

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

FORM S-3
REGISTRATION STATEMENT
Under
The Securities Act of 1933

QUANTUM CORPORATION

(Exact name of Registrant as specified in its charter)

DELAWARE

(State or other jurisdiction of
incorporation or organization)

94-2665054

(I.R.S. Employer
Identification Number)

**1650 Technology Drive, Suite 800
San Jose, California 95110
(408) 944-4000**

(Address, including zip code and telephone number, including area code, of Registrant's principal executive offices)

**Michael J. Lambert
Executive Vice President, Finance and Chief Financial Officer
Quantum Corporation
1650 Technology Drive, Suite 800
San Jose, California 95110
(408) 944-4000**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:
**Steven E. Bochner
Wilson Sonsini Goodrich & Rosati
Professional Corporation
650 Page Mill Road
Palo Alto, California 94304
(650) 493-9300**

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, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. []

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. []

1.

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Security (1)	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee

4.375% Convertible Subordinated Notes due August 1, 2010	\$160,000,000	100%	\$160,000,000	\$12,944
Common Stock, \$0.01 par value	36,781,616(2)	(2)	(2)	(3)

- (1) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457 of the Securities Act of 1933, as amended.
- (2) Includes 36,781,616 shares of common stock issuable upon conversion of the notes at the initial conversion price of approximately \$4.35 per share of common stock. Pursuant to Rule 416 under the Securities Act, such number of shares of common stock registered hereby shall include an indeterminate number of shares of common stock that may be issued in connection with a stock split, stock dividend, recapitalization or similar event.
- (3) Pursuant to Rule 457(i), there is no additional filing fee with respect to the shares of common stock issuable upon conversion of the notes because no additional consideration will be received in connection with the exercise of the conversion privilege.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission acting pursuant to said Section 8(a) may determine.

The information in this prospectus is not complete and may be changed. These securities may not be sold until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED OCTOBER 9, 2003

2.

QUANTUM CORPORATION
\$160,000,000
(aggregate principal amount)

**4.375% Convertible Subordinated Notes due August 1, 2010, and
the Common Stock Issuable Upon Conversion of the Notes**

We issued the notes in a private placement on July 30, 2003. This prospectus will be used by selling security holders to resell their notes and the common stock issuable upon conversion of their notes. We will not receive any proceeds from this offering.

The notes are issued only in denominations of \$1,000 and integral multiples of \$1,000 and mature on August 1, 2010. You may convert the notes into shares of our common stock at any time prior to the close of business on their stated maturity date at an initial conversion rate of 229.8851 shares per \$1,000 principal amount of the notes (representing an initial conversion price of approximately \$4.35 per share) subject to adjustment in specified events.

We will pay interest on the notes at 4.375% per year on the principal amount, payable semi-annually in arrears on February 1 and August 1 of each year, beginning February 1, 2004. The notes are subordinated.

We may redeem the notes at the times and at the prices specified in this prospectus. If a fundamental change occurs, you may require us to repurchase any notes held by you.

The notes are not listed on any securities exchange or included in any automated quotation system. The notes are eligible for The PORTALSM Market. Our common stock is listed on the New York Stock Exchange under the symbol "DSS." On October 2, 2003, the closing price for our common was \$3.35 per share.

Investing in the securities involves a high degree of risk. See "Risk Factors".

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

The date of this prospectus is ____, 2003

You should rely only on the information contained in or incorporated by reference in this prospectus or a prospectus supplement or amendment. We have not authorized anyone else to provide you with different information. We are not making an offer of these securities in any state where the offer is not permitted. You should not assume the information in this prospectus or a prospectus supplement or amendment is accurate as of any date other than the date on the front of the documents.

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INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

The Securities and Exchange Commission (“SEC”) allows us to “incorporate by reference” certain information we file with them, which means that we can disclose important information by referring you to those documents. The information incorporated by reference is considered to be a part of this prospectus, except for information incorporated by reference that is superseded by information contained in this prospectus or any document that we subsequently filed with the SEC that is incorporated or deemed to be incorporated by reference in this prospectus. Additionally, any statement in this prospectus or any document that is incorporated or deemed to be incorporated by reference will be deemed to have been modified or superseded to the extent that any statement contained in any document that we subsequently file with the SEC that also is incorporated or deemed to be incorporated by reference or any statement in the accompanying document modifies or supersedes that statement. We incorporate by reference the documents listed below and any future filings made by us with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”) until our offering is complete:

- Annual Report on Form 10-K for the fiscal year ended March 31, 2003, filed on June 30, 2003;
- Current Report on Form 8-K, filed on June 30, 2003;
- Current Report on Form 8-K, filed on July 10, 2003;
- Definitive Proxy Statement for the 2003 annual meeting of stockholders held on September 3, 2003, filed on July 21, 2003;
- Current Report on Form 8-K, filed on July 22, 2003;
- Amendment No. 1 to Annual Report on Form 10-K, filed on July 24, 2003 on Form 10-K/A;
- Current Report on Form 8-K, filed on July 30, 2003;
- Quarterly Report on Form 10-Q for the fiscal quarter ended June 29, 2003, filed on August 13, 2003; and
- Current Report on Form 8-K, filed on October 6, 2003.

You may request a copy of this filing or any other of our filings, at no cost, by writing or telephoning us at the following address:

Investor Relations
Quantum Corporation
1650 Technology Drive, Suite 800
San Jose, California, 95110
(408) 944-4000

We are subject to the informational requirements of the Exchange Act, and file reports, proxy statements and other information with the SEC. You may read and copy our reports, proxy statements and other information filed by us at the Public Reference Section of the SEC at 450 Fifth Street, N.W., Washington, D.C. 20549-1004. Information on the operation of the Public Reference Room may be obtained by calling the SEC at 1-800-SEC-0330. Our reports, proxy statements and other information filed electronically with the SEC are available to the public over

SUMMARY

This summary contains basic information about us and this offering. Because this is a summary, it may not contain all the information that may be important to you. You should read this entire prospectus carefully, including the section entitled "Risk Factors", and the information we incorporate by reference into it before making an investment decision. Unless otherwise noted or the context otherwise indicates, as used in this prospectus, the terms "Quantum," "we," "our" or "us" refer solely to Quantum Corporation and its subsidiaries.

Quantum Corporation

We are a global leader in data protection focused on meeting the needs of business customers with enterprise-wide storage solutions and services. Our DLTtape™ technology allows for backup, archiving, and recovery of mission-critical data. We are also a leader in the design, manufacture and service of automated tape libraries used to manage, store and transfer data. In fiscal year 2003, we expanded into the area of disk-based backup, with a solution that emulates a tape library and is optimized for data protection.

Quantum consists of two main business segments: the DLT Group, which we refer to as DLTG; and the Storage Solutions Group, or SSG. DLTG consists principally of the tape drive and tape media cartridge product lines. SSG consists primarily of the tape automation systems and solutions product lines.

In DLTG, we design, develop, license, service and market DLTtape and Super DLTtape™ drives, as well as DLTtape and Super DLTtape media cartridges. Super DLTtape technology has a higher storage capacity and transfer rate than DLTtape technology. Both DLTtape and Super DLTtape products are used to back up large amounts of data stored on network servers. DLTtape and Super DLTtape is our half-inch Digital Linear Tape technology that is the leader in mid-range UNIX and NT system backup and archive applications.

In SSG, we design, develop, manufacture, service and market tape automation systems and solutions. Our tape automation systems, including tape libraries and autoloaders, serve the entire tape library data storage market from desktop computers to enterprise-class computers. We offer a broad line of tape automation systems, which are used to manage, store and transfer data in enterprise networked computing environments.

About the Company

Quantum was founded in 1980. Our principal offices are located at 1650 Technology Drive, Suite 800, San Jose, California 95110, and our telephone number at that location is (408) 944-4000. Our home page on the Internet is at www.quantum.com. The information contained on, or accessible through, our website is not incorporated into this prospectus.

THE OFFERING

The following is a brief summary of some of the terms of the notes offered for resale in this prospectus. For a more complete description of the terms of the notes, see the section entitled "Description of Notes" in this prospectus.

Issuer	Quantum Corporation.
Securities Offered	\$160,000,000 aggregate principal amount of 4.375% Convertible Subordinated Notes due 2010.
Offering Price	Each note was issued at a price equal to 100% of its principal amount.
Maturity Date	August 1, 2010
Interest	4.375% per year on the principal amount, payable semi-annually in arrears on February 1 and August 1 of each year, beginning February 1, 2004.
Conversion Right	You may convert the notes into shares of our common stock at any time prior to the close of business on their stated maturity date at an initial conversion rate of 229.8851 shares per \$1,000 principal amount of the notes (representing an initial conversion price of approximately \$4.35 per share) subject to adjustment in specified events. See "Description of Notes—Conversion of Notes."

Ranking	The notes are unsecured and subordinated to all of our senior indebtedness and are effectively subordinated to all of the indebtedness and other liabilities of our subsidiaries. As of June 29, 2003, we had approximately \$90.5 million of indebtedness outstanding that was senior indebtedness, and our subsidiaries had approximately \$37.6 million of indebtedness and other liabilities outstanding to which the notes would have been effectively subordinated (excluding intercompany liabilities). Neither we nor our subsidiaries are prohibited from incurring indebtedness, including senior indebtedness, under the indenture See “Description of Notes—Subordination.”
Sinking Fund	None.
Optional Redemption by Quantum	We may not redeem the notes prior to August 5, 2008. We may redeem any or all of the notes for cash on or after August 5, 2008 by giving you at least 30 days’ notice of such redemption, at the prices specified under “Description of Notes—Optional Redemption by Quantum.”
Repurchase at the Option of the Holder	If a fundamental change (as described under “Description of Notes—Repurchase at Option of the Holder”) occurs prior to maturity, you may require us to repurchase all or part of your notes at a repurchase price equal to 100% of their principal amount, plus accrued and unpaid interest to, but excluding, the repurchase date.
Use of Proceeds	We will not receive any of the proceeds from the sale by any selling securityholder of the notes or the underlying common stock into which the notes may be converted. See “Use of Proceeds.”
Registration Rights	<p>We have agreed:</p> <ul style="list-style-type: none"> • To file a shelf registration statement with respect to the resale of the notes and the common stock issuable upon conversion of the notes with the SEC within 90 days after the original issuance of the notes; and • To use our reasonable efforts to cause the shelf registration statement to become effective within 180 days after the original issuance of the notes. <p>We have agreed to keep the shelf registration statement effective until the earliest of:</p> <ul style="list-style-type: none"> • Two years after the last date of original issuance of any of the notes; • The date when the holders of the notes and the common stock issuable upon conversion of the notes are able to sell all such securities immediately pursuant to the provisions of Rule 144(k) under the Securities Act of 1933, as amended (the “Securities Act”); or • The date when all of the notes and common stock into which the notes are convertible are registered under the shelf registration statement and sold in accordance therewith. <p>We will be required to pay you additional amounts if we fail to register the notes and common stock issuable upon conversion of the notes within, or to keep available the registration statement and related prospectus for purposes of effecting registered resales of such securities for, specified time periods.</p>
New York Stock Exchange Symbol	Our common stock is traded on the New York Stock Exchange under the symbol “DSS.”

RATIO OF EARNINGS TO FIXED CHARGES

The ratio of earnings to fixed charges for each of the periods indicated is as follows:

	Three Months Ended	Fiscal Year Ended				
	June 29, 2003	March 31, 2003	March 31, 2002	March 31, 2001	March 31, 2000	March 31, 1999
Ratio of earnings to fixed charges (1)	—	—	—	14.0X	14.4X	12.5X

- (1) For the purpose of calculating such ratios, "earnings" consist of income from continuing operations before income taxes plus fixed charges and "fixed charges" consist of interest expense (net of capitalized portion), capitalized interest, amortization of debt discount and the portion of rental expense representative of interest expense. Earnings before fixed charges were inadequate to cover total fixed charges by \$137.2 million and \$58.6 million for the fiscal years ended March 31, 2003 and March 31, 2002, respectively, and by \$6.3 million for the three months ended June 29, 2003.
- (2) The pro forma ratio of earnings to fixed charges gives effect to the issuance of the notes and the use of the net proceeds from the issuance to reduce our 7% convertible subordinated notes. Regulation S-K section 229.503(d) under the Securities Act requires that we include these pro forma ratios. Pro forma earnings before fixed charges were inadequate to cover total pro forma fixed charges by \$124.0 million for the fiscal year ended March 31, 2003 and by \$3.0 million for the three months ended June 29, 2003.

8.

RISK FACTORS

You should carefully consider the risks described below and other information contained or incorporated by reference in this prospectus before making an investment decision. The risks described below are not the only ones facing our company. Additional risks not presently known to us or that we currently deem immaterial may also impair our business operations.

Our business, financial condition or results of operations could be materially adversely affected by any of these risks. The trading price of the notes and our common stock could decline due to any of these risks, and you may lose all or part of your investment.

This prospectus also contains forward-looking statements that involve risks and uncertainties. Our actual results could differ materially from those anticipated in these forward-looking statements as a result of certain factors, including the risks faced by us described below and elsewhere in this Registration Statement.

Risks Related to our Business

We are exposed to general economic conditions that have resulted in significantly reduced sales levels and operating losses and, if such adverse economic conditions were to continue or worsen, our business, financial condition and operating results could be further adversely and materially impacted.

If the adverse economic conditions in the United States and throughout the world economy continue or worsen, we may experience a further material adverse impact on our business, operating results, and financial condition. We have recognized significant restructuring charges during the past four years associated with reducing our cost of sales and operating expenses in order to address these adverse conditions. We anticipate taking continued steps to reduce our operating costs. These and other possible restructurings caused by changes in our business, industry, or in the global economy will likely result in expenses that adversely affect our financial condition and results of operations and may require us to make additional cash payments. We may be unable to reduce our cost of sales and operating expenses at a rate and to a level consistent with such a future adverse sales environment and therefore these anticipated restructuring charges may be disproportionate to sales, thereby materially and adversely affecting our business, financial condition and operating results.

We are currently not profitable. If we are unable to generate positive cash flow from operating activities, our ability to obtain additional capital in the future could be jeopardized, and our business could suffer.

We must devote substantial resources to new product development, manufacturing, and sales and marketing activities to be competitive in our markets. Historically, cash flow from operating activities has provided us with a significant portion of the cash and liquidity that we have required in order to invest in product development, manufacturing and sales activities. Until or unless we return to profitable operations, we will have significantly less liquidity to invest in our business. In turn, reduced cash flow from operations may jeopardize our ability to maintain access to our current sources of capital or to gain access to new sources of capital, which could have a material adverse impact on our business, results of operations, liquidity, and financial condition.

9.

To service our debt and fund our other capital requirements, we will require a significant amount of cash, and our ability to generate cash will depend on many factors beyond our control.

Our ability to meet our debt service obligations and to fund working capital, capital expenditures, acquisitions, research and development and other general corporate purposes, will depend upon our future financial performance, which will be subject to financial, business and other factors affecting our operations, many of which are beyond our control. If our losses from operations were to persist at current levels or worsen, we may not have sufficient cash resources to service our debt and maintain access to our debt facilities. We cannot provide assurance that we will generate sufficient cash flow from operations, or that future borrowings will be available on commercially reasonable terms or at all, or available in an amount sufficient to enable us to pay our debt or fund other liquidity needs.

If we are unable to generate sufficient cash flow and/or are unable to service our outstanding debt obligations, we may have to reduce or delay capital expenditures planned for replacements, improvements and expansions, and/or sell assets. We cannot assure you that we could effect or implement any of these alternatives on satisfactory terms, if at all.

Our credit agreement and synthetic lease contain various covenants that limit our discretion in the operation of our business, which could have an adverse effect on our business, financial condition and results of operations.

Our credit agreement and synthetic lease contain numerous restrictive covenants that require us to comply with and maintain certain financial tests and ratios, thereby restricting our ability to:

- Incur debt;
- Incur liens;
- Redeem or prepay subordinated debt;
- Make acquisitions of businesses or entities or sell certain assets;
- Make investments, including loans, guarantees and advances;
- Make capital expenditures beyond a certain threshold;
- Engage in transactions with affiliates;
- Pay dividends or engage in stock repurchases; and
- Enter into certain restrictive agreements.

Our ability to comply with covenants contained in our credit agreement or our synthetic lease may be affected by events beyond our control, including prevailing economic, financial and industry conditions. Our failure to comply with our debt-related covenants in one agreement could result in an acceleration of our indebtedness and cross-defaults under other agreements, which may have a material adverse effect on our liquidity and financial condition. Even if we are able to comply with all covenants, the restrictions on our ability to operate our business could harm our business by, among other things, limiting our ability to take advantage of financings, mergers, acquisitions and other corporate opportunities.

Our credit agreement is secured by a pledge of all of our assets. If we were to default under our credit agreement and were unable to obtain a waiver for such a default, the lenders would have a right to foreclose on our assets in order to satisfy our obligations under the credit agreement. Any such action on the part of the lenders against us could have a materially adverse impact on our business, financial condition and results of operations.

10.

SSG currently operates at a loss and may continue to operate at a loss. If we are unable to make SSG profitable, the losses from this group could materially and adversely affect our business, financial condition and results of operations.

We have invested, and will continue to invest, in the development, promotion and sale of storage solutions, such as our acquisition of SANlight. Operating expenses associated with SSG revenue are comparatively high, resulting in losses and cash consumption out of proportion to the revenue generated by the group when compared to our tape business. Therefore, we will need to generate significant revenues from SSG or significantly reduce our related operating expenses for the group in order to make SSG profitable. We cannot provide assurance that SSG will ever produce operating income or will ever generate positive cash flow, and, if we are unable to do so, these losses could negatively impact our business, financial condition and operating results.

Goodwill and intangible assets used in SSG were reviewed for possible impairment upon the adoption on April 1, 2002 of SFAS No. 142, *Goodwill and Other Intangible Assets*, and SFAS No. 144, *Accounting for the Impairment or Disposal of Long-lived Assets*. The impairment test conducted relative to goodwill resulted in a \$94.3 million charge associated with the adoption of SFAS No. 142 in the first quarter of fiscal year 2003 and a \$58.7 million impairment charge in the second quarter of fiscal year 2003. The goodwill and other intangible assets were determined not to be impaired in the first quarter of fiscal year 2004, based on projections of undiscounted and discounted net cash flows from SSG compared to the carrying value of the goodwill and other intangible assets. However, both tests use financial projections involving significant estimates and uncertainties regarding future revenues, expenses and cash flows. We cannot provide assurance that future net cash flows will be sufficient to avoid further impairment charges. As a result, in the future, we may incur additional impairment charges related to SSG, which would adversely affect the group's operating income, which could have a materially adverse impact on the results of our operations or our financial condition.

11.

A large percentage of our sales come from a few customers, and these customers have no minimum or long-term purchase commitments. The loss of, or a significant change in demand from, one or more key customers could materially and adversely affect our business, financial condition and operating results.

Our sales are concentrated among a few customers. Sales to our top five customers in the first quarter of fiscal year 2004 represented 49% of

total revenue. These sales concentrations do not include revenues from sales of our media that were sold directly to our top five customers by our licensees, for which we earn royalty revenue, or revenues from sales of tape libraries sold directly to our top five customers by our other original equipment manufacturer, or OEM, tape drive customers. Furthermore, customers are not obligated to purchase any minimum product volume and our relationships with our customers are terminable at will.

The merger of Hewlett-Packard Company (or Hewlett-Packard) and Compaq Computer Corporation (or Compaq) during calendar year 2002 significantly increased the concentration of our sales and dependency on a single customer. In the first quarter of fiscal year 2004 approximately 24% of our revenue was derived from this merged entity, and, therefore, could be materially and adversely affected if Hewlett-Packard were to experience a significant decline in storage revenue whether due to customer loss or integration issues or otherwise. There is an additional risk since the combined entity owns a competing linear tape open, or LTO, brand of tape drive and media. Hewlett-Packard markets both the LTO and Super DLTtape platforms, whereas Compaq had exclusively marketed Super DLTtape for tape backup and archiving. To the extent that the combined Hewlett-Packard and Compaq entity significantly reduces its purchases of DLTtape and Super DLTtape products in favor of LTO products, our tape drive and media revenues, operating results and financial condition would be materially and adversely affected.

If any of our other top five customers were to significantly reduce, cancel or delay their orders from us, our results of operations could be materially adversely affected.

Competition has increased, and may increasingly intensify, in the tape drive market as a result of competitors introducing tape drive products based on new technology standards and on DLTtape technology, which could materially and adversely affect our business, financial condition and results of operations.

We compete with companies that develop, manufacture, market and sell tape drive products. Our principal competitors include Certance (US Holdings (or Certance (formerly known as Seagate Technology (U.S.) Holdings)), Exabyte Corporation (or Exabyte), Hewlett-Packard, International Business Machines Corporation (or IBM), Sony Corporation (or Sony), and Storage Technology Corporation (or StorageTek). These competitors are aggressively trying to advance and develop new tape drive technologies to compete more successfully with products based on DLTtape technology. Hewlett-Packard, IBM and Certance formed a consortium to develop and have developed new LTO products. These products target the high-capacity data backup market and compete with our products based on Super DLTtape technology. This competition has resulted in a trend, which is expected to continue, toward lower prices and lower margins earned on our DLTtape and Super DLTtape drives and media. In addition, the merger between Hewlett-Packard and Compaq has resulted in a larger competitor in the tape drive market with greater resources and a potentially greater market reach with a product that competes directly with our Super DLTtape drives and Super DLTtape media. These factors, when combined with the current economic environment, which has resulted in reduced shipments of our own tape drives, and tape drives in general, could result in a further reduction in our prices, volumes and margins, which could materially and adversely impact our business, financial condition and results of operations.

Competition has increased, and may increasingly intensify, in the tape automation market as a result of current economic conditions, and, if this trend continues, our business, financial condition and operating results may be materially and adversely affected.

Our tape automation products compete with product offerings of Advanced Digital Information Corporation, Exabyte, Hewlett-Packard, Overland Storage, Inc. and StorageTek, which offer tape automation systems incorporating DLTtape and Super DLTtape technology as well as new linear tape technology. In addition, the merger between Hewlett-Packard and Compaq has resulted in a larger competitor in the tape automation market with greater resources and a potentially greater market reach. Current economic conditions are characterized by lower information technology investment, particularly for higher priced products, such as high-end tape automation systems. However, more recently, even competitors that derive a significant percentage of their sales from lower priced tape automation products have seen economic conditions adversely impact their quarterly sequential sales. The lower demand has also resulted in increased price competition. If this trend continues or worsens and/or if competition further intensifies, our sales and gross margins could decline, which would materially and adversely affect our business, financial condition and results of operations.

We derive almost all of our revenue from products incorporating tape technology; if competition from alternative storage technologies continues or increases, our business, financial condition and operating results would be materially and adversely harmed.

We derive almost all of our revenue from products that incorporate some form of tape technology and we expect to continue to derive a substantial majority of our revenue from these products for the foreseeable future. As a result, our future operating results depend on the continued market acceptance of products employing tape drive technology. Our tape products, including tape drives and automation systems, also compete with other storage technologies, such as hard disk drives. Hard disk drives have experienced a trend toward lower prices while capacity and performance have increased. If products incorporating other technologies gain comparable or superior market acceptance, or their costs decline far more rapidly than tape drive and media costs, the competition resulting from these alternative technologies would increase as customers turn toward those alternative technologies with an acceptable price/performance offering relative to tape drives and automation systems. As a result, our business, financial condition and operating results would be materially and adversely affected.

