. REPAYMENT TO THE COMPANY

(a) Anything in this Article X to the contrary notwithstanding, the Trustee or the Paying Agent shall deliver or pay to the Company from time to time upon the request of the Company any cash or U.S. Government Obligations held by it as provided in Section 10.4 hereof which, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 10.4(a) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

(b) Any cash and U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium, if any, or interest on any Securities and remaining unclaimed for two years after such principal, and premium, if any, or interest has become due and payable shall be paid to the Company on its written request; and the Holder of such Security shall thereafter look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money 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 the *New York Times* and *The Wall Street Journal* (national edition), 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 notification or publication, any unclaimed balance of such money then remaining will be repaid to the Company.

SECTION 10.7. REINSTATEMENT

If the Trustee or Paying Agent is unable to apply any cash or U.S. Government Obligations in accordance with Section 10.2 or 10.3 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the obligations of the Company and the Guarantor under this Indenture with

respect to such Securities and Guarantee affected shall be revived and reinstated as though no deposit had occurred pursuant to Section 10.2 or 10.3 hereof until such time as the Trustee or Paying Agent is permitted to apply such money in accordance with Sections 10.2 and 10.3 hereof, as the case may be; *provided, however*, that, if the Company makes any payment of principal of, premium, if any, or interest on any such Security following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Securities to receive such payment from the cash or U.S. Government Obligations held by the Trustee or Paying Agent.

ARTICLE XI

GUARANTEE

SECTION 11.1. GUARANTEE

The Guarantor hereby unconditionally and irrevocably guarantees on a senior unsecured basis to each Holder and to the Trustee and its successors and assigns (a) the full and prompt payment (within applicable grace periods) of principal of and interest on the Securities when due, whether at maturity, by acceleration, by redemption or otherwise, and all other monetary obligations of the Company under this Indenture and the Securities and (b) the full and prompt performance within applicable grace periods of all other obligations of the Company under this Indenture and the Securities (all the foregoing being hereinafter collectively called the "*Guarantee Obligations*"). The Guarantor further agrees that the Guarantee Obligations may be extended or renewed, in whole or in part, without notice or further assent from the Guarantor, and that the Guarantor will remain bound under this Article XI notwithstanding any extension or renewal of any Guarantee Obligation.

The Guarantor waives presentation to, demand of payment from and protest to the Company of any of the Guarantee Obligations and also waives notice of protest for nonpayment. The Guarantor waives notice of any default under the Securities or the Guarantee Obligations. The obligations of the Guarantor hereunder shall not be affected by (a) the failure of any Holder or the Trustee to assert any claim or demand or to enforce any right or remedy against the Company or any other Person under this Indenture, the Securities or any other agreement or otherwise; (b) any extension or renewal of any thereof; (c) any rescission, waiver, amendment or modification of any of the terms or provisions of this Indenture, the Securities or any other agreement; (d) the release of any security held by any Holder or the Trustee for the Guarantee Obligations or any of them; (e) the failure of any Holder or Trustee to exercise any right or remedy against any other guarantor of the Guarantee Obligations; or (f) any change in the ownership of the Guarantor.

The Guarantor further agrees that its Guarantee herein constitutes a guaranty of payment, performance and compliance when due (and not a guaranty of collection) and waives any right to require that any resort be had by any Holder or the Trustee to any security held for payment of the Guarantee Obligations.

To the fullest extent permitted by law, the obligations of the Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason, including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any defense of setoff, counterclaim, recoupment or termination whatsoever or by reason of the invalidity, illegality or unenforceability of the Guarantee Obligations or otherwise. Without limiting the generality of the foregoing, to the fullest extent permitted by law, the obligations of the Guarantor herein shall not be discharged or impaired or otherwise affected by the failure of any Holder or the Trustee to assert any claim or demand or to enforce any remedy under this Indenture, the Securities or any other agreement, by any waiver or modification of any thereof, by any default, failure or delay, willful or otherwise, in the performance of the Guarantee Obligations, or by any other act or thing or omission or delay to do any other act or thing which may or might in any manner or to any extent vary the risk of the Guarantor or would otherwise operate as a discharge of the Guarantor as a matter of law or equity.

The Guarantor further agrees that its Guarantee herein shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of principal of or interest on any Guarantee Obligation is rescinded or must otherwise be restored by any Holder or the Trustee upon the bankruptcy or reorganization of the Company or otherwise.

In furtherance of the foregoing and not in limitation of any other right which any Holder or the Trustee has at law or in equity against the Guarantor by virtue hereof, upon the failure of the Company to pay the principal of or interest on any Guarantee Obligation when and as the same shall become due, whether at maturity, by acceleration, by redemption or otherwise (within applicable grace periods), or to perform or comply with any other Guarantee Obligation (within applicable grace periods), the Guarantor hereby promises to and shall, upon receipt of written demand by the Trustee, forthwith pay, or cause to be paid, in cash, to the Holders or the Trustee an amount equal to the sum of (i) the unpaid principal amount of such Guarantee Obligations, (ii) accrued and unpaid interest on such Guarantee Obligations (but only to the extent not prohibited by law) and (iii) all other monetary Guarantee Obligations of the Company to the Holders and the Trustee.

The Guarantor agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any Guarantee Obligations guaranteed hereby until payment in full of all Guarantee Obligations. The Guarantor further agrees that, as between the Guarantor, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the Guarantee Obligations guaranteed hereby may be accelerated as provided in Article VIII for the purposes of its Guarantee herein, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Guarantee Obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such Guarantee Obligations as provided in Article VIII, such Guarantee Obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantor for the purposes of this Section.

The Guarantor also agrees to pay any and all costs and expenses (including reasonable attorneys' fees and expenses) incurred by the Trustee or any Holder in enforcing any rights under this Section.

Unless otherwise specified with respect to any Security pursuant to Article III, the Guarantee will be senior unsecured obligations of the Guarantor and will rank pari passu in right of payment with all other existing and future senior unsecured obligations of the Guarantor.

SECTION 11.2. LIMITATION ON LIABILITY

Any term or provision of this Indenture to the contrary notwithstanding, the maximum aggregate amount of the obligations guaranteed hereunder by the Guarantor shall not exceed the maximum amount that can be hereby guaranteed without rendering this Indenture, as it relates to the Guarantor, voidable under applicable federal or state law relating to fraudulent conveyance or fraudulent transfer.

SECTION 11.3. EXECUTION AND DELIVERY OF GUARANTEES

The Guarantee to be endorsed on the Securities shall be in the form approved as set forth in Section 2.2 hereof. The Guarantor hereby agrees to execute its Guarantee in such form, to be endorsed on each Security authenticated and delivered by the Trustee.

Each Guarantee shall be executed on behalf of the Guarantor by any one of the Guarantor's Chairman of the Board of Directors, Vice Chairman of the Board of Directors, President, Chief Financial Officer or Vice Presidents. The signature of any or all of these officers on the Guarantee may be manual or facsimile.

A Guarantee bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the Guarantor shall bind the Guarantor, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of the Security on which such Guarantee is endorsed or did not hold such offices at the date of such Guarantee.

Each Guarantee shall be registered, transferred, exchanged and cancelled, and shall be held in definitive or global form, in the same manner and together with, the Security to which it relates, in accordance with Article III.

The delivery of any Security by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Guarantee endorsed thereon on behalf of the Guarantor. The Guarantor hereby jointly and severally agrees that its Guarantee set forth in Section 11.1 shall remain in full force and effect notwithstanding any failure to endorse a Guarantee on any Security.

SECTION 11.4. SUCCESSORS AND ASSIGNS

This Article XI shall be binding upon the Guarantor and its successors and assigns and shall inure to the benefit of the successors and assigns of the Trustee and the Holders, and, in the event of any transfer or assignment of rights by any Holder or the Trustee, the rights and privileges

conferred upon that party in this Indenture and in the Securities shall automatically extend to and be vested in such transferee or assignee, all subject to the terms and conditions of this Indenture.

SECTION 11.5. NO WAIVER, ETC.

Neither a failure nor a delay on the part of either the Trustee or the Holders in exercising any right, power or privilege under this Article XI shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise of any right, power or privilege. The rights, remedies and benefits of the Trustee and the Holders herein expressly specified are cumulative and not exclusive of any other rights, remedies or benefits which either may have under this Article XI at law, in equity, by statute or otherwise.

SECTION 11.6. MODIFICATION, ETC.

No modification, amendment or waiver of any provision of this Article, nor the consent to any departure by the Guarantor therefrom, shall in any event be effective unless (a) the same shall be in writing and signed by the Trustee, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given and (b) the Trustee shall have received any Officer's Certificate or Opinion of Counsel requested under Section 9.2(b). No notice to or demand on the Guarantor in any case shall entitle the Guarantor or any other guarantor to any other or further notice or demand in the same, similar or other circumstances. Notwithstanding anything to the contrary provided herein, no modification, amendment or waiver shall reduce or limit the Guarantee Obligations without the consent of the Holder of each of the Outstanding Securities affected thereby.

ARTICLE XII

AMENDMENTS, SUPPLEMENTS AND WAIVERS

SECTION 12.1. SUPPLEMENTAL INDENTURES WITHOUT CONSENT OF HOLDERS

Without the consent of any Holder of any Securities, the Company and the Guarantor when authorized by Board Resolutions, and the Trustee, at any time and from time to time, may enter into one or more Supplemental Indentures hereto, in form satisfactory to the Trustee, for any of the following purposes:

(1) to cure any ambiguity or to correct or supplement any provision contained herein or in any Supplemental Indenture which may be defective or inconsistent with any other provision contained herein or in any Supplemental Indenture or to make any changes hereto or to any Supplemental Indenture that are required by law;

(2) to add to the covenants of the Company or the Guarantor such further covenants, restrictions or conditions for the benefit of the Holders of Securities of all or any

series (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 that series or those series specified in such Supplemental Indenture), and to make the occurrence, or the occurrence and continuance, of a Default in any such additional covenants, restrictions or conditions a Default or an Event of Default permitting the enforcement of all or any of the several remedies provided in this Indenture as herein set forth (and if such additional Events of Default are to be for the benefit of less than all series of Securities, stating that such additional Events of Default are expressly being included solely for the benefit of that series or those series specified in such Supplemental Indenture); *provided*, *however*, that in respect of any such additional covenant, restriction or condition such Supplemental Indenture may provide for a particular period of grace after Default (which period may be shorter or longer than allowed in the case of other Defaults) or may provide for any immediate enforcement upon such Default or may limit the remedies available to be exercised by the Trustee in its discretion upon such Default but may not limit the remedies available to be exercised by the Holders;

(3) to add to or change any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the issuance of Securities in uncertificated form;

(4) to add to, change or eliminate any of the provisions of this Indenture in respect of one or more series of Securities; *provided* that any such addition, change or elimination (A) shall neither (i) apply to any Security of any series created prior to the execution of such Supplemental Indenture and entitled to the benefit of such provision nor (ii) modify the rights of the Holder of any such Security with respect to such provision or (B) shall become effective only when there is no such Security Outstanding;

(5) to provide for collateral for or guarantors of the Securities of any series;

(6) to evidence the succession of another Person to the Company or the Guarantor, and the assumption by any such successor of the obligations of the Company, herein and in the Securities in accordance with Article VII;

(7) to modify, eliminate or add to the provisions of this Indenture to comply with the TIA;

(8) 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 9.8;

(9) to establish the form or terms of Securities of any series as permitted by Section 2.1 and 3.1;

(10) to add to or change any of the provisions of this Indenture with respect to any Securities that by their terms may be converted into securities or other property other

than Securities of the same series and of like tenor, in order to permit or facilitate the issuance, payment or conversion of such Securities;

(11) to comply with the rules or regulations of any securities exchange or automated quotation system on which any of the Securities may be listed or traded; or

(12) to provide for the payment by the Company of additional amounts in respect of taxes imposed on certain Holders and for the treatment of such additional amounts as interest and for all matters incidental thereto.

Upon the written request of each of the Company and the Guarantor accompanied by a Board Resolution authorizing the execution of any such Supplemental Indenture, and upon receipt by the Trustee of any Officers' Certificate or Opinion of Counsel requested under Section 9.2(b) hereof, the Trustee shall join with the Company and the Guarantor in the execution of any Supplemental Indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to (but may in its discretion) enter into such Supplemental Indenture that affects its own rights, duties, liabilities or immunities under this Indenture or otherwise.

SECTION 12.2. AMENDMENTS, SUPPLEMENTAL INDENTURES AND WAIVERS WITH CONSENT OF HOLDERS

Subject to Section 8.8 hereof, with the consent of the Holders of not less than a majority in aggregate principal amount of the Outstanding Securities of each series affected thereby (including consents obtained in connection with a tender offer or exchange offer for such Securities), by written act of said Holders delivered to the Company and the Trustee, the Company and the Guarantor, when authorized by Board Resolutions, and the Trustee for Securities of each such series may amend or supplement this Indenture or enter into one or more Supplemental Indentures for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of modifying in any manner the rights of the Holders of the Securities of that series under this Indenture or the applicable Securities. Subject to Section 8.8, the Holder or Holders of not less than a majority in aggregate principal amount of the Outstanding Securities of each series may waive compliance by the Company and the Guarantor with any provision of this Indenture or such Securities with respect to such series. Notwithstanding any of the above, however, no such amendment, Supplemental Indenture or waiver shall, without the consent of the Holder of each Outstanding Security affected thereby:

(1) extend 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, or reduce the amount of the principal of an Original Issue Discount Security or any other Security which would be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 8.2, or change any Place of Payment where, or the coin or currency in which, any such Security 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);

(2) reduce the percentage in principal amount of the Outstanding Securities of any series, the consent of whose Holders is required for any such amendment, Supplemental Indenture or waiver provided for in this Indenture;

(3) modify any of the provisions of this Section or Section 8.12, except to increase any required percentage or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each outstanding Security affected thereby; *provided, however*, that this clause shall not be deemed to require the consent of any Holder with respect to changes in the references to "the Trustee" and concomitant changes in this Section, or the deletion of this proviso, in accordance with the requirements of Sections 9.8 and 11.1(8);

(4) cause such Security to become subordinate in right of payment to any other Debt, except to the extent provided in the terms of such Security; or

(5) if any Security provides that the Holder may require the Company to repurchase or convert such Security, impair such Holder's right to require repurchase or conversion of such Security on the terms provided therein.

A Supplemental Indenture which changes or eliminates any covenant or other provision of this Indenture which has expressly been included solely for the benefit of one or more particular series of Securities, or which modifies the rights of the Holders of Securities of that series with respect to 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.

Upon the written request of each of the Company and the Guarantor accompanied by a Board Resolution authorizing the execution of any such amendment or supplement to this Indenture or of any such Supplemental Indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders as aforesaid, and upon receipt by the Trustee of any Officers' Certificate or Opinion of Counsel requested under Section 9.2(b) hereof, the Trustee shall join with the Company and the Guarantor in the execution of such amendment or supplement to this Indenture or of such Supplemental Indenture, but the Trustee shall not be obligated to (but may in its discretion) enter into any such amendment or supplement to this Indenture or any such Supplemental Indenture that affects its own rights, duties, liabilities or immunities under this Indenture or otherwise.

It shall not be necessary for the consent of the Holders under this Section 12.2 to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if such consent approves the substance thereof.

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

After an amendment, supplement or waiver under this Section 12.2 or under Section 12.4 hereof becomes effective, it shall bind each Holder.

In connection with any amendment, supplement or waiver under this Article XII, the Company may, but shall not be obligated to, offer to any Holder who consents to such amendment, supplement or waiver, or to all Holders, consideration for such Holder's consent to such amendment, supplement or waiver.

SECTION 12.3. COMPLIANCE WITH TIA

Every amendment, waiver or supplement of this Indenture or the Securities shall comply with the TIA as then in effect.

SECTION 12.4. REVOCATION AND EFFECT OF CONSENTS

Until an amendment, waiver or supplement becomes effective with respect to any Security of any series, a consent to it by a Holder of that series is a continuing consent by such Holder and every subsequent Holder of such Security or portion of such Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent is not made on any such Security. However, any such Holder or subsequent Holder may revoke the consent as to such Security or portion of such Security by written notice to the Company or the Person designated by the Company as the Person to whom consents should be sent if such revocation is received by the Company or such Person before the date on which the Trustee receives an Officers' Certificate certifying that the Holders of the requisite principal amount of the Outstanding Securities affected have consented (and not theretofore revoked such consent) to the amendment, supplement or waiver.

The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment, supplement or waiver, which record date shall be the date so fixed by the Company notwithstanding the provisions of the TIA. If a record date is fixed, then notwithstanding the last sentence of the immediately preceding paragraph, those Persons who were Holders at such record date, and only those Persons (or their duly designated proxies), shall be entitled to revoke any consent previously given, whether or not such Persons continue to be Holders after such record date.

After an amendment, supplement or waiver becomes effective, it shall bind every Holder of the Security of the affected series, unless it makes a change described in any of clauses (1) through (5) of Section 12.2 hereof, in which case, the amendment, supplement or waiver shall bind only each Holder of a Security of that series who has consented to it and every subsequent Holder of such Security or portion of such Security that evidences the same debt as the consenting Holder's Security; *provided* that any such waiver shall not impair or affect the right of any Holder of that series to receive payment of principal and premium of and interest on such Security, on or after the respective dates set for such amounts to become due and payable expressed in such Security, or to bring suit for the enforcement of any such payment on or after such respective dates.

SECTION 12.5. NOTATION ON OR EXCHANGE OF SECURITIES

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 an amendment, supplement or waiver changes the terms of a Security of any series or of a Guarantee, the Trustee may require such Holder of the Security of that series or of the Guarantee to deliver it to the Trustee or require such Holder to put an appropriate notation on such Security or Guarantee. The Trustee may place an appropriate notation on such Security or Guarantee about the changed terms and return it to such Holder. Alternatively, if the Company or the Trustee so determines, the Company in exchange for the affected Security or Guarantee shall issue and the Trustee shall authenticate a new Security of the same series or a new Guarantee that reflects the changed terms. Any failure to make the appropriate notation or to issue a new Security or Guarantee shall not affect the validity of such amendment, supplement or waiver.

SECTION 12.6. TRUSTEE TO SIGN AMENDMENTS, ETC.

The Trustee shall execute any amendment, supplement or waiver authorized pursuant to this Article XII; *provided* that the Trustee may, but shall not be obligated to, execute any such amendment, supplement or waiver which affects the Trustee's own rights, liabilities, duties or immunities under this Indenture. The Trustee shall be entitled to receive, and shall be fully protected in relying upon an Officers' Certificate and an Opinion of Counsel stating that the execution of any amendment, supplement or waiver authorized pursuant to this Article XII is authorized or permitted by this Indenture.

ARTICLE XIII

MISCELLANEOUS

SECTION 13.1. TIA CONTROLS

If any provision of this Indenture limits, qualifies, or conflicts with the duties imposed by operation of the TIA, the imposed duties, upon qualification of this Indenture under the TIA, shall control. If any provision of this Indenture modifies or excludes any provision of the TIA which may be so modified or excluded, the latter provision shall be deemed to apply to this Indenture as so modified or to be excluded, as the case may be.

SECTION 13.2. FORM OF DOCUMENTS 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 certificate or opinion 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, or representation by, 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 with respect 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 13.3. ACTS OF HOLDERS; RECORD DATES

Any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Indenture to be given, made or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company or the Guarantor, as applicable. 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 (subject to Section 9.1) conclusive in favor of the Trustee and the Company or the Guarantor, as applicable, if made in the manner provided in this Section.

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 manner which the Trustee deems sufficient.

The ownership of the Securities related book entries shall be proved by the Security Register.

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, the Company or the Guarantor in reliance thereon, whether or not notation of such action is made upon such Security.

The Company may set any day as a record date for the purpose of determining the Holders of Outstanding Securities of any series entitled to give, make or take any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Indenture to be given, made or taken by Holders of Securities of that series; *provided* that the Company may not set a record date for, and the provisions of this paragraph shall not apply with respect to, the giving or making of any notice, declaration, request or direction referred to in the next paragraph. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities of the relevant series on such record date, and no other Holders, shall be entitled to take the relevant action, whether or not such Holders remain Holders after such record date; *provided* that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite principal amount of Outstanding Securities of that series on such record date. Nothing in this paragraph shall be construed to prevent the Company from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be canceled and of no effect), and nothing in this paragraph shall be construed to render ineffective any action taken by Holders of the requisite principal amount of Outstanding Securities of the relevant series on the date such action is taken. Promptly after any record date is set pursuant to this paragraph, the Company, at its own expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Trustee in writing and to each Holder of Securities of the relevant series in the manner set forth in Section 13.4.

The Trustee may set any day as a record date for the purpose of determining the Holders of Outstanding Securities of any series entitled to join in the giving or making of (i) any notice of default pursuant to Section 9.5, (ii) any declaration of acceleration referred to in Section 8.2, (iii) any request to institute proceedings referred to in Section 8.7(B) or (iv) any direction referred to in Section 8.11, in each case with respect to Securities of that series. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities of that series on such record date, and no other Holders, shall be entitled to join in such notice, declaration, request or direction, whether or not such Holders remain Holders after such record date; *provided* that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite principal amount of Outstanding Securities of that series on such record date. Nothing in this paragraph shall be construed to prevent the Trustee from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be canceled and of no effect), and nothing in this paragraph shall be construed to render ineffective any action taken by Holders of the requisite principal amount of Outstanding Securities of the relevant series on the date such action is taken. Promptly after any record date is set pursuant to this paragraph, the Trustee, at the Company's expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Company in writing and to each Holder of Securities of the relevant series in the manner set forth in Section 13.4.

With respect to any record date set pursuant to this Section, the party hereto which sets such record dates may designate any day as the "*Expiration Date*" and from time to time may change the Expiration Date to any earlier or later day; *provided* that no such change shall be effective unless notice of the proposed new Expiration Date is given to the other party hereto in writing, and to each

Holder of Securities of the relevant series in the manner set forth in Section 13.4, on or prior to the existing Expiration Date. If an Expiration Date is not designated with respect to any record date set pursuant to this Section, the party hereto which set such record date shall be deemed to have initially designated the 180th day after such record date as the Expiration Date with respect thereto, subject to its right to change the Expiration Date as provided in this paragraph. Notwithstanding the foregoing, no Expiration Date shall be later than the 180th day after the applicable record date.

Without limiting the foregoing, a Holder entitled hereunder to take any action hereunder with regard to any particular Security may do so with regard to all or any part of the principal amount of such Security or by one or more duly appointed agents each of which may do so pursuant to such appointment with regard to all or any part of such principal amount.

SECTION 13.4. NOTICES

Any notices or other communications required or permitted hereunder shall be in writing, and shall be sufficiently given if made by hand delivery, by telex, by telecopier, recognized overnight courier or registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

if to the Company:

Mohawk Capital Luxembourg S.A.
10B, rue des Mérovingiens
L-8070 Bertrange
Grand Duchy of Luxembourg
R.C.S. Luxembourg: B 198.756
Attn: Principal Financial Officer
Telecopy: [ ]

with a copy to:

Alston & Bird LLP
One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309
Attention: Paul J. Nozick
Telecopy: 404-253-8253

if to the Guarantor:

Mohawk Industries, Inc.
160 S. Industrial Blvd.
Calhoun, Georgia 30701
Attention: Treasurer
Telecopy: 706-625-3851

with a copy to:

Alston & Bird LLP
One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309
Attention: Paul J. Nozick
Telecopy: 404-253-8253

if to the Trustee:

U.S. Bank National Association
Global Corporate Trust Services
1349 West Peachtree Street, N.W.
Atlanta, Georgia 30309
Attention: George Hogan
Telecopy: 404-898-2467

Any party by notice to each other party may designate additional or different addresses as shall be furnished in writing by such party. Any notice or communication to any party shall be deemed to have been given or made as of the date so delivered, if personally delivered; when answered back, if telexed; when receipt is acknowledged, if telecopied; the next Business Day after timely delivery to a recognized overnight courier, if sent by such courier guaranteeing next day delivery; and five Business Days after mailing if sent by registered or certified mail, postage prepaid (except that a notice of change of address shall not be deemed to have been given until actually received by the addressee).

Any notice or communication mailed to a Holder shall be mailed to it by first class mail or other equivalent means at its address as it appears on the registration books of the Registrar and shall be sufficiently given to such Holder if so mailed within the time prescribed.

Where this Indenture provides for Notice of any event to a Holder of a Global Security, such notice shall be sufficiently given if given to the Depositary or its nominee for such Security (or its designee), pursuant to its Applicable Procedures, not later than the latest date (if any), and not earlier than the earliest date (if any), prescribed for the giving of such notice.

Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

SECTION 13.5. COMMUNICATIONS BY HOLDERS WITH OTHER HOLDERS

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

SECTION 13.6. CERTIFICATE AND OPINION AS TO CONDITIONS PRECEDENT

Upon any request or application by the Company or the Guarantor to the Trustee to take any action under this Indenture, the Company or the Guarantor shall furnish to the Trustee:

(1) an Officers' Certificate (in form and substance reasonably satisfactory to the Trustee and which shall include the statements required by Section 13.7 hereof) stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(2) an Opinion of Counsel (in form and substance reasonably satisfactory to the Trustee and which shall include the statements required by Section 13.7 hereof) stating that, in the opinion of such counsel (who may rely on an Officers' Certificate and certificates of public officials as to matters of fact), all such conditions precedent have been complied with.

SECTION 13.7. STATEMENTS REQUIRED IN CERTIFICATE OR OPINION

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

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

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

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

(4) a statement as to whether or not, in the opinion of each such Person, such condition or covenant has been complied with; *provided*, *however*, that, with respect to matters of fact, an Opinion of Counsel may rely on an Officers' Certificate or certificates of public officials.

SECTION 13.8. RULES BY TRUSTEE, PAYING AGENT, REGISTRAR

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

SECTION 13.9. LEGAL HOLIDAYS

Unless otherwise provided as contemplated by Section 3.1 with respect to Securities of any series, in any case where any Interest Payment Date, Redemption Date, Maturity of any Security, Stated Maturity or any date on which a Holder has the right to convert his Security, shall not be a Business Day at any Place of Payment, then (notwithstanding any other provision of this Indenture

or of the Securities (other than a provision of any Security which specifically states that such provision shall apply in lieu of this Section)) payment of interest or principal (and premium, if any), or conversion of such Security 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 the Interest Payment Date or Redemption Date, or at the Maturity or the Stated Maturity, or on such date for conversion, as the case may be and no interest shall accrue for the intervening period.

SECTION 13.10. GOVERNING LAW

(a) THIS INDENTURE, THE SECURITIES AND THE GUARANTEE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, AS APPLIED TO CONTRACTS MADE AND PERFORMED WITHIN THE STATE OF NEW YORK, INCLUDING, WITHOUT LIMITATION, SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW AND RULE 327(b) OF THE NEW YORK CIVIL PRACTICE LAWS AND RULES.

(b) For the avoidance of doubt, the application of articles 85 to 94-8 of Luxembourg law dated 10th August, 1915 on commercial companies, as amended, shall be excluded in relation to the issuance of any of the Securities.

(c) Each party hereto irrevocably and unconditionally submits to the jurisdiction of the Supreme Court of the State of New York sitting in the Borough of Manhattan, New York County and of the United States District Court of the Southern District of New York sitting in the Borough of Manhattan, and any appellate court from any jurisdiction thereof, in any action or proceeding arising out of or relating to this Indenture or the Guarantee, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each party hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Indenture shall affect any right that any party hereto may otherwise have to bring any action or proceeding relating to this Indenture against any party hereto or its properties in the courts of any jurisdiction.

(d) Each party hereto irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Indenture in any court referred to in Section 13.10(c) above. Each party hereto irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(e) Each party hereto irrevocably consents to service of process in the manner provided for notices in Section 13.4 hereof, such service to be effective upon receipt. Nothing in this Indenture will affect the right of any party hereto to serve process in any other manner permitted by law.

SECTION 13.11. WAIVER OF JURY TRIAL

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

SECTION 13.12. WAIVER OF IMMUNITY

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

SECTION 13.13. JUDGMENT CURRENCY

(a) If, for the purpose of obtaining or enforcing judgment against any non-U.S. party to this Indenture in any court in any jurisdiction, it becomes necessary to convert into any other currency (such other currency being hereinafter in this Section 13.13 referred to as the "*Judgment Currency*") an amount due hereunder in any currency (the "*Obligation Currency*") other than the Judgment Currency, the conversion shall be made at the rate of exchange prevailing on the Business Day immediately preceding the date of actual payment of the amount due, in the case of any proceeding in the courts of any other jurisdiction that will give effect to such conversion being made on such date, or the date on which the judgment is given, in the case of any proceeding in the courts of any other jurisdiction (the applicable date as of which such conversion is made pursuant to this Section 13.13 being hereinafter in this Section 13.13 referred to as the "*Judgment Conversion Date*").

(b) If, in the case of any proceeding in the court of any jurisdiction referred to in Section 13.13(a) above, there is a change in the rate of exchange prevailing between the Judgment Conversion Date and the date of actual receipt for value of the amount due, each applicable non-U.S. party shall pay such additional amount (if any, but in any event not a lesser amount) as may be necessary to ensure that the amount actually received in the Judgment Currency, when converted at the rate of exchange prevailing on the date of payment, will produce the amount of the Obligation Currency which could have been purchased with the amount of the Judgment Currency stipulated in the judgment or judicial order at the rate of exchange prevailing on the Judgment Conversion Date. Any amount due from any non-U.S. party under this Section 13.13(b) shall be due as a separate debt and shall not be affected by judgment being obtained for any other amounts due under or in respect of the Indenture.

(c) The term "rate of exchange" in this Section 13.13(c) means the 10 a.m. (New York City time) spot rate as posted by the Federal Reserve Bank of New York for sales of the Obligation Currency against the Judgment Currency.

SECTION 13.14. NO ADVERSE INTERPRETATION OF OTHER AGREEMENTS

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

SECTION 13.15. NO RECOURSE AGAINST OTHERS

No direct or indirect stockholder, employee, officer or director, as such, past, present or future, of the Company, the Guarantor or any successor entity of either of them shall have any personal liability in respect of the obligations of the Company or the Guarantor under this Indenture, the Securities or the Guarantee solely by reason of his or its status as such stockholder, employee, officer or director. Each Holder by accepting a Security waives and releases all such liability. The waiver and release are part of the consideration for the issuance of any Security or any Guarantee.

SECTION 13.16. SUCCESSORS

All agreements of each of the Company or the Guarantor in this Indenture and any Security shall bind its successor. All agreements of the Trustee in this Indenture shall bind its successor.

SECTION 13.17. DUPLICATE ORIGINALS

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

SECTION 13.18. SEVERABILITY

In case any one or more of the provisions in this Indenture or in any Security shall be held invalid, illegal or unenforceable, in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions shall not in any way be affected or impaired thereby, it being intended that all of the provisions hereof shall be enforceable to the full extent permitted by law.

SECTION 13.19. TABLE OF CONTENTS, HEADINGS, ETC.

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

SIGNATURES

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

MOHAWK CAPITAL LUXEMBOURG S.A.

By: _____
Name:
Title: Class A Director

By: _____
Name:
Title: Class B Director

MOHAWK INDUSTRIES, INC.

By: _____
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Name:
Title:

Exhibit 4.7

MOHAWK CAPITAL LUXEMBOURG S.A.,
as Issuer,

MOHAWK INDUSTRIES, INC.,
as Guarantor
and

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

_____

FORM OF SENIOR SUBORDINATED INDENTURE

Dated as of [ ], 20[ ]

_____

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_____

N.A. means Not Applicable

Note: This Cross-Reference Table shall not, for any purpose, be deemed to be a part of this Indenture.

Exhibit 4.7

SENIOR SUBORDINATED INDENTURE, dated as of [ ], 20[ ], by and among Mohawk Capital Luxembourg S.A., a Luxembourg company having its registered office at 10B, rue des Mérovingiens, L-8070 Bertrange, registered with the Luxembourg Trade and Companies' Register under number B 198.756 (the "*Company*"), Mohawk Industries, Inc., a Delaware corporation (the "*Guarantor*"), and U.S. Bank National Association, a national banking association, as trustee (the "*Trustee*").

The Company has duly authorized the execution and delivery of this Indenture to provide for the issuance from time to time of its unsecured debentures, notes or other evidences of indebtedness, to be issued in one or more series as in this Indenture provided.

The Guarantor has duly authorized the execution and delivery of this Indenture to make the Guarantee provided herein.

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

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

For and in consideration of the premises and the purchase of the Securities by the Holders thereof, it is mutually agreed, for the equal and proportionate benefit of all Holders of the Securities or of series thereof, as follows:

ARTICLE I

DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.1. DEFINITIONS

"*Acceleration Notice*" shall have the meaning specified in Section 8.2.

"*Act*", when used with respect to any Holder, has the meaning specified in Section 14.3.

"*Affiliate*" means any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or another specified Person. For purposes of this definition, the term "control" means the power to direct the management and policies of a Person, directly or through one or more intermediaries, whether through the ownership of voting securities, by contract, or otherwise.

"*Agent*" means any Registrar, Paying Agent or co-Registrar.

"*Applicable Procedures*" of a Depositary means, with respect to any matter at any time, the policies and procedures of such Depositary, if any, that are applicable to such matter at such time.

"*Bankruptcy Law*" means Title 11, U.S. Code, or any similar Federal, state or foreign law for the relief of debtors.

"*Beneficial Owner*" or "*beneficial owner*" for purposes of the definition of Affiliate has the meaning attributed to it in Rules 13d-3 and 13d-5 under the Exchange Act, whether or not applicable; the term "beneficial ownership" shall have a corresponding meaning.

"*Board of Directors*" means the board of directors of the Company or the Guarantor, as the case may be, or any duly authorized committee of the board of directors of the Guarantor.

"*Board Resolution*" means (i) in the case of the Company, a copy of a resolution certified by the chairman of the Board of Directors or by any two members of the Board of Directors or (ii) in the case of the Guarantor, a copy of a resolution certified by the Secretary or an Assistant Secretary of the Guarantor, in each case, to have been duly adopted by the Board of Directors of the Company or the Guarantor, as applicable, 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, means each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in that Place of Payment are authorized or obligated by law or executive order to close; *provided* that, when used with respect to any Security, "Business Day" may have such other meaning, if any, as may be specified for such Security as contemplated by Section 3.1.

"*Cash*" or "*cash*" means such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public or private debts.

"*Code*" means the Internal Revenue Code of 1986, as amended.

"*Company*" means the Person named as such in the first paragraph of this Indenture until a successor Person shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Company" means such successor.

"*Company Request*" or "*Company Order*" means, respectively, a written request or order signed in the name of the Company by an Officer and delivered to the Trustee from time to time.

"*Consolidated Subsidiary*" means a Subsidiary of the Company whose financial statements are consolidated with those of the Company in accordance with GAAP.

"*Corporate Trust Office*" means the principal office of the Trustee at which at any time its corporate trust business shall be administered, which office at the date hereof is located at Two Midtown Plaza, 1349 Peachtree Street, N.W., Suite 1050, Atlanta, Georgia 30309, Attention: Global Corporate Trust Services, or such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the principal corporate trust office of any successor Trustee (or such other address as a successor Trustee may designate from time to time by notice to the Holders and the Company).

"*Covenant Defeasance*" shall have the meaning specified in Section 10.3.

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

"*Debt*" means, at any time, all obligations of the Company and each Consolidated Subsidiary, to the extent such obligations would appear as a liability upon the consolidated balance sheet of the Company and the Consolidated Subsidiaries, in accordance with GAAP, (1) for borrowed money, (2) evidenced by bonds, debentures, notes or other similar instruments, and (3) in respect of any letters of credit supporting any Debt of others, and all guarantees by the Company or any Consolidated Subsidiary of Debt of others.

"*Default*" means any event that is or with the passage of time or the giving of notice or both would be an Event of Default.

"*Defaulted Interest*" shall have the meaning specified in Section 3.9.

"*Depositary*" means, with respect to Securities of any series issuable in whole or in the form of one or more Global Securities, a clearing agency registered under the Exchange Act or other applicable law or regulation that is designated to act as the Depositary for such Securities as contemplated by Section 3.1, until a successor shall have been appointed and become such pursuant to the applicable provision of this Indenture, and, thereafter, "Depositary" shall mean or include such successor.

"*Event of Default*" shall have the meaning specified in Section 8.1.

"*Exchange Act*" means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

"*Expiration Date*" has the meaning specified in Section 14.3.

"*GAAP*" means United States generally accepted accounting principles as of the date of any computation required hereunder. All ratios and computations based on GAAP contained in this Indenture shall be computed in conformity with GAAP.

"*Global Security*" means a Security that evidences all or part of the Securities of any series and bears the legend set forth in Section 2.3 (or such legend as may be specified as contemplated by Section 3.1 for such Securities).

"*guarantee*" means, as applied to any obligation, (i) a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner, of any part or all of such obligation and (ii) an agreement, direct or indirect, contingent or otherwise, the practical effect of which is to assure in any way the payment or performance (or payment of damages in the event of nonperformance) of all or any part of such obligation, including, without limiting the foregoing, the payment of amounts available to be drawn down under letters of credit of another Person. The term "guarantee" used as a verb has a corresponding meaning. The term "guarantor" shall mean any Person providing a guarantee of any obligation.

"*Guarantee*" means each guarantee of the Securities contained in Article XI given by the Guarantor.

"*Guarantee Obligations*" shall have the meaning specified in Section 11.1.

"*Guarantor*" means the Person named as "Guarantor" in the first paragraph of this instrument, each successor Guarantor or any other Person who becomes a Guarantor in accordance with the terms of this Indenture.

"*Holder*" means a Person in whose name a Security is registered in the Security Register.

"*Indenture*" means this instrument as originally executed and as it may from time to time be supplemented or amended by one or more Supplemental Indentures, including, for all purposes of this instrument and any such Supplemental Indenture, the provisions of the Trust Indenture Act that are deemed to be a part of and govern this instrument and any such Supplemental Indenture, respectively. The term "Indenture" shall also include the terms of particular series of Securities established as contemplated by 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 due date of an installment of interest on such Security.

"*Judgment Conversion Date*" shall have the meaning specified in Section 14.13(a).

"*Judgment Currency*" shall have the meaning specified in Section 14.14(a).

"*Legal Defeasance*" shall have the meaning specified in Section 10.2.

"*Lien*" means any mortgage, pledge, hypothecation, encumbrance, security interest, statutory or other lien, or preference, priority or other security or similar agreement or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement having substantially the same economic effect as any of the foregoing).

"*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.

"*Maximum Interest Rate*" shall have the meaning specified in Section 3.13.

"*Obligation Currency*" shall have the meaning specified in Section 14.13(a).

"*Officer*" means (i) with respect to the Company, any authorized signatory of the Company, including as the case may be the Chief Executive Officer, the President, any Vice President, the Chief Financial Officer, the Treasurer, the Controller, the General Counsel or the Secretary of the Company, if any, an (ii) with respect to the guarantor, the Chief Executive Officer, the President,

any Vice President, the Chief Financial Officer, the Treasurer, the Controller, the General Counsel or the Secretary of the Guarantor or any authorized signatory of the Guarantor, designated in an Officers' Certificate and delivered to the Trustee.

"Officers' Certificate" means a certificate signed by two Officers or by an Officer and an Assistant Secretary of the Company or the Guarantor, as the case may be, delivered to the Trustee from time to time and otherwise complying with the requirements of Sections 14.6 and 14.7, if applicable.

"*Opinion of Counsel"* means a written opinion from legal counsel who is reasonably acceptable to the Trustee and, if applicable, complying with the requirements of Sections 14.6 and 14.7.

"*Original Issue Discount Security"* means any Security which provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 8.2.

"*Outstanding"*, when used with respect to Securities or Securities of any series, means, as of the date of determination, all such Securities theretofore authenticated and delivered under this Indenture, except:

(1) such Securities theretofore canceled by the Trustee or delivered to the Trustee for cancellation;

(2) such Securities 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 provision therefor satisfactory to the Trustee has been made;

(3) such Securities as to which Legal Defeasance has been effected pursuant to Section 10.2;

(4) such Securities which have been paid pursuant to Section 3.8 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; and

(5) such Securities as to which any property deliverable upon conversion thereof has been delivered (or such delivery has been duly provided for), or as to which any other particular conditions have been satisfied, in each case as may be provided for such Securities as contemplated in Section 3.1;

provided, however, that in determining whether the Holders of the requisite principal amount of the Outstanding Securities have given, made or taken any request, demand, authorization, direction, notice, consent, waiver or other action hereunder as of any date, (A) the principal amount of an Original Issue Discount Security which shall be deemed to be Outstanding shall be the amount of the principal thereof which would be due and payable as of such date upon acceleration of the Maturity thereof to such date pursuant to Section 8.2, (B) if, as of such date, the principal amount payable at the Stated Maturity of a Security is not determinable, the principal amount of such Security which shall be deemed to be Outstanding shall be the amount as specified or determined as contemplated by Section 3.1, (C) the principal amount of a Security denominated in one or more foreign currencies, composite currencies or currency units which shall be deemed to be Outstanding shall be the U.S. dollar equivalent, determined as of such date in the manner provided as contemplated by Section 3.1, of the principal amount of such Security (or, in the case of a Security described in Clause (A) or (B) above, of the amount determined as provided in such clause), and (D) 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 relying upon any such request, demand, authorization, direction, notice, consent, waiver or other action, only Securities which a Trust Officer of the Trustee actually 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*" shall have the meaning specified in Section 3.6.

"*Person*" or "*person*" means any corporation, individual, limited liability company, joint stock company, joint venture, partnership, unincorporated association, governmental regulatory entity, country, state or political subdivision thereof, trust, municipality or other entity.

"*Place of Payment*", when used with respect to the Securities of any series and subject to Section 3.6 and Section 6.2, means the place or places where the principal of and any premium and interest on the Securities of that series 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 3.8 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.

"*Principal*" of any Debt means the principal amount of such Debt as of any date of determination.

"*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, means the price at which it is to be redeemed pursuant to this Indenture.

"*Registrar*" shall have the meaning specified in Section 3.6.

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

"*Regulation S-X*" means Regulation S-X promulgated under the Securities Act, as it may be amended from time to time, and any successor provision thereto.

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

"*Securities*" means unsecured debentures, notes, related book entries or other evidences of indebtedness of any series, as the case may be, issued by the Company from time to time, and authenticated and delivered under this Indenture.

"*Securities Act*" means the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

"*Securities Custodian*" means the Trustee, as custodian with respect to the Global Securities, or any successor entity thereto.

"*Security Register*" shall have the meaning specified in Section 3.6.

"*Senior Indebtedness*" of the Company or the Guarantor, as the case may be, with respect to any series of Securities issued hereunder means the principal of, premium, if any, interest on, and any other payment due pursuant to any of the following, whether outstanding at the date hereof or hereafter incurred or created:

(i) all indebtedness of such Person for borrowed money (including any indebtedness secured by a mortgage, conditional sales contract or other lien which is (a) given to secure all or part of the purchase price of property subject thereto, whether given to the vendor of such property or to another or (b) existing on property at the time of acquisition thereof);

(ii) all indebtedness of such Person evidenced by notes, debentures, bonds or other similar interests sold by such Person for money;

(iii) all lease obligations of such Person which are capitalized on the books of such Person in accordance with generally accepted accounting principles;

(iv) all indebtedness of others of the kinds described in either of the preceding clauses (i) or (ii) and all lease obligations of others of the kind described in the preceding clause (iii) assumed by or guaranteed in any manner by such Person or in effect guaranteed by such Person through an agreement to purchase, contingent or otherwise; and

(vi) all renewals, extensions or refundings of indebtedness of the kinds described in any of the preceding clauses (i), (ii) and (iv) and all renewals or extensions of lease obligations of the kinds described in either of the preceding clauses (iii) and (iv);

unless, in the case of any particular indebtedness, guarantee, lease, renewal, extension or refunding, the instrument or lease creating or evidencing the same or the assumption or guarantee of the same expressly provides that such indebtedness, lease, renewal, extension or refunding is not superior in right of payment to the Securities or the Guarantees, as the case may be.

"*Special Record Date"* for the payment of any Defaulted Interest means a date fixed by the Trustee pursuant to Section 3.9.

"*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.

"*Subordinated Indebtedness*" means, with respect to a Person, Indebtedness of such Person (whether outstanding on the Issue Date or thereafter incurred) which is subordinate or junior in right of payment to the, Senior Indebtedness, Securities or a Guarantee of the Securities by such Person, as the case may be, pursuant to a written agreement to that effect as provided in article XII.

"*Subsidiary"* means any Person of which the Guarantor, or the Guarantor and one or more Subsidiaries, or any one or more Subsidiaries, directly or indirectly own more than 50% of the Voting Stock.

"*Supplemental Indenture"* means an indenture supplemental to this Indenture, which supplements, amends or modifies this Indenture and is entered into by the parties to this Indenture as provided in Article XIII.

"*TIA"* means the Trust Indenture Act of 1939, as amended, (15 U.S. Code §§ 77aaa-77bbbb) as in effect on the date of the execution of this Indenture; *provided*, *however*, that if the Trust Indenture Act of 1939 is amended after the date hereof, the term "TIA" shall mean, to the extent required by such amendment, the Trust Indenture Act of 1939 as so amended.

"*Trust Officer"* means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject.

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

"*U.S. Government Obligations*" means direct non-callable obligations of, or noncallable obligations guaranteed by, the United States of America for the payment of which obligation or guarantee the full faith and credit of the United States of America is pledged.

"*Voting Stock*" means outstanding shares of capital stock or similar equity interests having under ordinary circumstances voting power for the election of directors, managers or the substantial equivalent thereof whether at all times or only so long as no senior class of stock or similar equity interest has such voting power by reason of the happening of any contingency.

SECTION 1.2. INCORPORATION BY REFERENCE OF TIA

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

"*Commission*" means the SEC.

"*indenture securities*" means the Securities.

"*indenture security holder*" means a Holder.

"*indenture to be qualified*" means this Indenture.

"*indenture trustee*" or "*institutional trustee*" means the Trustee.

"*obligor*" on the indenture securities means the Company, the Guarantor and any other obligor on any Security.

All other terms used in this Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by SEC rule and not otherwise defined herein have the meanings assigned to them thereby.

SECTION 1.3. RULES OF CONSTRUCTION

Unless the context otherwise requires:

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

(2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(3) "or" is not exclusive;

(4) "including" means including, without limitation;

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

(6) provisions apply to successive events and transactions;

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

(8) references to Sections or Articles means reference to such Section or Article in this Indenture, unless stated otherwise.

ARTICLE II

SECURITY FORMS

SECTION 2.1. FORMS GENERALLY

All Securities and all Guarantees shall have 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 Depositary therefor or as may, consistently herewith, be determined by the Officers executing such Securities and Guarantees, as evidenced by their execution thereof. The definitive Securities and Guarantees shall be printed, typewritten, lithographed or engraved or produced by any combination of these methods on any type of paper, or may be produced in any other manner permitted by the rules of any securities exchange all as determined by the Officers executing such Securities and Guarantees, as evidenced by their execution of such Securities and Guarantees.

SECTION 2.2. FORM OF SECURITIES AND GUARANTEES

Each Security in a series and each Guarantee shall be in a form approved by or pursuant to a Supplemental Indenture hereto and a Board Resolution or by an Officer or Officers pursuant to authority delegated to that Officer or those Officers pursuant to a Board Resolution. If the form of the Securities of a series and the related Guarantee is not prescribed by the Supplemental Indenture relating to that series, upon or prior to the delivery to the Trustee for authentication of the first Security to be issued of that series, the Company shall deliver to the Trustee, the Board Resolution by or pursuant to which such form of the Security for that series and the related Guarantee has been approved, which Board Resolution shall have attached thereto a copy of the form of the Security and related Guarantee approved, or a certificate of an Officer, attested to by the Secretary or an Assistant Secretary of the Company, certifying that an Officer, acting pursuant to delegated authority from the Board of Directors, approved the form of the Securities of that series and the related Guarantee and attaching a copy of the form of the Security approved and related Guarantee and a true and complete copy of the resolutions of the Board of Directors delegating authority to that Officer to approve the form of Securities and related Guarantee. If temporary Securities of any series are issued in global form as permitted by Section 3.4, the form thereof also shall be established as provided in this Section 2.2.

SECTION 2.3. GLOBAL SECURITIES

If Securities of a series are issuable in whole or in part in global form, as contemplated by Section 3.1, then, notwithstanding Section 3.1 and Section 3.2, such Global Security shall represent such of the Outstanding Securities of that series as shall be specified in such Global Security and may provide that it shall represent the aggregate amount of Outstanding Securities from time to time endorsed thereon and that the aggregate amount of Outstanding Securities represented thereby may from time to time be reduced or increased to reflect exchanges or partial redemptions or increased to reflect the issuance of additional uncertificated Securities of that series. Any endorsement of a Global Security to reflect the amount, or any increase or decrease in the amount, of Outstanding Securities of a series represented thereby shall be made in such manner and upon instructions given by such Person or Persons as shall be specified therein or in the Company Order to be delivered to the Trustee pursuant to Section 3.3.

Unless otherwise specified as contemplated by Section 3.1 for the Securities evidenced thereby, every Global Security authenticated and delivered hereunder shall bear a legend in substantially the following form:

> THIS SECURITY IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE OF A DEPOSITARY. THIS SECURITY IS EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITARY OR ITS NOMINEE ONLY IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE AND MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY.
>
> UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE [OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”),] TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF [CEDE & CO.] OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE [OF DTC] (AND ANY PAYMENT IS TO BE MADE TO [CEDE & CO.] OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE [OF DTC]), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, [CEDE & CO.], HAS AN INTEREST HEREIN.