We have experienced a downward trend in tape media and tape royalty revenues, primarily caused by reduced media prices, and to a lesser extent, reduced media unit sales, which has had a negative effect on our profits and cash flow. If this trend were to continue or worsen, our business, financial condition and operating results may be even further materially and adversely affected.

Our royalty and media revenue is dependent on many factors, including the following:

- The pricing actions of other media suppliers;
- The size of the installed base of tape drives that use our tape cartridges;
- The performance of our strategic licensing partners, which sell our tape media cartridges;
- The relative growth in units of Super DLTtape drives, the media cartridges for which sell at a higher price than DLTtape cartridges;
- The media consumption habits and rates of end users;
- The pattern of tape drive retirements; and
- The level of channel inventories.

Competition from other tape technologies has had a significant negative impact on our income from media as well as on our sales of tape drives. If this competition continues or intensifies, it would further erode media pricing and result in further reduced sales of Super DLTtape and DLTtape drives which would lower the installed base of tape drives that utilize tape media. Since our royalty and media revenue is dependent upon media pricing and the quantity of media consumed by the installed base of our tape drives, reduced media prices or a reduced installed tape drive base would result in further reductions in our media and royalty revenue. This would materially and adversely affect our business, financial condition and results of operations.

13.

We do not control licensee pricing or licensee sales of tape media cartridges. To the extent that our licensees significantly lower prices on the media products that they sell, such reduced pricing would lower our royalty revenue, which would materially and adversely affect our business, financial condition and operating results.

We receive a royalty fee based on sales of tape media cartridges by Fuji Photo Film Co., Ltd. (or Fuji), Hitachi Maxell, Ltd. (or Maxell), Imation Corporation (or Imation) and Sony. Under our license agreements with these companies, each of the licensees determines the pricing and number of units of tape media cartridges that it sells. As a result, our royalty revenue varies depending on the level of sales and prices set by the licensees. In addition, lower prices set by licensees could require us to lower our prices on direct sales of tape media cartridges, which would reduce our revenue and margins on this product. As a result, lower prices on our tape media cartridges would reduce both our direct and our indirect royalty revenue, which would materially and adversely affect our business, financial condition and operating results.

Our operating results depend on new product introductions, which may not be successful, in which case, our business, financial condition and operating results may be materially and adversely affected.

To compete effectively, we must continually improve existing products and introduce new ones, such as the DX30, our first disk-based enhanced backup solution. We have devoted and expect to continue to devote considerable management and financial resources to these efforts. We cannot provide assurance that:

- We will introduce any of these new products in the time frame we are forecasting;
- We will not experience technical, quality, performance-related or other difficulties that could prevent or delay the introduction of, and market acceptance of, these new products;
- Our new products will achieve market acceptance and significant market share, or that the markets for these products will grow as we have anticipated;
- Our new products will be successfully or timely qualified with our customers by meeting customer performance and quality specifications because a successful and timely customer qualification must occur before customers will place large product orders; or
- We will achieve high volume production of these new products in a timely manner, if at all.

Our reliance on a limited number of third party suppliers could result in significantly increased costs and delays in the event these suppliers experience shortages or quality problems, and, as a result, our business, financial condition and operating results may be materially and adversely affected.

We depend on a limited number of suppliers for components and sub-assemblies, including recording heads, media cartridges and integrated circuits, all of which are essential to the manufacture of tape drives and tape automation systems.

We currently purchase the DLTtape and Super DLTtape media cartridges that we sell primarily from Imation, Fuji and Maxell. We cannot provide assurance that Imation, Fuji or Maxell will continue to supply an adequate number of high quality media cartridges in the future. If component shortages occur, or if we experience quality problems with component suppliers, shipments of products could be significantly delayed and/or costs significantly increased, and as a result, our business, financial condition and operating results could be materially and adversely affected. In addition, we qualify only a single source for many components and sub-assemblies, which magnifies the risk of future shortages.

Furthermore, the main supplier of tape heads for our products is located in China. Political instability, trade restrictions, changes in tariff or freight rates, or currency fluctuations in China could result in increased costs and delays in shipment of our products and could materially and adversely impact our business, financial condition and operating results.

14.

We rely heavily on distributors and other resellers to market and sell our products and to maintain acceptable levels of customer satisfaction. We do not control their business operations. If one or more distributors were to experience a significant deterioration in its financial condition or its business relationship with us, this could disrupt the distribution of our products and reduce our revenue, which could materially and adversely affect our business, financial condition and operating results.

In certain product and geographic segments we heavily utilize distributors and value added resellers to perform the functions necessary to market and sell our products. To fulfill this role, the distributor must maintain an acceptable level of financial stability, creditworthiness and the ability to successfully manage business relationships with the customers it serves directly. Under our distributor agreements with these companies, each of the distributors determines the type and amount of our products that it will purchase from us and the pricing of the products that it sells to its customers. If the distributor is unable to perform in an acceptable manner, we may be required to reduce the amount of sales of our product to the distributor or terminate the relationship. We may also incur financial losses for product returns from distributors or for the failure or refusal of distributors to pay obligations owed to us. For instance, on May 7, 2003, Digital Storage, Inc., one of our media distributors, filed for Chapter 11 bankruptcy protection. As a result of this bankruptcy, we recorded a net bad debt charge of \$1.8 million. Either scenario could result in fewer of our products being available to the affected market segments, reduced levels of customer satisfaction and/or increased expenses, which could in turn have a material and adverse impact on our business, results of operations and financial condition.

If we fail to protect our intellectual property or if others use our proprietary technology without authorization, our competitive position may suffer.

Our future success and ability to compete depends in part on our proprietary technology. We rely on a combination of copyright, patent, trademark and trade secrets laws and nondisclosure agreements to establish and protect our proprietary technology. We currently hold 139 United States patents and have 114 United States patent applications pending. However, we cannot provide assurance that patents will be issued with respect to pending or future patent applications that we have filed or plan to file or that our patents will be upheld as valid or will prevent the development of competitive products or that any actions we have taken will adequately protect our intellectual property rights. We generally enter into confidentiality agreements with our employees, consultants, resellers, customers and potential customers, in which we strictly limit access to, and distribution of, our software, and further limit the disclosure and use of our proprietary information. Despite our efforts to protect our proprietary rights, unauthorized parties may attempt to copy or otherwise obtain or use our products or technology. Our competitors may also independently develop technologies that are substantially equivalent or superior to our technology. In addition, the laws of some foreign countries do not protect our proprietary rights to the same extent as the laws of the United States.

15.

Third party infringement claims could result in substantial liability and significant costs, and, as a result, our business, financial condition and operating results may be materially and adversely affected.

From time to time, third parties allege our infringement of and need for a license under their patented or other proprietary technology. For instance, see Note 13 to the Condensed Consolidated Financial Statements of our Quarterly Report on Form 10-Q for the fiscal quarter ended June 29, 2003, for a description of StorageTek's patent infringement suit against us. While we currently believe the amount of ultimate liability, if any, with respect to these actions will not materially affect our financial position, results of operations, or liquidity, the ultimate outcome of any litigation is uncertain. Adverse resolution of any third party infringement claim could subject us to substantial liabilities and require us to refrain from manufacturing and selling certain products. In addition, the costs incurred in intellectual property litigation can be substantial, regardless of the outcome. As a result, our business, financial condition and operating results may be materially and adversely affected.

Pursuant to our synthetic lease, we have an obligation for a guaranteed value to the lessor at the end of the lease term, which could result in our being required to make a significant cash payment to the lessor, and if we are required to do so, our business, financial condition and results of operations could be materially and adversely impacted.

We have a synthetic lease for our Colorado Springs facility, which is accounted for as an operating lease in accordance with SFAS No. 13, *Accounting for Leases*. At the end of the lease term, we may renew the lease, purchase the facility, or cause the facility to be sold to a third party, subject to our obligation to the lessor for the guaranteed value. The proceeds of a sale to a third party would be used to satisfy the \$50.0 million obligation to the lessor at the end of the lease term. In the event of sale to a third party, we would be liable for any shortfall between the net proceeds resulting from the sale of the facility and our \$50.0 million obligation to the lessor, up to a maximum of \$43.9 million. In the event of a default on our obligation to the lessor, we would be liable for the entire \$50.0 million. These obligations that would arise from either a sale to a third party or a default could have a material adverse impact on our financial condition and liquidity.

In the past we incurred a charge because of a decline in the appraised value of this facility. We have the facility independently appraised on a periodic basis. Any future declines in the appraised value of the facility would result in a charge, which could be material and adverse to our financial condition.

Our synthetic lease requires us to maintain specified financial covenants. If we fail to comply with these financial covenants and are unable to obtain a waiver, or amend the lease, for such future non-compliance, it would cause us to default under our credit agreement and synthetic lease and the lessor could terminate the lease, resulting in the acceleration of our obligation to purchase the leased facility at the guaranteed value, which could have an adverse effect on our financial condition and liquidity.

In previous quarters we violated certain financial covenants under our credit agreement and synthetic lease. If in the future we violate financial covenants, it could materially and adversely impact our financial condition and liquidity.

In April 2000, we entered into an unsecured senior credit agreement with a group of nine banks, providing a \$187.5 million revolving credit line that would have expired in April 2003. In previous quarters we violated certain financial covenants under this credit agreement and received waivers or amendments for such violations. In December 2002, we terminated this facility and entered into a secured senior credit agreement with a group of five banks, providing a \$100.0 million revolving credit line that expires in June 2004. As of June 29, 2003, \$90.5 million of this credit line was committed to standby letters of credit, of which \$50.0 million secures our obligation to the lessor under our synthetic lease. In December 2002, we also entered into a synthetic lease that contained the same financial covenants as our credit agreement. In July 2003, we amended our credit agreement and our synthetic lease to, among other things, change certain financial covenants and events of default and allow for redemption of our 7% Convertible Subordinated Notes due 2004. We violated the EBITDA covenant in the first quarter of fiscal year 2004, for which we obtained an amendment.

If in the future we violate any financial or reporting covenant in our credit agreement and receive a notice of default letter from our bank group, our credit line could become unavailable, and any amounts outstanding could become immediately due and payable. If we were unsuccessful in securing a waiver of such violation or an amendment to our credit agreement, we might have to restrict \$90.5 million of our cash to cover the outstanding standby letters of credit issued under the credit agreement. This would have a material and adverse impact on our liquidity.

If we violate any financial or reporting covenants in our credit agreement, it would cause a corresponding violation under our synthetic lease. Absent a waiver or an amendment to our synthetic lease, such a violation would be cause for default under that agreement. For more information regarding our synthetic lease please refer to the immediately preceding risk factor.

Without the availability of the credit agreement, we will have to rely on operating cash flows and debt or equity arrangements other than the credit agreement, if such alternative funding arrangements are available to us at all, in order to maintain sufficient liquidity. If we are not able to obtain sufficient cash from our operations or from these alternative funding sources, our operations, financial condition and liquidity may be materially and adversely affected.

16.

We have engaged in and may in the future engage in acquisitions of companies, technologies or products, and the failure to integrate any such acquisitions could harm our business, financial condition and operating results.

As a part of our business strategy, we have in the past and expect in the future to make additional acquisitions of, or significant investments in, complementary companies, products or technologies. For instance, as part of this acquisition strategy, during the third quarter of fiscal year 2003, we acquired Benchmark, whose business is complementary to many Quantum products and technologies. Any future acquisitions, as well as the success of our Benchmark acquisition, would be accompanied by the risks commonly encountered in acquisitions of companies. These risks include, among others:

- Difficulties in assimilating its operations and personnel;
- Diversion of management's attention from ongoing business concerns;
- The potential inability to maximize our financial and strategic position through the successful incorporation of acquired technology and rights into our products and services;
- Insufficient revenues to offset increased expenses associated with the acquisition;
- Maintenance of uniform standards, controls, procedures and policies;
- Impairment of existing relationships with employees, suppliers and customers as a result of the integration of new personnel;
- Difficulties in entering markets in which we have no or limited direct prior experience and where competitors in such markets have stronger market positions;
- The possibility that we may not receive a favorable return on our investment, the original investment may become impaired, and/or incur losses from these investments;
- Dissatisfaction or performance problems with an acquired company;
- The cost associated with acquisitions; and
- Assumption of unknown liabilities or other unanticipated adverse events or circumstances.

We cannot provide assurance that we will be able to successfully integrate any business, products, technologies or personnel that we may acquire in the future, and our failure to do so could harm our business, financial condition and operating results.

We outsourced DLT and Super DLTtape drive manufacturing to Jabil during the third quarter of fiscal year 2003. SSG has increased its use of contract manufacturers for certain manufacturing functions as well. Our ability to meet customer demand depends on our ability to obtain timely deliveries of products and parts from our suppliers. If we cannot obtain these products and parts in such a manner, such a delay could materially and adversely impact our business, financial condition and results of operations.

We face the following risks as a result of our decision to outsource manufacturing to Jabil:

- *Sole source of product supply.* Jabil is our sole source of supply for most of our DLTtape and Super DLTtape drives and certain tape automation products. Because we are relying on one supplier, we are at greater risk of experiencing component shortages or other delays in customer deliveries that could result in customer dissatisfaction and lost sales, which could materially damage customer relationships and result in lost revenue.
- *Cost and purchase commitments.* We may not be able to control the costs we would be required to pay Jabil for the products they manufacture for us. Jabil procures inventory to build our products based upon a forecast of customer demand that we provide. We would be responsible for the financial impact on Jabil of any reduction or product mix shift in the forecast relative to materials that Jabil had already purchased under a prior forecast. Such a variance in forecasted demand could require us to pay Jabil for finished goods in excess of current customer demand or for excess or obsolete inventory. As a result, we could experience reduced gross margins and larger operating losses based on these purchase commitments.
- *Quality.* We will have limited control over the quality of products produced by Jabil. Therefore, the quality of the products may not be acceptable to our customers and could result in customer dissatisfaction, lost revenue, and increased warranty costs.

In addition to Jabil, we have outsourced a significant portion of our manufacturing to other contract manufacturers. We face similar risks in relation to these products as those set forth above, in particular the risks of component shortages or other delays in customer deliveries that could result in customer dissatisfaction and lost sales, increased costs for products manufactured for us and the risk that the quality of the products may not be acceptable to us or to our customers, any or all of which could have a material adverse effect on our business.

17.

A significant portion of the consideration for the disposition of the material assets of our NAS business was restricted stock issued by the buyer, a privately held company.

A portion of the consideration for the sale of the material operating assets of our NAS business was equity securities recorded with a \$3.9 million carrying value. The equity securities are “restricted securities”, as defined in Rule 144 under the Securities Act and, therefore, are subject to substantial restrictions on the sale or disposition of such shares, many of which are contingent on or governed by matters solely within the control of the privately held company. Because of the nature of the privately held issuer as well as the restrictions on our ability to transfer these equity securities, there is no public market for these securities.

We generally record our investments in equity securities of early development stage companies on a cost basis, adjusted for other than temporary impairment. The restricted stock we received as a result of the NAS disposition could lose value and become worthless if the buyer fails to profitably achieve its business plans or is not able to obtain adequate funding to do so. Because there is no market in these equity securities, we would not be able to hedge or otherwise mitigate any losses on these securities. If the buyer is not successful in achieving its business plan, we could be required to write down some or all of the value of these assets, which could have a material and adverse impact on our financial condition and results of operations.

Tax allocations under a tax sharing and indemnity agreement with Maxtor are the subject of a dispute between us and Maxtor. In the event this dispute is not resolved favorably, we could incur significant costs that could have a material adverse effect on our business, financial condition and operating results.

The tax sharing and indemnity agreement between us and Maxtor entered into in connection with the disposition of HDD provided for the allocation of certain liabilities related to taxes. Maxtor and we presently disagree about the amounts owed by each party under that agreement. The parties are in negotiations to resolve this matter, and no litigation has been initiated to date. However, there can be no assurance that we will be successful in asserting our position. If disputes regarding contested amounts cannot be resolved favorably, we may incur costs, including both litigation as well as the payment of the disputed amounts, which could have a material adverse effect on our business, financial condition and operating results.

Maxtor’s failure to perform under the indemnification provisions of a tax sharing and indemnity agreement entered into with us providing for payments to us that relate to tax liabilities, penalties, and interest resulting from the conduct of our business prior to the HDD disposition date could have a material adverse effect on our business, financial condition and operating results.

Under a tax sharing and indemnity agreement between us and Maxtor entered into in connection with the disposition of HDD, Maxtor has agreed to assume responsibility for payments related to certain taxes, penalties, and interest resulting from the conduct of business by the

Quantum DSS group for all periods before our issuance of tracking stock and the conduct of the Quantum HDD group for all periods before the disposition of HDD to Maxtor. If audit adjustments are successfully asserted with respect to such conduct, and if Maxtor fails to indemnify us under this obligation or is not able to pay the reimbursement in full, we would nevertheless be obligated, as the taxpayer, to pay the tax. As a result, we could experience a material adverse effect on our business, financial condition and operating results.

Maxtor is a publicly traded company (NYSE symbol: MXO) with a history of financial operating losses. If Maxtor were unable to pay its share of any obligations, we could be required to pay and that would have a material adverse impact on our results of operations and financial position.

Maxtor's failure to perform under the agreements in connection with contingent liabilities would harm our business, financial condition and operating results.

We may have contingent liabilities for some obligations assumed by Maxtor, including real estate and litigation, and Maxtor's failure to perform under these obligations could result in significant costs to us that could have a materially adverse impact on our business, financial condition and operating results.

18.

The disposition of HDD may be determined not to be tax-free, which would result in us or our stockholders, or both, incurring a substantial tax liability, which could materially and adversely affect our business, financial condition and results of operations.

Maxtor and Quantum have agreed not to request a ruling from the Internal Revenue Service, or any state tax authority confirming that the structure of the combination of Maxtor with HDD will not result in any federal income tax or state income or franchise tax to Quantum or the previous holders of HDD common stock. Instead, Maxtor and we have agreed to effect the disposition and the merger on the basis of an opinion from Ernst & Young LLP, our tax advisor, and a tax opinion insurance policy issued by a syndicate of major insurance companies to us covering up to \$340 million of tax loss caused by the disposition and merger.

If the disposition of HDD is determined not to be tax-free and the tax opinion insurance policy does not fully cover the resulting tax liability, we or our stockholders or both could incur substantial tax liability, which could materially and adversely affect our business, financial condition and results of operations.

The tax opinion insurance policy issued in conjunction with the disposition of HDD does not cover all circumstances under which the disposition could become taxable to us, and as a result, we could incur an uninsured tax liability, which could materially and adversely affect our business, financial condition and results of operations.

In addition to customary exclusions from its coverage, the tax opinion insurance policy does not cover any federal or state tax payable by us if the disposition becomes taxable to us as a result of:

- A change in relevant tax law;
- An acquisition representing a 50% or greater interest in Quantum which began during the one-year period before and six-month period following the disposition, whether or not approved by our board of directors; or
- An acquisition representing a 50% or greater interest in Maxtor which began during the one-year period before and six-month period following the disposition, whether or not approved by Maxtor's board of directors.

If any of these events occur, we could incur uninsured tax liability, which could materially and adversely affect our business, financial condition and results of operations.

If we incur an uninsured tax liability as a result of the disposition of HDD, our financial condition and operating results could be negatively affected.

If the disposition of HDD were determined to be taxable to Quantum, we would not be able to recover an amount to cover the tax liability either from Maxtor or under the insurance policy in the following circumstances:

- If the tax loss were not covered by the policy because it fell under one of the exclusions from the coverage under the tax opinion insurance policy described above, insurance proceeds would not be available to cover the loss.
- If the tax loss were caused by our own acts or those of a third party that made the disposition taxable (for instance, an acquisition of control of Quantum which began during the one-year period before and six-month period following the closing), Maxtor would not be obligated to indemnify us for the amount of the tax liability.
- If Maxtor were required to reimburse us for the amount of the tax liability according to its indemnification obligations under the HDD disposition, but was not able to pay the reimbursement in full, we would nevertheless be obligated, as the taxpayer, to pay the tax.

In any of these circumstances, the tax payments due from us could be substantial. In order to pay the tax, we would have to either deplete our existing cash resources or borrow cash to cover our tax obligation. Our payment of a significant tax prior to payment from Maxtor under

Maxtor's indemnification obligations, or in circumstances where Maxtor has no payment obligation, could harm our business, financial condition and operating results.

19.

Our stock price could become more volatile if certain institutional investors were to increase or decrease the number of shares they own. In addition, there are other factors and events that could affect the trading prices of our common stock.

Three institutional investors owned approximately 47% of our common stock as of June 29, 2003. If any or all of these investors were to decide to purchase additional shares or to sell some or all of the Quantum DSS shares they currently own, that may cause our stock price to be more volatile.

Trading prices of our common stock may fluctuate in response to a number of other events and factors, such as:

- General economic conditions;
- Changes in interest rates;
- Fluctuations in the stock market in general and market prices for high technology companies in particular;
- Quarterly variations in our operating results;
- New products, services, innovations and strategic developments by our competitors or us, or business combinations and investments by our competitors or us;
- Changes in financial estimates by us or securities analysts and recommendations by securities analysts; and
- Changes in our capital structure, including issuance of additional debt or equity to the public.

Any of these events and factors may cause our stock price to rise or fall and may adversely affect our business and financing opportunities.

Our historical financial information may not be representative of our future results solely as a tape drive and storage solutions business.

Our historical financial information does not necessarily reflect what our financial position, operating results, and cash flows would have been had we existed solely as a tape drive and storage solutions business during the periods presented. In addition, the historical information is not necessarily indicative of what our operating results, financial position and cash flows will be in the future.

Our quarterly operating results could fluctuate significantly, and past quarterly operating results should not be used to predict future performance.

Our quarterly operating results have fluctuated significantly in the past and could fluctuate significantly in the future. As a result, our past quarterly operating results should not be used to predict future performance. Quarterly operating results could be materially and adversely affected by a number of factors, including, but not limited to:

- An inadequate supply of tape media cartridges;
- Customers canceling, reducing, deferring or rescheduling significant orders as a result of excess inventory levels, weak economic conditions or other factors;
- Declines in network server demand;
- Failure to complete shipments in the last month of a quarter during which a substantial portion of our products are typically shipped; or
- Increased competition.

If we fail to meet our projected quarterly results, our business, financial condition and results of operations may be materially and adversely harmed.

20.

A significant portion of our manufacturing and sales operations occurs in foreign locations; we are increasingly exposed to risks associated with conducting our business internationally.

We manufacture and sell our products in a number of different markets throughout the world. As a result of our global manufacturing and sales operations, we are subject to a variety of risks that are unique to businesses with international operations of a similar scope, including the following:

- Adverse movement of foreign currencies against the U.S. dollar (in which our results are reported);
- Import and export duties and value-added taxes;
- Import and export regulation changes that could erode our profit margins or restrict our exports;

- Potential restrictions on the transfer of funds between countries;
- Inflexible employee contracts in the event of business downturns; and
- The burden and cost of complying with foreign laws.

In addition, our suppliers have operations in several emerging or developing economies that have a potential for higher risk than in the developed markets. The risks associated with these economies include, but are not limited to, political risks and natural disasters. In particular, with one of our outsourced manufacturers located in Malaysia, a significant portion of our product manufacturing may be subject to such political and climactic risks. Political instability, including the threat of terrorism, or a natural disaster in Malaysia or any other foreign market in which we operate could materially and adversely affect our business, financial condition and results of operations.

We are exposed to fluctuations in foreign currency exchange rates and an adverse change in foreign currency exchange rates relative to our position in such currencies could have a materially adverse impact on our business, financial condition and results of operations.

We do not use derivative financial instruments for speculative purposes. Our goal is to hedge our foreign currency-denominated transactions in a manner that substantially offsets the effects of changes in foreign currency exchange rates. Presently, we use foreign currency obligations to match and offset net currency exposures associated with certain assets and liabilities denominated in non-functional currencies. Corresponding gains and losses on the underlying transaction generally offset the gains and losses on these foreign currency obligations. We have used in the past, and may use in the future, foreign currency forward contracts to hedge our exposure to foreign currency exchange rates. To the extent that we have assets or liabilities denominated in a foreign currency that are inadequately hedged or not hedged at all, we may be subject to foreign currency losses, which could be significant.

Our international operations can act as a natural hedge when both operating expenses and sales are denominated in local currencies. In these instances, although an unfavorable change in the exchange rate of a foreign currency against the U.S. dollar would result in lower sales when translated to U.S. dollars, operating expenses would also be lower in these circumstances. Also, since an insignificant amount of our current sales are denominated in currencies other than the U.S. dollar, we do not believe that our total foreign exchange rate exposure is significant. Nevertheless, an increase in the rate at which a foreign currency is exchanged for U.S. dollars would require more of that particular foreign currency to equal a specified amount of U.S. dollars than before such rate increase. In such cases, and if we were to price our products and services in that particular foreign currency, we would receive fewer U.S. dollars than we would have received prior to such rate increase for the foreign currency. Likewise, if we were to price our products and services in U.S. dollars while competitors priced their products in a local currency, an increase in the relative strength of the U.S. dollar would result in our prices being uncompetitive in those markets. Such fluctuations in currency exchange rates could materially and adversely affect our business, financial condition and results of operations.

21.

We must maintain appropriate levels of service inventories. If we have too little service inventory, we may experience increased levels of customer dissatisfaction. If we have too much service inventory, we may incur financial losses.

We maintain levels of service inventories to satisfy future warranty obligations and also to earn service revenue to repair products for which the warranty has expired. We estimate the required amount of service inventories based on historical usage and forecasts of future warranty requirements, including estimates of failure rates and costs to repair, and out of warranty revenue. Given the significant levels of judgment inherently involved in the process, we cannot provide assurance that we will be able to maintain appropriate levels of service inventories to satisfy customer needs and to avoid financial losses from excess inventory charges. If we are unable to maintain appropriate levels of service inventories, our business, financial condition and results of operations maybe materially and adversely impacted.

Many of our facilities are located near known earthquake fault zones, and the occurrence of an earthquake or other disasters could cause damage to our facilities and equipment, which could require us to curtail or cease operations.

Many of our facilities are located in Northern and Southern California, near known earthquake fault zones and are, therefore, vulnerable to damage from earthquakes. In October 1989, a major earthquake that caused significant property damage and a number of fatalities struck Northern California. In addition, in 1994, a major earthquake that caused significant property damage and a number of fatalities struck Southern California. We and our suppliers are also vulnerable to damage from other types of disasters, including fire, floods, power loss, communications failures, terrorism and similar events. If any disaster were to occur, our ability to operate our business at our facilities could be seriously, or completely, impaired. The insurance we maintain may not be adequate to cover our losses resulting from disasters or other business interruptions.

Risks Related to this Offering

Our indebtedness and debt service obligations may adversely affect our cash flow and our business.

Our current and future indebtedness could have significant additional negative consequences, including:

- Requiring the dedication of all or a substantial portion of our expected cash flow from operations to service our indebtedness, thereby reducing the amount of our expected cash flow available for other purposes, including capital expenditures;
- Increasing our vulnerability to general adverse economic and industry conditions;
- Limiting our ability to obtain additional financing;
- Limiting our flexibility in planning for, or reacting to, changes in our business and the industry in which we compete;
- Placing us at a possible competitive disadvantage to less leveraged competitors and competitors that have better access to capital resources; and
- Affecting our abilities to make interest payments on our indebtedness, including the notes.

We intend to fulfill our debt service and repayment obligations from cash generated by our operations. However, if we are unable to generate sufficient cash from operations to meet these obligations and need to use our existing cash or liquidate investments in order to fund our debt service obligations, we may have to delay or curtail research and development programs and other capital expenditures.

22.

The notes are subordinated and we may incur additional debt.

The notes are unsecured and subordinated in right of payment in full to all of our indebtedness and all indebtedness and other liabilities of our subsidiaries. As a result, in the event of our bankruptcy, liquidation or reorganization or upon acceleration of the notes due to an event of default under the indenture and in certain other events, our assets will be available to pay obligations on the notes only after all senior indebtedness has been paid in full. After retiring our senior indebtedness, we may not have sufficient assets remaining to pay amounts due on any or all of the notes then outstanding.

The notes are our exclusive obligations and our corporate structure results in substantial structural subordination of the notes. Since a substantial portion of our operations is conducted in part through subsidiaries, our cash flow and ability to service debt, including the notes, are dependent upon the earnings of our subsidiaries and the distribution of those earnings to, or upon loans or other payments of funds by those subsidiaries to, us. Our subsidiaries are separate legal entities and have no obligation to make any payments on the notes or to make any funds available for payment on the notes. The payment of dividends and the making of loans and advances to us by our subsidiaries may be subject to statutory or contractual restrictions (including the restrictions contained in our credit agreement and synthetic lease), are dependent upon the earnings of those subsidiaries and are subject to various business considerations. Our right to receive assets of any of our subsidiaries upon their liquidation or reorganization (and the consequent right of the holders of the notes to participate in those assets) will be effectively subordinated to the claims of that subsidiary's creditors (including trade creditors), except to the extent that we are recognized as a creditor of such subsidiary, in which case our claims would still be subordinate to any security interests in the assets of such subsidiary and any indebtedness of such subsidiary senior to that held by us.

The indenture does not prohibit or limit us or our subsidiaries from incurring senior indebtedness or incurring other indebtedness and other liabilities. As of June 29, 2003, we had approximately \$90.5 million of indebtedness outstanding that was senior indebtedness, and our subsidiaries had approximately \$37.6 million of indebtedness and other liabilities outstanding to which the notes would have been effectively subordinated (excluding intercompany liabilities). We anticipate that from time to time we will incur additional senior indebtedness. We and our subsidiaries will also from time to time incur other additional indebtedness and liabilities. See "Description of Notes—Subordination."

We may not be able to repurchase the notes upon the occurrence of a fundamental change.

Upon the occurrence of a fundamental change, which includes certain types of change in control transactions in which the holder of the notes does not receive, upon conversion of the notes, securities where all or substantially all of such securities are traded on a national securities exchange, each holder of notes will have certain rights, at the holder's option, to require us to repurchase all or a portion of such holder's notes. If a fundamental change were to occur, we may not have sufficient funds available at such time to pay the repurchase price for all notes tendered by the holders. In such case, our failure to repurchase tendered notes would constitute an event of default under the indenture, our credit agreement and our lease facility and may constitute a default under the terms of other indebtedness that we may enter into from time to time. In such circumstances or if the occurrence of a fundamental change or the triggering of repurchase rights as a result of a fundamental change could constitute an event of default under our senior indebtedness, the subordination provisions in the indenture would restrict or prohibit payments to the holders of notes. The term "fundamental change" is limited to certain specified transactions and may not include other events that might adversely affect our financial condition. See "Description of Notes—Repurchase at Option of the Holder."

23.

The notes do not contain certain restrictive covenants, and there is limited protection in the event of a change of control.

The indenture under which the notes are issued does not contain restrictive covenants that would protect you from several kinds of transactions that may adversely affect you. In particular, the indenture does not contain covenants that will limit our ability to pay dividends or make distributions on or redeem our capital stock or limit our ability to incur additional indebtedness and, therefore, protect you in the event of a highly leveraged transaction or other similar transaction. In addition, the requirement that we offer to repurchase the notes upon a change of control is limited to the transactions specified in the definition of a "fundamental change" under "Description of Notes—Repurchase at Option of the Holder." Accordingly, we could enter into certain transactions, such as acquisitions, refinancings or a recapitalization, that could affect our capital structure and the value of our common stock but would not constitute a change of control.

Our stock price has been volatile and is likely to remain volatile, which may adversely affect the price of the notes.

Our stock has experienced substantial price volatility, particularly as a result of quarterly variations in results, the published expectations of analysts and announcements by our competitors and us. In addition, the stock market has experienced price and volume fluctuations that have affected the market price of many technology companies and that have often been unrelated to the operating performance of such companies. The price of our securities may also be affected by general global, economic and market conditions. While we cannot predict the individual effect that these and other factors may have on the price of our securities, these factors, either individually or in the aggregate, could result in significant variations in the price of our common stock during any given period of time. These fluctuations in our stock price also impact the price of the notes and the likelihood of the convertible securities being converted into equity. If our stock price is below the effective conversion price (based on the then applicable conversion rate) of our convertible notes on the date of maturity, holders are unlikely to convert them into equity, in which event we will be required to repay the principal amount of the convertible securities for cash.

Rating agencies may assign our notes a lower rating than anticipated.

Rating agencies have issued ratings on the notes. If these rating agencies were to subsequently assign the notes a lower rating, or other rating agencies assign the notes a rating that was lower than expected by investors, the market prices of the notes and our common stock could be materially and adversely affected.

There may not be a liquid market for the notes, and you may not be able to sell your notes at attractive prices or at all.

The notes are a new issue of securities for which there is currently no trading market. Although the initial purchasers have advised us that they currently intend to make a market in the notes, they are not obligated to do so and may discontinue their market-making activities at any time without notice, and their market making activity will be subject to limits imposed by the Exchange Act. We cannot predict whether an active trading market for the notes will develop or will be sustained. If an active market for the notes fails to develop or be sustained, the trading price of the notes could fall. Even if an active trading market were to develop, the notes could trade at prices that may be lower than the initial offering price. The trading price of the notes will depend on many factors, including:

- Prevailing interest rates and interest rate volatility;
- The markets for similar securities;
- Our financial condition, results of operations and prospects;
- The publication of earnings estimates or other research reports and speculation in the press or investment community relating to us or to companies in our industry generally;
- The market price of our common stock;
- Changes in our industry and competition; and
- General market and economic conditions.

As a result, we cannot give assurances that you will be able to sell the notes at attractive prices or at all.

24.

FORWARD-LOOKING STATEMENTS

Some of the statements contained in this prospectus, including the documents incorporated herein by reference, are forward-looking statements. The statements contained herein that are not purely historical are forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act, including statements regarding our expectations, beliefs, intentions or strategies regarding the future. All forward-looking statements included in this prospectus are based on information available to us on the date hereof, and we assume no obligation to update any such forward-looking statements. These statements involve known and unknown risks, uncertainties and other factors that may cause our actual results to differ materially from those implied by the forward-looking statements. In some cases, you can identify forward-looking statements by terminology such as “may,” “will,” “should,” “expects,” “plans,” “anticipates,” “believes,” “estimates,” “intends,” “projects,” “predicts,” “target,” “goal,” “objectives,” “potential,” or “continue” or the negative of these terms or other comparable terminology. For such statements, we claim the protection of the safe harbor for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. Moreover, neither we nor the initial purchasers nor any other person assume responsibility for the accuracy and completeness of such statements.

USE OF PROCEEDS

We will not receive any of the proceeds from the sale by any selling securityholder of the notes or the underlying common stock into which the notes may be converted.

DESCRIPTION OF NOTES

The notes were issued under an indenture dated as of July 30, 2003, between us, as issuer, and U.S. Bank National Association, as trustee. The notes and the shares issuable upon conversion of the notes are covered by a resale registration rights agreement pursuant to which we have filed this shelf registration statement, which covers the resale of the notes and the common stock issuable upon conversion of the notes. You may request a copy of the indenture and the resale registration rights agreement from the trustee.

The following description is a summary of the material provisions of the notes, the indenture and the resale registration rights agreement. It does not purport to be complete. This summary is subject to and is qualified by reference to all the provisions of the indenture, including the definitions of certain terms used in the indenture. Wherever particular provisions or defined terms of the indenture or form of note are referred to, these provisions or defined terms are incorporated in this prospectus by reference.

As used in this "Description of Notes" section, references to "Quantum," "we," "our" or "us" refer solely to Quantum Corporation and not to our subsidiaries.

25.

General

The notes are our general unsecured obligations. Our payment obligations under the notes are subordinated to all of our existing and future senior indebtedness and all existing and future indebtedness and liabilities of our subsidiaries as described under "—Subordination." The notes are convertible into our common stock as described under "—Conversion of Notes."

The notes are limited to \$160,000,000 aggregate principal amount. The notes have been issued only in denominations of \$1,000 and multiples of \$1,000. The notes bear interest at a rate of 4.375% per year and will mature on August 1, 2010 unless earlier converted, redeemed at our option or repurchased at your option upon a fundamental change (as defined below).

Neither we nor any of our subsidiaries are subject to any financial covenants under the indenture. In addition, neither we nor any of our subsidiaries are restricted under the indenture from paying dividends, incurring debt, or issuing or repurchasing our securities.

You are not afforded protection under the indenture in the event of a highly leveraged transaction or a change in control of us except to the extent described below under "—Repurchase at Option of the Holder."

We will pay interest on February 1 and August 1 of each year, beginning February 1, 2004, to record holders at the close of business on the preceding January 15 and July 15 as the case may be, except interest payable upon redemption or repurchase will be paid to the person to whom principal is payable, unless the redemption date or repurchase date, as the case may be, is an interest payment date.

No sinking fund is provided for the notes. The notes are not subject to defeasance.

We will maintain an office or agency in the Borough of Manhattan, The City of New York, for the payment of interest, which shall initially be an office or agency of the trustee. We may pay interest either:

- By check mailed to your address as it appears in the note register, provided that if you are a holder with an aggregate principal amount in excess of \$2.0 million, you shall be paid, at your written election, by wire transfer in immediately available funds; or
- By transfer to an account maintained by you in the United States.

However, payments to The Depository Trust Company, New York, New York, which we refer to as DTC, will be made by wire transfer of immediately available funds to the account of DTC or its nominee. Interest will be computed on the basis of a 360-day year composed of twelve 30-day months.

You may present definitive notes for conversion, registration of transfer and exchange, without service charge, at our office in New York City. For information regarding conversion, registration of transfer and exchange of global notes, see "—Form, Denomination and Registration."

You may not sell or otherwise transfer the notes and the common stock issuable upon conversion of the notes except in compliance with the provisions set forth below under "—Registration Rights of the Noteholders."

26.

Conversion of Notes

You may convert any of your notes, in whole or in part, into shares of our common stock prior to the close of business on the final maturity date of the notes, subject to prior redemption or repurchase of the notes.

The number of shares of common stock you will receive upon conversion of your notes will be determined by multiplying the number of \$1,000 principal amount notes you convert by the conversion rate on the date of conversion. You may convert your notes in part so long as such part is \$1,000 principal amount or an integral multiple of \$1,000. The initial conversion rate for the notes is 229.8851 shares of common stock per \$1,000 principal amount of notes, which equates to an initial conversion price of approximately \$4.35 per share of common stock issuable upon conversion of the notes, subject to adjustment as described below under "—Conversion Rate Adjustment." We will not issue

fractional shares of common stock upon conversion of notes. Instead, we will pay cash equal to the closing sale price of our common stock on the trading day prior to the conversion date. Except as described below, you will not receive any accrued interest or dividends upon conversion.

If we call notes for redemption, you may convert the notes only until the close of business on the business day immediately preceding the redemption date unless we fail to pay the redemption price. If you have submitted your notes for repurchase upon a fundamental change, you may convert your notes only if you withdraw your repurchase election. Upon conversion of notes, a holder will not receive any cash payment of interest unless such conversion occurs between a regular record date and the interest payment date to which it relates. Our delivery to the holder of the full number of shares of our common stock into which the note is convertible, together with any cash payment for such holder's fractional shares, will be deemed to satisfy our obligation to pay:

- The principal amount of the note; and
- Accrued but unpaid interest attributable to the period from the most recent interest payment date to the conversion date.

As a result, accrued but unpaid interest to the conversion date is deemed to be paid in full rather than cancelled, extinguished or forfeited.

Notwithstanding the preceding paragraph, if notes are converted after a record date but prior to the next succeeding interest payment date, holders of such notes at the close of business on the record date will receive the interest payable on such notes on the corresponding interest payment date notwithstanding the conversion. Such notes, upon surrender for conversion, must be accompanied by funds equal to the amount of interest payable on the notes so converted; provided that no such payment need be made if (1) we have specified a redemption date that is after a record date and prior to the next interest payment date, (2) we have specified a purchase date following a fundamental change that is during such period or (3) only to the extent of overdue interest, if any overdue interest exists at the time of conversion with respect to such note.

Conversion Procedures

To convert interests in a global note into shares of our common stock, you must deliver to DTC the appropriate instruction form for conversion pursuant to DTC's conversion program and comply with the last three requirements listed below. To convert a definitive note into shares of our common stock, you must:

- Complete and manually sign the conversion notice on the back of the note or facsimile of the conversion notice and deliver this notice to the conversion agent;
- Surrender the note to the conversion agent;
- If required, furnish appropriate endorsements and transfer documents;
- If required, pay all transfer or similar taxes; and
- If required, pay funds equal to interest payable on the next interest payment date.

The date you comply with these requirements is the conversion date under the indenture.

27.

Conversion Rate Adjustment

We will adjust the conversion rate if any of the following events occurs:

- (1) We issue common stock as a dividend or distribution on our common stock to all holders of our common stock;
- (2) We issue to all holders of our common stock certain rights or warrants to purchase our common stock;
- (3) We subdivide or combine our common stock;
- (4) We distribute to all holders of our common stock, shares of our capital stock, evidences of indebtedness or assets, including cash or securities, but excluding:
 - Rights or warrants listed in (2) above; and
 - Dividends or distributions listed in (1) above.

If we distribute capital stock of, or similar equity interests in, a subsidiary or other business unit of ours and do not elect to reserve such securities on a pro rata basis for the benefit of holders of notes, as described below, then the conversion rate will be adjusted based on the market value of the securities so distributed relative to the market value of our common stock, in each case based on the average closing sale prices of those securities for the 10 trading days commencing on and including the fifth trading day after the date on which "ex-dividend trading" commences for such distribution on the New York Stock Exchange or such other national or regional exchange or market on which the securities are then listed or quoted.

If we distribute cash, then the conversion rate will be adjusted so that it equals the rate determined by multiplying the conversion rate in effect on the record date with respect to the cash distribution by a fraction, (1) the numerator of which will be the current market price of a share of our common stock on the record date, and (2) the denominator of which will be the same price of a share on the record date less the amount of distribution. "Current market price" means the average of the daily closing sale prices per share of our common stock for the ten consecutive trading days ending on the earlier of the date of determination and the day before the "ex date" with respect to the distribution requiring such computation. For purpose of this paragraph, the term "ex date," when used with respect to any distribution, means the first date on which our common stock trades, regular way, on the relevant exchange or in the relevant market from which the closing sale price was obtained without the right to receive such distribution;

- (5) We or one of our subsidiaries makes a payment in respect of a tender offer or exchange offer for our common stock to the extent that the cash and value of any other consideration included in the payment per share of common stock exceeds the closing sale price per share of our common stock on the trading day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer; and
- (6) Someone other than us or one of our subsidiaries makes a payment in respect of a tender offer or exchange offer for our common stock in which, as of the closing date of the offer, our board of directors is not recommending rejection of the offer. The adjustment referred to in this clause (6) will only be made if:
- The tender offer or exchange offer is for an amount that increases the offeror's ownership of common stock to more than 25% of the total shares of common stock outstanding; and
 - The cash and value of any other consideration included in the payment per share of common stock exceeds the closing sale price per share of common stock on the business day next succeeding the last date on which tenders or exchanges may be made pursuant to the tender or exchange offer.

However, the adjustment referred to in this clause (6) will generally not be made if, as of the closing of the offer, the offering documents disclose a plan or an intention to cause us to engage in a consolidation or merger or a sale of all or substantially all of our assets.

We have issued rights to holders of our common stock pursuant to the shares rights plan agreement described under "Description of Capital Stock." To the extent that such rights plan agreement is in effect upon conversion of the notes into common stock, you will receive, in addition to the common stock, the rights under the rights agreement that attach to our common stock unless the rights have separated from the common stock at the time of conversion such that the holders would not be entitled to receive such rights with respect to the common stock issuable upon conversion of the notes, in which case the conversion rate will be adjusted as described in (4) above under the caption "—Conversion Rate Adjustments."

28.

In the event of:

- Any reclassification of our common stock;
- A consolidation, merger or combination involving us; or
- A sale or conveyance to another person or entity of all or substantially all of our property and assets;

in which holders of our common stock would be entitled to receive stock, other securities, other property, assets or cash for their common stock, upon conversion of your notes you will be entitled to receive the same type of consideration which you would have been entitled to receive if you had converted the notes into our common stock immediately prior to any of these events.

If we distribute shares of common stock of a subsidiary of ours to all holders of our common stock, we may elect to reserve the pro rata portion of such shares (together with any distributions or dividends made or paid on such shares from time to time) for the benefit of the holders of notes in lieu of adjusting the conversion rate pursuant to (4) under the caption "—Conversion Rate Adjustments."

You may in certain situations be deemed to have received a distribution subject to United States federal income tax as a dividend in the event of any taxable distribution to holders of common stock or in certain other situations requiring a conversion rate adjustment. See "United States Federal Tax Considerations."

We may, from time to time, increase the conversion rate if our board of directors has made a determination that this increase would be in our best interests. Any such determination by our board will be conclusive. In addition, we may increase the conversion rate if our board of directors deems it advisable to avoid or diminish any income tax to holders of common stock resulting from any stock or rights distribution. See "United States Federal Tax Considerations."

We will not be required to make an adjustment in the conversion rate unless the adjustment would require a change of at least one percent in the conversion rate. However, we will carry forward and take into account any adjustments that are less than one percent of the conversion rate in any subsequent adjustment that would otherwise be required to be made. Except as described above in this section, we will not adjust the conversion rate for any issuance of our common stock or convertible or exchangeable securities or rights to purchase our common stock or convertible or exchangeable securities.

Optional Redemption by Quantum

We may not redeem the notes at any time prior to August 5, 2008. At any time on or after August 5, 2008, we may redeem the notes in whole or in part at the following prices expressed as a percentage of the principal amount:

<u>Redemption Period</u>	<u>Redemption Price</u>
Beginning on August 5, 2008 and ending on July 31, 2009	101.250%
Beginning on August 1, 2009 and ending on July 31, 2010	100.625%

and 100% if redeemed on August 1, 2010. In each case, we will pay interest and additional amounts, if any, to, but excluding, the redemption date. If the redemption date is an interest payment date, interest and any additional interest, if any, shall be paid to the record holder on the relevant record date. We are required to give notice of redemption by mail to holders not more than 60 but not less than 30 days prior to the redemption date.