SECTION 2.4. FORM OF TRUSTEE’S CERTIFICATE OF AUTHENTICATION

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

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

U.S. Bank National Association,
as Trustee

Dated: By: _____
Authorized Signatory

ARTICLE III

THE SECURITIES

SECTION 3.1. AMOUNT UNLIMITED; ISSUABLE IN SERIES

The aggregate principal amount of Securities which may be authenticated and delivered under this Indenture is unlimited. The Securities may be issued in one or more series. There shall be established in or pursuant to a Board Resolution and, subject to Section 3.3, set forth, or determined in the manner provided, in an Officers' Certificate, or established in one or more Supplemental Indentures hereto, prior to the issuance of Securities of any series,

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

(2) any limit upon the aggregate principal amount of the Securities of the series which may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of the series pursuant to Section 3.4 or 4.7 and except for any Securities which, pursuant to Section 3.3, are deemed never to have been authenticated and delivered hereunder); *provided, however*, that the authorized aggregate principal amount of such series may from time to time be increased above such amount by a Board Resolution to such effect;

(3) the Person to whom any interest on a Security of the series shall be payable, if other than 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;

(4) the date or dates on which the principal of any Securities of the series is payable or the method by which such date or dates shall be determined or extended;

(5) the rate or rates at which any Securities of the series shall bear interest, if any, or the method by which such rate or rates shall be determined, the date or dates from which any such interest shall accrue, the Interest Payment Dates on which any such interest

shall be payable and the Regular Record Date for any such interest payable on any Interest Payment Date;

(6) the Place of Payment;

(7) the period or periods within which or the date or dates on which, the price or prices at which, and the terms and conditions upon which, any Securities of the series may be redeemed, in whole or in part, at the option of the Company (including amendments or modifications to the provisions of Article IV hereof) and, if other than by a Board Resolution, the manner in which any election by the Company to redeem the Securities shall be evidenced;

(8) the obligation and/or right, if any, of the Company to redeem or purchase any Securities of the series pursuant to any sinking fund or analogous provisions or at the option of the Holder thereof and the period or periods within which, the price or prices at which and all terms and conditions upon which any Securities of the series may or shall be redeemed or purchased, in whole or in part, pursuant to such obligation and/or right;

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

(10) if the amount of principal of or any premium or interest on any Securities of the series may be determined with reference to an index or pursuant to a formula, the manner in which such amounts shall be determined;

(11) if other than the currency of the United States of America, the currency, currencies, composite currency, composite currencies or currency units in which the principal of or any premium or interest on any Securities of the series shall be payable and the manner of determining the equivalent thereof in the currency of the United States of America for any purpose, including for the purposes of making payment in the currency of the United States of America and applying the definition of "*Outstanding*" in Section 1.1;

(12) if the principal of or any premium or interest on any Securities of the series is to be payable, at the election of the Company or the Holder thereof, in one or more currencies, composite currencies or currency units other than that or those in which such Securities are stated to be payable, the currency, currencies, composite currency, composite currencies or currency units in which the principal of or any premium or interest on such Securities as to which such election is made shall be payable, the periods within which and the terms and conditions upon which such election is to be made and the amount so payable (or the manner in which such amount shall be determined);

(13) if other than the entire principal amount thereof, the portion of the principal amount of any Securities of the series which shall be payable upon declaration of acceleration of the Maturity thereof pursuant to Section 8.2 or the method by which such portion shall be determined;

(14) if the principal amount payable at the Stated Maturity of any Securities of the series will not be determinable as of any one or more dates prior to the Stated Maturity, the amount which shall be deemed to be the principal amount of such Securities as of any such date for any purpose thereunder or hereunder, including the principal amount thereof which shall be due and payable upon any Maturity other than the Stated Maturity or which shall be deemed to be Outstanding as of any date prior to the Stated Maturity (or, in any such case, the manner in which such amount deemed to be the principal amount shall be determined);

(15) if applicable, that the Securities of the series, in whole or any specified part, shall be defeasible pursuant to Section 10.2 or Section 10.3 or both such Sections, or pursuant to a manner varying from such Sections, any provisions to permit a pledge of obligations other than U.S. Government Obligations (or the establishment of other arrangements) to satisfy the requirements of Section 10.4 for defeasance of such Securities and, if other than by a Board Resolution, the manner in which any election by the Company to defease such Securities shall be evidenced;

(16) if applicable, that any Securities of the series shall be issuable in whole or in part in the form of one or more Global Securities and, in such case, the respective Depositaries for such Global Securities, the form of any legend or legends which shall be borne by any such Global Security in addition to or in lieu of that set forth in Section 2.3, any addition to, elimination of or other change in the circumstances set forth in clause (2) of the last paragraph of Section 3.7 in which any such Global Security may be exchanged in whole or in part for Securities registered, and any transfer of such Global Security in whole or in part may be registered, in the name or names of Persons other than the Depositary for such Global Security or a nominee thereof and any other provisions governing exchanges or transfers of any such Global Security;

(17) any addition to, elimination of or other change in the Events of Default which applies to any Securities of the series and any change in the right of the Trustee or the requisite Holders of such Securities to declare the principal amount thereof due and payable pursuant to Section 8.2;

(18) any addition to, elimination of or other change in the covenants set forth in Article VI which applies to Securities of the series;

(19) any provisions necessary to permit or facilitate the issuance, payment or conversion of any Securities of the series that may be converted into securities or other property other than Securities of the same series and of like tenor, whether in addition to, or in lieu of, any payment of principal or other amount and whether at the option of the Company or otherwise;

(20) the terms and conditions, if any, pursuant to which the Securities of the series are secured;

(21) any restriction or condition on the transferability of the Securities of such series;

(22) the exchanges, if any, on which the Securities may be listed;

(23) any amendments or modifications to the subordination provisions in Article XII; and

(24) any other terms of the series (which terms shall not be inconsistent with the provisions of this Indenture, except as permitted by Section 13.1(4)).

All Securities of any one series shall be substantially identical except as to denomination and except as may otherwise be provided in or pursuant to the Board Resolution referred to above and (subject to Section 3.3) set forth, or determined in the manner provided, in the Officers' Certificate referred to above or in any such Supplemental Indenture hereto. If any of the terms of the series are established by action taken pursuant to a Board Resolution, a copy of an appropriate record of such action shall be certified by the Secretary or an Assistant Secretary of the Company, if any, otherwise by one class A director and one class B director of the Company, and delivered to the Trustee at or prior to the delivery of the Officers' Certificate setting forth the terms of the series.

SECTION 3.2. DENOMINATIONS

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

SECTION 3.3. EXECUTION, AUTHENTICATION, DELIVERY AND DATING

The Securities shall be executed on behalf of the Company by two Officers by manual or facsimile signature. The Guarantee endorsed thereon shall be executed on behalf of the Guarantor by any Officer of the Guarantor by manual or facsimile signature.

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 after the execution and delivery of this Indenture, the Company may deliver Securities of any series executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Securities, and the Trustee shall, upon receipt of the Company Order, authenticate and deliver such Securities as this Indenture provides and not otherwise.

If the form or terms of the Securities of the series have been established by or pursuant to one or more Board Resolutions as permitted by Sections 2.2 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 9.1) shall be fully protected in relying upon, an Opinion of Counsel stating,

(1) if the form of such Securities has been established by or pursuant to Board Resolution as permitted by Section 2.2, that such form has been established in conformity with the provisions of this Indenture;

(2) if the terms of such Securities have been established by or pursuant to Board Resolution as permitted by Section 3.1, that such terms have been established in conformity with the provisions of this Indenture; and

(3) 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 bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

If such form or terms have been so established, the Trustee shall not be required to authenticate such Securities if the issue of such Securities pursuant to this Indenture will affect the Trustee's own rights, duties, liabilities or immunities under the Securities and 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 preceding paragraph, if all Securities of a series are not to be originally issued at one time, it shall not be necessary to deliver the Board Resolution or the Officers' Certificate otherwise required pursuant to Section 3.1 or the Company Order and Opinion of Counsel otherwise required pursuant to such preceding paragraph at or prior to the authentication of each Security of that series if such documents are delivered at or prior to the authentication upon original issuance of the first Security of that series to be issued.

Each Security shall be dated the date of its authentication.

No Security shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein executed by the Trustee by manual signature, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder. 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 3.12, for all purposes of this Indenture such Security shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

SECTION 3.4. TEMPORARY SECURITIES

Pending the preparation of definitive Securities of any series, the Company and the Guarantor may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary

Securities having duly executed Guarantees endorsed thereon, which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor 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 and Guarantees may determine, as evidenced by their execution of such Securities and Guarantees.

If temporary Securities of any series are issued, the Company and the Guarantor will cause definitive Securities of that series to be prepared without unreasonable delay. After the preparation of definitive Securities of that series, the temporary Securities of that series shall be exchangeable for definitive Securities of that series upon surrender of the temporary Securities of that series at the office or agency of the Company in a Place of Payment for that series, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities of any series, the Company and the Guarantor shall execute and the Trustee shall authenticate and deliver in exchange therefor one or more definitive Securities of the same series having Guarantees duly endorsed thereon of any authorized denominations and of like tenor and aggregate principal amount. Until so exchanged, the temporary Securities of any series shall in all respects be entitled to the same benefits under this Indenture as definitive Securities of that series and tenor.

SECTION 3.5. HOLDER LISTS

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

SECTION 3.6. REGISTRAR, PAYING AGENT AND DEPOSITARY

For Luxembourg law purposes, the Company will hold at its registered office a register of the Securities in which [Euroclear/Clearstream] will be recorded as the holder of the Securities.

The Company shall also maintain an office or agency where Securities may be presented for registration of transfer or for exchange (*"Registrar"*) and an office or agency where Securities may be presented for payment (*"Paying Agent"*). The Registrar shall keep a register (the *"Security Register"*) of each series of Securities and of their transfer and exchange. The Company may appoint one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar and the term "Paying Agent" includes any additional paying agent. The Company may change any Paying Agent or Registrar with respect to the Securities of any series without notice to any Holder. The Company shall notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Company fails to appoint or maintain an entity other than the Trustee as either Registrar or Paying Agent for the affected series of Securities, the Trustee shall act as such. The Company or any of its Subsidiaries may act as Paying Agent or Registrar. The Company initially appoints The Depository Trust Company to act as Depositary with respect to the

Global Securities. The Company initially appoints the Trustee to act as Registrar and Paying Agent and to act as Securities Custodian with respect to the Global Securities.

SECTION 3.7. REGISTRATION OF TRANSFER AND EXCHANGE

Upon surrender for registration of transfer of any Security of a series at the office or agency of the Company in a Place of Payment for that series, the Company and the Guarantor 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 having a duly executed Guarantee for such series endorsed thereon of any authorized denominations and of like tenor and aggregate principal amount.

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 tenor and aggregate principal amount, upon surrender of the Securities to be exchanged at such office or agency of the Company. 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.

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

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

No service charge shall be made for any registration of transfer or 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 of transfer or exchange of Securities, other than exchanges pursuant to Section 3.4, 3.7 or 11.5 not involving any transfer.

If the Securities of any series (or of any series and specified tenor) are to be redeemed in part, the Company shall not be required (A) to issue, register the transfer of or exchange any Securities of that series (or of that series and specified tenor, as the case may be) during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of any such Securities selected for redemption under Section 4.3 and ending at the close of business on the day of such mailing, or (B) to register the transfer of or exchange any Security so selected for redemption in whole or in part, except the unredeemed portion of any Security being redeemed in part.

The provisions of clauses (1), (2), (3) and (4) below shall apply only to Global Securities:

(1) Each Global Security authenticated under this Indenture shall be registered in the name of the Depositary designated for such Global Security or a nominee thereof and

delivered to such Depositary or a nominee thereof or custodian therefor, and each such Global Security shall constitute a single Security for all purposes of this Indenture.

(2) Notwithstanding any other provision in this Indenture, and subject to such applicable provisions, if any, as may be specified as contemplated by Section 3.1, a Global Security may not be transferred except as a whole by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. All Global Securities will be exchanged by the Company for other certificated Securities if (i) the Company delivers to the Trustee written notice from the Depositary that (x) the Depositary is unwilling or unable to continue to act as Depositary for the Global Securities and the Company thereupon fails to appoint a successor Depositary within 90 days or (y) the Depositary is no longer a clearing agency registered under the Exchange Act, (ii) the Company, in its sole discretion, determines that the Global Securities (in whole but not in part) should be exchanged for other certificated Global Securities and delivers a written notice to such effect to the Trustee or (iii) upon request of the Trustee or Holders of a majority of the aggregate principal amount of Outstanding Securities of the applicable series if there shall have occurred and be continuing a Default or Event of Default with respect to such Securities. If the Company designates a successor Depositary as aforesaid, such Global Security shall promptly be exchanged in whole for one or more other Global Securities registered in the name of the successor Depositary, whereupon such designated successor shall be the Depositary for such successor Global Security or Global Securities and the provisions of Clauses (1), (2), (3) and (4) of this Section shall continue to apply thereto.

(3) Subject to Clause (2) above and to such applicable provisions, if any, as may be specified as contemplated by Section 3.1, any exchange of a Global Security for other Securities may be made in whole or in part, and all Securities issued in exchange for a Global Security or any portion thereof shall be registered in such names as the Depositary for such Global Security shall direct.

(4) Every Security authenticated and delivered upon registration of transfer of, or in exchange for or in lieu of, a Global Security or any portion thereof, whether pursuant to this Section, Section 3.4, 3.6 or 11.5 or otherwise, shall be authenticated and delivered in the form of, and shall be, a Global Security, unless such Security is registered in the name of a Person other than the Depositary for such Global Security or a nominee thereof.

SECTION 3.8. MUTILATED, DESTROYED, LOST AND STOLEN SECURITIES

If any mutilated Security is surrendered to the Trustee together with such security or indemnity as may be required by the Company or the Trustee to save each of them harmless, the Company and the Guarantor shall execute and the Trustee shall authenticate and deliver in exchange therefor a new Security of the same series having a duly executed Guarantee and of like tenor and principal amount and bearing a number not contemporaneously outstanding.

If there shall be delivered to the Company, the Guarantor and the Trustee (i) evidence to their satisfaction of the destruction, loss or theft of any Security and (ii) such security or indemnity as may be required by them to save each of them and any agent of either of them harmless, then, in the absence of written notice to the Company, the Guarantor or the Trustee that such Security has been acquired by a bona fide purchaser, the Company and the Guarantor shall execute and the Trustee shall authenticate and deliver, in lieu of any such destroyed, lost or stolen Security, a new Security of the same series having a duly executed Guarantee and of like tenor and principal amount and bearing a number not contemporaneously outstanding.

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

Upon the issuance of any new Security under this Section, 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 and the Guarantee, if endorsed thereon, 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, and any Guarantee endorsed thereon, 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 3.9. PAYMENT OF INTEREST; INTEREST RIGHTS PRESERVED

Except as otherwise provided as contemplated by Section 3.1 with respect to any Securities of a series, interest 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 (whether or not such day is a Business Day).

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 (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Interest payable on any Securities of a series to the Persons in whose names such Securities (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 notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each of such Securities and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as provided in this clause (1). 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 given to each Holder of such Securities in the manner set forth in Section 14.4, 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 such Securities (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 (2).

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

Except as may otherwise be provided in this Section 3.9 or as contemplated in Section 3.1 with respect to any Securities of a series, the Person to whom interest shall be payable on any Security that first becomes payable on a day that is not an Interest Payment Date shall be the Holder of such Security on the day such interest is paid.

Subject to the foregoing provisions of this Section, 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. Notwithstanding the foregoing, the terms of any Security that may be converted may provide that the provisions of this paragraph do not apply, or apply with such additions, changes or omissions as may be provided thereby, to such Security.

SECTION 3.10. PAYING AGENT TO HOLD MONEY IN TRUST

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

SECTION 3.11. PERSONS DEEMED OWNERS

Prior to due presentment of a Security for registration of transfer, the Company, the Guarantor, the Trustee and any agent of the Company, the Guarantor 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 and any premium and (subject to Section 3.9) any interest on such Security and for all other purposes whatsoever, whether or not such Security be overdue, and neither the Company, the Guarantor, the Trustee nor any agent of the Company, the Guarantor or the Trustee shall be affected by notice to the contrary.

SECTION 3.12. CANCELLATION

All Securities surrendered for payment, redemption, registration of transfer or exchange or conversion or for credit against any sinking fund payment shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and shall be promptly cancelled by the Trustee. The Company may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and may deliver to the Trustee (or to any other Person for delivery to the Trustee) for cancellation any Securities previously authenticated hereunder which the Company has not issued and sold, and all Securities so delivered shall be promptly cancelled by the Trustee. No Securities shall be authenticated in lieu of or in exchange for any Securities cancelled as provided in this Section, except as expressly permitted by this Indenture. All cancelled Securities held by the Trustee shall be disposed of as directed by a Company Order; *provided, however*, that the Trustee shall not be required to destroy such cancelled Securities.

SECTION 3.13. COMPUTATION OF INTEREST; USURY

Except as otherwise specified as contemplated by Section 3.1 for Securities of any series, interest on the Securities of each series shall be computed on the basis of a 360-day year of twelve 30-day months.

The amount of interest (or amounts deemed to be interest under applicable law) payable or paid on any Security shall be limited to an amount which shall not exceed the maximum nonusurious rate of interest allowed by the applicable laws of the State of New York, or any applicable law of the United States permitting a higher maximum nonusurious rate that preempts such applicable New York law, which could lawfully be contracted for, taken, reserved, charged or received (the "Maximum Interest Rate"). If, as a result of any circumstances whatsoever, the Company or any other Person is deemed to have paid interest (or amounts deemed to be interest under applicable law) or any Holder of a Security is deemed to have contracted for, taken, reserved, charged or received interest (or amounts deemed to be interest under applicable law), in excess of the Maximum Interest Rate, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of validity, and if under any such circumstance, the Trustee, acting on behalf of the Holders, or any Holder shall ever receive interest or anything that might be deemed interest under applicable law that would exceed the Maximum Interest Rate, such amount that would be excessive interest shall be applied to the reduction of the principal amount owing on the applicable Security or Securities and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance of any such Security or Securities, such excess shall be refunded to the Company; provided that the Company and not the Trustee shall be responsible for collecting any such refund from the Holders. In addition, for purposes of determining whether payments in respect of any Security are usurious, all sums paid or agreed to be paid with respect to such Security for the use, forbearance or detention of money shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such Security.

SECTION 3.14. CUSIP NUMBERS

The Company in issuing the Securities may use CUSIP numbers (if then generally in use) and, if so, the Trustee shall use CUSIP numbers in notices of redemption as a convenience to 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 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. The Company will promptly notify the Trustee in writing of any change in the "CUSIP" numbers.

ARTICLE IV

REDEMPTION

SECTION 4.1. APPLICABILITY OF ARTICLE

Securities of any series which are redeemable before their Stated Maturity shall be redeemable in accordance with their terms and, except as otherwise specified as contemplated by such terms and/or Section 3.1 for such Securities, in accordance with this Article.

SECTION 4.2. ELECTION TO REDEEM; NOTICE TO TRUSTEE

The election of the Company to redeem any Securities shall be established in or pursuant to a Board Resolution or in another manner specified as contemplated by Section 3.1 for such Securities. In case of any redemption at the election of the Company of less than all the Securities of any series (including any such redemption affecting only a single Security), the Company shall, at least 30 days prior to the Redemption Date fixed by the Company (unless a shorter notice shall be agreed to in writing by the Trustee), notify the Trustee in writing of such Redemption Date, of the principal amount of Securities of that series to be redeemed and, if applicable, of the tenor of the Securities to be redeemed. In the case of any redemption of Securities (i) prior to the expiration of any restriction on such redemption provided in the terms of such Securities or elsewhere in this Indenture or (ii) pursuant to an election of the Company that is subject to a condition specified in the terms of those Securities, the Company shall furnish the Trustee with an Officers' Certificate evidencing compliance with such restriction or condition and if requested by the Trustee under Section 9.2(b) hereof, an Opinion of Counsel. Any obligation of the Company to redeem any Securities may be subject to the satisfaction of one or more conditions precedent, each as may be specified by the Company in the notice of redemption referenced to in Section 4.4 hereof.

SECTION 4.3. SELECTION BY TRUSTEE OF SECURITIES TO BE REDEEMED

If less than all the Securities of any series are to be redeemed (unless all the Securities of that series and of a specified tenor are to be redeemed or unless such redemption affects only a single Security), the particular Securities to be redeemed shall be selected not more than 30 days prior to the Redemption Date by the Trustee, from the Outstanding Securities of that series not previously called for redemption, by such method as the Trustee shall deem fair and appropriate and which may provide for the selection for redemption of a portion of the principal amount of any Security of that series; provided that the unredeemed portion of the principal amount of any Security shall be in an authorized denomination (which shall not be less than the minimum authorized denomination) for such Security. If less than all the Securities of that series and of a specified tenor are to be redeemed (unless such redemption affects only a single Security), the particular Securities to be redeemed shall be selected not more than 30 days prior to the Redemption Date by the Trustee, from the Outstanding Securities of that series and specified tenor not previously called for redemption in accordance with the preceding sentence.

If any Security selected for partial redemption is converted in part before termination of the conversion right with respect to the portion of the Security so selected, the converted portion of such Security shall be deemed (so far as may be) to be the portion selected for redemption. Securities which have been converted during a selection of Securities to be redeemed shall be treated by the Trustee as Outstanding for the purpose of such selection.

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

The provisions of the two preceding paragraphs shall not apply with respect to any redemption affecting only a single Security, whether such Security is to be redeemed in whole or in part. In the case of any such redemption in part, the unredeemed portion of the principal amount of the Security shall be in an authorized denomination (which shall not be less than the minimum authorized denomination) for such Security.

For all 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 which has been or is to be redeemed.

SECTION 4.4. NOTICE OF REDEMPTION

Notice of redemption shall be given by first-class mail, postage prepaid, mailed not less than 30 days nor more than 60 days prior to the Redemption Date, to each Holder of Securities to be redeemed, at such Holder's current address appearing in the Security Register.

All notices of redemption shall identify the Securities to be redeemed (including CUSIP numbers, if any) and shall state:

(1) the Redemption Date,

(2) the Redemption Price,

(3) if less than all the Outstanding Securities of any series consisting of more than a single Security are to be redeemed, the identification (and, in the case of partial redemption of any such Securities, the principal amounts) of the particular Securities to be redeemed and, if less than all the Outstanding Securities of any series consisting of a single Security are to be redeemed, the principal amount of the particular Security to be redeemed,

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

(5) the place or places where each such Security is to be surrendered for payment of the Redemption Price,

(6) for any Securities that by their terms may be converted, the terms of conversion, the date on which the right to convert the Security to be redeemed will terminate and the place or places where such Securities may be surrendered for conversion,

(7) any condition or conditions to the obligation of the Company to redeem the Securities (which may be included at the sole and absolute discretion of the Company), and

(8) that the redemption is for a sinking fund, if such is the case.

Notice of redemption of Securities to be redeemed at the election of the Company shall be given by the Company or, at the Company's written request, by the Trustee in the name and at the expense of the Company and shall be irrevocable (subject to the satisfaction of any condition set forth in such notice). The failure to give such notice by mail or any defect in the notice to the Holder of any Security designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Security.

In addition, if such redemption or purchase is subject to the satisfaction of one or more conditions precedent, as permitted above, such notice shall describe each such condition, and if applicable, shall state that, in the Company's discretion, the Redemption Date may be delayed until such time as any or all such conditions shall be satisfied, or such redemption or purchase may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied by the Redemption Date, or by the Redemption Date as so delayed.

SECTION 4.5. DEPOSIT OF REDEMPTION PRICE

On or before 12:00 Noon, New York City time on any Redemption Date, and subject to the satisfaction of any condition or conditions set forth in the notice of redemption delivered pursuant to Section 4.4, 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 3.10) an amount of money sufficient to pay the Redemption Price of, and (except if the Redemption Date shall be an Interest Payment Date) accrued interest on, all the Securities which are to be redeemed on that date, other than any Securities called for redemption on that date which have been converted prior to the date of such deposit.

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 3.9 or in the terms of such Security) be paid to the Company upon Company Request or, if then held by the Company, shall be discharged from such trust.

SECTION 4.6. SECURITIES PAYABLE ON REDEMPTION DATE

Notice of redemption having been given as aforesaid, the Securities so to be redeemed (but subject to the satisfaction of any condition or conditions set forth in the notice of redemption delivered pursuant to Section 4.4) 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. 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 whose Stated Maturity is on or prior to the Redemption Date will 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 any premium shall, until paid, bear interest from the Redemption Date at the rate prescribed therefor in the Security.

SECTION 4.7. SECURITIES REDEEMED IN PART

Any Security which is to be redeemed only in part shall be surrendered at a Place of Payment therefor (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or his attorney duly authorized in writing), and the Company shall execute, and the Trustee shall authenticate and deliver to the Holder of such Security without service charge (other than payment by the Company of charges previously agreed to by the Company and the Trustee in writing), a new Security or Securities of the same series and of like tenor, of any authorized denomination as requested by such Holder, in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Security so surrendered.