If less than all of the outstanding notes are to be redeemed, the trustee will select the notes to be redeemed in principal amounts of \$1,000 or multiples of \$1,000 by lot, pro rata or by another method the trustee considers fair and appropriate. If a portion of your notes is selected for partial redemption and you convert a portion of your notes, the converted portion will be deemed to be of the portion selected for redemption.

We may not redeem the notes if we have failed to pay any interest on the notes and such failure to pay is continuing.

29.

Repurchase at Option of the Holder

If a fundamental change occurs at any time prior to the maturity of the notes, you may require us to repurchase your notes, in whole or in part, on a repurchase date that is 30 days after the date of our notice of the fundamental change. The notes will be subject to repurchase in integral multiples of \$1,000 principal amount.

We will repurchase the notes for cash at a price equal to 100% of the principal amount to be repurchased, plus accrued interest and any additional amounts, if any, to, but excluding, the repurchase date. If the repurchase date is an interest payment date, we will pay interest to the record holder on the relevant record date.

We will mail to all record holders a notice of a fundamental change within 10 days after it has occurred. We are also required to deliver to the trustee a copy of the fundamental change notice. If you elect to submit your notes for repurchase, you must deliver to us or our designated agent, on or before the 30th day after the date of our fundamental change notice, your repurchase notice and any notes to be repurchased, duly endorsed for transfer. We will promptly pay the repurchase price for notes surrendered for repurchase following the repurchase date.

A “fundamental change” is any transaction or event (whether by means of an exchange offer, liquidation, tender offer, consolidation, merger, binding share exchange, combination, reclassification, recapitalization or otherwise) in connection with which all or substantially all of our common stock is exchanged for, converted into, acquired for or constitutes solely the right to receive, consideration which is not all or substantially all common stock that:

- Is listed on, or immediately after the transaction or event will be listed on, a United States national securities exchange, or
- Is approved, or immediately after the transaction or event will be approved, for quotation on the NASDAQ National Market or any similar United States system of automated dissemination of quotations of securities prices.

We will comply with any applicable provisions of Rule 13e-4 and any other tender offer rules under the Exchange Act as may be applicable at the time in connection with any such repurchase of notes by us.

The fundamental change repurchase right could discourage a potential acquirer of Quantum. However, this fundamental change repurchase feature is not the result of management’s knowledge of any specific effort to obtain control of Quantum by means of a merger, tender offer or solicitation, or part of a plan by management to adopt a series of anti-takeover provisions. The term “fundamental change” is limited to specified transactions and may not include other events that might adversely affect our financial condition or business operations. Our obligation to offer to repurchase the notes upon a fundamental change would not necessarily afford you protection in the event of a highly leveraged transaction, reorganization, merger or similar transaction involving us.

We may be unable to repurchase the notes in the event of a fundamental change. If a fundamental change were to occur, we may not have enough funds to pay the repurchase price for all tendered notes. Our failure to repurchase tendered notes would constitute an event of default under the indenture, which would constitute a default under the terms of our credit agreement and facility lease. Our credit agreement and facility lease contain, and our future credit agreements or other future agreements relating to our indebtedness contain or may contain, provisions significantly restricting or prohibiting redemption of the notes under certain circumstances, or expressly prohibit our repurchase of the notes upon a fundamental change or provide or may provide that a fundamental change constitutes an event of default under that agreement. If a fundamental change occurs at a time when we are prohibited or restricted from purchasing or redeeming notes, we could seek the consent of our lenders to redeem the notes or attempt to refinance this debt. If we were not able to obtain such consent or successfully refinance the debt, we would not be permitted to purchase or redeem the notes without causing a default under such debt. In these circumstances, or if a fundamental change would constitute an event of default under our senior indebtedness, the subordination provisions of the indenture would restrict payments to the holders of the notes.

Subordination

The indebtedness evidenced by the notes is subordinated to the extent provided in the indenture to the prior payment in full in cash or other payment satisfactory to holders of senior indebtedness (as defined below) of all of our existing or future senior indebtedness and is also subordinated to all existing and future indebtedness and liabilities of our subsidiaries.

Upon any distribution of our assets upon any dissolution, winding up, liquidation or reorganization of the company, all payments on the notes (principal, premium, if any, interest and additional amounts, if any) will be subordinated in right of payment to the prior payment in full in cash or other payment satisfactory to holders of senior indebtedness of all senior indebtedness.

As a result of these subordination provisions, in the event of our bankruptcy, dissolution or reorganization, holders of senior indebtedness may receive more, ratably, and holders of the notes may receive less, ratably, than our other creditors.

In the event of any acceleration of the notes because of an event of default, holders of any senior indebtedness would be entitled to payment in full in cash or other payment satisfactory to holders of senior indebtedness of all senior indebtedness before the holders of the notes are entitled to receive any payment or distribution.

Under the indenture, we will be required to promptly notify holders of senior indebtedness if payment of the notes is accelerated because of an event of default.

We may also not make payment on the notes if:

- A default in the payment of the principal of, premium, if any, interest, rent or other obligations in respect of senior indebtedness occurs and is continuing beyond any applicable grace period, or
- Any other default occurs and is continuing with respect to designated senior indebtedness that permits holders of designated senior indebtedness or their representatives to accelerate its maturity, and the trustee receives a payment blockage notice from us or some other person permitted to give the notice under the indenture.

We may and shall resume payments on the notes:

- In case of a payment default, on the date on which the default is cured or waived or ceases to exist, and
- In case of a nonpayment default, on the date on which the default is cured or waived or ceases to exist or 179 days after the receipt of the payment blockage notice.

No new payment blockage period may start unless 365 days have elapsed from the effectiveness of the prior payment blockage notice.

No nonpayment default that existed or was continuing on the date of delivery of any payment blockage notice to the trustee shall be the basis for a subsequent payment blockage notice.

The subordination provisions will not prevent the occurrence of any event of default under the indenture.

If the trustee, any paying agent or any holder receives any payment or distribution of assets in contravention of the subordination provisions before all senior indebtedness is paid in full in cash or other payment satisfactory to holders of senior indebtedness is made, then such payment or distribution will be held in trust for the holders of senior indebtedness to the extent necessary to make payment in full in cash or payment satisfactory to the holders of senior indebtedness of all unpaid senior indebtedness.

The notes are obligations exclusively of Quantum and will be structurally subordinated to all indebtedness and other liabilities, including trade payables, of our subsidiaries. Since a substantial portion of our operations are conducted through subsidiaries, our cash flow and our ability to service debt, including the notes, are dependent in part upon the earnings of our subsidiaries and the distribution of those earnings to, or upon loans or other payments of funds by those subsidiaries to, us. The payment of dividends and the making of loans and advances by our subsidiaries may be subject to statutory or contractual restrictions, and are dependent upon the earnings of those subsidiaries. Our right to receive any assets of our subsidiaries upon their liquidation or reorganization (and the consequent right of the holders of the notes to participate in those assets) will be effectively subordinated to the claims of that subsidiary's creditors (including trade creditors), except to the extent we are ourselves recognized as a creditor of such subsidiary. Even in the event we are recognized as a creditor of one of our subsidiaries, our claims would still be subordinate to any security interests in the assets of such subsidiary and any indebtedness of such subsidiary senior to that held by us.

As of June 29, 2003, we had approximately \$90.5 million of indebtedness outstanding that was senior indebtedness, and our subsidiaries had approximately \$37.6 million of indebtedness and other liabilities outstanding to which the notes would have been effectively subordinated (excluding intercompany liabilities). Our subsidiaries are separate and distinct legal entities and have no obligation, contingent or otherwise, to pay any amount due under the notes or to make any funds available therefore, whether by dividends, loans or other payments. The indenture will not limit the amount of additional indebtedness, including senior indebtedness, which we can create, incur assume or guarantee, nor will the indenture limit the amount of indebtedness or other liabilities that any of our subsidiaries can create, incur, assume or guarantee.

“credit agreement” means that certain Credit Agreement (18-Month) entered into as of December 17, 2002, by and among Quantum, the lenders from time to time party thereto and KeyBank National Association, as Administrative Agent and Letter of Credit Issuing Lender, including any related notes, collateral documents, instruments and agreements executed in connection therewith, and in each case as amended (including any amendment and restatement thereof), modified, renewed, refunded, replaced, refinanced or restructured (including, without limitation, any amendment increasing the amount of available borrowing thereunder) from time to time and whether with the same or any other agent, lender or group of lenders.

“designated senior indebtedness” means our obligations under the credit agreement, the facility lease, and any particular senior indebtedness in which the instrument creating or evidencing the same or the assumption or guarantee thereof (or related agreements or documents to which Quantum is a party) expressly provides that such senior indebtedness shall be “designated senior indebtedness” for purposes of the indenture, provided that such instrument, agreement or other document may place limitations and conditions on the right of such senior indebtedness to exercise the rights of designated senior indebtedness.

“facility lease” means that certain Participation Agreement, dated as of December 17, 2002, entered into by and among Quantum, SELCO Service Corporation, as lessor and participant, Comerica Bank-California, Fleet National Bank and KeyBank National Association, as participants, and KeyBank National Association, as Agent, including any related leases, lease supplements, deeds of trust, collateral documents, instruments and agreements executed in connection therewith, and in each case as amended (including any amendment and restatement thereof), modified, renewed, refunded, replaced, refinanced or restructured (including, without limitation, any amendment increasing the amount of available advances thereunder) from time to time and whether with the same or any other agent, lessor, participant or group of participants.

“indebtedness” means, with respect to any person, and without duplication:

32.

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- (1) All indebtedness, obligations and other liabilities (contingent or otherwise) of such person for borrowed money (including obligations in respect of overdrafts, foreign exchange contracts, currency exchange agreements, interest rate protection agreements, and any loans or advances from banks, whether or not evidenced by notes or similar instruments) or evidenced by bonds, debentures, notes or similar instruments (whether or not the recourse of the lender is to the whole of the assets of such person or to only a portion thereof), other than any account payable or other accrued current liability or obligation incurred in the ordinary course of business in connection with the obtaining of materials or services;
 - (2) All reimbursement obligations and other liabilities (contingent or otherwise) of such person with respect to letters of credit, bank guarantees or bankers acceptances surety bonds, performance bonds or other guaranty of contractual performance;
 - (3) All obligations and liabilities (contingent or otherwise) in respect of leases of such person required, in conformity with generally accepted accounting principles, to be accounted for as capitalized lease obligations on the balance sheet of such person and all obligations and other liabilities (contingent or otherwise) under any lease or related document (including a purchase agreement) in connection with the lease or real property which provides that such person is contractually obligated to purchase or cause a third party to purchase the leased property and thereby guarantee a minimum residual value of leased property to the lessor and the obligations of such person under such lease or related document to purchase or to cause a third party to purchase such leased property;
 - (4) All obligations of such person (contingent or otherwise) with respect to an interest rate or other swap, cap or collar agreement or other similar instrument or agreement or foreign currency hedge, exchange, purchase or similar instrument or agreement;
 - (5) All direct or indirect guaranties or similar agreements by such person in respect of, and obligations or liabilities, contingent or otherwise (contingent or otherwise), of such person to purchase or otherwise acquire or otherwise assure a creditor against loss in respect of, indebtedness, obligations or liabilities of another person of the kind described in clauses (1) through (4);
 - (6) Any indebtedness or other obligations described in clauses (1) through (4) secured by any mortgage, pledge, lien or other encumbrance existing on property which is owned or held by such person, regardless of whether the indebtedness or other obligation secured thereby shall have been assumed by such person; and
 - (7) Any and all deferrals, renewals, extensions and refundings of, or amendments, modifications or supplements to, any indebtedness, obligation or liability of the kind described in clauses (1) through (6).

“senior indebtedness” means the principal of, premium, if any, interest (including all interest accruing subsequent to the commencement of any bankruptcy or similar proceeding, involving the company whether or not a claim for post-petition interest is allowable as a claim in any such proceeding) and rent payable on or in connection with, and all fees, costs, expenses and other amounts accrued or due on or in connection with indebtedness of the company, whether outstanding on the date of the indenture or thereafter created, incurred, assumed, guaranteed or in effect guaranteed by the company, including all deferrals, renewals, extensions or refundings of, or amendments, modifications or supplements to, the foregoing, unless in the case of any particular indebtedness the instrument creating or evidencing the same or the assumption or guarantee thereof expressly provides that such indebtedness shall not be senior in right of payment to the notes or expressly provides that such indebtedness is of equal ranking with or junior to the notes. Notwithstanding the foregoing, the term “senior indebtedness” shall not include any indebtedness of the company to any subsidiary of the company (except if such indebtedness is pledged as security for any senior indebtedness), a majority of the voting stock of which is owned, directly or indirectly, by the company, the notes, our 7% Convertible Subordinated Notes due 2004, any liability for federal, state, local or other taxes owed or owing by us and any trade payables.

We will be obligated to pay reasonable compensation to the trustee and to indemnify the trustee against any losses, liabilities or expenses incurred by it in connection with its duties relating to the notes. The trustee’s claims for such payments will be senior to those of holders of the notes in respect of all funds collected or held by the trustee.

33.

Consolidation, Merger and Sale of Assets

The indenture provides that we may not consolidate with or merge with or into any other person or convey, transfer or lease our properties and assets substantially as an entirety to another person, unless among other items:

- We are the surviving corporation, or the resulting, surviving or transferee person is organized and existing under the laws of the United States, or any state thereof or the District of Columbia;
- That person assumes all of our obligations under the notes and the indenture and the registration rights agreement; and
- We or such successor entity is not then or immediately thereafter in default under the indenture and no event which after notice or lapse of time would become an event of default under the indenture shall have occurred and be continuing.

When such a person assumes our obligations in such circumstances, subject to certain exceptions, we shall be discharged from all obligations under the notes and the indenture.

Events of Default; Notice and Waiver

The following are events of default under the indenture:

- We fail to pay principal, or premium if any, on the notes when due at maturity, upon redemption, repurchase or otherwise, whether or not such payment is prohibited by the subordination provisions of the indenture;
- We fail to pay any interest or additional amounts, if any, on the notes when due and such failure continues for a period of 30 days, whether or not such payment is prohibited by the subordination provisions of the indenture;
- We fail to perform or observe any other covenant or warranty that we have made in the indenture for 60 days after written notice has been given by the trustee, or the holders of at least 25% in aggregate principal amount of the notes outstanding, as provided in indenture; and
- Certain events of bankruptcy, insolvency or reorganization with respect to us or any of our subsidiaries that is a significant subsidiary or any group of two or more subsidiaries that, taken as a whole, would constitute a significant subsidiary.

The indenture provides that the trustee will, within 90 days of the occurrence of an event of default, give to the requested holders of the notes notice of all uncured defaults known to it. However, the trustee may withhold notice to the holders of the notes of any default, except defaults in payment of principal, premium, if any, interest or additional amounts, if any, on the notes, if the trustee considers it in good faith to be in the best interests of the holders of the notes to withhold this notice.

If an event of default occurs and is continuing, either the trustee or the holders of at least 25% in principal amount of the outstanding notes may declare the principal, premium, if any, and accrued amounts and additional amounts, if any, on the outstanding notes to be immediately due and payable provided, however, that after such declaration of acceleration, but before a judgment or decree based on acceleration, the holders of a majority in aggregate principal amount of the outstanding notes may, under certain circumstances, rescind and annul such acceleration if all events of default, other than the non-payment of principal, interest or additional amounts, if any, on the notes that became due as a result of the acceleration have been cured or waived as provided in the indenture. In case of an event of default relating to our bankruptcy or insolvency, the principal, premium, if any, and accrued interest and additional amounts, if any, on the notes will automatically become due and payable. For information as to waiver of defaults, see “—Modification and Waiver” below.

34.

Payments of principal or interest on the notes that are not made when due following the applicable grace period will accrue interest at the annual rate of 1.0% above the then applicable interest rate from the required payment date.

The holders of a majority of outstanding notes will have the right to direct the time, method and place of any proceedings for any remedy available to the trustee, subject to limitations specified in the indenture.

No holder of the notes may pursue any remedy under the indenture, except in the case of a default in the payment of principal, premium, if any, or interest on the notes, unless:

- The holder has given the trustee written notice of an event of default;
- The holders of at least 25% in principal amount of outstanding notes make a written request, and offer reasonable indemnity, to the trustee to pursue the remedy;
- The trustee does not receive an inconsistent direction from the holders of a majority in principal amount of the notes; and
- The trustee fails to comply with the request within 60 days after receipt.

However, such limitations do not apply to a suit instituted by a holder of note for enforcement of payment of the principal of, or interest on, such note on or after the respective due dates expressed in such note or conversion of such note in accordance with its terms.

We are required to furnish to the trustee annually a statement as to our performance of certain of our obligations under the indenture and as to any default in such performance.

Modification and Waiver

Except as otherwise described below, the consent of the holders of a majority in aggregate principal amount of the outstanding notes is required to modify or amend the indenture. A modification or amendment requires the consent of the holder of each outstanding note if it would:

- Change the stated maturity of the principal amount of, or any installment of interest on, any note;
- Reduce the principal amount of, or interest on, any note;
- Reduce any amount payable upon redemption or repurchase of the notes;
- Adversely change our obligation to repurchase any note upon a fundamental change;
- Impair the right to institute suit for payment on or with respect to any note;
- Change the place or currency of payment of principal of, or interest on, any note;
- Modify the subordination or redemption provisions of any note or the indenture in a manner adverse to the holders of notes;
- Reduce the conversion rate, other than in accordance with the provisions of the indenture, or otherwise impair the right of a holder to convert any note;
- Reduce the percentage of the aggregate principal amount of outstanding notes necessary to modify or amend the indenture;
- Reduce the percentage of the aggregate principal amount of outstanding notes necessary for waiver of compliance with certain provisions of the indenture or for waiver of certain defaults;
- Change any obligation of ours to maintain an office or agency in the places and for the purposes specified in the indenture; or
- Modify any provisions of the indenture relating to the modification and amendment of the indenture or the waiver of past defaults or covenants, except as otherwise specified.

We are permitted to modify certain provisions of the indenture without the consent of the holders of the notes.

The holders of a majority in aggregate principal amount of the outstanding notes may waive our compliance with certain restrictive provisions of the indenture. Subject to the foregoing, the holders of a majority in aggregate principal amount of the outstanding notes may waive any past default under the indenture, except a default in the payment of principal or interest.

Form, Denomination and Registration

The notes were issued:

- In fully registered form;
- Without interest coupons; and
- In denominations of \$1,000 principal amount and integral multiples of \$1,000.

Global Note, Book-Entry Form

The notes are evidenced by one global note. We have deposited the global note with DTC and registered the global note in the name of Cede & Co. as DTC's nominee. Except as set forth below, the global note may be transferred, in whole or in part, only to another nominee of DTC or to a successor of DTC or its nominee.

Beneficial interests in the global note may be held directly through DTC if the holder is a participant in DTC, or indirectly through organizations that are participants in DTC (called participants). Transfers between participants will be effected in the ordinary way in

accordance with DTC rules and will be settled in clearing house funds. The laws of some states require that certain persons take physical delivery of securities in definitive form. As a result, the ability to transfer beneficial interests in a global note to such persons may be limited.

Beneficial interests in the global note held by DTC may be held only through participants, or certain banks, brokers, dealers, trust companies and other parties that clear through or maintain a custodial relationship with a participant, either directly or indirectly (called indirect participants). So long as Cede & Co., as the nominee of DTC, is the registered owner of the global note, Cede & Co. for all purposes will be considered the sole holder of such global note. Except as provided below, owners of beneficial interests in the global note will:

- Not be entitled to have certificates registered in their names;
- Not receive physical delivery of certificates in definitive registered form;
and
- Not be considered holders of the global note.

We will pay interest, the redemption price and the repurchase price of the global note to Cede & Co. as the registered owner of the global note, by wire transfer of immediately available funds on each interest payment date or the repurchase date, as the case may be. Neither we, the trustee nor any paying agent will be responsible or liable:

- For the records relating to, or payments made on account of, beneficial ownership interests in the global note;
or
- For maintaining, supervising or reviewing any records relating to the beneficial ownership interests.

We have been informed that DTC's practice, upon receipt of any payment of principal and interest payments on the global note, is to credit participants' accounts on that payment date with payments in amounts proportionate to their respective beneficial interests in the principal amount represented by the global note as shown in the records of DTC, unless DTC has reason to believe that it will not receive payment on that payment date. Payments by participants to owners of beneficial interests in the principal amount represented by the global note held through participants will be the responsibility of the participants, as is now the case with securities held for the accounts of customers registered in "street name."

Because DTC can only act on behalf of participants, who in turn act on behalf of indirect participants, the ability of a person having a beneficial interest in the principal amount represented by the global note to pledge such interest to persons or entities that do not participate in the DTC system, or otherwise take actions in respect of such interest, may be affected by the lack of a physical certificate evidencing such interest.

Neither we, the trustee, registrar, paying agent nor conversion agent will have any responsibility for the performance by DTC or its participants or indirect participants of their respective obligations under the rules and procedures governing their operations. DTC has advised us that it will take any action permitted to be taken by a holder of notes, including the presentation of notes for conversion, only at the direction of one or more participants to whose account with DTC interests in the global note are credited, and only in respect of the principal amount of the notes represented by the global note as to which the participant or participants has or have given such direction.

36.

DTC has advised us that it is:

- A limited purpose trust company organized under the laws of the State of New York, and a member of the Federal Reserve System;
- A "clearing corporation" within the meaning of the Uniform Commercial Code; and
- A "clearing agency" registered pursuant to the provisions of Section 17A of the Exchange Act.

DTC was created to hold securities for its participants and to facilitate the clearance and settlement of securities transactions between participants through electronic book-entry changes to the accounts of its participants. Participants include securities brokers, dealers, banks, trust companies and clearing corporations and other organizations. Some of the participants or their representatives, together with other entities, own DTC. Indirect access to the DTC system is available to others such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a participant, either directly or indirectly.

DTC has agreed to the foregoing procedures to facilitate transfers of interests in the global note among participants. However, DTC is under no obligation to perform or continue to perform these procedures, and may discontinue these procedures at any time. If DTC is at any time unwilling or unable to continue as depositary or DTC ceases to be a clearing agency registered under the Exchange Act and a successor depositary is not appointed by us within 90 days, we will issue notes in certificated form in exchange for the global note.

Certificated Notes

Holders may request that certificated notes be issued in exchange for notes represented by the global note.

Registration Rights of the Noteholders

In connection with the initial private placement of the notes we entered into a resale registration rights agreement with the initial purchasers. Pursuant to the resale registration rights agreement, we agreed, for the benefit of the holders of the notes and the shares of common stock issuable upon conversion of the notes, that we will, at our expense:

- File with the SEC not later than the date 90 days after the earliest date of original issuance of the notes, a shelf registration statement on such form as we deem appropriate covering resales by holders of all notes and the common stock issuable upon conversion of the notes;
- Use our reasonable efforts to cause such registration statement to become effective no later than 180 days after the date of original issuance of the notes; and
- Use our reasonable efforts to keep the registration statement effective until the earliest of:
 - (1) Two years after the last date of original issuance of any of the notes;
 - (2) The date when the holders of the notes and the common stock issuable upon conversion of the notes are able to sell all such securities immediately pursuant to the provisions of Rule 144(k) under the Securities Act or any successor provisions; and
 - (3) The date when all of the notes and common stock into which the notes are convertible are registered under the shelf registration statement and sold in accordance therewith.