ARTICLE V

SINKING FUNDS

SECTION 5.1. APPLICABILITY OF ARTICLE

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

The minimum amount of any sinking fund payment provided for by the terms of any Securities 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 such Securities is herein referred to as an “optional sinking fund payment”. If provided for by the terms of any Securities, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 5.2. Each sinking fund payment shall be applied to the redemption of Securities as provided for by the terms of such Securities.

SECTION 5.2. SATISFACTION OF SINKING FUND PAYMENTS WITH SECURITIES

The Company (1) may deliver Outstanding Securities of a series (other than any previously called for redemption) and (2) may apply as a credit Securities of a series which have been converted in accordance with their terms or which 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 any Securities of that series required to be made pursuant to the terms of such Securities as and to the extent provided for by the terms of such Securities; provided that the Securities to be so credited have not been previously so credited. The Securities to be so credited shall be received and credited for such purpose by the Trustee at the Redemption Price, as specified in the Securities so to be redeemed (or at such other prices as may be specified for such Securities as contemplated in Section 3.1), for redemption through operation of the sinking fund and the amount of such sinking fund payment shall be reduced accordingly.

SECTION 5.3. REDEMPTION OF SECURITIES FOR SINKING FUND

Not less than 90 days (or such shorter period as shall be agreed to in writing by the Trustee) prior to each sinking fund payment date for any Securities, the Company will deliver to the Trustee an Officers' Certificate specifying the amount of the next ensuing sinking fund payment for such Securities pursuant to the terms of such Securities, the portion thereof, if any, which is to be satisfied by payment of cash and the portion thereof, if any, which is to be satisfied by delivering and crediting Securities pursuant to Section 5.2 and will also deliver to the Trustee any Securities to be so delivered. Not less than 30 days prior to 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 4.3 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 4.4. Such notice having been duly given, the redemption of such Securities shall be made upon the terms and in the manner stated in Sections 4.6 and 4.7.

ARTICLE VI

COVENANTS

SECTION 6.1. PAYMENT OF SECURITIES

The Company shall pay the principal of and any premium and interest on the Securities of any series on the dates and in the manner provided herein and in the applicable Security. An installment of principal of or interest on any Security of any series shall be considered paid on the date it is due if the Trustee or Paying Agent (other than the Company or an Affiliate of the Company) holds for the benefit of the Holders of such Security (on or before 10:00 a.m. New York City time to the extent necessary to provide the funds to the Depositary in accordance with the Depositary's procedures) on that date cash deposited and designated for and sufficient to pay the installment.

The Company shall pay interest on overdue principal and on overdue installments of interest at the rate specified in the Security of that series compounded semi-annually, to the extent lawful.

SECTION 6.2. MAINTENANCE OF OFFICE OR AGENCY

The Company shall maintain in each Place of Payment for any series of Securities, an office or agency (which may be an office of the Trustee, of the Registrar or of an agent of the Trustee or

the Registrar) 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 and where notices and demands to or upon the Company or the Guarantor in respect of the Securities of that series, any Guarantee and this Indenture may be served. The Company shall give prompt written notice to the Trustee of the location, and any change in the location, of 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 and the Guarantor hereby appoint 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 any or all such purposes and may from time to time rescind such designations; *provided*, *however*, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in each Place of Payment for Securities of any series for such purposes. The Company shall 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.

With respect to any Global Security, and except as otherwise may be specified for such Global Security as contemplated by Section 3.1, the Corporate Trust Office of the Trustee shall be the Place of Payment where such Global Security may be presented or surrendered for payment or for registration of transfer or exchange, or where successor Securities may be delivered in exchange therefor; *provided*, *however*, that any such payment, presentation, surrender or delivery effected pursuant to the Applicable Procedures of the Depositary for such Global Security shall be deemed to have been effected at the Place of Payment for such Global Security in accordance with the provisions of this Indenture.

SECTION 6.3. CORPORATE EXISTENCE

Except as otherwise permitted by Article VII, the Company and Guarantor shall do or cause to be done all things necessary to preserve and keep in full force and effect its legal existence and its material rights (charter, statutory and/or articles of association); *provided*, *however*, that the Company and Guarantor shall not be required to preserve any such right if the Board of Directors of the Company or the Guarantor shall determine that the preservation thereof is no longer necessary or desirable in the conduct of the business of the Company or the Guarantor, as applicable.

SECTION 6.4. COMPLIANCE CERTIFICATE; NOTICE OF DEFAULT

(a) The Company shall deliver to the Trustee within 120 days after the end of each fiscal year of the Company an Officers' Certificate, one of the signers of which shall be the principal executive officer, principal financial officer or principal accounting officer of the Company, complying with TIA § 314(a)(4) and stating that a review of its activities during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Indenture (without regard to notice requirements or grace periods) and further stating, as to each such Officer

signing such certificate, whether or not the signer knows of any failure by the Company to comply with any conditions or covenants in this Indenture and, if such signer does know of such a failure to comply, the certificate shall describe such failure with particularity. The Officers' Certificate shall also notify the Trustee in writing should the relevant fiscal year end on any date other than the current fiscal year end date. The Officer's Certificate to be provided under this Section 6.4 need not comply with Section 14.6 hereof.

(b) The Company shall, so long as any Security of any series is Outstanding, deliver to the Trustee, promptly upon becoming aware of any Default or Event of Default with respect to such series, an Officers' Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto. The Trustee shall not be deemed to have knowledge of any Default, any Event of Default or any such fact unless one of its Trust Officers receives written notice thereof from the Company or any of the Holders.

SECTION 6.5. REPORTS

So long as any of the Securities remain Outstanding, the Guarantor shall file with the SEC or, if the Guarantor is not subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, post on the Guarantor's website, in either case within the time periods specified in the SEC's rules and regulations, including the additional periods provided by Rule 12b-25 under the Exchange Act, annual reports and other reports or statements prepared in accordance with the reporting provisions under Section 13 or Section 15(d) of the Exchange Act.

ARTICLE VII

SUCCESSOR CORPORATION

SECTION 7.1. LIMITATION ON MERGER, SALE OR CONSOLIDATION

The Company shall not consolidate or merge with or into, or transfer or lease its assets substantially as an entirety, whether in a single transaction or a series of related transactions, to another Person, unless:

(1) either (a) the Company is the surviving entity or (b) the resulting, surviving or transferee entity formed by such consolidation or into which the Company is merged or which acquires or leases the Company's assets is a corporation, partnership, trust or limited liability company organized and existing under the laws of the United States, any state thereof or the District of Columbia and expressly assumes by a Supplemental Indenture (in form and substance reasonably satisfactory to the Trustee) all of the Company's obligations in connection with the Securities and this Indenture;

(2) no Default or Event of Default will exist immediately after giving effect to such transaction (applying Article 11 of Regulation S-X to such transaction as and to the extent applicable); and

(3) the Company delivers to the Trustee an Officers' Certificate and an Opinion of Counsel meeting the requirements of Sections 14.6 and 14.7 hereof.

For purposes of the foregoing, the transfer (by lease, assignment, sale or otherwise) of the assets, substantially as an entirety, of one or more Subsidiaries of the Company, the Company's interest in which constitutes the Company's assets substantially as an entirety, shall be deemed to be the transfer of the Company's assets substantially as an entirety.

SECTION 7.2. SUCCESSOR CORPORATION SUBSTITUTED

Upon any consolidation or merger or any transfer or lease of the assets of the Company substantially as an entirety in accordance with Section 7.1, the surviving entity formed by such consolidation or into which the Company is merged or to which such transfer or lease is made shall succeed to and (except in the case of a lease) be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such surviving entity had been named herein as the Company, and (except in the case of a lease) when a surviving entity duly assumes all of the obligations of the Company pursuant hereto and pursuant to the Securities, the Company shall be released from such obligations (except with respect to any obligations that arise from, or are related to, such transaction).

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

SECTION 8.1. EVENTS OF DEFAULT

"Event of Default" with respect to Securities of any series, wherever used herein, means any one of the following events (whatever reason for such Event of Default and whether it shall be caused voluntarily or involuntarily or effected, without limitation, 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):

(i) the Company's failure to pay any installment of interest on any Security of that series as and when the same becomes due and payable and the continuance of any such failure for 30 days; or

(ii) the Company's failure to pay all or any part of the principal of, or premium, if any, on any Security of that series when and as the same becomes due and payable at maturity, redemption, by acceleration or otherwise; or

(iii) the Company's failure to deposit any sinking fund payment, when and as due by the terms of a Security of that series, and continuance of any such failure for 30 days; or

(iv) with respect to the Securities of that series, the Company's failure to observe or perform any other covenant or agreement in respect of any Security of that series contained in this Indenture or in such Security (other than a covenant or agreement a default in whose performance is elsewhere in this Section specifically dealt with or that has been expressly included in this Indenture by means of a Supplemental Indenture solely for the benefit of Securities of a series other than that series) or in the applicable Board Resolution under which that series is issued as contemplated by Section 3.01 and, the continuance of such failure for a period of 60 days after written notice of such failure, specifying such failure and requiring the same to be remedied, has been given to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of the Outstanding Securities of that series; or

(v) a decree, judgment, or order by a court of competent jurisdiction shall have been entered adjudicating the Company or the Guarantor as bankrupt or insolvent, or approving as properly filed a petition seeking reorganization of the Company or the Guarantor under any bankruptcy or similar law, and such decree or order shall have continued undischarged and unstayed for a period of 60 days; or a decree, judgment or order of a court of competent jurisdiction appointing a receiver, liquidator, trustee, or assignee in bankruptcy or insolvency for the Company or the Guarantor, or any substantial part of the property of the Company or the Guarantor, or for the winding up or liquidation of the affairs of the Company or the Guarantor, shall have been entered, and such decree, judgment, or order shall have remained in force undischarged and unstayed for a period of 60 days; or

(vi) the Company or the Guarantor shall institute proceedings to be adjudicated a voluntary bankrupt, or shall consent to the filing of a bankruptcy proceeding against it, or shall file a petition or answer or consent seeking reorganization under any bankruptcy or similar law or similar statute, or shall consent to the filing of any such petition, or shall consent to the appointment of a custodian, receiver, liquidator, trustee, or assignee in bankruptcy or insolvency of it or any substantial part of its assets or property, or shall make a general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or take any corporate action in furtherance of any of the foregoing; or

(vii) any Guarantee ceases to be in full force and effect or any Guarantee is declared to be null and void and unenforceable or any Guarantee is found to be invalid or the Guarantor denies its liability under its Guarantee (other than by reason of release of the Guarantor in accordance with the terms of this Indenture); or

(viii) any other event or occurrence that is designated to be an Event of Default provided with respect to Securities of that series in the Supplemental Indenture or Board Resolution that establishes the terms of the Securities of that series.

Notwithstanding the foregoing provisions of this Section 8.1, if the principal or any premium or interest on any Security is payable in a currency other than the currency of the United States of America and such currency is not available to the Company for making payment thereof due to the imposition of exchange controls or other circumstances beyond the control of the Company, the

Company will be entitled to satisfy its obligations to Holders of the Securities by making such payment in the currency of the United States of America in an amount equal to the currency of the United States of America equivalent of the amount payable in such other currency, as determined by the Trustee (and confirmed by the Company in writing) by reference to the noon buying rate in The City of New York for cable transfers for such currency (the "Exchange Rate"), as such Exchange Rate is reported or otherwise made available by the Federal Reserve Bank of New York on the date of such payment, or, if such rate is not then available, on the basis of the most recently available Exchange Rate. The Trustee shall not be liable for the calculation of the Exchange Rate as provided herein. Notwithstanding the foregoing provisions of this Section 8.1, any payment made under such circumstances in the currency of the United States of America where the required payment is in a currency other than the currency of the United States of America will not constitute an Event of Default under this Indenture.

SECTION 8.2. ACCELERATION OF MATURITY DATE; RESCISSION AND ANNULMENT

If an Event of Default with respect to Securities of any series at the time Outstanding occurs and is continuing (other than an Event of Default specified in Section 8.1(v) or Section 8.1(vi)), then in every such case, unless the principal of the Outstanding Securities of that series shall have already become due and payable, either the Trustee or the Holders of at least 25% in aggregate principal amount of the Outstanding Securities of that series, by notice in writing to the Company specifying the respective Event of Default (and to the Trustee if given by Holders) (an *"Acceleration Notice"*), may declare all principal, determined as set forth below, and accrued interest on such series (or, if the Securities of that series are Original Issue Discount Securities, such portion of the principal amount as may be specified in, or determined in accordance with, the terms of that series) to be due and payable immediately. If an Event of Default specified in Section 8.1(v) or Section 8.1(vi) occurs, all principal and accrued interest on such series (or, in the case of any Security of that series which specifies an amount to be due and payable thereon upon acceleration of the Maturity thereof, such amount as may be specified by the terms thereof) will be immediately due and payable on all Outstanding Securities of that series without any declaration or other act on the part of the Trustee or any Holders.

The Holders of a majority in aggregate principal amount of the Outstanding Securities of any series, by written notice to the Trustee, may rescind and annul any acceleration and its consequences with respect to the Securities of that series so long as (a) such rescission occurs before a judgment or decree is entered based on such acceleration and (b) all existing Events of Default, other than the non-payment of the principal of, premium, if any, and interest, if any, on all Securities of that series that have become due solely because of the acceleration, have been cured or waived as provided in Section 8.12.

SECTION 8.3. COLLECTION OF DEBT AND SUITS FOR ENFORCEMENT BY TRUSTEE

Each of the Company and the Guarantor covenants that if an Event of Default in payment of principal, premium or interest specified in clause (i) or (ii) of Section 8.1 hereof occurs and is continuing with respect to Securities of any series, the Company or the Guarantor shall, upon demand

of the Trustee, pay to it, for the benefit of the Holders of Securities of that series, the whole amount then due and payable on Securities of that series for principal, premium (if any), and interest, and, to the extent that payment of such interest shall be legally enforceable, interest on any overdue principal (and premium, if any), and on any overdue interest, at the rate borne by such Securities, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including reasonable compensation to, and expenses, disbursements and advances of the Trustee and its agents and counsel and all other amounts due the Trustee under Section 9.7.

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

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

SECTION 8.4. TRUSTEE MAY FILE PROOFS OF CLAIM

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

(1) to file and prove a claim for the whole amount of principal (and premium, if any) and interest owing and unpaid in respect of such Securities and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee and its agent and counsel and all other amounts due the Trustee under Section 9.7) and of the Holders of Securities of that series allowed in such judicial proceeding, and

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

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Holder of a series to make such payments

to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to such Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee and its agents and counsel, and any other amounts due the Trustee under Section 9.7 hereof.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder of Securities of any series any plan of reorganization, arrangement, adjustment or composition affecting Securities of that series or the rights of any Holder thereof or to authorize the Trustee to vote in respect of the claim of any such Holder in any such proceeding; *provided, however*, that the Trustee may, on behalf of the Holders, vote for the election of a trustee in bankruptcy or similar official and be a member of a creditors' or other similar committee with respect to any such proceeding relating to the Guarantor.

SECTION 8.5. 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 such Securities or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust in favor of the Holders of such Securities, and any recovery of judgment shall, after provision for the payment of compensation to, and expenses, disbursements and advances of the Trustee and its agents and counsel and all other amounts due the Trustee under Section 9.7, be for the ratable benefit of such Holders of such Securities in respect of which such judgment has been recovered.

SECTION 8.6. PRIORITIES

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

1: To the Trustee in payment of all amounts due pursuant to Section 9.7 hereof, including payment of all compensation, expense and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection, as provided in such Section;

2: To holders of Senior Indebtedness of the Company and, if such money or property has been collected from the Guarantor, to holders of Senior Indebtedness of the Guarantor, in each case to the extent required by Articles XI and XII;

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

4: To the Company, the Guarantor or such other Person as may be lawfully entitled thereto, the remainder, if any, each as their respective interests may appear.

The Trustee may, but shall not be obligated to, fix a record date and payment date for any payment to the Holders under this Section 8.6.

SECTION 8.7. LIMITATION ON SUITS

No Holder of any Security of any series shall have any right to institute, or to order or direct the Trustee 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 with respect to such Security, unless:

(A) such Holder has previously given written notice to the Trustee of a continuing Event of Default with respect to the Securities of that series;

(B) the Holders of not less than 25% in aggregate principal amount of the Outstanding Securities of that series shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

(C) such Holder or Holders have offered to the Trustee security or indemnity reasonably satisfactory to it against the costs, expenses and liabilities to be incurred or reasonably probable to be incurred in compliance with such request;

(D) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and

(E) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority in aggregate principal amount of the Outstanding Securities of that series;

it being understood and intended that no one or more Holders of Securities of that series shall have any right in any manner whatsoever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other Holders of Securities of that series, or to obtain or to seek to obtain priority or preference over any other 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 the Holders of Securities of that series.

SECTION 8.8. UNCONDITIONAL RIGHT OF HOLDERS TO RECEIVE PRINCIPAL, PREMIUM AND INTEREST

Notwithstanding any other provision of this Indenture, the Holder of any Security shall have the right, which is absolute and unconditional, to receive payment of the principal of, and premium (if any), and (subject to Section 3.9) interest on, such Security on the Maturity Dates of such payments as expressed in such Security (in the case of redemption, the Redemption Price on the applicable Redemption Date), and, if the terms of such Security so provide, to convert such Security in

accordance with its terms, and to institute suit for the enforcement of any such payment after such respective dates, and such rights shall not be impaired without the consent of such Holder.

SECTION 8.9. RIGHTS AND REMEDIES CUMULATIVE

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in Section 3.8 hereof, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

SECTION 8.10. DELAY OR OMISSION NOT WAIVER

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

SECTION 8.11. CONTROL BY HOLDERS

The Holder or Holders of a majority in aggregate principal amount of the Outstanding Securities of any series shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred upon the Trustee with respect to the Securities of that series; provided that

(1) such direction shall not be in conflict with any applicable rule of law or with this Indenture;

(2) the Trustee shall not determine that the action so directed would be unduly prejudicial to the Holders not taking part in such direction; and

(3) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

SECTION 8.12. WAIVER OF EXISTING OR PAST DEFAULT

The Holder or Holders of not less than a majority in aggregate principal amount of the Outstanding Securities of any series may, on behalf of all Holders of all the Securities of that series, waive any existing or past Default or Event of Default with respect to the Securities of that series and its consequences under this Indenture, except a continuing Default or Event of Default with respect to the Securities of that series:

(A) in the payment of the principal of, premium, if any, or interest on, any Security of that series as specified in clauses (i) and (ii) of Section 8.1 hereof and not yet cured; or

(B) with respect to any covenant or provision hereof which, under Article XIII, cannot be modified or amended without the consent of the Holder of each Outstanding Security of that series affected.

Upon any such waiver, such Default or Event of Default shall cease to exist, and any other Default or Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture, but no such waiver shall extend to any subsequent or other Default with respect to the Securities of that series or impair the exercise of any right arising therefrom. The Company shall deliver to the Trustee an Officers' Certificate stating that the requisite percentage of Holders have consented to such waiver and attaching copies of such consents (or other evidence of such consents as may be reasonably satisfactory to the Trustee).

This Section 8.12 shall be in lieu of TIA §§ 316(a)(1)(A) and 316(a)(1)(B) and such sections of the TIA are hereby expressly excluded from this Indenture, as permitted by the TIA.

SECTION 8.13. UNDERTAKING FOR COSTS

All parties to this Indenture agree, and each Holder of any Security of any series by his acceptance thereof shall be deemed to have agreed, that in any suit for the enforcement of any right or remedy under this Indenture with respect to the Security of that series, or in any suit against the Trustee for any action taken, suffered or omitted to be taken by it as Trustee with respect to that series, any court may in its discretion require the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 8.13 shall not apply to any suit instituted by the Trustee, to any suit instituted by any Holder of the Security of that series, or group of Holders of the Security of that series, holding in the aggregate more than 10% in aggregate principal amount of the Outstanding Security of that series, or to any suit instituted by any Holder of that series for enforcement of the payment of principal of, or premium (if any), or interest on, any Security of that series on or after the respective Maturity Date expressed in such Security (including, in the case of redemption, on or after the Redemption Date).

SECTION 8.14. RESTORATION OF RIGHTS AND REMEDIES

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture with respect to any Security of any series 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 case, subject to any determination in such proceeding, the Company, the Guarantor, the Trustee and all Holders of the Security of that series 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 8.15. WAIVER OF STAY, EXTENSION OR USURY LAWS

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

ARTICLE IX

TRUSTEE

The Trustee hereby accepts the trust imposed upon it by this Indenture and covenants and agrees to perform the same, as herein expressed, subject to the terms hereof.

SECTION 9.1. DUTIES OF TRUSTEE

(a) If an Event of Default has occurred and is continuing (and has not been cured or waived in accordance with the terms of this Indenture) with respect to Securities of any series, the Trustee shall exercise such of the rights and powers vested in it by this Indenture with respect to such Securities and use the same degree of care and skill in its exercise as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

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

(1) the Trustee need perform only those duties as are specifically set forth in this Indenture and no others; no covenants or obligations shall be implied in or read into this Indenture which are adverse to the Trustee; and any rights of the Trustee to take any action that is permitted, but not required, to be taken by this Indenture shall not be construed as an obligation or duty to do so; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; *provided, however*, 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 examine the certificates and opinions to determine whether or not they conform to the

requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

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

(1) this paragraph does not limit the effect of paragraph (b) of this Section 9.1;

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

(3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 8.11 hereof.

(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 to take or omit to take any action under this Indenture or at the request, order or direction of the Holders or in the exercise of any of its rights or powers.

(e) Reserved.

(f) The Trustee shall not be liable for interest on any assets received by it except as the Trustee may agree in writing with the Company (including without limitation to the extent the Trustee receives funds prior to the interest payment date in order to comply with the provisions of Section 6.1). Assets held in trust by the Trustee need not be segregated from other assets except to the extent required by law.

(g) The Trustee shall not be required to give any bond or surety with respect to the performance of its duties or the exercise of its powers under this Indenture.

(h) 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 9.1 and to the provisions of the TIA.

SECTION 9.2. RIGHTS OF TRUSTEE

Subject to Section 9.1 hereof, with respect to Securities of any series:

(a) The Trustee may conclusively rely on any document reasonably believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in such document.

(b) Before the Trustee acts or refrains from acting, it may consult with counsel and may require an Officers' Certificate or an Opinion of Counsel, which shall conform to Sections 14.6 and

14.7 hereof, except as specifically provided herein. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such certificate or advice of counsel.

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

(d) The Trustee shall not be liable for any action it or its agent takes or omits to take in good faith which it reasonably believes to be authorized or within its rights or powers conferred upon it by this Indenture.

(e) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, notice, request, direction, consent, order, bond, debenture or other paper or document, but the Trustee, in its sole discretion, may make such further inquiry or investigation into such facts or matters as it may see fit.

(f) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Holders, pursuant to the provisions of 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 may be incurred therein or thereby.

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

(h) The Trustee shall have no duty to inquire as to the performance of the Company's covenants in Article VI hereof or as to the performance by any Agent of its duties hereunder. In addition, the Trustee shall not be deemed to have knowledge of any Default or Event of Default except any Default or Event of Default of which the Trustee shall have received written notification or obtained actual knowledge of an event which is in fact such a default (and such notice references the Securities and this Indenture), and in the absence of any such notice or any such actual knowledge, the Trustee may conclusively assume that no Default or Event of Default exists.

(i) 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, an Opinion of Counsel, or both.

(j) 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 as so authorized in any such certificate previously delivered and not superseded.

(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 under this Indenture, and to each Agent, Custodian and other person employed by the Trustee in furtherance of carrying out its duties under this Indenture.

SECTION 9.3. INDIVIDUAL RIGHTS OF TRUSTEE

The Trustee, or any of its Affiliates, in its individual or any other capacity may become the owner or pledgee of Securities of any series and may otherwise deal with the Company, the Guarantor, any of its Subsidiaries, or their respective Affiliates with the same rights it would have if it were not Trustee. Any Agent or Custodian may do the same with like rights. However, the Trustee must comply with Sections 9.10 and 9.11 hereof.

SECTION 9.4. TRUSTEE'S DISCLAIMER

The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Securities of any series, and it shall not be accountable for the Company's use of the proceeds from the Securities, and it shall not be responsible for any statement of the Company in the Indenture or any statement in the Securities of any series (other than the Trustee's certificate of authentication) or in any prospectus or other disclosure materials distributed with respect to the Securities of any series (other than information provided by the Trustee concerning the Trustee), or for the use or application of any funds received by a Paying Agent other than the Trustee.

SECTION 9.5. NOTICE OF DEFAULT

If a Default or an Event of Default occurs and is continuing with respect to Securities of any series and if it is known to the Trustee as provided in Section 9.2(h) hereof, the Trustee shall mail to each Holder of that series notice of the uncured Default or Event of Default within 90 days after such Default or Event of Default occurs. Except in the case of a Default in the payment of principal of or interest on any Security (including payments pursuant to the mandatory redemption provisions of any Security, if any), the Trustee may withhold the notice if and so long as a committee of its Trust Officers in good faith determines that withholding the notice is in the interest of the Holders.

SECTION 9.6. REPORTS BY TRUSTEE TO HOLDERS

Within 60 days after each March 15 beginning with the March 15 following the date of this Indenture, the Trustee shall, if required by law, mail to each Holder a brief report dated as of such March 15 that complies with TIA § 313(a). The Trustee also shall comply with TIA §§ 313(b) and 313(c).

The Company shall promptly notify the Trustee in writing if the Securities of any series become listed on any securities exchange or automated quotation system or of any delisting thereof.

A copy of each report at the time of its mailing to Holders shall be mailed to the Company and filed with the SEC and each securities exchange, if any, on which any Securities are listed.

SECTION 9.7. COMPENSATION AND INDEMNITY

The Company agrees to pay to the Trustee (in its capacity as such) from time to time such reasonable compensation for its services as the Company and the Trustee shall from time to time agree in writing. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. In addition to such compensation for services, the Company shall promptly reimburse the Trustee (and any predecessor Trustee with respect to all matters and events existing or alleged to exist on or prior to the date such person ceased to be a Trustee) upon request for all reasonable disbursements, expenses (including costs of collection) and advances actually incurred or made by it in accordance with this Indenture or carrying out its duties hereunder. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents, accountants, experts and counsel.

The Company agrees to indemnify the Trustee (in any capacity under this Indenture including as Trustee, Agent or Securities Custodian) and each of its officers, directors, attorneys-in-fact and agents for, and hold it harmless against, any claim, demand, expense (including but not limited to reasonable compensation, disbursements and expenses of the Trustee's agents and counsel), loss or liability incurred by it without negligence, willful misconduct or bad faith on the part of the Trustee, arising out of or in connection with the acceptance and the administration of this trust and its rights or duties hereunder, including, without limitation, the reasonable costs and expenses of defending itself against any investigation, claim or liability (whether asserted by the Company, any Holder or any other person) in connection with the exercise or performance of any of its powers or duties hereunder. The Trustee shall notify the Company promptly of any claim asserted against the Trustee for which it may seek indemnity; *provided*, *however*, that any failure to so notify the Company shall not relieve the Company of its indemnity obligations hereunder. The Company shall defend the claim and the Trustee shall provide reasonable cooperation at the Company's expense in the defense. The Trustee may have separate counsel and the Company shall pay the reasonable fees and expenses of such counsel; *provided* that the Company will not be required to pay such fees and expenses if it assumes the Trustee's defense and if the Trustee is advised by its counsel that there is no conflict of interest between the Company and the Trustee in connection with such defense. The Company need not pay for any settlement made without its written consent, which shall not be unreasonably withheld. The Company need not reimburse any expense or indemnify against any loss or liability to the extent incurred by the Trustee through its negligence, bad faith or willful misconduct.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 8.1(v) or (vi) of this Indenture occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under any Bankruptcy Law.

The Company's obligations under this Section 9.7 shall survive the resignation or removal of the Trustee, the discharge of the Company's obligations pursuant to Article X of this Indenture and any rejection or termination of this Indenture under any Bankruptcy Law.

SECTION 9.8. REPLACEMENT OF TRUSTEE

The Trustee may resign by so notifying the Company in writing. The Holder or 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 Company and the Trustee in writing and

may appoint a successor trustee with the Company's consent. The Company or the Guarantor may remove the Trustee with respect to any series of Securities if:

(a) the Trustee fails to comply with Section 9.10 hereof;

(b) the Trustee is adjudged bankrupt or insolvent;

(c) a receiver, Custodian or other public officer takes charge of the Trustee or its property; or

(d) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason with respect to Securities of any series, the Company shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holder or Holders of a majority in principal amount of that series of Securities may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Immediately after that and, provided that all sums owing to the retiring Trustee provided for in Section 9.7 hereof have been paid, the retiring Trustee shall transfer all property held by it as trustee to the successor Trustee, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. A successor Trustee shall mail notice of its succession to each Holder of the affected series at the current address of each such Holder as set forth in the Security Register.

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

If the Trustee fails to comply with Section 9.10 hereof, any Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

Notwithstanding replacement of the Trustee pursuant to this Section 9.8, the Company's obligations under Section 9.7 hereof shall continue for the benefit of the retiring Trustee.

SECTION 9.9. SUCCESSOR TRUSTEE BY MERGER, ETC.

If the Trustee consolidates with, merges or converts into, or transfers all or substantially all of its corporate trust business or assets to, another corporation or banking association, the resulting, surviving or transferee corporation without any further act shall, if such resulting, surviving or transferee corporation is otherwise eligible hereunder, be the successor Trustee.

SECTION 9.10. ELIGIBILITY; DISQUALIFICATION

The Trustee shall at all times satisfy the requirements of TIA § 310(a)(1), (2) and (5). The Trustee shall have a combined capital and surplus of at least $50,000,000, as set forth in its most recent published annual report of condition. The Trustee shall comply with TIA § 310(b).

SECTION 9.11. PREFERENTIAL COLLECTION OF CLAIMS AGAINST COMPANY OR GUARANTOR

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

ARTICLE X

LEGAL DEFEASANCE AND COVENANT DEFEASANCE

SECTION 10.1. OPTION TO EFFECT LEGAL DEFEASANCE OR COVENANT DEFEASANCE

The Company, at the Company's option and at any time, may elect to have Section 10.2 or Section 10.3 of this Indenture applied to all Outstanding Securities of any series upon compliance with the conditions set forth below in this Article X.

SECTION 10.2. LEGAL DEFEASANCE AND DISCHARGE

Upon the Company's exercise under Section 10.1 hereof of the option applicable to this Section 10.2 with respect to the Outstanding Securities of any series, the Company and the Guarantor shall be deemed to have been discharged from its obligations with respect to all Outstanding Securities as to which this option provided in Section 10.1 is exercised, on the date the conditions set forth below are satisfied (hereinafter, *"Legal Defeasance"*). For this purpose, such Legal Defeasance means that the Company shall be deemed to have paid and discharged the entire indebtedness represented by such Outstanding Securities, and this Indenture shall cease to be of further effect as to all such Outstanding Securities, except as to be deemed to be Outstanding only for the purposes of the Sections of this Indenture referred to in (a) and (b) below, and the Company shall be deemed to have satisfied all other of its obligations under such Outstanding Securities and this Indenture with respect to such Securities (and the Trustee, on written demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following which shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of Outstanding Securities to receive payments in respect of the principal of, premium, if any, and interest on such Securities when such payments are due from the trust described in Section 10.5, (b) the Company's obligations with respect to such Securities under Sections 3.4, 3.5, 3.6, 3.7, 3.8, 3.10, 6.2, 10.5, 10.6 and 10.7 hereof, and (c) the rights, powers, trusts, duties and immunities of the Trustee hereunder, and the Company's obligations in connection therewith. If the Company exercises its option under this Section 10.2 with respect to the Outstanding Securities of any series, then payment of the Securities of such series may not be accelerated because of an Event

of Default. Subject to compliance with this Article X, the Company may exercise its option under this Section 10.2 notwithstanding the prior exercise of its option under Section 10.3 hereof with respect to such Securities.

SECTION 10.3. COVENANT DEFEASANCE

Upon the Company's exercise under Section 10.1 hereof of the option applicable to this Section 10.3 with respect to the Outstanding Securities of any series, the Company and the

Guarantor shall be released from its obligations under any covenants provided pursuant to Section 3.1(18) and the covenants contained in Sections 6.3, 6.4 and 6.5 and Article VII hereof and the Guarantor shall be released from its obligations under Article XI and the Guarantee with respect to all Outstanding Securities as to which this option provided in Section 10.1 is exercised, on and after the date the conditions set forth below are satisfied (hereinafter, "*Covenant Defeasance*"), and such Outstanding Securities shall thereafter be deemed 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 such covenants, but shall continue to be deemed Outstanding for all other purposes hereunder. For this purpose, such Covenant Defeasance means that, with respect to the Outstanding Securities of any series as to which the Covenant Defeasance has occurred, the Company and the Guarantor shall not need to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant with respect to such Securities, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such 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 8.1(iv) with respect to such Securities, but, except as specified above, the remainder of this Indenture and such Securities shall be unaffected thereby.

SECTION 10.4. CONDITIONS TO LEGAL OR COVENANT DEFEASANCE

(a) The following shall be the conditions to the application of either Section 10.2 or 10.3 hereof to any Securities or any series of Securities, as the case may be, to be defeased:

(i) the Company shall irrevocably deposit with the Trustee, in trust, for the benefit of the Holders of the Securities as to which Legal Defeasance or Covenant Defeasance will occur, U.S. legal tender, U.S. Government Obligations, a combination thereof, or other obligations as may be provided as contemplated by Section 3.1(15) with respect to such Securities, in such amounts as will be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants, to pay the principal of, premium, if any, and interest on such Securities on the stated date for payment thereof or on the redemption date of such principal or installment of principal of, premium, if any, or interest on such Securities, and the Trustee, for the benefit of the Holders of such Securities, has a valid and perfected security interest in obligations so deposited;

(ii) in the case of Legal Defeasance, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably acceptable to the Trustee confirming

that: (A) the Company has received from, or there has been published by the Internal Revenue Service, a ruling or (B) since the date of this Indenture, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the Holders of such Securities will not recognize income, gain or loss for federal income tax purposes as a result of such Legal 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 Legal Defeasance had not occurred;

(iii) in the case of Covenant Defeasance, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably acceptable to such Trustee confirming 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;

(iv) no Default or Event of Default with respect to such Securities shall have occurred and be continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit) and no Default or Event of Default under Section 8.1(v) or Section 8.1(vi) occurs, at any time in the period ending on the 91st day after the date of deposit;

(v) such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under any material agreement or instrument (excluding this Indenture) to which the Company, the Guarantor or any of its Subsidiaries is a party or by which the Company, the Guarantor or any of its Subsidiaries is bound;

(vi) the Company shall have delivered to the Trustee an Officers' Certificate stating that the deposit was not made by the Company with the intent of preferring the Holders of such Securities over any other creditors of the Company or the Guarantor or with the intent of defeating, hindering, delaying or defrauding any other creditors of the Company, the Guarantor or others;

(vii) such Legal Defeasance or Covenant Defeasance shall not result in the trust arising from such deposit constituting an investment company within the meaning of the Investment Company Act of 1940, as amended, unless such trust shall be qualified under such Act or exempt from regulation thereunder; and

(viii) the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that the conditions precedent provided for in, in the case of the Officers' Certificate, (i) through (vi) and, in the case of the Opinion of Counsel, clauses (i) (with respect to the validity and perfection of the security interest), (ii), (iii) and (v) of this paragraph have been complied with.

(a) If the funds deposited with the Trustee to effect Covenant Defeasance are insufficient to pay the principal of, premium, if any, and interest on the Securities to be so defeased when due,

then the obligations of the Company under this Indenture with respect to such Securities will be revived and no such defeasance will be deemed to have occurred.

SECTION 10.5. DEPOSITED CASH AND U.S. GOVERNMENT OBLIGATIONS TO BE HELD IN TRUST; OTHER MISCELLANEOUS PROVISIONS

Subject to Section 10.6 hereof, all cash and U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 10.5, the "*Paying Agent*") pursuant to Section 10.4 hereof in respect of any Securities to be defeased shall be held in trust and applied by the Paying Agent, in accordance with the provisions of such Securities and this Indenture, to the payment, either directly or through any other 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, but such money need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. Government Obligations deposited pursuant to Section 10.4 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of such Securities.

SECTION 10.6. REPAYMENT TO THE COMPANY

(a) Anything in this Article X to the contrary notwithstanding, the Trustee or the Paying Agent shall deliver or pay to the Company from time to time upon the request of the Company any cash or U.S. Government Obligations held by it as provided in Section 10.4 hereof which, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 10.4(a) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

(b) Any cash and U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium, if any, or interest on any Securities and remaining unclaimed for two years after such principal, and premium, if any, or interest has become due and payable shall be paid to the Company on its written request; and the Holder of such Security shall thereafter look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money 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 the *New York Times* and *The Wall Street Journal* (national edition), 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 notification or publication, any unclaimed balance of such money then remaining will be repaid to the Company.

SECTION 10.7. REINSTATEMENT

If the Trustee or Paying Agent is unable to apply any cash or U.S. Government Obligations in accordance with Section 10.2 or 10.3 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the obligations of the Company and the Guarantor under this Indenture with respect to such Securities and Guarantee affected shall be revived and reinstated as though no deposit had occurred pursuant to Section 10.2 or 10.3 hereof until such time as the Trustee or Paying Agent is permitted to apply such money in accordance with Sections 10.2 and 10.3 hereof, as the case may be; *provided*, *however*, that, if the Company makes any payment of principal of, premium, if any, or interest on any such Security following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Securities to receive such payment from the cash or U.S. Government Obligations held by the Trustee or Paying Agent.

ARTICLE XI

GUARANTEE

SECTION 11.1. GUARANTEE

The Guarantor hereby unconditionally and irrevocably guarantees on a senior subordinated basis to each Holder and to the Trustee and its successors and assigns (a) the full and prompt payment (within applicable grace periods) of principal of and interest on the Securities when due, whether at maturity, by acceleration, by redemption or otherwise, and all other monetary obligations of the Company under this Indenture and the Securities and (b) the full and prompt performance within applicable grace periods of all other obligations of the Company under this Indenture and the Securities (all the foregoing being hereinafter collectively called the "*Guarantee Obligations*"). The Guarantor further agrees that the Guarantee Obligations may be extended or renewed, in whole or in part, without notice or further assent from the Guarantor, and that the Guarantor will remain bound under this Article XI notwithstanding any extension or renewal of any Guarantee Obligation.

The Guarantor waives presentation to, demand of payment from and protest to the Company of any of the Guarantee Obligations and also waives notice of protest for nonpayment. The Guarantor waives notice of any default under the Securities or the Guarantee Obligations. The obligations of the Guarantor hereunder shall not be affected by (a) the failure of any Holder or the Trustee to assert any claim or demand or to enforce any right or remedy against the Company or any other Person under this Indenture, the Securities or any other agreement or otherwise; (b) any extension or renewal of any thereof; (c) any rescission, waiver, amendment or modification of any of the terms or provisions of this Indenture, the Securities or any other agreement; (d) the release of any security held by any Holder or the Trustee for the Guarantee Obligations or any of them; (e) the failure of any Holder or Trustee to exercise any right or remedy against any other guarantor of the Guarantee Obligations; or (f) any change in the ownership of the Guarantor.

The Guarantor further agrees that its Guarantee herein constitutes a guaranty of payment, performance and compliance when due (and not a guaranty of collection) and waives any right to

require that any resort be had by any Holder or the Trustee to any security held for payment of the Guarantee Obligations.

To the fullest extent permitted by law, the obligations of the Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason, including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any defense of setoff, counterclaim, recoupment or termination whatsoever or by reason of the invalidity, illegality or unenforceability of the Guarantee Obligations or otherwise. Without limiting the generality of the foregoing, to the fullest extent permitted by law, the obligations of the Guarantor herein shall not be discharged or impaired or otherwise affected by the failure of any Holder or the Trustee to assert any claim or demand or to enforce any remedy under this Indenture, the Securities or any other agreement, by any waiver or modification of any thereof, by any default, failure or delay, willful or otherwise, in the performance of the Guarantee Obligations, or by any other act or thing or omission or delay to do any other act or thing which may or might in any manner or to any extent vary the risk of the Guarantor or would otherwise operate as a discharge of the Guarantor as a matter of law or equity.

The Guarantor further agrees that its Guarantee herein shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of principal of or interest on any Guarantee Obligation is rescinded or must otherwise be restored by any Holder or the Trustee upon the bankruptcy or reorganization of the Company or otherwise.

In furtherance of the foregoing and not in limitation of any other right which any Holder or the Trustee has at law or in equity against the Guarantor by virtue hereof, upon the failure of the Company to pay the principal of or interest on any Guarantee Obligation when and as the same shall become due, whether at maturity, by acceleration, by redemption or otherwise (within applicable grace periods), or to perform or comply with any other Guarantee Obligation (within applicable grace periods), the Guarantor hereby promises to and shall, upon receipt of written demand by the Trustee, forthwith pay, or cause to be paid, in cash, to the Holders or the Trustee an amount equal to the sum of (i) the unpaid principal amount of such Guarantee Obligations, (ii) accrued and unpaid interest on such Guarantee Obligations (but only to the extent not prohibited by law) and (iii) all other monetary Guarantee Obligations of the Company to the Holders and the Trustee.

The Guarantor agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any Guarantee Obligations guaranteed hereby until payment in full of all Guarantee Obligations. The Guarantor further agrees that, as between the Guarantor, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the Guarantee Obligations guaranteed hereby may be accelerated as provided in Article VIII for the purposes of its Guarantee herein, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Guarantee Obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such Guarantee Obligations as provided in Article VIII, such Guarantee Obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantor for the purposes of this Section.

SECTION 11.2. LIMITATION ON LIABILITY

Any term or provision of this Indenture to the contrary notwithstanding, the maximum aggregate amount of the obligations guaranteed hereunder by the Guarantor shall not exceed the maximum amount that can be hereby guaranteed without rendering this Indenture, as it relates to the Guarantor, voidable under applicable federal or state law relating to fraudulent conveyance or fraudulent transfer.

SECTION 11.3. EXECUTION AND DELIVERY OF GUARANTEES

The Guarantee to be endorsed on the Securities shall be in the form approved as set forth in Section 2.2 hereof. The Guarantor hereby agrees to execute its Guarantee in such form, to be endorsed on each Security authenticated and delivered by the Trustee.

Each Guarantee shall be executed on behalf of the Guarantor by any one of the Guarantor's Chairman of the Board of Directors, Vice Chairman of the Board of Directors, President, Chief Financial Officer or Vice Presidents. The signature of any or all of these officers on the Guarantee may be manual or facsimile.

A Guarantee bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the Guarantor shall bind the Guarantor, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of the Security on which such Guarantee is endorsed or did not hold such offices at the date of such Guarantee.

Each Guarantee shall be registered, transferred, exchanged and cancelled, and shall be held in definitive or global form, in the same manner and together with, the Security to which it relates, in accordance with Article III.

The delivery of any Security by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Guarantee endorsed thereon on behalf of the Guarantor. The Guarantor hereby jointly and severally agrees that its Guarantee set forth in Section 11.1 shall remain in full force and effect notwithstanding any failure to endorse a Guarantee on any Security.

SECTION 11.4. SUCCESSORS AND ASSIGNS

This Article XI shall be binding upon the Guarantor and its successors and assigns and shall inure to the benefit of the successors and assigns of the Trustee and the Holders, and, in the event of any transfer or assignment of rights by any Holder or the Trustee, the rights and privileges conferred upon that party in this Indenture and in the Securities shall automatically extend to and be vested in such transferee or assignee, all subject to the terms and conditions of this Indenture.

SECTION 11.5. NO WAIVER, ETC.

Neither a failure nor a delay on the part of either the Trustee or the Holders in exercising any right, power or privilege under this Article XI shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise of any right, power or privilege. The rights, remedies and benefits of the Trustee and the Holders herein expressly specified are cumulative and not exclusive of any other rights, remedies or benefits which either may have under this Article XI at law, in equity, by statute or otherwise.

SECTION 11.6. MODIFICATION, ETC.

No modification, amendment or waiver of any provision of this Article, nor the consent to any departure by the Guarantor therefrom, shall in any event be effective unless (a) the same shall be in writing and signed by the Trustee, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given and (b) the Trustee shall have received any Officer's Certificate or Opinion of Counsel requested under Section 9.2(b). No notice to or demand on the Guarantor in any case shall entitle the Guarantor or any other guarantor to any other or further notice or demand in the same, similar or other circumstances. Notwithstanding anything to the contrary provided herein, no modification, amendment or waiver shall reduce or limit the Guarantee Obligations without the consent of the Holder of each of the Outstanding Securities affected thereby.

SECTION 11.7. SUBORDINATION OF GUARANTEE

The obligations of the Guarantor pursuant to its Guarantee and this Article XI shall be (a) junior and subordinated in right of payment to the prior payment in full in cash of all Senior Indebtedness of the Guarantor and (b) senior in right of payment to all existing and future Subordinated Indebtedness of the Guarantor. For the purposes of this Section 11.7, Article XII shall apply to the obligations of the Guarantor under its Guarantee, this Article XI and the other provisions of this Indenture as if references therein to the Company, the Securities, Senior Indebtedness and Subordinated Indebtedness were references to the Guarantor, the Guarantee, Senior Indebtedness of the Guarantor and Subordinated Indebtedness of the Guarantor, respectively.

ARTICLE XII

SUBORDINATION

SECTION 12.1. SECURITIES SUBORDINATE TO SENIOR INDEBTEDNESS

The Company covenants and agrees, and each Holder of a Security, by his acceptance thereof, likewise covenants and agrees that, to the extent and in the manner hereinafter set forth in this Article XII, the principal of, premium, if any, and interest on all Securities issued hereunder, is hereby expressly made subordinate in right of payment to the prior payment in full in cash of all Senior Indebtedness.

The provisions of this Article XII define the subordination of the Securities, as obligations of the Company, with respect to Senior Indebtedness of the Company, as defined for the Company.

SECTION 12.2. PAYMENT OVER OF PROCEEDS UPON DISSOLUTION, ETC.

In the event of any insolvency or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or other similar case or proceeding in connection therewith, relating to the Company or its assets, or any liquidation, dissolution or other winding-up of the Company, whether voluntary or involuntary, or any assignment for the benefit of creditors or other marshalling of assets or liabilities of the Company, all Senior Indebtedness must be paid in full in cash before any payment is made on account of the principal of, premium, if any, or interest on the Securities.

SECTION 12.3. NO PAYMENT WHEN DESIGNATED SENIOR INDEBTEDNESS IS IN DEFAULT

During the continuance of any default in the payment of principal, or premium, if any, or interest on any Senior Indebtedness, when the same becomes due and payable, and after receipt by the Trustee and the Company from representatives of holders of such Senior Indebtedness of written notice of such default, no direct or indirect payment by or on behalf of the Company of any kind or character may be made on account of the principal of, premium, if any, or interest on, or the purchase, redemption or other acquisition of, the Securities unless and until such default has been cured or waived or has ceased to exist or such Senior Indebtedness shall have been discharged or paid in full in cash, after which the Company shall resume making any and all required payments in respect of the Securities, including any missed payments.

SECTION 12.4. SUBROGATION TO RIGHTS OF HOLDERS OF SENIOR INDEBTEDNESS

Subject to the payment in full in cash of all Senior Indebtedness, the Holders of the Securities shall be subrogated to the extent of the payments or distributions made to the holders of such Senior Indebtedness pursuant to the provisions of this Article XII to the rights of the holders of such Senior Indebtedness to receive payments and distributions of cash, property and securities applicable to the Senior Indebtedness until the principal of, premium, if any, and interest on the Securities shall be paid in full. For purposes of such subrogation, no payments or distributions to the holders of the Senior Indebtedness of any cash, property or securities to which the Holders of the Securities or the Trustee would be entitled except for the provisions of this Article XII, and no payments over pursuant to the provisions of this Article XII to the holders of Senior Indebtedness by Holders of the Securities or the Trustee, shall, as among the Company and its creditors (other than holders of Senior Indebtedness and the Holders of the Securities), be deemed to be a payment or distribution by the Company to or on account of the Senior Indebtedness.

SECTION 12.5. PROVISIONS SOLELY TO DEFINE RELATIVE RIGHTS

The provisions of this Article XII are and are intended solely for the purpose of defining the relative rights of the Holders of the Securities on the one hand and the holders of Senior Indebtedness on the other hand. Nothing contained in this Article XII or elsewhere in this Indenture

or in the Securities is intended to or shall (a) impair, as among the Company and its creditors (other than holders of Senior Indebtedness and the Holders of the Securities), the obligation of the Company, which is 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; (b) affect the relative rights against the Company of the Holders of the Securities and creditors of the Company (other than the holders of Senior Indebtedness); or (c) prevent the Trustee or the Holder of any Securities from exercising all remedies otherwise permitted by applicable law upon default under this Indenture, subject to the rights, if any, under this Article XII of the holders of Senior Indebtedness to receive cash, property and securities otherwise payable or deliverable to the Trustee or such Holder.

SECTION 12.6. TRUSTEE TO EFFECTUATE SUBORDINATION

Each Holder of a Security by its acceptance thereof authorizes and directs the Trustee on its behalf to take such action as may be necessary or appropriate to effectuate the subordination provided in this Article XII and appoints the Trustee its attorney-in-fact for any and all such purposes. For the avoidance of doubt, the Trustee in effectuating and carrying out the subordination provisions hereof shall be entitled to all of the rights and interests provided for in Article IX of this Indenture, except as otherwise specifically provided in this Article XII.