We filed this shelf registration statement to meet our obligations under the resale registration rights agreement. We have mailed a form to all holders of the notes or common stock converted from the notes that provides notice of the impending effectiveness of this shelf registration statement and requests the holders to elect to be named as selling securityholders in the prospectus forming a part of this shelf registration statement and certain related information. To be named as a selling securityholder in the prospectus that is prepared at the time of the effectiveness of this shelf registration statement, and, therefore, able to sell your notes and the shares into which such notes are convertible, a holder is required to complete and deliver the notice and questionnaire within 20 business days of the date of the questionnaire. Holders that do not complete and deliver the notice and questionnaire will not be named as selling securityholders in that prospectus. Thereafter, upon receipt of a completed notice and questionnaire, we will use our reasonable efforts to file within ten business days any amendments or supplements to the shelf registration statement or supplements to the related prospectus as are necessary to allow holders to be named as selling securityholders in the prospectus contained in it. Notwithstanding any of the foregoing, we will not be required to file more than one post-effective amendment to the shelf registration statement during any fiscal quarter. We will pay the additional amounts described below to a holder if we fail to make a filing in the time required with respect to such holder or, in the event such filing is a post-effective amendment to the shelf registration statement that is required to be declared effective under the Securities Act, if such post-effective amendment is not declared effective within 45 days of the filing.

37.

We will:

- Pay all expenses of the shelf registration statement, other than selling expenses of holders;
- Provide to each holder for whom the shelf registration statement was filed copies of the prospectus that is a part of the shelf registration statement;
- Notify each such holder when the shelf registration statement has become effective; and
- Take certain other actions as are required to permit unrestricted resales of the notes and the common stock issuable upon conversion of the notes.

Each holder who sells securities pursuant to the shelf registration statement generally will be:

- Required to be named as a selling holder in the related prospectus;
- Required to deliver a prospectus to purchasers;
- Subject to certain of the civil liability provisions under the Securities Act in connection with the holder's sales; and
- Bound by the provisions of the resale registration rights agreement, which are applicable to the holder (including certain indemnification rights and obligations).

Each holder must notify us not later than three business days prior to any proposed sale by that holder pursuant to the shelf registration statement. This notice will be effective for five business days. We may suspend the holder's use of the prospectus for a period or periods not to exceed an aggregate of 30 days in any 90 day period, and not to exceed an aggregate of 90 days in any 360-day period, if:

- The prospectus would, in our reasonable judgment, contain a material misstatement or omission as a result of an event that has occurred and is continuing; and
- We reasonably determine that the disclosure of this material non-public information would have a material adverse effect on us and our subsidiaries taken as a whole.

However, if the disclosure relates to a previously undisclosed proposed or pending material business transaction, the disclosure of which would impede our ability to consummate such transaction, we may extend the suspension period from 30 days to 60 days. We need not specify the nature of the event giving rise to the suspension or extension of any notice to the holders of notes of the existence of such a suspension or any extension. Each holder, by its acceptance of the notes, agrees to hold any communication by us in response to a notice of a proposed sale in confidence.

Upon the initial sale of notes or common stock issued upon conversion of the notes, each selling holder will be required to deliver a notice of such sale, in substantially the form attached as Exhibit 4.4 to this prospectus, to the trustee and us. The notice will, among other things:

- Identify the sale as a transfer pursuant to the shelf registration statement;
- Certify that the prospectus delivery requirements, if any, of the Securities Act have been complied with; and
- Certify that the selling holder and the aggregate principal amount of notes or number of shares, as the case may be, owned by such holder are identified in the related prospectus in accordance with the applicable rules and regulations under the Securities Act.

If,

- The shelf registration statement has not been filed with the SEC prior to or on the 90th day following the earliest date of original issuance of any of the notes;
- The shelf registration statement has not been declared effective prior to or on the 180th day following the earliest date of original issuance of any of the notes; or
- Any registration statement ceases to be effective or fails to be usable and (1) we do not cure the registration statement within five business days by a post-effective amendment or a report filed pursuant to the Exchange Act or (2) if applicable, we do not terminate the suspension period, described in the preceding paragraph, by the 30th or 60th day, as the case may be (or any applicable extension thereof) (each, a registration default),

then additional amounts will accrue on the notes that are registrable securities from and including the day following the registration default to but excluding the day on which the registration default has been cured. Additional amounts will be paid semiannually in arrears, with the first semiannual payment due on the first interest payment date following the date on which such additional amounts begin to accrue, and will accrue at a rate per year equal to:

- An additional 0.25% of the principal amount to and including the 90th day following such registration default;
- and
- An additional 0.50% of the principal amount from and after the 91st day following such registration default.

In no event will additional amounts accrue at a rate per year exceeding 0.50%. If a holder has converted some or all of its notes that are registrable securities into common stock, the holder will be entitled to receive equivalent amounts based on the principal amount of the notes converted to the extent such shares are registrable securities.

38.

Rule 144A Information Request

We will furnish to the holders, beneficial holders and prospective purchasers of the notes or the common stock into which the notes are convertible, upon their request, the information required under Rule 144A(d)(4) under the Securities Act until such time as such securities are no longer “restricted securities” within the meaning of Rule 144 under the Securities Act.

Information Concerning the Trustee

We have appointed U.S. Bank National Association the trustee under the indenture, as paying agent, conversion agent, note registrar and custodian for the notes. The trustee or its affiliates may provide banking and other services to us in the ordinary course of their business.

The indenture contains certain limitations on the rights of the trustee, if it or any of its affiliates is then our creditor, to obtain payment of claims in certain cases or to realize on certain property received on any claim as security or otherwise. The trustee and its affiliates will be permitted to engage in other transactions with us. However, if the trustee or any affiliate continues to have any conflicting interest and a default occurs with respect to the notes, the trustee must eliminate such conflict or resign.

Governing Law

The indenture and the notes will be governed by, and construed in accordance with, the law of the State of New York.

DESCRIPTION OF CAPITAL STOCK

General

Our authorized capital stock consists of 1,020,000,000 shares. Those shares consist of (1) 1,000,000,000 shares designated as common stock, \$0.01 par value, and (2) 20,000,000 shares designated as preferred stock, \$0.01 par value. The only equity securities currently outstanding are shares of common stock and the rights to purchase shares of Series B junior preferred participating stock described below.

Common Stock

Holders of common stock are entitled to receive dividends declared by our board of directors, out of funds legally available for the payment of dividends, subject to the rights of holders of preferred stock. Currently, we are not paying dividends. Each holder of common stock is entitled to one vote per share. Upon any liquidation, dissolution or winding up of our business, the holders of common stock are entitled to share equally in all assets available for distribution after payment of all liabilities and provision for liquidation preference of shares of preferred stock then outstanding. The holders of common stock have no preemptive rights and no rights to convert their common stock into any other securities. There are also no redemption or sinking fund provisions applicable to the common stock.

As of October 2, 2003, there were 177,518,636 shares of common stock outstanding. All outstanding shares of common stock are fully paid and nonassessable.

39.

Preferred Stock

The following description of preferred stock is not complete. The description is qualified in its entirety by reference to the certificate of designation relating to that series. The rights, preferences, privileges and restrictions of the preferred stock of any series may be fixed (or, in the case of the Series B junior participating preferred stock, have been fixed) by a certificate of designation relating to that series.

As of October 2, 2003, there were no shares of preferred stock outstanding. Our board of directors has the authority, without further action by the stockholders, to issue up to 20,000,000 shares of one or more series of preferred stock and to fix the following terms of the preferred stock:

- Designations, powers, preferences, privileges;
- Relative, participating, optional or special rights; and
- The qualifications, limitations or restrictions, including dividend rights, conversion rights, voting rights, terms of redemption and liquidation preferences.

Any or all of these rights may be greater than the rights of the common stock.

Our board of directors, without stockholder approval, can issue preferred stock with voting, conversion or other rights that could negatively affect the voting power and other rights of the holders of common stock. Preferred stock could thus be issued quickly with terms calculated to delay or prevent a change in control of Quantum or make it more difficult to remove our management. Additionally, the issuance of preferred stock may have the effect of decreasing the market price of our common stock.

The rights, preferences, privileges and restrictions of the preferred stock of each series have been (in the case of Series B preferred stock) or may be (in the case of future series, if any) fixed by the certificate of designation relating to that series. The certificate of designation specifies (or may specify in the case of future series, if any):

- The maximum number of shares;
- The designation of the shares;
- The price and the terms and conditions for redemption, if any, including redemption at our option or at the option of the holders, including the time period for redemption, and any accumulated dividends or premiums;
- The annual dividend rate, if any, whether the dividend rate is fixed or variable, the date dividends will accrue, the dividend payment dates, and whether dividends will be cumulative;
- The liquidation preference, if any, and any accumulated dividends upon our liquidation, dissolution or winding up;
- Any sinking fund or similar provision, and, if so, the terms and provisions relating to the purpose and operation of the fund;
- The terms and conditions, if any, for conversion or exchange of shares of any class or classes of our capital stock or any series of any other class or classes, or of any other series of the same class, or any other securities or assets, including the price or the rate of conversion or exchange and the method, if any, of adjustment;
- The voting rights; and
- Any or all other preferences and relative, participating, optional or other special rights, privileges or qualifications, limitations or restrictions.

Preferred stock will be fully paid and nonassessable upon issuance.

40.

Amended and Restated Preferred Shares Rights Agreement

On April 30, 1998, pursuant to a preferred shares rights agreement between us and Computershare, Inc. (as successor to Harris Trust and Savings Bank), as rights agent, our board of directors declared a dividend of one preferred share purchase right for each share of common stock of the Company outstanding as of the close of business on August 5, 1998 (and for each share of common stock of the Company that became outstanding after August 5, 1998).

In connection with our recapitalization on August 3, 1999 pursuant to which we created two separate tracking stocks (i.e., DSS and HDD), we amended and restated our original preferred shares rights agreement in order to declare a dividend in the form of a right to purchase one one-thousandth of a share of our Series B junior participating preferred stock for each outstanding share of DSS common stock and an additional right to purchase one one-thousandth of a share of our Series C junior participating preferred stock for each outstanding share of HDD common stock. The dividends for these two types of stock were paid on August 3, 1999 to holders of HDD and DSS common stock of record

as of the close of business on that date. Each DSS right entitled the registered holder to purchase from us one one-thousandth of a share of our Series B preferred stock at an exercise price of \$200, subject to adjustment. Each HDD right entitled the registered holder to purchase from us one one-thousandth of a share of our Series C preferred stock at an exercise price of \$100, subject to adjustment.

On April 2, 2001, we sold our HDD business to Maxtor. In connection with the sale of the HDD business, we first issued new shares of the HDD business to our stockholders in exchange for all of the outstanding shares of HDD common stock (and all rights to purchase one one-thousandth of a share of our Series C preferred stock were also exchanged and cancelled). Our stockholders then exchanged all of their new shares of HDD common stock for Maxtor common stock. Currently, the DSS common stock now represents our only common stock outstanding, and the Series B preferred stock purchase rights remain as the sole rights to purchase our common stock under our amended and restated preferred shares rights agreement.

The following is a summary and general description of the principal terms of our rights agreement.

Rights Evidenced By Common Stock Certificates

The rights will not be exercisable until the distribution date (as described below). Certificates for the rights will not be sent to our stockholders, and the rights will attach to and trade only together with our common stock. Accordingly, our common stock certificates outstanding on July 23, 1999 evidence the rights related thereto, and our common stock certificates issued after July 23, 1999 contain a notation incorporating the rights agreement by reference. Until the distribution date (or earlier redemption or expiration of the rights), the surrender or transfer of any certificates for our common stock, outstanding as of the record date, even without notation or a copy of the summary of rights being attached thereto, also will constitute the transfer of the rights associated with our common stock represented by such certificate.

Distribution Date

The rights will be separate from our common stock on the distribution date. Rights certificates will be issued and the rights will become exercisable upon the earlier of the tenth day (or such later date as may be determined by our board of directors) after a person or group of affiliated or associated persons has acquired, or obtained the right to acquire, beneficial ownership of 20% or more of our then-outstanding common stock (other than Private Capital Management, Inc. and its affiliates, which, for all purposes under the rights agreement, may purchase up to 25% of our then-outstanding common stock), or the tenth business day (or such later date as may be determined by our board of directors) after a person or group announces a tender or exchange offer, the consummation of which would result in ownership by such person or group of 20% or more of our then-outstanding common stock (other than Private Capital Management, Inc. and its affiliates). The earlier of such dates is referred to as the "distribution date."

Issuance of Rights Certificates; Expiration of Rights

As soon as practicable following the distribution date, a rights certificate will be mailed to holders of record of our common stock as of the close of business on the distribution date, and such separate rights certificate alone will evidence the rights from and after the distribution date.

The rights will become tradable separately from our common stock only when and if there is a distribution date. The rights will expire on the earliest of August 4, 2008, or redemption or exchange of the rights as described below.

Initial Exercise of the Rights

Following the distribution date and until one of the further events described below, holders of the rights will be entitled to receive, upon exercise and the payment of the purchase price, one one-thousandth of a share of the Series B preferred stock. In the event that we do not have sufficient Series B preferred stock available for all rights to be exercised or our board of directors decides that such action by the acquiring person or persons is necessary and not contrary to the interests of rights holders, we may instead substitute cash, assets or other securities for the Series B preferred stock for which the rights would have been exercisable under this provision or as described below.

Right to Buy Our Common Stock

Unless the rights are redeemed by the Company prior to such time (if at all) as an acquiring person obtains 20% or more of our then-outstanding common stock, then each holder of a right that has not theretofore been exercised (other than rights beneficially owned by the acquiring person, which will thereafter be void) will thereafter have the right to receive, upon exercise, shares of our common stock having a value equal to two times the purchase price. Following the occurrence of an event as described above until such time as we may no longer redeem such rights (as set forth below), the rights are not exercisable.

Right to Buy Acquiring Company Common Stock

Unless the rights are earlier redeemed, in the event that, after an acquiring person obtains 20% or more of our then-outstanding common stock, we are involved in a merger, consolidation or other business combination transaction or 50% or more of our consolidated assets or earning power are transferred (other than in transactions in the ordinary course of business), proper provision must be made so that each holder of a right that has not yet been exercised (other than rights beneficially owned by the acquiring person, which will thereafter be void) will thereafter have the right to receive, upon exercise, shares of common stock of the acquiring company having a value equal to two times the purchase price.

Exchange Provision

At any time after an acquiring person obtains 20% or more of our then outstanding common stock and prior to the acquisition by such acquiring person of 50% or more of our outstanding common stock, our board of directors may exchange the rights (other than rights owned by the acquiring person), in whole or in part, at an exchange ratio of one share of our common stock per right.

Redemption

At any time on or prior to the close of business on the earlier of the tenth day following the attainment of 20% or more of our then-outstanding common stock by an acquiring person (or such later date as may be determined by action of our board of directors and publicly announced by us) or August 4, 2008, we may redeem the rights in whole, but not in part, at a price of \$0.01 per right.

Adjustments to Prevent Dilution

The purchase price payable, the number of rights, and the number of shares of our Series B preferred stock or our common stock or other securities or property issuable upon the exercise of the rights are subject to adjustment from time to time in connection with the dilutive issuances by us as set forth in the rights agreement. With certain exceptions, no adjustment in the purchase price will be required until cumulative adjustments require an adjustment of at least 1% in such purchase price.

42.

Cash Paid Instead of Issuing Fractional Shares

No fractional shares of our common stock will be issued upon exercise of a right and, in lieu thereof, an adjustment in cash will be made based on the market price of our common stock on the last trading date prior to the date of exercise.

No Stockholders' Rights Prior to Exercise

Until a right is exercised, the holder thereof, as such, will have no rights as a stockholder of Quantum solely by virtue of the rights (other than any rights resulting from such holder's ownership of our common stock), including, without limitation, the right to vote or to receive dividends.

Amendment of Rights Agreement

The terms of the rights and the rights agreement may be amended at any time by our board of directors in any respect without the consent of the rights holders on or prior to the distribution date. After the distribution date, the terms of the rights and the rights agreement may be amended without the consent of the rights holders in order to cure any ambiguities or to make changes which do not adversely affect the interests of rights holders, other than the acquiring person.

No Voting Rights

Rights will not have any voting rights.

Certain Anti-Takeover Effects

The rights are designed to protect and maximize the value of the outstanding equity interests in us in the event of an unsolicited attempt by an acquiror to take us over in a manner or on terms not approved by our board of directors. In certain instances, takeover attempts may include coercive tactics that deprive a company's board of directors and its stockholders of any real opportunity to determine its future as a company. The rights were declared by our board of directors in order to deter such tactics, including a gradual accumulation of shares in the open market of a 20% or greater position to be followed by a merger or a partial or two-tier tender offer that does not treat all stockholders equally. These tactics may unfairly pressure stockholders, squeeze them out of their investment without giving them any real choice and deprive them of the full value of their shares.

Subject to the restrictions described above, the rights may be redeemed by us at \$0.01 per right at any time prior to the distribution date. Accordingly, the rights should not interfere with any merger or business combination approved by our board of directors.

However, the rights may have the effect of rendering more difficult or discouraging an acquisition of us deemed undesirable by our board of directors. The rights may cause substantial dilution to a person or group that attempts to acquire us on terms or in a manner not approved by our board of directors, except pursuant to an offer conditioned upon the negation, purchase or redemption of the rights.

43.

Delaware General Corporation Law Section 203

We are a Delaware corporation subject to Section 203 of the Delaware General Corporation Law, an anti-takeover law. In general, Section 203 prohibits a publicly held Delaware corporation from engaging in a "business combination" transaction with an "interested stockholder" for a period of three years after the person became an interested stockholder, unless the business combination or the transaction in which the person became an interested stockholder is approved in the manner described below.

The Section 203 restrictions do not apply if:

- (1) The business combination or transaction is approved by our board of directors before the date the interested stockholder obtained the status as "interested";
- (2) Upon consummation of the transaction that resulted in the stockholder obtaining the status, the stockholder owned at least 85% of the shares of stock entitled to vote in the election of directors, the "voting stock." The 85% calculation does not include those shares:
 - owned by directors who are also officers of the target corporation, and
 - held by employee stock plans that do not permit employees to decide confidentially whether to accept a tender or exchange offer, or
- (3) On or after the date the interested stockholder obtained its status, the business combination is approved by our board of directors and at a stockholder meeting by the affirmative vote of at least 66 2/3% of the outstanding voting stock that is not owned by the interested stockholder.

Generally, a "business combination" includes a merger, asset sale, or other transaction resulting in a financial benefit to the interested stockholder. Generally, an "interested stockholder" is a person who, together with affiliates and associates, owns, or within three years prior to the determination of interested stockholder status, did own, 15% or more of a corporation's voting stock. Section 203 may prohibit or delay mergers or other takeover or change in control attempts with respect to Quantum. As a result, Section 203 may discourage attempts to acquire us even though such transaction may offer our stockholders the opportunity to sell their stock at a price above the prevailing market price.

Charter and Bylaw Provisions

Our charter and bylaws include provisions that may have the effect of discouraging, delaying or preventing a change in control or an unsolicited acquisition proposal that a stockholder might consider favorable, including a proposal that might result in the payment of a premium over the market price for the shares held by stockholders as follows:

- Our charter provides for cumulative voting at all elections of directors,
- Our board has the power to establish the rights, preferences and privileges of authorized and unissued shares,
- Our charter limits the liability of our directors, in their capacity as directors but not in their capacity as officers, to Quantum or its stockholders to the fullest extent permitted by Delaware law.

Transfer Agent and Registrar

Our common stock is listed on the New York Stock Exchange under the symbol "DSS." The transfer agent and registrar for the common stock is Computershare, Inc.

44.

This section summarizes the material U.S. federal income tax considerations relating to the purchase, ownership, and disposition of the notes and of common stock into which the notes may be converted. This summary does not provide a complete analysis of all potential tax considerations. The information provided below is based on existing authorities. These authorities may change, or the IRS might interpret the existing authorities differently. In either case, the tax considerations of purchasing, owning or disposing of notes or common stock could differ from those described below. The summary generally applies only to “U.S. Holders” that purchased notes in the initial offering at their issue price and hold the notes or common stock as “capital assets” (generally, for investment). For this purpose, U.S. Holders include citizens or residents of the United States and corporations organized under the laws of the United States or any state. Trusts are U.S. Holders if they are (i) subject to the primary supervision of a U.S. court and the control of one or more U.S. persons or (ii) have a valid election in effect under applicable U.S. Treasury regulations to be treated as a U.S. person. A “Non-U.S. Holder” is a beneficial owner of notes or shares of common stock that is not a U.S. holder. This summary describes some, but not all, of the special rules applicable to Non-U.S. Holders. If a partnership or other flow-through entity is a beneficial owner of a note (or common stock acquired upon conversion or exchange of a note), the tax treatment of a partner in the partnership or an owner of the entity will depend upon the status of the partner or other owner and the activities of the partnership or other entity. The summary generally does not address tax considerations that may be relevant to particular investors because of their specific circumstances, or because they are subject to special rules. Finally, the summary does not describe the effect of the federal estate and gift tax laws on U.S. Holders or the effects of any applicable foreign, state, or local laws.

INVESTORS CONSIDERING THE PURCHASE OF NOTES SHOULD CONSULT THEIR OWN TAX ADVISORS REGARDING THE APPLICATION OF THE U.S. FEDERAL INCOME TAX LAWS TO THEIR PARTICULAR SITUATIONS AND THE CONSEQUENCES OF FEDERAL ESTATE OR GIFT TAX LAWS, FOREIGN, STATE, OR LOCAL LAWS, AND TAX TREATIES.

U.S. Holders

Taxation of Interest

U.S. Holders will be required to recognize as ordinary income any interest paid or accrued on the notes, in accordance with their regular method of accounting. In general, if the terms of a debt instrument entitle a holder to receive payments other than fixed periodic interest that exceed the issue price of the instrument, the holder may be required to recognize additional amounts as “original issue discount” over the term of the instrument. The notes were not issued with original issue discount. We may be required to make payments of additional amounts to holders of the notes if we do not file or cause to be declared, or keep, effective a registration statement, as described under “Description of Notes—Registration Rights of the Noteholders.” The original issue discount rules allow contingent payments such as these to be disregarded in computing a holder’s interest income if the contingency is “remote.” We believe that there is only a remote possibility that we would be required to pay additional amounts because of a failure to provide registration rights. Our determination in this regard is binding on U.S. Holders unless they disclose their contrary position. If, contrary to expectations, we pay additional amounts while the notes are outstanding, U.S. Holders would be required to recognize additional interest income. If, contrary to expectations, we pay additional amounts after conversion, U.S. Holders might be required to recognize additional income at that time.