SECTION 12.7. NO WAIVER OF SUBORDINATION PROVISIONS

No right of any present or future holder of any Senior Indebtedness to enforce subordination as herein provided shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Company or by any act or failure to act, in good faith, by any such holder, or by any non-compliance by the Company with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof any such holder may have or be otherwise charged with.

Without in any way limiting the generality of the foregoing paragraph, the holders of Senior Indebtedness may, at any time and from time to time, without the consent of or notice to the Trustee or the Holders of the Securities, without incurring responsibility to the Holders of the Securities and without impairing or releasing the subordination provided in this Article XII or the obligations hereunder of the Holders of the Securities to the holders of Senior Indebtedness, do any one or more of the following: (i) change the manner, place or terms of payment or extend the time of payment of, or renew or alter, Senior Indebtedness, or otherwise amend or supplement in any manner Senior Indebtedness or any instrument evidencing the same or any agreement under which Senior Indebtedness is outstanding; (ii) sell, exchange, release or otherwise deal with any property pledged, mortgaged or otherwise securing Senior Indebtedness; (iii) release any Person liable in any manner for the collection of Senior Indebtedness; and (iv) exercise or refrain from exercising any rights against the Company and any other Person.

SECTION 12.8. NOTICE TO TRUSTEE

The Company shall give prompt written notice to the Trustee of any fact known to the Company which would prohibit the making of any payment to or by the Trustee in respect of the

Securities. Notwithstanding the provisions of this Article XII or any other provision of this Indenture, the Trustee shall not be charged with knowledge of the existence of any facts which would prohibit the making of any payment to or by the Trustee in respect of the Securities, unless and until the Trustee shall have received written notice thereof from the Company or a holder of Senior Indebtedness or from any trustee therefor; and, prior to the receipt of any such written notice, the Trustee, subject to the provisions of Sections 9.1 and 9.2, shall be entitled in all respects to assume that no such facts exist; provided, however, that if the Trustee shall not have received at its Corporate Trust Office the notice provided for in this Section at least three Business Days prior to the date upon which by the terms hereof any money may become payable for any purpose (including, without limitation, the payment in cash of the principal of, premium, if any or interest on any Security), then, anything herein contained to the contrary notwithstanding, the Trustee shall have full power and authority to receive such money and to apply the same to the purpose for which such money was received and shall not be affected by any notice to the contrary which may be received by it within three Business Days prior to such date and, further, shall not be liable in any manner for any payments made in accordance with the provisions hereof.

SECTION 12.9. RELIANCE ON JUDICIAL ORDER OR CERTIFICATE OF LIQUIDATING AGENT

Upon any payment or distribution of assets of the Company referred to in this Article XII, the Trustee, subject to the provisions of Sections 9.1 and 9.2, and the Holders of the Securities shall be entitled to rely upon any order or decree entered by any court of competent jurisdiction in which such insolvency, bankruptcy, receivership, liquidation, reorganization, dissolution, winding up or similar case or proceeding is pending, or a certificate of the trustee in bankruptcy, receiver, liquidating trustee, custodian, assignee for the benefit of creditors, agent or other Person making such payment or distribution, delivered to the Trustee or to the Holders of Securities, for the purpose of ascertaining the Persons entitled to participate in such payment or distribution, the holders of Senior Indebtedness 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 XII.

SECTION 12.10. TRUSTEE NOT FIDUCIARY FOR HOLDERS OF SENIOR INDEBTEDNESS

The Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Indebtedness and shall not be liable to any such holders if it shall in good faith mistakenly pay over or distribute to Holders of Securities or to the Company or to any other Person cash, property or securities to which any holders of Senior Indebtedness shall be entitled by virtue of this Article XII or otherwise, except in the case of gross negligence or willful misconduct on the part of the Trustee.

With respect to the holders of Senior Indebtedness, the Trustee undertakes to perform or to observe only such of its covenants or obligations as are specifically set forth in this Article XII, and no implied covenants or obligations with respect to holders of Senior Indebtedness shall be read into this Indenture against the Trustee.

SECTION 12.11. RIGHTS OF TRUSTEE AS HOLDER OF SENIOR INDEBTEDNESS; PRESERVATION OF TRUSTEE'S RIGHTS

The Trustee in its individual capacity shall be entitled to all the rights set forth in this Article XII with respect to any Senior Indebtedness which may at any time be held by it, to the same extent as any other holder of Senior Indebtedness, and nothing in this Indenture shall deprive the Trustee of any of its rights as such holder.

Nothing in this Article XII shall apply to claims of, or payments to, the Trustee or its agent or counsel under or pursuant to Section 9.7.

SECTION 12.12. ARTICLE APPLICABLE TO PAYING AGENTS

In case at any time any Paying Agent other than the Trustee shall have been appointed by the Company and be then acting hereunder, the term "Trustee" as used in this Article XII shall in such case (unless the context otherwise requires) be construed as extending to and including such Paying Agent within its meaning as fully for all intents and purposes as if such Paying Agent were named in this Article XII in addition to or in place of the Trustee; provided, however, that Section 12.11 shall not apply to the Company or any Affiliate of the Company if it or such Affiliate acts as Paying Agent.

SECTION 12.13. TRUSTEE'S NOTICE REGARDING SENIOR INDEBTEDNESS

The Trustee shall be entitled to conclusively rely on the delivery to it of a written notice by a person representing himself to be a holder of Senior Indebtedness (or a trustee or agent on behalf of such holder) to establish that such notice has been given by a holder of Senior Indebtedness (or a trustee or agent 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 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 the amount of Senior Indebtedness 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 which it may be required to make for the benefit of such person pursuant to the terms of this Indenture pending judicial determination as to the rights of such person to receive such payment.

ARTICLE XIII

AMENDMENTS, SUPPLEMENTS AND WAIVERS

SECTION 13.1. SUPPLEMENTAL INDENTURES WITHOUT CONSENT OF HOLDERS

Without the consent of any Holder of any Securities, the Company and the Guarantor when authorized by Board Resolutions, and the Trustee, at any time and from time to time, may enter into one or more Supplemental Indentures hereto, in form satisfactory to the Trustee, for any of the following purposes:

(1) to cure any ambiguity or to correct or supplement any provision contained herein or in any Supplemental Indenture which may be defective or inconsistent with any other provision contained herein or in any Supplemental Indenture or to make any changes hereto or to any Supplemental Indenture that are required by law;

(2) to add to the covenants of the Company or the Guarantor such further covenants, restrictions or conditions for the benefit of the Holders of Securities of all or any series (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 that series or those series specified in such Supplemental Indenture), and to make the occurrence, or the occurrence and continuance, of a Default in any such additional covenants, restrictions or conditions a Default or an Event of Default permitting the enforcement of all or any of the several remedies provided in this Indenture as herein set forth (and if such additional Events of Default are to be for the benefit of less than all series of Securities, stating that such additional Events of Default are expressly being included solely for the benefit of that series or those series specified in such Supplemental Indenture); *provided*, *however*, that in respect of any such additional covenant, restriction or condition such Supplemental Indenture may provide for a particular period of grace after Default (which period may be shorter or longer than allowed in the case of other Defaults) or may provide for any immediate enforcement upon such Default or may limit the remedies available to be exercised by the Trustee in its discretion upon such Default but may not limit the remedies available to be exercised by the Holders;

(3) to add to or change any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the issuance of Securities in uncertificated form;

(4) to add to, change or eliminate any of the provisions of this Indenture in respect of one or more series of Securities; *provided* that any such addition, change or elimination (A) shall neither (i) apply to any Security of any series created prior to the execution of such Supplemental Indenture and entitled to the benefit of such provision nor (ii) modify the rights of the Holder of any such Security with respect to such provision or (B) shall become effective only when there is no such Security Outstanding;

(5) to provide for collateral for or guarantors of the Securities of any series;

(6) to evidence the succession of another Person to the Company or the Guarantor, and the assumption by any such successor of the obligations of the Company, herein and in the Securities in accordance with Article VII;

(7) to modify, eliminate or add to the provisions of this Indenture to comply with the TIA;

(8) 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 9.8;

(9) to establish the form or terms of Securities of any series as permitted by Section 2.1 and 3.1;

(10) to add to or change any of the provisions of this Indenture with respect to any Securities that by their terms may be converted into securities or other property other than Securities of the same series and of like tenor, in order to permit or facilitate the issuance, payment or conversion of such Securities;

(11) to comply with the rules or regulations of any securities exchange or automated quotation system on which any of the Securities may be listed or traded; or

(12) to provide for the payment by the Company of additional amounts in respect of taxes imposed on certain Holders and for the treatment of such additional amounts as interest and for all matters incidental thereto.

Upon the written request of each of the Company and the Guarantor accompanied by a Board Resolution authorizing the execution of any such Supplemental Indenture, and upon receipt by the Trustee of any Officers' Certificate or Opinion of Counsel requested under Section 9.2(b) hereof, the Trustee shall join with the Company and the Guarantor in the execution of any Supplemental Indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to (but may in its discretion) enter into such Supplemental Indenture that affects its own rights, duties, liabilities or immunities under this Indenture or otherwise.

SECTION 13.2. AMENDMENTS, SUPPLEMENTAL INDENTURES AND WAIVERS WITH CONSENT OF HOLDERS

Subject to Section 8.8 hereof, with the consent of the Holders of not less than a majority in aggregate principal amount of the Outstanding Securities of each series affected thereby (including consents obtained in connection with a tender offer or exchange offer for such Securities), by written act of said Holders delivered to the Company and the Trustee, the Company and the Guarantor, when authorized by Board Resolutions, and the Trustee for Securities of each such series may amend or supplement this Indenture or enter into one or more Supplemental Indentures for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of modifying in any manner the rights of the Holders of the Securities of that series under this Indenture or the applicable Securities. Subject to Section 8.8, the Holder or Holders of not less than a majority in aggregate principal amount of the Outstanding Securities of each series may waive compliance by the Company and the Guarantor with any provision of this Indenture or such Securities with respect to such series. Notwithstanding any of the above, however, no such

amendment, Supplemental Indenture or waiver shall, without the consent of the Holder of each Outstanding Security affected thereby:

(1) extend 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, or reduce the amount of the principal of an Original Issue Discount Security or any other Security which would be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 8.2, or change any Place of Payment where, or the coin or currency in which, any such Security 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);

(2) reduce the percentage in principal amount of the Outstanding Securities of any series, the consent of whose Holders is required for any such amendment, Supplemental Indenture or waiver provided for in this Indenture;

(3) modify any of the provisions of this Section or Section 8.12, except to increase any required percentage or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each outstanding Security affected thereby; *provided, however*, that this clause shall not be deemed to require the consent of any Holder with respect to changes in the references to "the Trustee" and concomitant changes in this Section, or the deletion of this proviso, in accordance with the requirements of Sections 9.8 and 11.1(8);

(4) cause such Security to become subordinate in right of payment to any other Debt, except to the extent provided in the terms of such Security; or

(5) if any Security provides that the Holder may require the Company to repurchase or convert such Security, impair such Holder's right to require repurchase or conversion of such Security on the terms provided therein.

A Supplemental Indenture which changes or eliminates any covenant or other provision of this Indenture which has expressly been included solely for the benefit of one or more particular series of Securities, or which modifies the rights of the Holders of Securities of that series with respect to 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.

Upon the written request of each of the Company and the Guarantor accompanied by a Board Resolution authorizing the execution of any such amendment or supplement to this Indenture or of any such Supplemental Indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders as aforesaid, and upon receipt by the Trustee of any Officers' Certificate or Opinion of Counsel requested under Section 9.2(b) hereof, the Trustee shall join with the Company and the Guarantor in the execution of such amendment or supplement to this Indenture or of such Supplemental Indenture, but the Trustee shall not be obligated to (but may in its discretion) enter into any such amendment or supplement to this Indenture or any such

Supplemental Indenture that affects its own rights, duties, liabilities or immunities under this Indenture or otherwise.

It shall not be necessary for the consent of the Holders under this Section 13.2 to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if such consent approves the substance thereof.

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

After an amendment, supplement or waiver under this Section 13.2 or under Section 13.5 hereof becomes effective, it shall bind each Holder.

In connection with any amendment, supplement or waiver under this Article XIII, the Company may, but shall not be obligated to, offer to any Holder who consents to such amendment, supplement or waiver, or to all Holders, consideration for such Holder's consent to such amendment, supplement or waiver.

SECTION 13.3. SUBORDINATION UNIMPAIRED

This Indenture may not be amended at any time to alter the subordination, as provided herein, of any of the Securities then Outstanding without the written consent of the requisite holders of each series of debt securities representing Senior Indebtedness (as determined in accordance with the terms of the instrument governing such Senior Indebtedness) then outstanding that would be adversely affected thereby.

SECTION 13.4. COMPLIANCE WITH TIA

Every amendment, waiver or supplement of this Indenture or the Securities shall comply with the TIA as then in effect.

SECTION 13.5. REVOCATION AND EFFECT OF CONSENTS

Until an amendment, waiver or supplement becomes effective with respect to any Security of any series, a consent to it by a Holder of that series is a continuing consent by such Holder and every subsequent Holder of such Security or portion of such Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent is not made on any such Security. However, any such Holder or subsequent Holder may revoke the consent as to such Security or portion of such Security by written notice to the Company or the Person designated by the Company as the Person to whom consents should be sent if such revocation is received by the Company or such Person before the date on which the Trustee receives an Officers' Certificate certifying that the Holders of the requisite principal amount of the Outstanding Securities affected have consented (and not theretofore revoked such consent) to the amendment, supplement or waiver.

The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment, supplement or waiver, which record date shall be the date so fixed by the Company notwithstanding the provisions of the TIA. If a record date is fixed, then notwithstanding the last sentence of the immediately preceding paragraph, those Persons who were Holders at such record date, and only those Persons (or their duly designated proxies), shall be entitled to revoke any consent previously given, whether or not such Persons continue to be Holders after such record date.

After an amendment, supplement or waiver becomes effective, it shall bind every Holder of the Security of the affected series, unless it makes a change described in any of clauses (1) through (5) of Section 13.2 hereof, in which case, the amendment, supplement or waiver shall bind only each Holder of a Security of that series who has consented to it and every subsequent Holder of such Security or portion of such Security that evidences the same debt as the consenting Holder's Security; *provided* that any such waiver shall not impair or affect the right of any Holder of that series to receive payment of principal and premium of and interest on such Security, on or after the respective dates set for such amounts to become due and payable expressed in such Security, or to bring suit for the enforcement of any such payment on or after such respective dates.

SECTION 13.6. NOTATION ON OR EXCHANGE OF SECURITIES

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 an amendment, supplement or waiver changes the terms of a Security of any series or of a Guarantee, the Trustee may require such Holder of the Security of that series or of the Guarantee to deliver it to the Trustee or require such Holder to put an appropriate notation on such Security or Guarantee. The Trustee may place an appropriate notation on such Security or Guarantee about the changed terms and return it to such Holder. Alternatively, if the Company or the Trustee so determines, the Company in exchange for the affected Security or Guarantee shall issue and the Trustee shall authenticate a new Security of the same series or a new Guarantee that reflects the changed terms. Any failure to make the appropriate notation or to issue a new Security or Guarantee shall not affect the validity of such amendment, supplement or waiver.

SECTION 13.7. TRUSTEE TO SIGN AMENDMENTS, ETC.

The Trustee shall execute any amendment, supplement or waiver authorized pursuant to this Article XIII; *provided* that the Trustee may, but shall not be obligated to, execute any such amendment, supplement or waiver which affects the Trustee's own rights, liabilities, duties or immunities under this Indenture. The Trustee shall be entitled to receive, and shall be fully protected in relying upon an Officers' Certificate and an Opinion of Counsel stating that the execution of any amendment, supplement or waiver authorized pursuant to this Article XIII is authorized or permitted by this Indenture.

ARTICLE XIV

MISCELLANEOUS

SECTION 14.1. TIA CONTROLS

If any provision of this Indenture limits, qualifies, or conflicts with the duties imposed by operation of the TIA, the imposed duties, upon qualification of this Indenture under the TIA, shall control. If any provision of this Indenture modifies or excludes any provision of the TIA which may be so modified or excluded, the latter provision shall be deemed to apply to this Indenture as so modified or to be excluded, as the case may be.

SECTION 14.2. FORM OF DOCUMENTS 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 certificate or opinion 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, or representation by, 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 with respect 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 14.3. ACTS OF HOLDERS; RECORD DATES

Any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Indenture to be given, made or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company or the Guarantor, as applicable. 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 (subject to Section 9.1) conclusive in favor of the Trustee and the Company or the Guarantor, as applicable, if made in the manner provided in this Section.

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 manner which the Trustee deems sufficient.

The ownership of the Securities related book entries shall be proved by the Security Register.

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, the Company or the Guarantor in reliance thereon, whether or not notation of such action is made upon such Security.

The Company may set any day as a record date for the purpose of determining the Holders of Outstanding Securities of any series entitled to give, make or take any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Indenture to be given, made or taken by Holders of Securities of that series; *provided* that the Company may not set a record date for, and the provisions of this paragraph shall not apply with respect to, the giving or making of any notice, declaration, request or direction referred to in the next paragraph. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities of the relevant series on such record date, and no other Holders, shall be entitled to take the relevant action, whether or not such Holders remain Holders after such record date; *provided* that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite principal amount of Outstanding Securities of that series on such record date. Nothing in this paragraph shall be construed to prevent the Company from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be canceled and of no effect), and nothing in this paragraph shall be construed to render ineffective any action taken by Holders of the requisite principal amount of Outstanding Securities of the relevant series on the date such action is taken. Promptly after any record date is set pursuant to this paragraph, the Company, at its own expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Trustee in writing and to each Holder of Securities of the relevant series in the manner set forth in Section 14.4.

The Trustee may set any day as a record date for the purpose of determining the Holders of Outstanding Securities of any series entitled to join in the giving or making of (i) any notice of default pursuant to Section 9.5, (ii) any declaration of acceleration referred to in Section 8.2, (iii) any request to institute proceedings referred to in Section 8.7(B) or (iv) any direction referred to in

Section 8.11, in each case with respect to Securities of that series. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities of that series on such record date, and no other Holders, shall be entitled to join in such notice, declaration, request or direction, whether or not such Holders remain Holders after such record date; *provided* that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite principal amount of Outstanding Securities of that series on such record date. Nothing in this paragraph shall be construed to prevent the Trustee from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be canceled and of no effect), and nothing in this paragraph shall be construed to render ineffective any action taken by Holders of the requisite principal amount of Outstanding Securities of the relevant series on the date such action is taken. Promptly after any record date is set pursuant to this paragraph, the Trustee, at the Company's expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Company in writing and to each Holder of Securities of the relevant series in the manner set forth in Section 14.4.

With respect to any record date set pursuant to this Section, the party hereto which sets such record dates may designate any day as the "*Expiration Date*" and from time to time may change the Expiration Date to any earlier or later day; *provided* that no such change shall be effective unless notice of the proposed new Expiration Date is given to the other party hereto in writing, and to each Holder of Securities of the relevant series in the manner set forth in Section 14.4 on or prior to the existing Expiration Date. If an Expiration Date is not designated with respect to any record date set pursuant to this Section, the party hereto which set such record date shall be deemed to have initially designated the 180th day after such record date as the Expiration Date with respect thereto, subject to its right to change the Expiration Date as provided in this paragraph. Notwithstanding the foregoing, no Expiration Date shall be later than the 180th day after the applicable record date.

Without limiting the foregoing, a Holder entitled hereunder to take any action hereunder with regard to any particular Security may do so with regard to all or any part of the principal amount of such Security or by one or more duly appointed agents each of which may do so pursuant to such appointment with regard to all or any part of such principal amount.

SECTION 14.4. NOTICES

Any notices or other communications required or permitted hereunder shall be in writing, and shall be sufficiently given if made by hand delivery, by telex, by telecopier, recognized overnight courier or registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

if to the Company:

Mohawk Capital Luxembourg S.A.
10B, rue des Mérovingiens
L-8070 Bertrange
Grand Duchy of Luxembourg
R.C.S. Luxembourg: B 198.756
Attn: Principal Financial Officer
Telecopy: [ ]

with a copy to:

Alston & Bird LLP
One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309
Attention: Paul J. Nozick
Telecopy: 404-253-8253

if to the Guarantor:

Mohawk Industries, Inc.
160 S. Industrial Blvd.
Calhoun, Georgia 30701
Attention: Treasurer
Telecopy: 706-625-3851

with a copy to:

Alston & Bird LLP
One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309
Attention: Paul J. Nozick
Telecopy: 404-253-8253

if to the Trustee:

U.S. Bank National Association
Global Corporate Trust Services
1349 West Peachtree Street, N.W.
Atlanta, Georgia 30309
Attention: George Hogan
Telecopy: 404-898-2467

Any party by notice to each other party may designate additional or different addresses as shall be furnished in writing by such party. Any notice or communication to any party shall be deemed to have been given or made as of the date so delivered, if personally delivered; when answered back, if telexed; when receipt is acknowledged, if telecopied; the next Business Day after timely delivery to a recognized overnight courier, if sent by such courier guaranteeing next day delivery; and five Business Days after mailing if sent by registered or certified mail, postage prepaid (except that a notice of change of address shall not be deemed to have been given until actually received by the addressee).

Any notice or communication mailed to a Holder shall be mailed to it by first class mail or other equivalent means at its address as it appears on the registration books of the Registrar and shall be sufficiently given to such Holder if so mailed within the time prescribed.

Where this Indenture provides for Notice of any event to a Holder of a Global Security, such notice shall be sufficiently given if given to the Depositary or its nominee for such Security (or its designee), pursuant to its Applicable Procedures, not later than the latest date (if any), and not earlier than the earliest date (if any), prescribed for the giving of such notice.

Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

SECTION 14.5. COMMUNICATIONS BY HOLDERS WITH OTHER HOLDERS

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

SECTION 14.6. CERTIFICATE AND OPINION AS TO CONDITIONS PRECEDENT

Upon any request or application by the Company or the Guarantor to the Trustee to take any action under this Indenture, the Company or the Guarantor shall furnish to the Trustee:

(1) an Officers' Certificate (in form and substance reasonably satisfactory to the Trustee and which shall include the statements required by Section 14.7 hereof) stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(2) an Opinion of Counsel (in form and substance reasonably satisfactory to the Trustee and which shall include the statements required by Section 14.7 hereof) stating that, in the opinion of such counsel (who may rely on an Officers' Certificate and certificates of public officials as to matters of fact), all such conditions precedent have been complied with.

SECTION 14.7. STATEMENTS REQUIRED IN CERTIFICATE OR OPINION

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

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

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

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

(4) a statement as to whether or not, in the opinion of each such Person, such condition or covenant has been complied with; *provided*, *however*, that, with respect to matters of fact, an Opinion of Counsel may rely on an Officers' Certificate or certificates of public officials.

SECTION 14.8. RULES BY TRUSTEE, PAYING AGENT, REGISTRAR

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

SECTION 14.9. LEGAL HOLIDAYS

Unless otherwise provided as contemplated by Section 3.1 with respect to Securities of any series, in any case where any Interest Payment Date, Redemption Date, Maturity of any Security, Stated Maturity or any date on which a Holder has the right to convert his Security, shall not be a Business Day at any Place of Payment, then (notwithstanding any other provision of this Indenture or of the Securities (other than a provision of any Security which specifically states that such provision shall apply in lieu of this Section)) payment of interest or principal (and premium, if any), or conversion of such Security 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 the Interest Payment Date or Redemption Date, or at the Maturity or the Stated Maturity, or on such date for conversion, as the case may be and no interest shall accrue for the intervening period.

SECTION 14.10. GOVERNING LAW

(a) THIS INDENTURE, THE SECURITIES AND THE GUARANTEE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, AS APPLIED TO CONTRACTS MADE AND PERFORMED WITHIN THE STATE OF NEW YORK, INCLUDING, WITHOUT LIMITATION, SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW AND RULE 327(b) OF THE NEW YORK CIVIL PRACTICE LAWS AND RULES.

(b) For the avoidance of doubt, the application of articles 85 to 94-8 of Luxembourg law dated 10th August, 1915 on commercial companies, as amended, shall be excluded in relation to the issuance of any of the Securities.

(c) Each party hereto irrevocably and unconditionally submits to the jurisdiction of the Supreme Court of the State of New York sitting in the Borough of Manhattan, New York County and of the United States District Court of the Southern District of New York sitting in the Borough of Manhattan, and any appellate court from any jurisdiction thereof, in any action or proceeding arising out of or relating to this Indenture or the Guarantee, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each party hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Indenture shall affect any right that any party hereto may otherwise have to bring any action or proceeding relating to this Indenture against any party hereto or its properties in the courts of any jurisdiction.

(d) Each party hereto irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Indenture in any court referred to in Section 14.10(c) above. Each party hereto irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(e) Each party hereto irrevocably consents to service of process in the manner provided for notices in Section 14.4 hereof, such service to be effective upon receipt. Nothing in this Indenture will affect the right of any party hereto to serve process in any other manner permitted by law.

SECTION 14.11. WAIVER OF JURY TRIAL

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

SECTION 14.12. WAIVER OF IMMUNITY

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

SECTION 14.13. JUDGMENT CURRENCY

(a) If, for the purpose of obtaining or enforcing judgment against any non-U.S. party to this Indenture in any court in any jurisdiction, it becomes necessary to convert into any other currency (such other currency being hereinafter in this Section 14.13 referred to as the "*Judgment Currency*") an amount due hereunder in any currency (the "*Obligation Currency*") other than the Judgment Currency, the conversion shall be made at the rate of exchange prevailing on the Business Day immediately preceding the date of actual payment of the amount due, in the case of any proceeding in the courts of any other jurisdiction that will give effect to such conversion being made on such date, or the date on which the judgment is given, in the case of any proceeding in the courts of any other jurisdiction (the applicable date as of which such conversion is made pursuant to this Section 14.13 being hereinafter in this Section 14.13 referred to as the "*Judgment Conversion Date*").

(b) If, in the case of any proceeding in the court of any jurisdiction referred to in Section 14.13(a) above, there is a change in the rate of exchange prevailing between the Judgment Conversion Date and the date of actual receipt for value of the amount due, each applicable non-U.S. party shall pay such additional amount (if any, but in any event not a lesser amount) as may be necessary to ensure that the amount actually received in the Judgment Currency, when converted at the rate of exchange prevailing on the date of payment, will produce the amount of the Obligation Currency which could have been purchased with the amount of the Judgment Currency stipulated in the judgment or judicial order at the rate of exchange prevailing on the Judgment Conversion Date. Any amount due from any non-U.S. party under this Section 14.13(b) shall be due as a separate debt and shall not be affected by judgment being obtained for any other amounts due under or in respect of the Indenture.

(c) The term "rate of exchange" in this Section 14.13(c) means the 10 a.m. (New York City time) spot rate as posted by the Federal Reserve Bank of New York for sales of the Obligation Currency against the Judgment Currency.

SECTION 14.14. NO ADVERSE INTERPRETATION OF OTHER AGREEMENTS

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

SECTION 14.15. NO RECOURSE AGAINST OTHERS

No direct or indirect stockholder, employee, officer or director, as such, past, present or future, of the Company, the Guarantor or any successor entity of either of them shall have any personal liability in respect of the obligations of the Company or the Guarantor under this Indenture, the Securities or the Guarantee solely by reason of his or its status as such stockholder, employee, officer or director. Each Holder by accepting a Security waives and releases all such liability. The waiver and release are part of the consideration for the issuance of any Security or any Guarantee.

SECTION 14.16. SUCCESSORS

All agreements of each of the Company or the Guarantor in this Indenture and any Security shall bind its successor. All agreements of the Trustee in this Indenture shall bind its successor.

SECTION 14.17. DUPLICATE ORIGINALS

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

SECTION 14.18. SEVERABILITY

In case any one or more of the provisions in this Indenture or in any Security shall be held invalid, illegal or unenforceable, in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions shall not in any way be affected or impaired thereby, it being intended that all of the provisions hereof shall be enforceable to the full extent permitted by law.

SECTION 14.19. TABLE OF CONTENTS, HEADINGS, ETC.

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

SIGNATURES

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

MOHAWK CAPITAL LUXEMBOURG S.A.

By: _____
Name:
Title: Class A Director

By: _____
Name:
Title: Class B Director

MOHAWK INDUSTRIES, INC.

By: _____
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Name:
Title:

Exhibit 5.1

ALSTON&BIRD LLP

One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309-3424
404-881-7000
Fax: 404-881-7777
www.alston.com

August 4, 2017

Mohawk Industries, Inc.
Mohawk Capital Luxembourg S.A.
160 South Industrial Boulevard
Calhoun, Georgia 30701

Re: Shelf Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as counsel to Mohawk Industries, Inc., a Delaware corporation (the "Company"), and Mohawk Capital Luxembourg S.A., a a *societe anonyme* organized under the laws of Luxembourg ("Mohawk Capital"), in connection with the filing of the above-referenced registration statement (the "Registration Statement") with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Securities Act"). We are furnishing this opinion letter to you in accordance with the requirements of Item 16 of Form S-3 and Item 601(b)(5) of the Commission's Regulation S-K.

The Registration Statement relates to the proposed issuance and sale from time to time, pursuant to Rule 415 under the Securities Act, of the following securities (the "Registered Securities"):

(i) debt securities of the Company (the "Company Debt Securities");

(ii) senior debt securities of Mohawk Capital (the "Mohawk Capital Senior Debt Securities");

(iii) subordinated debt securities of Mohawk Capital (the "Mohawk Capital Subordinated Debt Securities," and together with the Mohawk Capital Senior Debt Securities, the "Mohawk Capital Debt Securities");

(iv) guarantees by the Company of payments of the principal of, and interest and premium, if any, on, one or more series of the Mohawk Capital Debt Securities (the "Company Guarantees");

(v) shares of the Company's common stock, par value $0.01 per share (the "Common Shares");

(vi) shares of the Company's preferred stock, par value $.01 per share (including shares convertible into or exchangeable for other securities), with such preferences and other terms as determined in accordance with the Company's Restated Certificate of

Incorporation, as amended, and Restated Bylaws, each as may be further amended and/or restated (the "Preferred Shares," and together with the Common Shares, the "Shares");

(vii) warrants of the Company to purchase any of the securities described in clauses (i) - (iii) and (v) – (vi) above (the "Warrants");

(viii) purchase contracts of the Company obligating the holders thereof to purchase or sell, and obligating the Company to sell or purchase, debt or equity securities, currencies or commodities (the "Purchase Contracts"); and

(ix) units comprised of one or more of the securities described in clauses (i) – (viii) above (the "Units").

The Company Debt Securities and the Mohawk Capital Debt Securities, are together "Debt Securities." The Registered Securities will be offered in amounts, at prices and on terms to be determined in light of market conditions at the time of sale and to be set forth in supplements to the prospectus contained in the Registration Statement, as it may be amended from time to time.

Each series of Company Debt Securities is to be issued pursuant to an indenture, as amended or supplemented from time to time, relating to the Company Debt Securities between the Company and a trustee to be appointed by the Company; each series of Mohawk Capital Debt Securities (together with the related Company Guarantees) is to be issued pursuant to an indenture, as amended or supplemented from time to time, relating to the Mohawk Capital Debt Securities between Mohawk Capital, the Company and a trustee to be appointed by the Mohawk Capital; each Warrant is to be issued pursuant to a warrant agreement; each Purchase Contract is to be issued pursuant to a purchase contract agreement; and each Unit is to be issued pursuant to a unit agreement; and each such indenture, Warrant, warrant agreement, purchase agreement or unit agreement is to be substantially in the form filed as an exhibit to the Registration Statement or as an exhibit to a document filed under the Securities Exchange Act of 1934, as amended, and incorporated into the Registration Statement by reference.

In the capacity described above, we have considered such matters of law and of fact, including the examination of originals or copies, certified or otherwise identified to our satisfaction, of such records and documents of the Company and Mohawk Capital, including, without limitation, the organizational documents of the Company, resolutions adopted by the boards of directors of the Company and Mohawk Capital, the indenture or forms of indentures filed as Exhibits 4.5 – 4.7 to the Registration Statement, certificates of officers and representatives (who, in our judgment, are likely to know the facts upon which the opinion will be based) of the Company and Mohawk Capital, certificates of public officials and such other documents as we have deemed appropriate as a basis for the opinions hereinafter set forth. We also have made such further legal and factual examinations and investigations as we deemed necessary for purposes of expressing the opinions set forth herein.

As to certain factual matters relevant to this opinion letter, we have relied conclusively upon originals or copies, certified or otherwise identified to our satisfaction, of such records, agreements, documents and instruments, including certificates or comparable documents of officers of the Company and Mohawk Capital and of public officials, as we have deemed appropriate as a basis for the opinions hereinafter set forth. Except to the extent expressly set forth herein, we have made no independent investigations with regard to matters of fact, and, accordingly, we do not express any opinion as to matters that might have been disclosed by independent verification.

We have assumed with your permission that (i) all Registered Securities will be issued and sold in the manner stated in the Registration Statement and the applicable prospectus supplement; (ii) at the time of any offering or sale of any Common Shares or Preferred Shares, the Company will have such number of Common Shares or Preferred Shares authorized and available for issuance; (iii) all Registered Securities issuable upon conversion, exchange or exercise of any Registered Securities being offered will have been duly authorized, established (if appropriate) and reserved for issuance upon such conversion, exchange or exercise (if appropriate); and (iv) to the extent applicable, an indenture with respect to any Debt Securities and any related Guarantees offered, a warrant agreement with respect to any Warrants offered, a stock purchase agreement with respect to any Purchase Contracts offered, a unit agreement with respect to any Units offered and a purchase, underwriting or similar agreement with respect to any Registered Securities offered will have been duly authorized and validly executed and delivered by the Company and/or Mohawk Capital, as applicable, and the other parties thereto. Further, to the extent that the obligations of the Company or Mohawk Capital under any indenture, warrant agreement, stock purchase agreement or unit agreement may depend upon such matters, we have assumed with your permission that at the time of execution thereof: (v) the applicable trustee, warrant agent or unit agent will be duly organized, validly existing and in good standing under the laws of its jurisdiction of organization; (vi) the trustee, warrant agent or unit agent will have the requisite organizational and legal power and authority to perform its obligations under the indenture, warrant agreement, stock purchase agreement or unit agreement, as applicable; (vii) the indenture, warrant agreement, stock purchase agreement or unit agreement will have been duly authorized, executed and delivered by the Company or Mohawk Capital, as applicable, and by the trustee, warrant agent or unit agent, as applicable, and will constitute the valid and binding obligation of the trustee, warrant agent or unit agent, as applicable, enforceable against the trustee, warrant agent or unit agent, as applicable, in accordance with its terms; and (viii) the trustee, warrant agent or unit agent will be in compliance, with respect to acting as a trustee, warrant agent or unit agent under the indenture, warrant agreement or unit agreement, as applicable, with all applicable laws and regulations. Finally, we have assumed with your permission (ix) the genuineness of all signatures and the legal competence of all natural persons who executed any documents; (x) the authenticity of all documents submitted to us as originals and the conformity to original documents of all documents submitted to us as certified, conformed, photostatic, electronic or telefacsimile copies; and (xi) the proper issuance and accuracy of certificates of public officials and officers and agents of the Company and Mohawk Capital.

We express no opinion herein with regard to any laws other than the General Corporation Law of the State of Delaware (the “DGCL”) and the laws of the State of New York as they relate to the enforceability of documents, agreements and instruments referred to herein, which in all cases are normally applicable in our experience to transactions of the type contemplated by the Registration Statement. For purposes of our opinion that the Mohawk Capital Debt Securities will be valid and binding obligations of Mohawk Capital, we have, without conducting any research or investigation with respect thereto, relied on the opinion of Arendt & Medernach, with respect to Mohawk Capital, that the Mohawk Capital Debt Securities have been duly authorized and duly established under the laws of Luxembourg. We are not licensed to practice in Luxembourg, and we have made no investigation of, and do not express or imply an opinion on, the laws of Luxembourg.

This opinion letter is provided for use solely in connection with the transactions contemplated by the Registration Statement and may not be used, circulated, quoted or otherwise relied upon for any other purpose without our express written consent. No opinion may be implied or inferred beyond the opinions expressly stated in the numbered paragraphs below. Our opinions expressed herein are as of the date hereof, and we undertake no obligation to advise you of any changes in applicable law

or any other matters that may come to our attention after the date hereof that may affect our opinions expressed herein.

Based upon the foregoing and subject to the limitations, qualifications, exceptions and assumptions set forth herein, it is our opinion that:

1. Company Debt Securities and Company Guarantees. When (a) appropriate corporate action has been taken by the Company to authorize the form and terms of any series of Company Debt Securities or Company Guarantees and to approve the issuance and terms of the offering of the Company Debt Securities or Company Guarantees and related matters in accordance with any applicable indenture and so as not to violate any applicable law, rule or regulation or result in a 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, (b) any such Company Debt Securities have been duly authenticated in accordance with the applicable indenture, and such Company Debt Securities or Company Guarantees have been issued (i) in accordance with the applicable indenture and the applicable definitive purchase, underwriting or similar agreement approved by the Board of Directors (which term, as used here and elsewhere in this opinion letter, includes duly authorized committees of the Board of Directors) of the Company or (ii) upon conversion or exercise of any Registered Securities in accordance with the terms of such Registered Securities or the instrument governing such Registered Securities providing for such conversion or exercise as approved by the Board of Directors of the Company, and (c) the Company has received the consideration approved by the Board of Directors for the Company Debt Securities as provided in the applicable indenture and other applicable agreements, then, upon the happening of such events, such Company Debt Securities or Company Guarantees will constitute valid and binding obligations of the Company, subject to applicable bankruptcy, insolvency, liquidation, reorganization, moratorium and other laws relating to or affecting the rights and remedies of creditors generally and to the limitation that the enforceability thereof (including by means of specific performance) may be subject to certain equitable defenses and to the discretion of the court before which proceedings may be brought, including traditional equitable defenses such as waiver, laches and estoppel; good faith and fair dealing; reasonableness; materiality of the breach; impracticability or impossibility of performance; and the effect of obstruction or failure to perform or otherwise act in accordance with an agreement by any person other than the obligor thereunder (regardless of whether considered in a proceeding in equity or at law) (the “Bankruptcy and Equity Exception”).

2. Mohawk Capital Debt Securities. When (a) the appropriate corporate action has been taken by Mohawk Capital to authorize the form and terms of any series of Mohawk Capital Debt Securities and to approve the issuance and terms of the offering of the Mohawk Capital Debt Securities and related matters in accordance with any applicable indenture and so as not to violate any applicable law, rule or regulation or result in a default under or breach of any agreement or instrument binding upon Mohawk Capital and so as to comply with any requirement or restriction imposed by any court or governmental body having jurisdiction over Mohawk Capital, (b) any such Mohawk Capital Debt Securities have been duly authenticated in accordance with the applicable indenture, and such Mohawk Capital Debt Securities have been issued (i) in accordance with the applicable indenture and the applicable definitive purchase, underwriting or similar agreement approved by the Board of Directors of Mohawk Capital or (ii) upon conversion or exercise of any Registered Securities in accordance with the terms of such Registered Securities or the instrument governing such Registered Securities providing for such conversion or exercise as approved by the Board of Directors of Mohawk Capital, and (c) Mohawk Capital has received the consideration approved by the Board of Directors of Mohawk Capital for the Mohawk Capital Debt Securities as provided in the applicable indenture and other applicable agreements, then, upon the happening of

such events, such Mohawk Capital Debt Securities will constitute valid and binding obligations of Mohawk Capital, subject to the Bankruptcy and Equity Exception.

3. Shares. When (a) appropriate corporate action has been taken by the Company to designate the preferences, limitations and relative rights of any Preferred Shares to be offered and to authorize and approve the issuance and terms of the offering of Common Shares or Preferred Shares and related matters and so as not to violate any applicable law, rule or regulation or result in a 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, including, in the case of Preferred Shares, the due adoption and execution of a Certificate of Designations for the Preferred Shares and the filing of such Certificate of Designations with the Secretary of State of the State of Delaware, all in accordance with the DGCL, (b) the Shares have been issued (i) in accordance with the applicable definitive purchase, underwriting or similar agreement approved by the Board of Directors of the Company or (ii) upon conversion or exercise of any Registered Securities in accordance with the terms of such Registered Securities or the instrument governing such Registered Securities providing for such conversion or exercise as approved by the Board of Directors of the Company, and (c) the Company has received the consideration approved by the Board of Directors of the Company for the Shares as provided in the applicable agreement (not less than the par value of the Shares), then, upon the happening of such events, such Shares will be validly issued, fully paid and non-assessable.

4. Warrants. When (a) appropriate corporate action has been taken by the Company to approve the issuance and terms of the offering of the Warrants, including the authorization of the warrant agreement and the underlying securities, and related matters so as not to violate any applicable law, rule or regulation or result in a 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, (b) the warrant agreement has been duly executed and delivered by the Company and the warrant agent, (c) the Warrants have been issued in accordance with the warrant agreement and the applicable definitive purchase, underwriting or similar agreement approved by the Board of Directors of the Company and (d) the Company has received the consideration approved by the Board of Directors of the Company for the Warrants as provided in the warrant agreement and other applicable agreement, then, upon the happening of such events, such Warrants will constitute valid and binding obligations of the Company subject to the Bankruptcy and Equity Exception.

5. Purchase Contracts. When (a) appropriate corporate action has been taken by the Company to approve the issuance and terms of the offering of the Purchase Contracts, including the authorization of the purchase contract agreement and the underlying securities, as applicable, and related matters so as not to violate any applicable law, rule or regulation or result in a 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, (b) the purchase contract agreement has been duly executed and delivered by the Company and the counterparty, (c) the Purchase Contracts have been issued in accordance with the purchase contract agreement and the applicable definitive purchase, underwriting or similar agreement approved by the Board of Directors of the Company and (d) the Company has received the consideration approved by the Board of Directors of the Company for the Purchase Contracts as provided in the purchase contract agreement and other applicable agreement, then, upon the happening of such events, such Purchase Contracts will constitute valid and binding obligations of the Company subject to the Bankruptcy and Equity Exception.

6. Units. When (a) appropriate corporate action has been taken by the Company to approve the issuance and terms of the offering of the Units, including the authorization of the unit agreement and the underlying securities, and related matters so as not to violate any applicable law, rule or regulation or result in a 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, (b) the unit agreement has been duly executed and delivered by the Company and the counterparty, (c) the Units have been issued in accordance with the unit agreement and the applicable definitive purchase, underwriting or similar agreement approved by the Board of Directors of the Company and (d) the Company has received the consideration approved by the Board of Directors of the Company for the Units as provided in the unit agreement and other applicable agreement, then, upon the happening of such events, such Units will constitute valid and binding obligations of the Company subject to the Bankruptcy and Equity Exception.

The opinions expressed above relating to the binding obligations represented by the Debt Securities, the Guarantees, the Warrants, the Purchase Contracts and the Units are also subject to the following:

(i) The possible unenforceability of provisions requiring indemnification for violations of the securities laws;

(ii) The possible unenforceability of provisions that waivers or consents by a party may not be given effect unless in writing or in compliance with particular requirements or that a person's course of dealing, course of performance or the like or failure or delay in taking action may not constitute a waiver of related rights or provisions or that one or more waivers may not under certain circumstances constitute a waiver of other matters of the same kind;

(iii) The effect of course of dealing, course of performance or the like that would modify the terms of an agreement or the respective rights or obligations of the parties under an agreement;

(iv) The possible unenforceability of provisions that determinations by a party or a party's designee are conclusive or deemed conclusive in the absence of commercial reasonableness or good faith;

(v) The possible unenforceability of provisions permitting modifications or amendments of an agreement only in writing; and

(vi) The possible unenforceability of provisions that the provisions of an agreement are severable.

We consent to the filing of this opinion letter as an exhibit to the Registration Statement and to the use of our name under the heading "Legal Matters" in the Prospectus constituting a part thereof. In giving such consent, we do not thereby admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission thereunder.

ALSTON & BIRD LLP

By: /s/ M. Hill Jeffries

M. Hill Jeffries, A Partner

Exhibit 5.2

arendt
arendt & medernach

Mohawk Industries, Inc.
P.O. Box 12069
160 S. Industrial Boulevard
Calhoun, Georgia 30701

Mohawk Capital Luxembourg S.A.
10B, rue des Mérovingiens,
L-8070 Bertrange

Luxembourg, 4 August 2017

Ladies and Gentlemen,

We have acted as legal advisors in the Grand Duchy of Luxembourg to Mohawk Capital Luxembourg S.A., a *société anonyme* organized under the laws of Luxembourg, which has its registered office at 10B, rue des Mérovingiens, L-8070 Bertrange and is registered with the Luxembourg Trade and Companies' Register under number B 198.756 (the "**Company**") in connection with the filing by Mohawk Industries, Inc. and the Company of a Registration Statement on Form S-3 (the "**Registration Statement**"), which includes a prospectus dated 4 August 2017 (the "**Prospectus**"), with the Securities and Exchange Commission relating to the proposed public offering and sale of (i) an indeterminate aggregate principal amount of unsecured senior debt securities and unsecured senior subordinated debt securities of the Company (the "**Debt Securities**") fully and unconditionally guaranteed by Mohawk Industries, Inc. (the "**Guarantor**") and subject to the Indentures (as defined below) and (ii) unsecured obligations of Mohawk Industries, Inc.

All capitalized terms not otherwise defined herein have the same meanings as defined in the Registration Statement and in the Prospectus.

In connection with the delivery of this opinion (the "**Opinion**"), we have examined the following documents:

(i) An scanned copy of the articles of association of the Company included in the deed of incorporation of the Company dated 16 July 2015 (the "**Articles of Association**").

(ii) An electronic copy of the signed minutes of the meeting of the board of directors of the Company taken on 3 August 2017 (the "**Resolutions**").

(iii) An electronic certificate of non-registration of a judicial decision (*certificat de non-inscription d'une décision judiciaire*) dated 4 August 2017 and issued by the Luxembourg Trade and Companies' Register in relation to the Company and stating that on the date preceding the date of the certificate none of the following judicial decisions has been recorded with the Luxembourg Trade and Companies' Register with respect to the Company: (a) judgments or decisions pertaining to the opening of insolvency proceedings (faillite), (b) judgments or court orders approving a voluntary arrangement with creditors (concordat préventif de la faillite), (c) court orders pertaining to a suspension of payments (sursis de paiement), (d) judicial decisions regarding controlled management (gestion contrôlée), (e) judicial decisions pronouncing its dissolution or deciding on its liquidation, (f) judicial decisions regarding the appointment of an interim administrator (administrateur provisoire), or (g) judicial decisions taken by foreign judicial authorities concerning insolvency, voluntary arrangements or any similar proceedings in accordance with the regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast) (the "**Insolvency Regulation**") (the "**Non-Registration Certificate**").

(iv) An electronic excerpt dated 4 August 2017 from the Luxembourg Trade and Companies' Register relating to the Company (the "**Excerpt**").

(v) A scanned copy received by e-mail on 4 August 2017 of the executed Registration Statement, including the Prospectus dated 4 August 2017.

(vi) A word version of the form of senior subordinated indenture between the Company as issuer, the Guarantor as guarantor and U.S. Bank National Association as trustee (the "**Subordinated Indenture**").

(vii) A word version of the form of senior indenture between the Company as issuer, the Guarantor as guarantor and U.S. Bank National Association as trustee (the "**Senior Indenture**", together with the Subordinated Indenture hereinafter collectively referred to as the "**Indentures**" and together with the Registration Statement and the Prospectus hereinafter collectively referred to as the "**Opinion Documents**").

(the documents referred to under items (i) to (vii) above are hereinafter collectively referred to as the "**Documents**").

1. In arriving at the opinions expressed below, we have examined and relied exclusively on the Documents.

This Opinion is confined to matters of Luxembourg Law (as defined below). Accordingly, we express no opinion with regard to any system of law other than Luxembourg law as it stands as at the date hereof and as such law is currently interpreted as of the date hereof in published case law of the courts of Luxembourg ("**Luxembourg Law**") or to the extent this Opinion concerns documents executed prior to this date, the date of their execution and the period to date. In particular: (a) we express no opinion (i) on public international law or on the rules of or promulgated under any treaty or by any treaty organisation (except rules implemented into Luxembourg Law) or, except as specifically set out herein, on any taxation laws of any jurisdiction (including Luxembourg), (ii) on that the future or continued performance of the Company's obligations under the terms and conditions of the Debt Securities will not

contravene Luxembourg Law, its application or interpretation in each case solely to the extent that such laws, their application or interpretation, are altered after the date hereof, and (iii) with regard to the effect of any systems of law (other than Luxembourg Law) even in cases where, under Luxembourg Law, any foreign law should be applied, and we therefore assume that any applicable law (other than Luxembourg Law) would not affect or qualify the opinions as set out below; (b) we express no opinion as to matters of fact other than those being the subject of a specific opinion herein and we have not been responsible for investigating or verifying the accuracy of the facts (or statements of foreign law) or the reasonableness of any statements of opinion or intention contained in any documents (other than this Opinion), or for verifying that no material facts or provisions have been omitted therefrom, save in so far as any such matter is the subject matter of a specific opinion herein; and (c) Luxembourg legal concepts are expressed in English terms and not in their original French terms. We express no opinion with respect to the validity and/or enforceability and/or performance of the obligations under the Opinion Documents, which we have not reviewed in this respect.

2. The concepts concerned may not be identical to the concepts described by the same English terms as they exist in the laws of other jurisdictions. This Opinion may, therefore, only be relied upon on the express condition that any issues of the interpretation or liability arising thereunder will be governed by Luxembourg law and be brought before a court in Luxembourg.