Sale, Exchange, Redemption or Other Disposition of the Notes

A U.S. Holder will generally recognize capital gain or loss if the holder disposes of a note in a sale, exchange, redemption or other disposition other than a conversion of the note into common stock. The holder’s gain or loss will equal the difference between the proceeds received by the holder and the holder’s adjusted tax basis in the note. The proceeds received by the holder will include the amount of any cash and the fair market value of any other property received for the note. The holder’s tax basis in the note will generally equal the amount the holder paid for the note. The portion of any proceeds that is attributable to accrued interest will not be taken into account in computing the holder’s capital gain or loss. Instead, that portion will be recognized as ordinary interest income to the extent that the holder has not previously included the accrued interest in income. The gain or loss recognized by a holder on a disposition of the note will be long-term capital gain or loss if the holder held the note for more than one year. Long-term capital gains of non-corporate taxpayers are taxed at lower rates than those applicable to ordinary income. The deductibility of capital losses is subject to limitation.

Conversion of the Notes

A U.S. Holder generally will not recognize any income, gain or loss on converting a note into common stock. If the holder receives cash in lieu of a fractional share of stock, however, the holder would be treated as if he received the fractional share and then had the fractional share redeemed for the cash. The holder would recognize gain or loss equal to the difference between the cash received and that portion of his basis in the stock attributable to the fractional share. The holder’s aggregate basis in the common stock (including any fractional share for which cash is paid) will equal his adjusted basis in the note. The holder’s holding period for the stock will include the period during which he held the note.

Dividends

If, after a U.S. Holder converts a note into common stock, we make a distribution in respect of that stock, the distribution will be treated as a taxable dividend, to the extent it is paid from our current or accumulated earnings and profits. If the distribution exceeds our current and accumulated profits, the excess will be treated first as a tax-free return of the holder's investment, up to the holder's basis in its common stock. Any remaining excess will be treated as capital gain. If the U.S. Holder is a U.S. corporation, it would generally be able to claim a deduction equal to a portion of any dividends received. For taxable years beginning after December 31, 2002 and before January 1, 2009, subject to certain exceptions, dividends received by individual shareholders would generally be taxed at the same preferential rates that apply to long-term capital gain.

The terms of the notes allow for changes in the conversion rate of the notes in certain circumstances. A change in conversion rate that allows noteholders to receive more shares of common stock on conversion may increase the noteholders' proportionate interests in our earnings and profits or assets. In that case, the noteholders would be treated as though they received a dividend in the form of our stock. Such a constructive stock dividend could be taxable to the noteholders, although they would not actually receive any cash or other property. A taxable constructive stock dividend would result, for example, if the conversion rate is adjusted to compensate noteholders for distributions of cash or property to our shareholders. Not all changes in conversion rate that allow noteholders to receive more stock on conversion, however, increase the noteholders' proportionate interests in the company. For instance, a change in conversion rate could simply prevent the dilution of the noteholders' interests upon a stock split or other change in capital structure. Changes of this type, if made by a bona fide, reasonable adjustment formula, are not treated as constructive stock dividends. Conversely, if an event occurs that dilutes the noteholders' interests and the conversion rate is not adjusted, the resulting increase in the proportionate interests of our shareholders could be treated as a taxable stock dividend to them. Any taxable constructive stock dividends resulting from a change to, or failure to change, the conversion rate would be treated like dividends paid in cash or other property. They would result in a taxable dividend to the recipient to the extent of our current or accumulated earnings and profits, with any excess treated as a tax-free return of capital or as capital gain.

Sale of Common Stock

A U.S. Holder will generally recognize capital gain or loss on a sale or exchange of common stock. The holder's gain or loss will equal the difference between the proceeds received by the holder and the holder's adjusted tax basis in the stock. The proceeds received by the holder will include the amount of any cash and the fair market value of any other property received for the stock. The gain or loss recognized by a holder on a sale or exchange of stock will be long-term capital gain or loss if the holder held the stock for more than one year.

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Special Tax Rules Applicable to Non-U.S. Holders

Special rules may apply to certain Non-U.S. Holders such as "controlled foreign corporations," "passive foreign investment companies," "foreign personal holding companies" or, in certain circumstances, an individual who is a United States expatriate and therefore subject to special treatment under the Code. Such entities should consult their own tax advisors to determine the U.S. federal, state, local and other tax consequences that may be relevant to them.

Taxation of Interest

Payments of interest to nonresident persons or entities are generally subject to U.S. federal income tax at a rate of 30 percent, collected by means of withholding by the payor. Payments of interest on the notes to most Non-U.S. Holders, however, will qualify as "portfolio interest," and thus will be exempt from the withholding tax, if the holders certify their nonresident status as described below. The portfolio interest exception will not apply to payments of interest to a Non-U.S. Holder that:

- Owns, directly or indirectly, at least 10 percent of our voting stock;
- Is a "controlled foreign corporation" that is related to us; or
- Is a bank whose receipt of interest on a note is described in Section 881(c)(3)(A) of the Internal Revenue Code.

In general, a foreign corporation is a controlled foreign corporation if more than 50 percent of its stock is owned, directly or indirectly, by one or more U.S. persons that each owns, directly or indirectly, at least 10 percent of the corporation's voting stock.

Even if the portfolio interest exception does not apply, payments of interest to a nonresident person or entity might not be subject to withholding tax at a 30 percent rate, or might be subject to withholding tax at a reduced rate, under the terms of an applicable income tax treaty between the United States and the Non-U.S. holder's country of residence.

The portfolio interest exception, entitlement to treaty benefits and several of the special rules for Non-U.S. Holders described below apply only if the holder certifies its nonresident status. A Non-U.S. Holder can meet this certification requirement by providing a Form W-8BEN or appropriate substitute form to us or our paying agent. If the holder holds the note through a financial institution or other agent acting on the holder's behalf, the holder will be required to provide appropriate documentation to the agent. The holder's agent will then be required to

provide certification to us or our paying agent, either directly or through other intermediaries. For payments made to a foreign partnership or other flow-through entity, the certification requirements generally apply to the partners or other owners rather than to the partnership or other entity, and the partnership or other entity must provide the partners' or other owners' documentation to us or our paying agent.

Sale, Exchange, Redemption or Other Disposition of Notes

Non-U.S. Holders generally will not be subject to U.S. federal income tax on any gain realized on the sale, exchange, redemption or other disposition of notes. This general rule, however, is subject to several exceptions. For example, the gain would be subject to U.S. federal income tax if:

- The gain is effectively connected with the conduct by the Non-U.S. Holder of a U.S. trade or business;
- The Non-U.S. Holder was a citizen or resident of the United States and thus is subject to special rules that apply to expatriates; or
- The rules of the Foreign Investment in Real Property Tax Act (or FIRPTA) (described below) treat the gain as effectively connected with a U.S. trade or business.

The FIRPTA rules may apply to a sale, exchange, redemption or other disposition of notes if we are, or were within five years before the transaction, a "U.S. real property holding corporation" (orUSRPHC). In general, we would be a USRPHC if interests in U.S. real estate comprised most of our assets. We do not believe that we are a USRPHC or that we will become one in the future.

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Conversion of the Notes

A Non-U.S. Holder generally will not recognize any income, gain or loss on converting a note into common stock. Any gain recognized as a result of the holder's receipt of cash in lieu of a fractional share of stock would also generally not be subject to U.S. federal income tax. See "—Special Tax Rules Applicable to Non-U.S. Holders—Sale of Common Stock" below.

Dividends and Other Potential Withholding

Dividends paid to a Non-U.S. Holder on common stock received on conversion of a note (and any deemed dividends resulting from certain adjustments, or failure to make adjustments, to the number of shares of common stock to be issued on conversion, see "—U.S. Holders—Dividends" above) will generally be subject to U.S. withholding tax at a 30 percent rate. The withholding tax might not apply, however, or might apply at a reduced rate, under the terms of an applicable income tax treaty between the United States and the Non-U.S. Holder's country of residence. A Non-U.S. Holder must demonstrate its entitlement to treaty benefits by certifying its nonresident status. Some of the common means of meeting this requirement are described above under "—Special Tax Rules Applicable to Non-U.S. Holders—Taxation of Interest."

As more fully described under "Description of Notes—Registration Rights of the Noteholders," upon the occurrence of certain enumerated events we may be required to pay additional amounts to you. Payments of such additional amounts may be subject to U.S. federal withholding tax. Holders should contact their tax advisors concerning the treatment of receipt of such additional amounts.

Sale of Common Stock

Non-U.S. Holders will generally not be subject to U.S. federal income tax on any gains realized on the sale, exchange, or other disposition of common stock. This general rule, however, is subject to exceptions, some of which are described under "—Special Tax Rules Applicable to Non-U.S. Holders—Sale, Exchange, Redemption or Other Disposition of Notes."

Income or Gains Effectively Connected With a U.S. Trade or Business

The preceding discussion of the tax considerations of the purchase, ownership or disposition of notes or common stock by a Non-U.S. Holder assumes that the holder is not engaged in a U.S. trade or business. If any interest on the notes, dividends on common stock, or gain from the sale, exchange, redemption or other disposition of the notes or stock is effectively connected with a U.S. trade or business conducted by the Non-U.S. Holder, then the income or gain will be subject to U.S. federal income tax at the regular graduated rates. If the Non-U.S. Holder is eligible for the benefits of a tax treaty between the United States and the holder's country of residence, any "effectively connected" income or gain would probably be subject to U.S. federal income tax only if it is also attributable to a permanent establishment maintained by the holder in the United States. Payments of interest or dividends that are effectively connected with a U.S. trade or business, and therefore included in the gross income of a Non-U.S. Holder, will not be subject to the 30 percent withholding tax. To claim exemption from withholding, the holder must certify its qualification, which can be done by filing a Form W-8ECI. If the Non-U.S. Holder is a corporation, that portion of its earnings and profits that is effectively connected with its U.S. trade or business would generally be subject to a "branch profits tax." The branch profits tax rate is generally 30 percent, although an applicable income tax treaty might provide for a lower rate.

U.S. Federal Estate Tax

The estates of nonresident alien individuals are subject to U.S. federal estate tax on property with a U.S. situs. The notes will not be U.S. situs property as long as interest on the notes paid immediately before the death of the holder would have qualified as portfolio interest, exempt from withholding tax as described above under “—Special Tax Rules Applicable to Non-U.S. Holders—Taxation of Interest.” Because we are a U.S. corporation, our common stock will be U.S. situs property and therefore will be included in the taxable estate of a nonresident alien decedent. The U.S. federal estate tax liability of the estate of a nonresident alien may be affected by a tax treaty between the United States and the decedent’s country of residence.

Backup Withholding and Information Reporting

The Code and the Treasury regulations require those who make specified payments to report the payments to the IRS. Among the specified payments are interest, dividends, and proceeds paid by brokers to their customers. The required information returns enable the IRS to determine whether the recipient properly included the payments in income. This reporting regime is reinforced by “backup withholding” rules. These rules require the payors to withhold tax from payments subject to information reporting if the recipient fails to cooperate with the reporting regime by failing to provide his taxpayer identification number to the payor, furnishing an incorrect identification number, or repeatedly failing to report interest or dividends on his returns. The withholding tax rate is currently 28 percent. The backup withholding rules do not apply to payments to corporations, whether domestic or foreign.

Payments of interest or dividends to individual U.S. Holders of notes or common stock will generally be subject to information reporting, and will be subject to backup withholding unless the holder provides us or our paying agent with a correct taxpayer identification number and complies with applicable certification requirements.

Payments to Non-U.S. Holders of dividends on common stock, or interest on notes, will generally not be subject to backup withholding. To avoid backup withholding, a Non-U.S. Holder will have to certify its nonresident status. Some of the common means of doing so are described under “—Special Rules Applicable to Non-U.S. Holders—Taxation of Interest.” We must report annually to the IRS the interest and/or dividends paid to each Non-U.S. Holder and the tax withheld, if any, with respect to such interest and/or dividends, including any tax withheld under the rules described above under “—Special Tax Rules Applicable to Non-U.S. Holders—Taxation of Interest” and “—Special Tax Rules Applicable to Non-U.S. Holders—Dividends and Other Potential Withholding.” Copies of these reports may be made available to tax authorities in the country where the Non-U.S. Holder resides.

Payments made to U.S. Holders by a broker upon a sale of notes or common stock will generally be subject to information reporting and backup withholding. If the sale is made through a foreign office of a foreign broker, the sale will generally not be subject to either information reporting or backup withholding. This exception may not apply, however, if the foreign broker is owned or controlled by U.S. persons, or is engaged in a U.S. trade or business.

Payments made to Non-U.S. Holders by a broker upon a sale of notes or common stock will not be subject to information reporting or backup withholding as long as the Non-U.S. Holder certifies its foreign status.

Any amounts withheld from a payment to a holder of notes or common stock under the backup withholding rules can be credited against any U.S. federal income tax liability of the holder.

THE PRECEDING DISCUSSION OF U.S. FEDERAL INCOME TAX CONSIDERATIONS IS FOR GENERAL INFORMATION ONLY IT IS NOT TAX ADVICE. EACH PROSPECTIVE INVESTOR SHOULD CONSULT ITS OWN TAX ADVISOR REGARDING THE PARTICULAR U.S. FEDERAL, STATE, LOCAL, AND FOREIGN TAX CONSEQUENCES OF PURCHASING, HOLDING, AND DISPOSING OF OUR NOTES OR COMMON STOCK, INCLUDING THE CONSEQUENCES OF ANY PROPOSED CHANGE IN APPLICABLE LAWS.

SELLING SECURITYHOLDERS

We originally issued the notes in a private placement on July 30, 2003. The notes were subsequently resold to purchasers, including the selling securityholders listed below, in transactions exempt from registration. Selling securityholders may offer and sell the notes and the underlying common stock pursuant to this prospectus.

The following table contains information as of October 7, 2003, with respect to the selling securityholders and the principal amount of notes and the underlying common stock beneficially owned by each selling securityholder that may be offered using this prospectus.

Full Legal Name of Selling Securityholder	Principal Amount at Maturity of notes Beneficially Owned that may be sold	Percentage of Notes Outstanding	Number of shares Common Stock That May Be Sold (1)	Percentage of Common Stock Stock Outstanding (2)
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1976 Distribution Trust FBO A.R. Lauder/Zinterhofer	4,000	*	920	*
2000 Revocable Trust FBO A.R. Lauder / Zinterhofer	4,000	*	920	*
Advent Convertible Master (Cayman) L.P.	3,408,000	2.13%	783,448	*
AIG DKR Soundshore Strategic Holding Fund Ltd	3,000,000	1.88%	689,655	*
Akela Capital Master Funds Ltd	6,000,000	3.75%	1,379,310	*
Alcon Laboratories	208,000	*	47,816	*
Alexandra Global Master Fund Ltd	3,000,000	1.88%	689,655	*
Allentown City Police Pension Plan	21,000	*	4,828	*
Allentown City Officers & Employees Pension Fund	8,000	*	1,839	*
Allentown City Firefighters Pension Plan	16,000	*	3,678	*
Alpha US Sub Fund 4 LLC	188,000	*	43,218	*
Alta Partners Holdings LDC	8,000,000	5.00%	1,839,080	1.04%
Arapahoe County Colorado	24,000	*	5,517	*
Argent Classic Convertible Arbitrage Fund (Bermuda) Ltd	2,100,000	1.31%	482,759	*
Argent Classic Convertible Arbitrage Fund L. P.	600,000	*	137,931	*
Arkansas PERS	1,085,000	*	249,425	*
Arlington County Employees Retirement System	359,000	*	82,529	*
Asante Health Systems	45,000	*	10,345	*
+ ATSF - Transamerica Convertible Securities	7,350,000	4.59%	1,689,655	*
Attorney's Title Insurance Fund	110,000	*	25,287	*
Barclays Global Investors Diversified Alpha Plus Funds	481,000	*	110,575	*
Boilermakers Blacksmith Pension Trust	1,375,000	*	316,092	*
British Virgin Islands Social Security Board	47,000	*	10,805	*
BTES Convertible ARB	200,000	*	45,977	*
BTOP Growth Vs Value	800,000	*	183,908	*
City and County of San Francisco Retirement System	793,000	*	182,299	*
City of New Orleans	109,000	*	25,057	*
City University of New York	80,000	*	18,391	*
CNH CA Master Account LP	2,000,000	1.25%	459,770	*

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Convertible Securities Fund	60,000	*	13,793	*
DaimlerChrysler Corp Emp. #1 Pension Plan, dtd 4/1/89	3,480,000	2.18%	800,000	*
Delaware PERS	1,550,000	*	356,322	*
Delaware Public Employees Retirement System	832,000	*	191,264	*
Delta Airlines Master Trust	625,000	*	143,678	*
Duke Endowment	265,000	*	60,920	*
F.R. Convt. Sec. Fn.	155,000	*	35,632	*
FORE Convertible MasterFund Ltd	1,000,000	*	229,885	*
BD Forest Fulcrum Fund LP	1,314,000	*	302,069	*
Forest Global Convertible Fund, Ltd, Class A-5	4,589,000	2.87%	1,054,943	*
Forest Multi Strategy Master Fund SPC, on behalf of its Multi Strategy Segregated Portfolio	1,138,000	*	261,609	*
Franklin and Marshall College	260,000	*	59,770	*
GE Pension Trust	2,260,000	1.41%	519,540	*
Grady Hospital Foundation	72,000	*	16,552	*
Guggenheim Portfolio Co VIII, LLC	500,000	*	114,943	*
Hfr Arbitrage Fund	193,000	*	44,368	*
Highbridge International LLC	7,000,000	4.38%	1,609,195	*
ICI American Holdings Trust	350,000	*	80,460	*
+ IDEX - Transamerica Convertible Securities Fund	3,150,000	1.97%	724,138	*
ING Convertible Fund	1,980,000	1.24%	455,172	*
ING VP Convertible Portfolio	20,000,000	12.50%	4,597,701	2.59%
JME Triton Offshore Fund Ltd	1,500,000	*	344,828	*
JMG Capital Partners, LP	1,500,000	*	344,828	*
BD JP Morgan Securities Inc	3,000,000	1.88%	689,655	*
BD Lehman Brothers Inc.	8,615,000	5.38%	1,980,460	1.12%
LLT Limited	430,000	*	98,851	*
Lyxor	480,000	*	110,345	*
Lyxor/Forest Fund Ltd. c/o Forest Investment Mngt LLC	686,000	*	157,701	*
Man Mac I Limited	500,000	*	114,943	*
Municipal Employees	129,000	*	29,655	*
Nations Convertible Securities Fund	8,910,000	5.57%	2,048,276	1.15%

	New Orleans Firefighters Pension / Relief Fund	73,000	*	16,782	*
	Occidental Petroleum Corporation	142,000	*	32,644	*
	Peoples Benefit Life Insurance Company Teamsters	1,000,000	*	229,885	*
	Pro-mutual	403,000	*	92,644	*
	Prudential Insurance Co of America	90,000	*	20,690	*
A	Ramius Capital Group	500,000	*	114,943	*
A	Ramius Master Fund Ltd	1,800,000	1.13%	413,793	*
	RBC Alternative Assets LP c/o Forest Investment Mngt. LLC	367,000	*	84,368	*
A	RCG Latitude Master Fund Ltd	1,200,000	*	275,862	*
A	RCG Multi Strategy Master Fund Ltd	1,000,000	*	229,885	*
	Relay 11 Holdings Co. c/o Forest Investment Mngt. LLC	69,000	*	15,862	*
	Southern Farm Bureau Life Insurance	800,000	*	183,908	*
	Sphinx Convertible Arbitrage SPC c/o Forest Investment Mngt. LLC	177,000	*	40,690	*

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	St Albans Partner Ltd	1,000,000	*	229,885	*
	State of Maryland Retirement Agency	1,719,000	1.07%	395,172	*
	State of Oregon/Equity	4,855,000	3.03%	1,116,092	*
	State Street Bank Custodian for GE Pension Trust	2,260,000	1.41%	519,540	*
+	Stonebridge Life Insurance	500,000	*	114,943	*
	Syngenta AG	260,000	*	59,770	*
	Tag Associates	40,000	*	9,195	*
	TD Securities (USA) Inc.	1,000,000	*	229,885	*
	The Grable Foundation	48,000	*	11,034	*
+	Transamerica Life Insurance and Annuities Co	6,500,000	4.06%	1,494,253	*
	Trustmark Insurance	184,000	*	42,299	*
	UBS O'Connor LLC F/B/O O'Connor Global Convertible Arbitrage Master Ltd.	1,000,000	*	229,885	*
	Univest Convertible Arbitrage Fund Ltd c/o Forest Investment Mngt. LLC	279,000	*	64,138	*
	Xavex Convertible Arbitrage 10 Fund	300,000	*	68,966	*
	Xavex Convertible Arbitrage 4 Fund c/o Forest Investment Mngt. LLC	228,000	*	52,414	*
	Xavex Convertible Arbitrage 5 Fund	500,000	*	114,943	*
	Yield Strategies Fund I, L.P.	1,000,000	*	229,885	*
	Zeneca Holding Trust	480,000	*	110,345	*
	Zurich Institutional Benchmarks Master Fund Ltd c/o Forest Investment Mngt. LLC	582,000	*	133,793	*

Any other holder of notes or future transferee, pledgee, donee or successor of any holder(3)(4)

+ Subsidiary of Aegon NV which has ownership in some Broker-Dealers

A = An affiliate of a broker dealer

BD = Broker Dealer

* Less than 1%.

- (1) Assumes conversion of all of the holder's notes at a conversion price of approximately \$4.35 per share of common stock. However, this conversion price will be subject to adjustment as described under "Description of Notes—Conversion of Notes." As a result, the amount of common stock issuable upon conversion of the notes may increase or decrease in the future.
- (2) Calculated based on Rule 13d-3(d)(i) of the Exchange Act using 177,518,636 shares of common stock outstanding as of October 2, 2003. In calculating this amount, we treated as outstanding the number of shares of common stock issuable upon conversion of all of that particular holder's notes. However, we did not assume the conversion of any other holder's notes.
- (3) Information about other selling securityholders will be set forth in prospectus supplements, if required.
- (4) Assumes that any other holders of notes, or any future transferees, pledgees, donees or successors of or from any such other holders of notes, do not beneficially own any common stock other than the common stock issuable upon conversion of the notes at the initial conversion rate.

We prepared this table based on the information supplied to us by the selling securityholders named in the table.

The selling securityholders listed in the above table may have sold or transferred, in transactions exempt from the registration requirements of the Securities Act, some or all of their notes since the date on which the information in the above table is presented. Information about the selling securityholders may change over time. Any changed information will be set forth in prospectus supplements.

Because the selling securityholders may offer all or some of their notes or the underlying common stock from time to time, we cannot estimate

the amount of the notes or underlying common stock that will be held by the selling securityholders upon the termination of any particular offering. See "Plan of Distribution."

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PLAN OF DISTRIBUTION

We will not receive any of the proceeds of the sale of the notes or the common stock issued upon conversion of the notes offered by this prospectus. The notes and the underlying common stock may be sold from time to time to purchasers:

- directly by the selling securityholders;
- through underwriters, broker-dealers or agents who may receive compensation in the form of discounts, concessions or commissions from the selling securityholders or the purchasers of the common stock.

The selling securityholders and any such broker-dealers or agents who participate in the distribution of the notes and the underlying common stock may be deemed to be "underwriters." As a result, any profits on the sale of the notes and underlying common stock by selling securityholders and any discounts, commissions or concessions received by any such broker-dealers or agents might be deemed to be underwriting discounts and commissions under the Securities Act. If the selling securityholders were to be deemed underwriters, the selling securityholders may be subject to certain statutory liabilities, including, but not limited to, Sections 11, 12 and 17 of the Securities Act and Rule 10b-5 under the Exchange Act.

If the notes and underlying common stock are sold through underwriters or broker-dealers, the selling securityholders will be responsible for underwriting discounts or commissions or agent's commissions.

Any selling securityholder that is a "broker-dealer" will be deemed to be an "underwriter" within the meaning of Section 2(11) of the Securities Act. To our knowledge, Lehman Brothers Inc., JP Morgan Securities Inc., and Forest Fulcrum Fund LP. are the only selling securityholders who are registered broker-dealers and, as such, they are underwriters of the notes within the meaning of the Securities Act. Other than the performance of investment banking, commercial banking, advisory banking, advisory and other commercial services for us in the ordinary course of business, we do not have a material relationship with any of these broker-dealers and none of these broker-dealers has the right to designate or nominate a member or members of our board of directors. These securityholders purchased their notes in the open market, not directly from us, and we are not aware of any underwriting plan or agreement, underwriters' or dealers' compensation, or passive market making or stabilizing transactions involving the purchase or distribution of these securities by these securityholders. To our knowledge, none of the selling securityholders who are affiliates of broker-dealers purchased the notes outside of the ordinary course of business or, at the time of the purchase of the notes, had any agreement or understanding, directly or indirectly, with any person to distribute the securities.

The notes and underlying common stock may be sold in one or more transactions at:

- fixed prices;
- prevailing market prices at the time of sale;
- varying prices determined at the time of sale;
- or
- negotiated prices.

These sales may be effected in transactions:

- on any national securities exchange or quotation service on which the notes and underlying common stock may be listed or quoted at the time of the sale, including the New York Stock Exchange in the case of the common stock;
- in the over-the-counter market;
- in transactions otherwise than on such exchanges or services or in the over-the-counter market; or
- through the writing of options.

53.

These transactions may include block transactions or crosses. Crosses are transactions in which the same broker acts as an agent on both sides of the trade.

In connection with sales of the notes and underlying common stock, the selling securityholders may enter into hedging transactions with broker-dealers. These broker-dealers may in turn engage in short sales of the notes and the underlying common stock in the course of hedging their positions. The selling securityholders may also sell the notes and the underlying common stock short and deliver notes and the underlying common stock to close out short positions, or loan or pledge notes and the underlying common stock to broker-dealers that in turn may sell the notes and the underlying common stock.

To our knowledge, there are currently no plans, arrangements or understandings between any selling securityholders and any underwriter, broker-dealer or agent regarding the sale of the notes and the underlying common stock by the selling securityholders. Selling securityholders are not required to sell any or all of the notes and the underlying common stock offered by them pursuant to this prospectus. In addition, we

cannot assure you that any such selling securityholder will not transfer, devise or gift the notes and the underlying common stock by other means not described in this prospectus.

Our common stock is traded on the New York Stock Exchange under the symbol "DSS." The notes are eligible for The PORTALSM Market. We do not intend to apply for listing of the notes on any securities exchange. Accordingly, we cannot assure that the notes will be liquid or that any trading market for the notes will develop.

There can be no assurance that any selling securityholder will sell any or all of the notes and the underlying common stock pursuant to this prospectus. In addition, any notes and the underlying common stock covered by this prospectus that qualify for sale pursuant to Rule 144 or Rule 144A of the Securities Act may be sold under Rule 144 or Rule 144A rather than pursuant to this prospectus.

The selling securityholders and any other person participating in such distribution will be subject to the Exchange Act. The Exchange Act rules include, without limitation, Regulation M, which may limit the timing of purchases and sales of any of the notes and the underlying common stock by the selling securityholders and any other such person. In addition, Regulation M of the Exchange Act may restrict the ability of any person engaged in the distribution of the notes and the underlying common stock to engage in market-making activities with respect to the particular notes and the underlying common stock being distributed for a period of up to five business days prior to the commencement of such distribution. This may affect the marketability of the notes and the underlying common stock and the ability of any person or entity to engage in market-making activities with respect to the notes and the underlying common stock.

Pursuant to the resale registration rights agreement filed as an exhibit to this registration statement, we and the selling securityholders will be indemnified by the other against certain liabilities, including certain liabilities under the Securities Act or will be entitled to contribution in connection with these liabilities.

We have agreed to pay substantially all of the expenses incidental to the registration, offering and sale of the notes and the underlying common stock to the public other than commissions, fees and discounts of underwriters, brokers, dealers and agents.

54.

LEGAL MATTERS

The validity of the securities offered by this prospectus will be passed upon for us by Wilson Sonsini Goodrich & Rosati, Professional Corporation, Palo Alto, California.

EXPERTS

Ernst & Young LLP, independent auditors, have audited our consolidated financial statements and schedule included in our Annual Report on Form 10-K, as amended, for the year ended March 31, 2003, as set forth in their report, which is incorporated by reference in this prospectus and elsewhere in the registration statement. Our financial statements and schedule are incorporated by reference in reliance on Ernst & Young LLP's report, given on their authority as experts in accounting and auditing.

AVAILABLE INFORMATION

We are subject to the informational requirements of the Securities Exchange Act of 1934 and, in accordance therewith, file reports and other information with the SEC. Such reports and other information can be inspected and copied at the Public Reference Section of the SEC located at Room 1024, Judiciary Plaza, 450 Fifth Street, N.W., Washington D.C. 20549. Copies of such material can be obtained from the Public Reference Section of the SEC at prescribed rates. Such material may also be accessed electronically by means of the SEC's home page on the Internet (<http://www.sec.gov>).

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PART II

INFORMATION NOT REQUIRED IN THE PROSPECTUS

Item 14. Other Expenses of Issuance and Distribution

The following table sets forth the expenses, other than any underwriting discount and commissions, in connection with the issuance and distribution of the securities being registered. All amounts indicated are estimates (other than the registration fee):

Registration fee	\$	12,944
Accounting fees and expenses		125,000
Printing and engraving		65,000
Trustee's fees and expenses		10,000
Legal fees and expenses of registrant		315,000
Rating agency fees		114,000
Bank amendment fees		187,000
		<hr/>
Total	\$	828,944
		<hr/>

Item 15. Indemnification of Directors and Officers

The Registrant's Certificate of Incorporation, as amended, provides that, to the fullest extent permitted by the General Corporation Law of the State of Delaware (the "Delaware Law"), the Registrant's directors will not be personally liable for monetary damages for breach of their fiduciary duties as directors.

Article VI of the Registrant's Amended and Restated Bylaws provides that the Registrant will indemnify any current or former director or officer who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Registrant), against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Registrant, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful.

Article VI of the Registrant's Amended and Restated Bylaws further provides that the Registrant will indemnify any current or former director or officer who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Registrant to procure a judgment in its favor by reason of the fact that he is or was serving at the request of the Registrant against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Registrant, except that no indemnification will be provided for any claim, issue, or matter as to which such person is adjudged to be liable to the Registrant unless and only to the extent that the Delaware Court of Chancery or the court in which such action or suit was brought determines upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court deems proper.

Article VI of the Registrant's Amended and Restated Bylaws also provides that the Registrant will indemnify any current or former director or officer, to the extent that he has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to above, or in defense of any claim, issue or matter therein, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith. The Registrant will pay expenses incurred in defending or settling a civil or criminal action, suit or proceeding by a director or officer who may be entitled to indemnification in advance of the final deposition of such action, suit or proceeding as authorized by the Board of Directors upon receipt of an undertaking by or on behalf of the director or officer to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Registrant.

56.

The Registrant also has entered into indemnification agreements with its executive officers and directors that contain provisions similar to those contained in Article VI of the Registrant's Amended and Restated Bylaws.

Section 145 of the Delaware Law provides that a Delaware corporation has the power to indemnify its directors and officers in certain circumstances.

Subsection (a) of Section 145 of the Delaware Law empowers a corporation to indemnify any director or officer, or former director or officer, who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation), against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding provided that such director or officer acted in good faith and in a manner such director or officer reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, provided that such director or officer had no reasonable cause to believe his or her conduct was unlawful.

Subsection (b) of Section 145 of the Delaware Law empowers a corporation to indemnify any director or officer, or former director or officer, who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person acted in any of the capacities set forth above, against expenses (including attorneys' fees) actually and reasonably incurred in connection with the defense settlement of such action or suit, provided that such director or officer acted in good faith and in a manner such director or officer reasonably believed to be in or not opposed to the best interests of the corporation, except that no indemnification may be made in respect of any claim, issue or matter as to which such director or officer shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine that despite the adjudication of liability, but in view of all the circumstances of the case, such

director or officer is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

Section 145 of the Delaware Law further provides that to the extent a director or officer of a corporation has been successful in the defense of any action, suit or proceeding referred to in subsections (a) and (b) or in the defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith; that indemnification provided for by Section 145 shall not be deemed exclusive of any other rights to which the indemnified party may be entitled; and that the corporation shall have power to purchase and maintain insurance on behalf of a director or officer of the corporation against any liability asserted against him or her or incurred by him or her in any such capacity or arising out of his or her status as such whether or not the corporation would have the power to indemnify him or her against such liabilities under Section 145.

The Registrant maintains directors' and officers' liability insurance covering its directors and officers.

57.

Item 16. Exhibits

The following exhibits are filed herewith or incorporated by reference herein:

Exhibit Number	Exhibit Title
4.1	Indenture, dated as of July 30, 2003, 2003, between the Company and U.S. Bank National Association.
4.2	Form of Note (included in Exhibit 4.1).
4.3	Resale Registration Rights Agreement, dated July 30, 2003, between the Company, Lehman Brothers Inc., Morgan Stanley & Co. Incorporated and McDonald Investments Inc.
4.4	Notice of Transfer.
4.5	First Amendment to the Amended and Restated Preferred Shares Rights Agreement and Certificate of Compliance with Section 27 Thereof, dated October 28, 2002 (incorporated by reference to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended September 29, 2002 filed with the SEC on November 13, 2002).
4.6	Restated Preferred Shares Rights Agreement between the Registrant and Harris Trust and Savings Bank (incorporated by reference to the Registrant's Registration Statement on Form S-4, Amendment No. 2, filed with the SEC on June 10, 1999).
4.7	Certificate of Designation for the Series B Participating Junior Preferred Stock.
5.1	Opinion of Wilson Sonsini Goodrich & Rosati, Professional Corporation.
12.1	Statement of Computation of Ratio of Earnings to Fixed Charges.
23.1	Consent of Ernst & Young LLP, Independent Auditors.
23.2	Consent of Wilson Sonsini Goodrich & Rosati, Professional Corporation (included in Exhibit 5.1).
24.1	Power of Attorney (see page 60 of this Form S-3).
25.1	Form T-1 Statement of Eligibility of Trustee for Indenture under the Trust Indenture Act of 1939.

Item 17. Undertakings

1. The undersigned registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:
 - (i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933 (the "Act");
 - (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 Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and
 - (iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;provided, however, that the undertakings set forth in clauses (i) and (ii) above shall not apply if the information required to be included in a post-effective amendment by these clauses is contained in periodic reports filed by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 (the "Exchange Act") that are incorporated by reference in this registration statement.

- (2) That, for the purpose of determining any liability under the Act, 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.

58.

- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- (2) The undersigned registrant hereby undertakes, that, for purposes of determining any liability under the Act, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act 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.
- (3) Insofar as indemnification for liabilities arising under the Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.
- (4) The undersigned registrant hereby undertakes that:
- (a) For purposes of determining any liability under the Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b) (1) or (4) or 497(h) under the Act shall be deemed to be part of this registration statement as of the time it was declared effective.
- (b) For the purpose of determining any liability under the Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

59.

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 San Jose, State of California, on October 9, 2003.

QUANTUM CORPORATION

By: /s/ Michael J. Lambert

Michael J. Lambert
*Executive Vice President, Finance and
Chief Financial Officer*

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Richard E. Belluzzo and Michael J. Lambert, jointly and severally, his attorneys-in-fact, each with the power of substitution, for him in any and all capacities, to sign any amendments to this Registration Statement on Form S-3, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact, or his substitute or substitutes, may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, this Registration Statement has been signed below by the following persons in the capacities indicated on October 9, 2003.

Signature

Title

/s/ RICHARD E. BELLUZZO
Richard E. Belluzzo

Chief Executive Officer (Principal Executive Officer) and
Chairman of the Board

/s/ MICHAEL J. LAMBERT
Michael J. Lambert

Executive Vice President, Finance and Chief Financial Officer
(Principal Financial and Accounting Officer)

/s/ STEPHEN M. BERKLEY
Stephen M. Berkley

Director

/s/ DAVID A. BROWN
David A. Brown

Director

/s/ MICHAEL A. BROWN
Michael A. Brown

Director

/s/ ALAN L. EARHART
Alan L. Earhart

Director

/s/ EDWARD M. ESBER, JR
Edward M. Esber, Jr

Director

/s/ KEVIN J. KENNEDY
Kevin J. Kennedy

Director

/s/ GREGORY W. SLAYTON
Gregory W. Slayton

Director

/s/ EDWARD J. SANDERSON
Edward J. Sanderson

Director

60.

Exhibit 23.1

CONSENT OF ERNST & YOUNG LLP, INDEPENDENT AUDITORS

We consent to the reference to our firm under the caption "Experts" in the Registration Statement (Form S-3) and related Prospectus of Quantum Corporation for the registration of \$160,000,000 of 4.375% Convertible Subordinated Notes due August 1, 2010 and 36,781,616 shares of its common stock and to the incorporation by reference therein of our report dated April 25, 2003, with respect to the consolidated financial statements and schedule of Quantum Corporation included in its Annual Report (Form 10-K), as amended, for the year ended March 31, 2003, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

Palo Alto, California
October 3, 2003

61.

INDENTURE
between
QUANTUM CORPORATION
and
U.S. BANK NATIONAL ASSOCIATION,
as Trustee
4.375% CONVERTIBLE SUBORDINATED NOTES
DUE 2010

Dated as of July 30, 2003

CROSS-REFERENCE TABLE*

<u>Trust Indenture Act Section</u>	<u>Indenture Section</u>
310(a)(1)	5.11
(a)(2)	5.11
(a)(3)	n/a
(a)(4)	n/a
(a)(5)	5.11
(b)	5.3; 5.11
(c)	n/a
311(a)	5.12
(b)	5.12
(c)	n/a
312(a)	2.9
(b)	14.3
(c)	14.3
313(a)	5.7
(b)(1)	n/a
(b)(2)	5.7
(c)	5.7; 14.2
(d)	5.7
314(a)(1), (2), (3)	9.4; 14.2
(a)(4)	9.5; 14.6
(b)	n/a
(c)(1)	14.5
(c)(2)	14.5
(c)(3)	n/a
(d)	n/a
(e)	14.6
(f)	n/a
315(a)	5.1(a)
(b)	5.6; 14.2
(c)	5.1(b)
(d)	5.1(c)
(e)	4.14
316(a)(last sentence)	7.2
(a)(1)(A)	4.5
(a)(1)(B)	4.4
(a)(2)	n/a
(b)	4.7
(c)	7.4
317(a)(1)	4.8
(a)(2)	4.9
(b)	2.6

318(a)	14.1
(b)	n/a
(c)	14.1

“n/a” means not applicable.

*This Cross-Reference Table shall not, for any purpose, be deemed to be a part of the Indenture.

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INDENTURE, dated as of July 30, 2003 (this "**Indenture**"), between Quantum Corporation, a corporation duly organized and existing under the laws of the State of Delaware, having its principal office at 1650 Technology Drive, Suite 800, San Jose, California 95110 (the "**Company**") and U.S. Bank National Association, a national banking association, as Trustee (the "**Trustee**"), having a corporate trust office at 550 South Hope Street, 5th Floor, Los Angeles, California, 90071.

RECITALS OF THE COMPANY

WHEREAS, the Company has duly authorized the creation of an issue of its 4.375% Convertible Subordinated Notes due 2010 (the "**Securities**") of substantially the terms, tenor, amount and other provisions hereinafter set forth, and, to provide therefor, the Company has duly authorized the execution and delivery of this Indenture; and

WHEREAS, all things necessary to make the Securities, when the Securities are duly executed by the Company and authenticated and delivered hereunder and duly issued by the Company, the valid obligations of the Company, and to make this Indenture a valid and binding agreement of the Company, in accordance with their and its terms, have been done.

NOW, THEREFORE, for and in consideration of the premises and the purchase of the Securities by the Holders (as defined below) thereof, it is mutually covenanted and agreed, for the equal and proportionate benefit of all Holders, as follows:

ARTICLE 1 DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.1. Definitions.

For all purposes of this Indenture and the Securities, the following terms are defined as follows:

"**Accepted Purchased Shares**" has the meaning specified in Section 12.4(e)(B).

"**Act**", when used with respect to any Holder, has the meaning specified in Section 14.4(a).

"**Additional Amounts**" means all amounts, if any, payable pursuant to Section 3 of the Registration Rights Agreement.

"**Adjustment Event**" has the meaning specified in Section 12.4(k).

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

“**Agent Member**” has the meaning specified in Section 2.8.

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

“**Board of Directors**” means either the board of directors of the Company or any committee of that board empowered to act for it with respect to this Indenture.

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

“**Business Day**” means, with respect to any Security, a day that in the City of New York is not a day on which banking institutions are authorized by law or regulation to close.

“**Closing Sale Price**” means, as of any date, the closing sale price per share of Common Stock (or, if no closing sale price is reported, the average of the closing bid and ask prices or, if more than one in either case, the average of the average closing bid and the average closing ask prices) on such date as reported in composite transactions for the New York Stock Exchange or such other principal United States securities exchange on which shares of Common Stock may be traded or, if the shares of Common Stock are not listed on a United States national or regional securities exchange, as reported by the Nasdaq system or by the National Quotation Bureau Incorporated. In the absence of such quotations, the Company shall be entitled to determine the Closing Sale Price on the basis of such quotations as it considers appropriate. Closing Sale Price shall be determined without reference to extended or after hours trading.

“**Commission**” means the Securities and Exchange Commission or any successor agency.

“**Common Stock**” means the Common Stock, par value \$0.01 per share, of the Company at the date of execution of this Indenture or shares of any class or classes resulting from any reclassification or reclassifications thereof and which have no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company and which are not subject to redemption by the Company, *provided* that if at any time there shall be more than one such resulting class, the shares of each such class then so issuable shall be substantially in the proportion which the total number of shares of such class resulting from all such reclassifications bears to the total number of shares of all such classes resulting from all such reclassifications.

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

“**Company Order**” means a written order signed in the name of the Company by any Officer.

“**Conversion Agent**” means any Person authorized by the Company to convert Securities in accordance with Article 12. Initially, the Conversion Agent shall be U.S. Bank National Association.

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“**Conversion Date**” means, with respect to any Holder, the date on which such Holder has satisfied all the requirements to convert its Securities pursuant to Section 12.2.

“**Conversion Price**” as of any date will equal \$1,000 divided by the Conversion Rate as of such date.

“**Conversion Rate**” has the meaning specified in Section 12.1(c).

“**Corporate Trust Office**” means for purposes of presentation or surrender of Securities for payment, registration, transfer, exchange or conversion or for service of notices or demands upon the Company or for any other purpose of this Indenture, the office of the Trustee at which the trust created by this Indenture shall be administered, which at the date of this Indenture is located at 5550 South Hope Street, 5th Floor, Los Angeles, CA 90071.

“**corporation**” means any corporation, association, limited liability company, company and business trust.

“**Credit Agreement**” means that certain Credit Agreement (18-Month) entered into as of December 17, 2002, by and among the Company, the lenders from time to time party thereto and KeyBank National Association, as Administrative Agent and Letter of Credit Issuing Lender, including any related notes, collateral documents, instruments and agreements executed in connection therewith, and in each case as amended (including any amendment and restatement thereof), modified, renewed, refunded, replaced, refinanced or restructured (including, without limitation, any amendment increasing the amount of available borrowing thereunder) from time to time and whether with the same or any other agent, lender or group of lenders.

“**Current Market Price**” has the meaning specified in Section 12.4(f).

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

“**Default**” means an event which is, or after notice or lapse of time or both would constitute, an Event of Default.

“**Defaulted Interest**” has the meaning specified in Section 2.16.

“**Defaulted Payment**” has the meaning specified in Section 4.1(a).

“**Depository**” means The Depository Trust Company, its nominees and their respective successors.

“**Designated Senior Indebtedness**” means the Company’s obligations under the Credit Agreement, the Facility Lease, and any particular Senior Indebtedness in which the instrument creating or evidencing the same or the assumption or guarantee thereof (or related agreements or documents to which the Company is a party) expressly provides that such Senior Indebtedness shall be “Designated Senior Indebtedness” for purposes of the Indenture, *provided* that such instrument, agreement or other document may place limitations and conditions on the right of such Senior Indebtedness to exercise the rights of Designated Senior Indebtedness.

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“**Determination Date**” has the meaning specified in Section 12.4(k).

“**Distribution**” has the meaning specified in Section 12.4(d).

“**Distribution Record Date**” has the meaning specified in Section 12.4(f).

“**Dollar**” or “**\$**” means a U.S. dollar or other equivalent unit in such coin or currency of the United States as at the time shall be legal tender for the payment of public and private debts.

“**Event of Default**” has the meaning specified in Section 4.1.

“**Expiration Time**” has the meaning specified in Section 12.4(e)(A).

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

“**Facility Lease**” means that certain Participation Agreement, dated as of December 17, 2002, entered into by and among the Company, SELCO Service Corporation, as lessor and participant, Comerica Bank – California, Fleet National Bank and KeyBank National Association, as participants, and KeyBank National Association, as Agent, including any related leases, lease supplements, deeds of trust, collateral documents, instruments and agreements executed in connection therewith, and in each case as amended (including any amendment and restatement thereof), modified, renewed, refunded, replaced, refinanced or restructured (including, without limitation, any amendment increasing the amount of available advances thereunder) from time to time and whether with the same or any other agent, lessor, participant or group of participants.

“**Fair Market Value**” has the meaning specified in Section 12.4(f).

“**Fundamental Change**” is any transaction or event (whether by means of an exchange offer, liquidation, tender offer, consolidation, merger, binding share exchange, combination, reclassification, recapitalization or otherwise) in connection with which all or substantially all of the Company’s Common Stock is exchanged for, converted into, acquired for or constitutes solely the right to receive, consideration which is not all or substantially all common stock that: (x) is listed on, or immediately after the transaction or event will be listed on, a United States national securities exchange; or (y) is approved, or immediately after the transaction or event will be approved, for quotation on the Nasdaq National Market or any similar United States system of automated dissemination of quotations of securities prices.

“**Fundamental Change Notice**” has the meaning specified in Section 11.2.

“**Fundamental Change Purchase Date**” has the meaning specified in Section 11.1.

“**Fundamental Change Purchase Notice**” has the meaning specified in Section 11.2.

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“**Fundamental Change Purchase Price**” has the meaning specified in Section 11.1.

“**Fundamental Change Purchase Right**” has the meaning specified in Section 11.1.

“**GAAP**” has the meaning specified in Section 1.3.

“**Global Security**” has the meaning specified in Section 2.2(b).

“**Holder**”, when used with respect to any Security, including any Global Security, means the Person in whose name the Security is registered in the Register.