3. For the purpose of this Opinion we have assumed:

3.1. the genuineness of all signatures, seals and stamps on any of the Documents, the completeness and conformity to originals of the Documents submitted to us as certified, photostatic, faxed, scanned or e-mailed copies and that the individuals having signed the Documents had legal capacity when they signed;

3.2. that the Indentures will be signed in the form of the word version listed in item (vi) and item (vii) above;

3.3. that the Debt Securities will be issued in registered form only;

3.4. that the register of the registered debt securities as referred to in article 84 of the Luxembourg law of 10 August 1915 on commercial companies, as amended (the "**Companies Act**"), is and will be maintained at the registered office of the Company and that the holder(s) of the Debt Securities will be duly registered in this register of the registered debt securities;

3.5. that the issue of the Debt Securities in accordance with their terms and conditions will not infringe the terms of, or constitute a default under, any agreement, indenture, contract, mortgage, deed or other instrument to which the Company is a party or by which any of their property, undertaking, assets or revenue are bound (for the sake of clarification, this does not refer to the Articles of Association);

3.6. that, upon issuance, the Debt Securities will be fully subscribed and that the subscription price will be paid to the Company;

3.7. that the Company has complied with all tax requirements under Luxembourg law;

3.8. that the factual matters and statements relied upon or assumed herein were, are and will be (as the case may be) true, complete and accurate on the date of execution of the Opinion Documents;

3.9. that, in respect of the Opinion Documents and each of the transactions contemplated by, referred to in, provided for or effected by the Documents, the entry into the Opinion Documents and the performance of any rights and obligations thereunder are in the best corporate interest (*intérêt social*) of the Company;

3.10. the absence of any other arrangements between any of the parties to the Opinion Documents which modify or supersede any of the terms of the Opinion Documents;

3.11. that the Opinion Documents are true, complete, up-to-date and have not been rescinded, supplemented or amended in any way since the date thereof; that no other corporate documents exist which would have a bearing on this Opinion; and that all statements contained therein are true and correct;

3.12. that the resolutions of the board of directors were properly taken as reflected in the Resolutions, that the meeting of the board of directors of the Companies was properly convened for the purpose of adopting the Resolutions, that each director has properly performed his duties and that all provisions relating to the declaration of opposite interests or the power of the interested directors to vote were fully observed;

3.13. that the individuals purported to have signed the Documents have in fact signed such Documents and that these individuals had legal capacity when they signed;

3.14. that the head office (*administration centrale*) and the place of effective management (*siège de direction effective*) of the Company are located at the place of its registered office (*siège statutaire*) in Luxembourg; that, for the purposes of the Insolvency Regulation, the centre of main interests (*centre des intérêts principaux*) of the Company is located at the place of its registered office (*siège statutaire*) in Luxembourg;

3.15. that during the search made on 4 August 2017 on the *Recueil électronique des sociétés et associations*, the central electronic platform of the Grand Duchy of Luxembourg *("**RESA**")* and in the *Mémorial C, Journal Officiel du Grand-Duché de Luxembourg, Recueil des Sociétés et Associations* (the "***Mémorial***"), the information published regarding the Company was complete, up-to-date and accurate at the time of such search and has not been modified since such search;

3.16. that the Company has complied with all legal requirements of the law of 31 May 1999 regarding the domiciliation of companies (the "**Domiciliation Law**") or, if the Companies rent office space, that the premises rented by each of the Companies meet the factual criteria set out in the circulars issued by the Luxembourg *Commission de Surveillance du Secteur Financier* in connection with the Domiciliation Law;

3.17. that the obligations assumed by all parties under the Opinion Documents and in relation to the issuance of the Debt Securities constitute legal, valid, binding and enforceable obligations with their terms under their governing laws (other than the laws of Luxembourg);

3.18. that no judicial decision has been or will be rendered which might restrain the Company from issuing the Debt Securities;

3.19. that the relevant supplemental indenture or prospectus, underwriting agreement, note, or other document to be entered into in relation to the issuance of Debt Securities, if any, will not contain any provision that will violate any law or regulation of Luxembourg or that will not be valid, binding and enforceable under Luxembourg law or that will be in breach of the Articles of Association or the Resolutions and that such documents will (if applicable) be duly signed by the person(s) empowered by the Company to sign the same in accordance with the Articles of Association or the Resolutions;

3.20. that any consents, approvals, authorisations or orders required from any governmental or other regulatory authorities outside Luxembourg for the issuance of the Debt Securities have been obtained or fulfilled and are and will remain in full force and effect.

4. This Opinion is given on the basis that it will be governed by and construed in accordance with Luxembourg Law and will be subject to Luxembourg jurisdiction only.

On the basis of the assumptions set out above and subject to the qualifications set out below and to any factual matters, documents or events not disclosed to us, we are of the opinion that:

4.1. The Company is a *société anonyme* incorporated before a Luxembourg notary for an unlimited duration and existing under Luxembourg Law.

4.2. The Company has the power to issue the Debt Securities when issued by the Company further to resolutions of the board of directors of the Company and in accordance with the Opinion Documents and has taken all required steps to authorise the entering into the Opinion Documents under Luxembourg Law.

5. The opinions expressed above are subject to the following qualifications:

5.1. the opinions set out above are subject to all limitations by reason of national or foreign bankruptcy, insolvency, winding-up, liquidation, moratorium, controlled management, suspension of payment, voluntary arrangement with creditors, fraudulent conveyance, general settlement with creditors, reorganisation or similar laws affecting the rights of creditors generally;

5.2. any power of attorney and mandate, as well as any other agency provisions (including, but not limited to, powers of attorney and mandates expressed to be irrevocable) granted and all appointments of agents made by the Company, explicitly or by implication, (a) will normally terminate by law and without notice upon the Company's bankruptcy (*faillite*) or similar proceedings and become ineffective upon the Company entering controlled management (*gestion contrôlée*) and suspension of payments (*sursis de paiement*) and (b) may be capable of being revoked by the Company despite their being expressed to be irrevocable, which causes the withdrawal of all powers to act on behalf of the Company, although such a revocation may give rise to liability for damages of the revoking party for breach of contract;

5.3. the Non-Registration Certificate does not determine conclusively whether or not the judicial decisions referred to therein have occurred. In particular, it is not possible to determine whether any petition has been filed with a court or any similar action has been taken against or on behalf of the Company regarding the opening of insolvency proceedings (*faillite*), suspension of payments (*sursis de paiement*), controlled management (*gestion contrôlée*) or voluntary arrangements that the Companies would have entered into with their creditors (*concordat préventif de la faillite*), judicial decisions regarding the appointment of an interim administrator (*administrateur provisoire*), or judicial decisions taken by foreign judicial authorities concerning insolvency, voluntary arrangements or any similar proceedings in accordance with the Insolvency Regulation. The Non-Registration Certificate only mentions such proceedings if a judicial decision was rendered further to such a request, and if such judicial decision was recorded with the Luxembourg Trade and Companies' Register on the date referred to in the Non-Registration Certificate;

5.4. deeds (*actes*) or extracts of deeds (*extraits d'actes*) and other indications relating to the Company and which, under Luxembourg Law, must be published on the *RESA* (and which mainly concern acts relating to the incorporation, the functioning, the appointment of directors/managers and liquidation/insolvency of the Company as well as amendments, if any, to the articles of association of the Company) will only be enforceable against third parties after they have been published on the *RESA* except where the relevant company proves that such third parties had previously knowledge thereof. Such third parties may rely on deeds or extracts of deeds prior to their publication. For the fifteen days following the publication, these deeds or extracts of deeds will not be enforceable against third parties who prove that it was impossible for them to have knowledge thereof;

5.5. there may be a lapse between the filing of a document and its actual publication on the *RESA*;

5.6. the non-compliance by the Company with criminal law or the provisions of the commercial code or the laws governing commercial companies including the requirement to file with the Trade and Companies' Register their annual accounts may trigger the application of Article 203 of the Companies Act according to which the District Court (*Tribunal d'Arrondissement*) dealing with commercial matters may, at the request of the Public Prosecutor (*Procureur d'Etat*), order the dissolution and liquidation of the Company;

5.7. the rights and obligations of the parties to the Opinion Documents may be affected by criminal investigations or prosecution;

5.8. there exists no published case law in Luxembourg in relation to the recognition of foreign law governed subordination provisions whereby a party agrees to subordinate its claims of another party. If a Luxembourg court had to analyse the enforceability of such provisions, it is our view likely that it would consider the position taken by Belgian and Luxembourg legal scholars according to which foreign law governed subordination provisions are enforceable against the parties thereto but not against third parties. There is furthermore uncertainty as to whether Luxembourg insolvency receivers must accept the tiering between senior and subordinated creditors of a Luxembourg debtor;

5.9. there are no general Luxembourg law provisions or relevant published case law on non-petition clauses. Luxembourg courts are likely to turn to Belgian case law and legal literature which do not recognise the enforceability of a non-petition clauses;

5.10. foreign trusts will only be recognised by the courts of Luxembourg subject to and in accordance with the Hague Convention of 1 July 1985 on the law applicable to trusts and in their recognition, as ratified by and in accordance with the law of 27 July 2003;

6. This Opinion speaks as of the date hereof. No obligation is assumed to update this Opinion or to inform any person of any changes of law or other matters coming to our knowledge and occurring after the date hereof which may affect this Opinion in any respect.

7. We hereby consent to the filing of this Opinion as an exhibit to the Registration Statement and to the use of our name under the heading “Legal Matters” in the Prospectus. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act of 1933.

8. This Opinion is issued by and signed on behalf of Arendt & Medernach SA, admitted to practice in Luxembourg and registered on the list V of lawyers of the Luxembourg bar association.

Yours faithfully,

By and on behalf of Arendt & Medernach SA

/s/ Bob Calmes

Partner

Exhibit 12.1

Mohawk Industries, Inc.

Statement Regarding Computation of Ratio of Earnings to Fixed Charges

(In Thousands, Except Ratio Data)

	Year Ended December 31,					
	2012	**2013**	**2014**	**2015[3]**	**2016**	**Six Months Ended July 1, 2017**
Fixed charges:						
Portion of rent expense representative of interest[1]	32,529	38,847	38,176	36,924	41,701	22,345
Capitalized interest	4,577	8,167	9,202	7,091	5,608	3,622
Interest expensed	74,713	92,246	98,207	71,086	40,547	16,595
Total fixed charges [2]	$ 111,819	139,260	145,585	115,101	87,856	42,562
Earnings [2] :						
Earnings from continuing operations before income taxes	304,492	445,571	663,891	748,861	1,241,125	613,843
Fixed charges	111,819	139,260	145,585	115,101	87,856	42,562
Amortization of capitalized interest	5,452	5,832	6,230	6,326	6,770	3,317
less:						
Capitalized interest	(4,577)	(8,167)	(9,202)	(7,091)	(5,608)	(3,622)
Total earnings	$ 417,186	582,496	806,504	863,197	1,330,143	656,100
Ratio of earnings to fixed charges	3.7	4.1	5.5	7.4	15.1	15.4

[1]Interest portion of rental expense is estimated to equal 1/3 of such expense, which is considered a reasonable approximation of the interest factor.

[2] For the purposes of determining the ratio of earnings to fixed charges, earnings consists of the aggregate of earnings from continuing operations before income taxes plus fixed charges and amortization of capitalized interest, less total capitalized interest. Fixed charges are defined as interest expensed and capitalized plus an estimate of interest included within rental expense.

[3] Earnings (as defined above) for the year ended December 31, 2015 reflect a $122.5 million charge related to the settlement and further defense of certain polyurethane foam litigation. Excluding this litigation-related charge, earnings for the year ended December 31, 2015 would have been $985.7 million and the ratio of earnings to fixed charges would have been 8.6x**.**

Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

The Board of Directors
Mohawk Industries, Inc.:

We consent to the use of our reports with respect to the consolidated financial statements and the effectiveness of internal control over financial reporting incorporated by reference herein and to the reference to our Firm under the heading “Experts” in the prospectus.

/s/ KPMG LLP

Atlanta, Georgia
August 4, 2017

Exhibit 25.2

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

FORM T-1

STATEMENT OF ELIGIBILITY UNDER
THE TRUST INDENTURE ACT OF 1939 OF A
CORPORATION DESIGNATED TO ACT AS TRUSTEE

☐ Check if an Application to Determine Eligibility of a Trustee Pursuant to Section 305(b)(2)

U.S. BANK NATIONAL ASSOCIATION
(Exact name of Trustee as specified in its charter)

31-0841368
I.R.S. Employer Identification No.

800 Nicollet Mall Minneapolis, Minnesota	55402
(Address of principal executive offices)	(Zip Code)

George Hogan
U.S. Bank National Association
Two Midtown Plaza
1349 West Peachtree Street N.W., Suite 1050
Atlanta, Georgia 30309
(404) 898-8832
(Name, address and telephone number of agent for service)

MOHAWK INDUSTRIES, INC.
MOHAWK CAPITAL LUXEMBOURG S.A.
(Exact name of obligor as specified in its charter)

Delaware **Luxembourg**	**52-1604305** **Not applicable**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

Mohawk Industries, Inc. P.O. Box 12069 160 S. Industrial Blvd. Calhoun, Georgia 30701	Mohawk Capital Luxembourg S.A. 10B, rue des Mérovingiens L-8070 Bertrange Grand Duchy of Luxembourg R.C.S. Luxembourg B198.756
(Address of Principal Executive Offices including zip code)	(Address of Principal Executive Offices including zip code)

Senior Debt Securities
(Title of the Indenture Securities)

FORM T-1

Item 1. GENERAL INFORMATION.

Furnish the following information as to the Trustee.

a) Name and address of each examining or supervising authority to which it is subject.

Comptroller of the Currency
Washington, D.C.

b) Whether it is authorized to exercise corporate trust powers.

Yes

Item 2. AFFILIATIONS WITH OBLIGOR.

If the obligor is an affiliate of the Trustee, describe each such affiliation.

None

Items 3-14. Items 3-14 are not applicable because to the best of the Trustee's knowledge, the obligor is not in default under any Indenture for which the Trustee acts as Trustee.

Item 15. Item 15 is not applicable because the Trustee is not a foreign trustee.

Item 16. LIST OF EXHIBITS.

List below all exhibits filed as a part of this statement of eligibility and qualification.

1. A copy of the Articles of Association of the Trustee.*

2. A copy of the certificate of authority of the Trustee to commence business, attached as Exhibit 2.

3. A copy of the certificate of authority of the Trustee to exercise corporate trust powers, attached as Exhibit 3.

4. A copy of the existing bylaws of the Trustee.**

5. A copy of each Indenture referred to in Item 4, if the obligor is in default. Not applicable.

6. The consent of the Trustee required by Section 321(b) of the Trust Indenture Act of 1939, attached as Exhibit 6.

7. Report of Condition of the Trustee as of March 31, 2017 published pursuant to law or the requirements of its supervising or examining authority, attached as Exhibit 7.

* Incorporated by reference to Exhibit 25.1 to Amendment No. 2 to registration statement on S-4, Registration Number 333-128217 filed on November 15, 2005.

** Incorporated by reference to Exhibit 25.1 to registration statement on S-3ASR, Registration Number 333-199863 filed on November 5, 2014.

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the Trustee, U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Atlanta, Georgia on the 4th day of August, 2017.

By: /s/ GEORGE HOGAN
George Hogan
Vice President

Exhibit 2

Office of the Comptroller of the Currency

Washington, DC 20219

CERTIFICATE OF CORPORATE EXISTENCE

I, Thomas J. Curry, Comptroller of the Currency, do hereby certify that:

1. The Comptroller of the Currency, pursuant to Revised Statutes 324, et seq, as amended, and 12 USC 1, et seq, as amended, has possession, custody, and control of all records pertaining to the chartering, regulation, and supervision of all national banking associations.

2. "U.S. Bank National Association," Cincinnati, Ohio (Charter No. 24), is a national banking association formed under the laws of the United States and is authorized thereunder to transact the business of banking on the date of this certificate.

IN TESTIMONY WHEREOF, today, October 28, 2016, I have hereunto subscribed my name and caused my seal of office to be affixed to these presents at the U.S. Department of the Treasury, in the City of Washington, District of Columbia.

Comptroller of the Currency

Exhibit 3

Office of the Comptroller of the Currency

Washington, DC 20219

CERTIFICATION OF FIDUCIARY POWERS

I, Thomas J. Curry, Comptroller of the Currency, do hereby certify that:

1. The Office of the Comptroller of the Currency, pursuant to Revised Statutes 324, et seq, as amended, and 12 USC 1, et seq, as amended, has possession, custody, and control of all records pertaining to the chartering, regulation, and supervision of all national banking associations.

2. "U.S. Bank National Association," Cincinnati, Ohio (Charter No. 24), was granted, under the hand and seal of the Comptroller, the right to act in all fiduciary capacities authorized under the provisions of the Act of Congress approved September 28, 1962, 76 Stat. 668, 12 USC 92a, and that the authority so granted remains in full force and effect on the date of this certificate.

IN TESTIMONY WHEREOF, today, October 28, 2016, I have hereunto subscribed my name and caused my seal of office to be affixed to these presents at the U.S. Department of the Treasury, in the City of Washington, District of Columbia.

Comptroller of the Currency

Exhibit 6

CONSENT

In accordance with Section 321(b) of the Trust Indenture Act of 1939, U.S. BANK NATIONAL ASSOCIATION hereby consents that reports of examination of the undersigned by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon its request therefor.

Dated: August 4, 2017 **U.S. BANK NATIONAL ASSOCIATION**

By: /s/ GEORGE HOGAN
George Hogan
Vice President

Exhibit 7

U.S. Bank National Association

Statement of Financial Condition
As of 3/31/2017

($000's)

		3/31/2017
Assets		
Cash and Balances Due From Depositary Institutions	$	20,286,216
Securities		109,425,081
Federal Funds		6,277
Loans & Lease Financing Receivables		271,757,654
Fixed Assets		4,607,606
Intangible Assets		12,967,640
Other Assets		23,934,632
Total Assets	**$**	**442,985,106**
Liabilities		
Deposits	$	346,548,026
Fed Funds		1,082,176
Treasury Demand Notes		0
Trading Liabilities		1,077,223
Other Borrowed Money		30,907,144
Acceptances		0
Subordinated Notes and Debentures		3,800,000
Other Liabilities		12,674,854
Total Liabilities	**$**	**396,089,423**
Equity		
Common and Preferred Stock	$	18,200
Surplus		14,266,915
Undivided Profits		31,804,360
Minority Interest in Subsidiaries		806,208
Total Equity Capital	**$**	**46,895,683**
Total Liabilities and Equity Capital	**$**	**442,985,106**

Exhibit 25.3

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

FORM T-1

STATEMENT OF ELIGIBILITY UNDER
THE TRUST INDENTURE ACT OF 1939 OF A
CORPORATION DESIGNATED TO ACT AS TRUSTEE

☐ Check if an Application to Determine Eligibility of a Trustee Pursuant to Section 305(b)(2)

U.S. BANK NATIONAL ASSOCIATION
(Exact name of Trustee as specified in its charter)

31-0841368
I.R.S. Employer Identification No.

800 Nicollet Mall Minneapolis, Minnesota	55402
(Address of principal executive offices)	(Zip Code)

George Hogan
U.S. Bank National Association
Two Midtown Plaza
1349 West Peachtree Street N.W., Suite 1050
Atlanta, Georgia 30309
(404) 898-8832
(Name, address and telephone number of agent for service)

MOHAWK INDUSTRIES, INC.
MOHAWK CAPITAL LUXEMBOURG S.A.
(Exact name of obligor as specified in its charter)

Delaware **Luxembourg**	**52-1604305** **Not applicable**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

Mohawk Industries, Inc. **P.O. Box 12069** **160 S. Industrial Blvd.** **Calhoun, Georgia 30701**	**Mohawk Capital Luxembourg S.A.** **10B, rue des Mérovingiens** **L-8070 Bertrange** **Grand Duchy of Luxembourg** **R.C.S. Luxembourg B198.756**
(Address of Principal Executive Offices including zip code)	(Address of Principal Executive Offices including zip code)

Subordinated Debt Securities

(Title of the Indenture Securities)

FORM T-1

Item 1. GENERAL INFORMATION.

Furnish the following information as to the Trustee.

a) Name and address of each examining or supervising authority to which it is subject.

Comptroller of the Currency
Washington, D.C.

b) Whether it is authorized to exercise corporate trust powers.

Yes

Item 2. AFFILIATIONS WITH OBLIGOR.

If the obligor is an affiliate of the Trustee, describe each such affiliation.

None

Items 3-14. Items 3-14 are not applicable because to the best of the Trustee's knowledge, the obligor is not in default under any Indenture for which the Trustee acts as Trustee.

Item 15. Item 15 is not applicable because the Trustee is not a foreign trustee.

Item 16. LIST OF EXHIBITS.

List below all exhibits filed as a part of this statement of eligibility and qualification.

1. A copy of the Articles of Association of the Trustee.*
2. A copy of the certificate of authority of the Trustee to commence business, attached as Exhibit 2.
3. A copy of the certificate of authority of the Trustee to exercise corporate trust powers, attached as Exhibit 3.
4. A copy of the existing bylaws of the Trustee.**
5. A copy of each Indenture referred to in Item 4, if the obligor is in default. Not applicable.
6. The consent of the Trustee required by Section 321(b) of the Trust Indenture Act of 1939, attached as Exhibit 6.
7. Report of Condition of the Trustee as of March 31, 2017 published pursuant to law or the requirements of its supervising or examining authority, attached as Exhibit 7.

* Incorporated by reference to Exhibit 25.1 to Amendment No. 2 to registration statement on S-4, Registration Number 333-128217 filed on November 15, 2005.

** Incorporated by reference to Exhibit 25.1 to registration statement on S-3ASR, Registration Number 333-199863 filed on November 5, 2014.

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the Trustee, U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Atlanta, Georgia on the 4th day of August, 2017.

By: /s/ GEORGE HOGAN
George Hogan
Vice President

Exhibit 2

Office of the Comptroller of the Currency

Washington, DC 20219

CERTIFICATE OF CORPORATE EXISTENCE

I, Thomas J. Curry, Comptroller of the Currency, do hereby certify that:

1. The Comptroller of the Currency, pursuant to Revised Statutes 324, et seq, as amended, and 12 USC 1, et seq, as amended, has possession, custody, and control of all records pertaining to the chartering, regulation, and supervision of all national banking associations.

2. "U.S. Bank National Association," Cincinnati, Ohio (Charter No. 24), is a national banking association formed under the laws of the United States and is authorized thereunder to transact the business of banking on the date of this certificate.

IN TESTIMONY WHEREOF, today, October 28, 2016, I have hereunto subscribed my name and caused my seal of office to be affixed to these presents at the U.S. Department of the Treasury, in the City of Washington, District of Columbia.

Comptroller of the Currency

Exhibit 3

Office of the Comptroller of the Currency

Washington, DC 20219

CERTIFICATION OF FIDUCIARY POWERS

I, Thomas J. Curry, Comptroller of the Currency, do hereby certify that:

1. The Office of the Comptroller of the Currency, pursuant to Revised Statutes 324, et seq, as amended, and 12 USC 1, et seq, as amended, has possession, custody, and control of all records pertaining to the chartering, regulation, and supervision of all national banking associations.

2. "U.S. Bank National Association," Cincinnati, Ohio (Charter No. 24), was granted, under the hand and seal of the Comptroller, the right to act in all fiduciary capacities authorized under the provisions of the Act of Congress approved September 28, 1962, 76 Stat. 668, 12 USC 92a, and that the authority so granted remains in full force and effect on the date of this certificate.

IN TESTIMONY WHEREOF, today, October 28, 2016, I have hereunto subscribed my name and caused my seal of office to be affixed to these presents at the U.S. Department of the Treasury, in the City of Washington, District of Columbia.

Comptroller of the Currency

Exhibit 6

CONSENT

In accordance with Section 321(b) of the Trust Indenture Act of 1939, U.S. BANK NATIONAL ASSOCIATION hereby consents that reports of examination of the undersigned by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon its request therefor.

Dated: August 4, 2017 **U.S. BANK NATIONAL ASSOCIATION**

By: /s/ GEORGE HOGAN
George Hogan
Vice President

Exhibit 7

U.S. Bank National Association

Statement of Financial Condition
As of 3/31/2017

($000's)

		3/31/2017
Assets		
Cash and Balances Due From Depositary Institutions	$	20,286,216
Securities		109,425,081
Federal Funds		6,277
Loans & Lease Financing Receivables		271,757,654
Fixed Assets		4,607,606
Intangible Assets		12,967,640
Other Assets		23,934,632
Total Assets	**$**	**442,985,106**
Liabilities		
Deposits	$	346,548,026
Fed Funds		1,082,176
Treasury Demand Notes		0
Trading Liabilities		1,077,223
Other Borrowed Money		30,907,144
Acceptances		0
Subordinated Notes and Debentures		3,800,000
Other Liabilities		12,674,854
Total Liabilities	**$**	**396,089,423**
Equity		
Common and Preferred Stock	$	18,200
Surplus		14,266,915
Undivided Profits		31,804,360
Minority Interest in Subsidiaries		806,208
Total Equity Capital	**$**	**46,895,683**
Total Liabilities and Equity Capital	**$**	**442,985,106**