“**Indebtedness**” means with respect to any Person and without duplication:

(i) all indebtedness, obligations and other liabilities (contingent or otherwise) of such Person for borrowed money (including obligations in respect of overdrafts, foreign exchange contracts, currency exchange agreements, interest rate protection agreements, and any loans or advances from banks, whether or not evidenced by notes or similar instruments) or evidenced by bonds, debentures, notes or similar

instruments (whether or not the recourse of the lender is to the whole of the assets of such Person or to only a portion thereof), other than any accounts payable or other accrued current liability or obligation incurred in the ordinary course of business in connection with the obtaining of materials or services;

(ii) all reimbursement obligations and other liabilities (contingent or otherwise) of such Person with respect to letters of credit, bank guarantees, bankers' acceptances, surety bonds, performance bonds or other guaranty of contractual performance;

(iii) all obligations and liabilities (contingent or otherwise) in respect of leases of such Person required, in conformity with GAAP, to be accounted for as capitalized lease obligations on the balance sheet of such Person, and all obligations and other liabilities (contingent or otherwise) under any lease or related document (including a purchase agreement) in connection with the lease or real property which provides that such Person is contractually obligated to purchase or cause a third party to purchase the leased property and thereby guarantee a minimum residual value of the leased property to the lessor and the obligations of such Person under such lease or related document to purchase or to cause a third party to purchase such leased property;

(iv) all obligations of such Person (contingent or otherwise) with respect to an interest rate or other swap, cap or collar agreement or other similar instrument or agreement or foreign currency hedge, exchange, purchase or similar instrument or agreement;

(v) all direct or indirect guaranties or similar agreements by such Person in respect of, and obligations or liabilities (contingent or otherwise), of such Person to purchase or otherwise acquire or otherwise assure a creditor against loss in respect of, indebtedness, obligations or liabilities of another Person of the kind described in clauses (i) through (iv) above;

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(vi) any indebtedness or other obligations described in clauses (i) through (iv) above secured by any mortgage, pledge, lien or other encumbrance existing on property which is owned or held by such Person, regardless of whether the indebtedness or other obligation secured thereby shall have been assumed by such Person; and

(vii) any and all deferrals, renewals, extensions and refundings of, or amendments, modifications or supplements to, any indebtedness, obligation or liability of the kind described in clauses (i) through (vi) above.

“**Indenture**” means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof.

“**Initial Purchasers**” mean Lehman Brothers Inc., Morgan Stanley & Co. Incorporated, McDonald Investments Inc., as initial purchasers under the Purchase Agreement.

“**Interest Payment Date**” means each of February 1 and August 1, *provided, however*, that, if any such date is not a Business Day, the Interest Payment Date shall be the next succeeding Business Day.

“**Issue Price**” of any Security means, in connection with the original issuance of such Security, the initial issue price at which the Security is sold as set forth on the face of the Security.

“**Maturity**” means the date on which the Principal with respect to any Outstanding Security becomes due and payable as therein or herein provided, whether at the Stated Maturity or by acceleration, conversion, call for redemption, exercise of a purchase right or otherwise.

“**Nasdaq National Market**” means the National Association of Securities Dealers Automated Quotation National Market or any successor national securities exchange or automated over-the-counter trading market in the United States.

“**Non-Electing Share**” has the meaning specified in Section 12.5.

“**Offer Expiration Time**” has the meaning specified in Section 12.4(e)(B).

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

“**Officers' Certificate**” means, with respect to the Company, a certificate signed by both (1) the Chairman of the Board, the Chief Executive Officer, the President or a Vice President and (2) so long as not the same as the officer signing pursuant to clause (1), the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Secretary or any Assistant Secretary of the Company and delivered to the Trustee.

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“**Opinion of Counsel**” means a written opinion of counsel, who may be counsel to the Company (and may include directors or employees of the Company) and in form and substance acceptable to the Trustee, which acceptance shall not be unreasonably withheld.

“**Outstanding**”, when used with respect to Securities, means, as of the date of determination, all Securities theretofore authenticated and delivered under this Indenture, except Securities:

(i) previously canceled by the Trustee or delivered to the Trustee for cancellation;

(ii) for the payment or redemption of which money in the necessary amount has been previously 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, however*, that if such Securities are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture; and

(iii) which have been paid in exchange for or in lieu of other Securities which have been authenticated and delivered pursuant to this Indenture, other than any such Securities in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Securities are held by a *bona fide* purchaser in whose hands such Securities are valid obligations of the Company;

provided, however, that in determining whether the Holders of the requisite Principal amount of Outstanding Securities have consented to or voted in favor of any request, demand, authorization, direction, notice, consent, waiver, amendment or modification hereunder, Securities held for the account of the Company or of any of its Affiliates shall be disregarded and deemed not to be Outstanding, except that in determining whether the Trustee shall be protected in making such a determination or relying upon any such consent or vote, only Securities which a Responsible Officer of the Trustee actually knows to be so owned shall be so disregarded.

“**Paying Agent**” has the meaning specified in Section 2.5.

“**Payment Blockage Notice**” has the meaning specified in Section 13.2(a)(ii).

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

“**Physical Securities**” means Securities issued in definitive, fully registered form without interest coupons, substantially in the form of Exhibit A hereto, with the applicable legends as provided in Section 2.3.

“**Place of Conversion**” means any city in which any Conversion Agent is located.

“**Place of Payment**” means any city in which any Paying Agent is located.

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“**Principal**” means, with respect to any Outstanding Security, the Principal amount of that Security, including the Redemption Price, if applicable, and the Fundamental Change Purchase Price, if applicable, payable with respect to that Security.

“**Purchase Agreement**” means the Purchase Agreement, dated July 25, 2003, among the Company and the Initial Purchasers relating to the offering and sale of the Securities.

“**Purchased Shares**” has the meaning specified in Section 12.4(e)(A).

“**QIB**” means a “qualified institutional buyer” as defined under Rule 144A.

“**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 per Security at which such Security may be redeemed pursuant to Section 10.1.

“**Register**” has the meaning specified in Section 2.5.

“**Registrar**” has the meaning specified in Section 2.5.

“**Registration Rights Agreement**” means the Resale Registration Rights Agreement, dated as of the date hereof, among the Company and the Initial Purchasers.

“**Regular Record Date**” for the interest payable on the Securities means the January 15 and the July 15 (whether or not a Business Day), as applicable, next preceding the corresponding Interest Payment Date.

“**Representative**” means, with respect to any Designated Senior Indebtedness, a trustee or other authorized representative under any agreement or other instrument pursuant to which such Designated Senior Indebtedness was issued.

“**Responsible Officer**”, when used with respect to the Trustee, means any officer in the Corporate Trust Office of the Trustee, and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of such officer’s knowledge of and familiarity with the particular subject.

“**Restricted Securities**” means the Securities defined as such in Section 2.3(a).

“**Restricted Securities Legend**” has the meaning specified in Section 2.3(a).

“**Rule 144**” means Rule 144 as promulgated under the Securities Act (including any successor rule thereof), as the same may be amended from time to time.

“**Rule 144A**” means Rule 144A as promulgated under the Securities Act (including any successor rule thereof), as the same may be amended from time to time.

“**Securities**” has the meaning ascribed to it in the first paragraph under the caption “Recitals of the Company”.

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“**Securities Act**” means the Securities Act of 1933, as amended and the rules and regulations of the Commission thereunder.

“**Senior Indebtedness**” means the principal of, premium, if any, interest (including all interest accruing subsequent to the commencement of any bankruptcy or similar proceeding, involving the Company whether or not a claim for post-petition interest is allowable as a claim in any such proceeding) and rent payable on or in connection with, and all fees, costs, expenses and other amounts accrued or due on or in connection with Indebtedness of the Company, whether outstanding on the date of the Indenture or thereafter created, incurred, assumed, guaranteed or in effect guaranteed by the Company, including all deferrals, renewals, extensions or refundings of, or amendments, modifications or supplements to, the foregoing, unless in the case of any particular Indebtedness the instrument creating or evidencing the same or the assumption or guarantee thereof expressly provides that such Indebtedness shall not be senior in right of payment to the notes or expressly provides that such Indebtedness is of equal ranking with or junior to the Securities. Notwithstanding the foregoing, the term “Senior Indebtedness” shall not include: (i) any Indebtedness of the Company to any Subsidiary of the Company (except if such Indebtedness is pledged as security for any Senior Indebtedness), a majority of the voting stock of which is owned, directly or indirectly, by the Company; (ii) the Securities; (iii) the Company’s 7% Convertible Subordinated Notes due 2004; (iv) any liability for federal, state, local or other taxes owed or owing by the Company; and (v) any trade payables.

“**Significant Subsidiary**” has the meaning assigned to it under Rule 405 of the Securities Act.

“**Spinoff Valuation Period**” has the meaning specified in Section 12.4(d).

“**Stated Maturity**” has the meaning assigned to it in Section 2.1(b).

“**Subsidiary**” means a Person, more than 50% of the outstanding Voting Stock of which is owned, directly or indirectly, by the Company or by one or more other Subsidiaries or by the Company and one or more other Subsidiaries.

“**TIA**” means the Trust Indenture Act of 1939, as amended (15 U.S. Code Section 77aaa-77bbb), as in effect on the date of this Indenture; *provided, however*, that in the event the TIA is amended after such date, “TIA” means, to the extent required by such amendment, the Trust Indenture Act of 1939, as so amended, or any successor statute.

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

“**Trigger Event**” has the meaning specified in Section 12.4(d).

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“**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 such successor Trustee.

“**Vice President**”, when used with respect to the Company, means any vice president, whether or not designated by a number or a word or words added before or after the title “vice president”.

Section 1.2. Incorporation by Reference of Trust Indenture Act.

Whenever this Indenture refers to a provision of the TIA, the 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:

“**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; and

“obligor” on the Securities means the Company and any other obligor on the indenture securities.

All other TIA terms used in this Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by Commission rule have the meanings assigned to them by such definitions.

Section 1.3. Rules of Construction.

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

- (a) the terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular;
- (b) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles in the United States prevailing at the time of any relevant computation hereunder (“GAAP”);
- (c) the words “herein”, “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision;
- (d) all references to section and article numbers in this Indenture shall refer to sections and articles hereof, unless otherwise specified.

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ARTICLE 2 THE SECURITIES

Section 2.1. Title and Terms.

(a) The Securities shall be designated as the “4.375% Convertible Subordinated Notes due 2010” of the Company. The aggregate Principal amount of Securities which may be authenticated and delivered under this Indenture is limited to \$160.0 million (or \$184.0 million if the Initial Purchasers’ option to purchase additional Securities as set forth in Section 2 of the Purchase Agreement is exercised in full), except for Securities authenticated and delivered upon registration of, transfer of, or in exchange for, or in lieu of other Securities pursuant to Sections 2.7, 2.8, 2.12, 7.5, 10.7, 11.1 or 12.2 hereof. The Securities shall be issuable in denominations of \$1,000 or integral multiples thereof.

(b) The Securities shall mature on August 1, 2010 (the “**Stated Maturity**”).

(c) The Securities shall bear interest from the date of their original issuance until the Principal amount thereof is paid or made available for payment, or until such date on which the Securities are converted, redeemed or purchased as provided herein at a rate of 4.375% per annum. Interest shall be payable semi-annually in arrears on each Interest Payment Date.

(d) [Intentionally Omitted]

(e) Interest on the Securities shall be computed on the basis of a 360-day year comprised of twelve 30-day months.

(f) Interest shall be due and payable on a Security as follows:

(i) A Holder as of the close of business on a Regular Record Date shall be entitled to receive and shall receive (except as otherwise indicated in this Section 2.1(f)), accrued and unpaid interest on such Security from the preceding Interest Payment Date (or such earlier date on which interest was last paid) to the Interest Payment Date next succeeding such Regular Record Date, other than any Security whose Stated Maturity is prior to such Interest Payment Date.

(ii) In the event that a Security becomes subject to redemption pursuant to Article 10 and the Redemption Date occurs after a Regular Record Date but on or prior to the next succeeding Interest Payment Date, the Person whose Security becomes subject to redemption (and only such Person rather than the Holder as of such Regular Record Date) shall be entitled to receive and shall receive accrued and unpaid interest from the preceding Interest Payment Date (or such earlier date on which interest was last paid) to, but excluding, the Redemption Date of such Security, even if such Person is not the Holder of such Security. In the event that a Security becomes subject to redemption pursuant to Article 10 and the Redemption Date occurs on an Interest Payment Date, the Holder as of the Regular Record Date corresponding to such Interest Payment Date shall be entitled to receive and shall receive accrued and unpaid interest from the preceding Interest Payment Date (or such earlier date on which interest was last paid) to, but excluding, the Redemption Date of such Security, even if such Person is not the Holder of such Security.

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(iii) In the event that a Security becomes subject to purchase pursuant to Article 11, a Holder who exercises a Fundamental Change Purchase Right with respect to such Security shall be entitled to receive and shall receive accrued and unpaid interest on such Security from the preceding Interest Payment Date (or such earlier date on which interest was last paid) to, but excluding the applicable Repurchase Date for such Security, which amount shall be included in the Fundamental Change Purchase Price thereof pursuant to Article 11. In the event that a Security becomes subject to purchase pursuant to Article 11 and the Fundamental Change Purchase Date occurs on an

Interest Payment Date, the Holder as of the Regular Record Date corresponding to such Interest Payment Date shall be entitled to receive and shall receive accrued and unpaid interest from the preceding Interest Payment Date (or such earlier date on which interest was last paid) to, but excluding, the Fundamental Change Purchase Date of such Security, even if such Person is not the Holder of such Security.

(iv) In the event that a Security is converted pursuant to Article 12, the Holder who converts such Security on any date other than an Interest Payment Date shall not be entitled to receive unpaid interest on such Security from the preceding Interest Payment Date until the Conversion Date, such amounts being deemed to have been paid by receipt of shares of Common Stock in full rather than canceled, extinguished or forfeited. As a result, a Holder which converts a Security after a Regular Record Date but prior to the next succeeding Interest Payment Date will receive accrued and unpaid interest on such Security for such period on such Interest Payment Date but will be required to remit to the Company an amount equal to that interest at the time such Holder surrenders the Security for conversion, pursuant to Article 12; *provided, however*, that such Holder will not be required to remit such interest if (1) the Company has specified a Redemption Date that occurs during the period from the close of business on a Regular Record Date to the close of business on the Business Day immediately preceding the Interest Payment Date to which such record date relates, (2) the Company has specified a Fundamental Change Purchase Date during the period from the close of business on a Regular Record Date to the close of business on the Business Day immediately preceding the Interest Payment Date to which such record date relates or (3) any overdue interest exists on the Conversion Date with respect to the Securities converted, but only to the extent of overdue interest.

(g) In addition to the amounts set forth in Section 2.1(f), Holders shall be entitled to receive Additional Amounts, if any, on such Security pursuant and subject to the Registration Rights Agreement, but in no event shall a Holder be required to repay any Additional Amounts such Holder receives following the remittance of interest as specified in Section 2.1(f)(iv). Any Additional Amounts shall be received or paid on dates corresponding to the payment date of interest on such Security pursuant to the Registration Rights Agreement.

(h) Payment of any Principal or interest (to the extent paid in cash), or Additional Amounts, if any, on Global Securities shall be payable by the Company to the Depository in immediately available funds.

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(i) Payment of any Principal on Physical Securities shall be made at the office or agency of the Company maintained for such purpose, initially the Corporate Trust Office of the Trustee by (x) a U.S. Dollar check drawn on a bank in The City of New York mailed to the address of the Person entitled thereto as such address shall appear in the Register, or (y) upon application to the Registrar not later than the relevant Regular Record Date by a Holder of an aggregate Principal amount of Securities in excess of \$2,000,000, wire transfer in immediately available funds. Interest and Additional Amounts, if any, on Physical Securities will be payable by (x) a U.S. Dollar check drawn on a bank in The City of New York mailed to the address of the Person entitled thereto as such address shall appear in the Register, or (y) upon application to the Registrar not later than the relevant Regular Record Date by a Holder of an aggregate Principal amount of Securities in excess of \$2,000,000, wire transfer in immediately available funds, which application shall remain in effect until the Holder notifies, in writing, the Registrar to the contrary.

(j) The Securities may be redeemable at the option of the Company as provided in and subject to Article 10.

(k) The Securities shall be purchased by the Company at the option of Holders as provided in and subject to Article 11.

(l) The Securities shall be convertible at the option of the Holders as provided in and subject to Article 12.

Section 2.2. Form of Securities.

(a) Except as otherwise provided pursuant to this Section 2.2, the Securities are issuable in fully registered, without coupons, in denominations of \$1,000 and integral multiples of \$1,000 above that amount with applicable legends as are provided for in Section 2.3 and in the form of one or more permanent global securities, except as provided herein (each a “**Global Security**” and, collectively, the “**Global Securities**”), the form of which is contained in Exhibit A hereto. The Securities shall not be issuable in bearer form. The terms and provisions contained in the form of Security shall constitute, and are hereby expressly made, a part of this Indenture and to the extent applicable, the Company, and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby.

(b) The Securities are being offered and sold by the Company pursuant to the Purchase Agreement. Securities offered and sold to QIBs in accordance with Rule 144A, as provided in the Purchase Agreement, shall be issued initially in the form of one or more permanent global Securities in fully registered form without interest coupons, substantially in the form of Exhibit A hereto, with the applicable legends as provided in Section 2.3 (each a “**Global Security**” and collectively the “**Global Securities**”). Each Global Security shall be duly executed by the Company and authenticated and delivered by the Trustee, and shall be registered in the name of the Depository or its nominee and retained by the Trustee, as Custodian, at its Corporate Trust Office. The aggregate Principal Amount at Maturity of the Global Securities may from time to time be increased or decreased by adjustments made on the records of the Trustee, as Custodian, and of the Depository or its nominee, as hereinafter provided.

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(c) Holders may request that the Company issue Physical Securities in exchange for Securities represented by a Global Security.

(d) Physical Securities acquired by QIBs in accordance with Rule 144A may be exchanged for interests in Global Securities

pursuant to Sections 2.8(e) and 2.17(a) only. Physical Securities shall be duly executed by the Company and authenticated and delivered by the Trustee.

Section 2.3. Legends.

(a) Restricted Securities Legends.

Each Security issued hereunder shall, upon issuance, bear the legend set forth in Section 2.3(a)(i), and each share of Common Stock issued upon conversion of any Security issued hereunder, shall, upon issuance, bear the legend set forth in Section 2.3(a)(ii) (each such legend, a “**Restricted Securities Legend**”), and such legend shall not be removed except as provided in Section 2.3(a)(iii). Each Security that bears or is required to bear the Restricted Securities Legend set forth in Section 2.3(a)(i) (together with each share of Common Stock issued upon conversion of such Security that bears or is required to bear the Restricted Securities Legend set forth in Section 2.3(a)(ii), collectively, the “**Restricted Securities**”) shall be subject to the restrictions on transfer set forth in this Section 2.3(a) (including the Restricted Securities Legend set forth below), and the Holder of each such Restricted Security, by such Holder’s acceptance thereof, shall be deemed to have agreed to be bound by the restrictions on transfer set forth herein.

As used in Section 2.3(a), the term “transfer” encompasses any sale, pledge, transfer or other disposition whatsoever of any Restricted Security.

(i) Restricted Securities Legend for Securities.

Except as provided in Section 2.3(a)(iii), until two years after the original issuance date of any Security, any certificate evidencing such Security (and all Securities issued in exchange therefor or substitution thereof, other than share of Common Stock, if any, issued upon conversion thereof which shall bear the legend set forth in Section 2.3(a)(ii), if applicable) shall bear a Restricted Securities Legend in substantially the following form:

THE SECURITY EVIDENCED BY THIS CERTIFICATE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR ANY STATE SECURITIES LAWS, AND MAY NOT BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF EXCEPT AS SET FORTH IN THE FOLLOWING SENTENCE. BY ACQUISITION HEREOF, THE HOLDER:

(1) REPRESENTS THAT IT IS A “QUALIFIED INSTITUTIONAL BUYER” AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT;

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(2) REPRESENTS THAT IT IS PURCHASING FOR ITS OWN ACCOUNT OR THE ACCOUNT OF ONE OR MORE QUALIFIED INSTITUTIONAL BUYERS IN ACCORDANCE WITH RULE 144A;

(3) AGREES THAT IT WILL NOT WITHIN TWO YEARS AFTER THE ORIGINAL ISSUANCE OF THIS SECURITY RESELL OR OTHERWISE TRANSFER THE SECURITY EVIDENCED HEREBY OR THE COMMON STOCK ISSUABLE UPON CONVERSION OF SUCH SECURITY EXCEPT (A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, (B) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, (C) PURSUANT TO THE EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), OR (D) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT AND WHICH CONTINUES TO BE EFFECTIVE AT THE TIME OF SUCH TRANSFER; AND

(4) AGREES THAT IT WILL DELIVER TO EACH PERSON TO WHOM THE SECURITY EVIDENCED HEREBY IS TRANSFERRED (OTHER THAN A TRANSFER PURSUANT TO CLAUSE 3(D) ABOVE) A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND.

IN CONNECTION WITH ANY TRANSFER OF THE SECURITY EVIDENCED HEREBY WITHIN TWO YEARS AFTER THE ORIGINAL ISSUANCE OF SUCH SECURITY (OTHER THAN A TRANSFER PURSUANT TO CLAUSE 3(D) ABOVE), THE HOLDER MUST CHECK THE APPROPRIATE BOX SET FORTH ON THE REVERSE HEREOF RELATING TO THE MANNER OF SUCH TRANSFER AND SUBMIT THIS CERTIFICATE TO THE TRUSTEE (OR ANY SUCCESSOR TRUSTEE, AS APPLICABLE). IF THE PROPOSED TRANSFER IS PURSUANT TO CLAUSE 3(B) OR 3(C) ABOVE, THE HOLDER MUST, PRIOR TO SUCH TRANSFER, FURNISH TO THE TRUSTEE (OR ANY SUCCESSOR TRUSTEE, AS APPLICABLE), SUCH CERTIFICATIONS, LEGAL OPINIONS OR OTHER INFORMATION AS THE COMPANY OR THE TRUSTEE MAY REASONABLY REQUIRE TO CONFIRM THAT SUCH TRANSFER IS BEING MADE PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT. THIS LEGEND WILL BE REMOVED UPON THE EARLIER OF THE TRANSFER OF THE SECURITY EVIDENCED HEREBY PURSUANT TO CLAUSE 3(D) ABOVE OR THE EXPIRATION OF TWO YEARS FROM THE ORIGINAL ISSUANCE OF THE SECURITY EVIDENCED HEREBY.

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(ii) Restricted Securities Legend for Common Stock Issued Upon Conversion of the Securities.

Until two years after the original issuance date of any Security, any stock certificate representing Common Stock issued upon conversion of such Security shall bear a Restricted Securities Legend in substantially the following form:

THE SECURITY EVIDENCED HEREBY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS, AND MAY NOT BE OFFERED OR SOLD WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS EXCEPT AS SET FORTH IN THE FOLLOWING SENTENCE. THE HOLDER HEREOF AGREES THAT UNTIL THE EXPIRATION OF TWO YEARS AFTER THE ORIGINAL ISSUANCE OF THE SECURITY UPON THE CONVERSION OF WHICH THE COMMON STOCK EVIDENCED HEREBY WAS ISSUED:

(1) IT WILL NOT OFFER, SELL, ASSIGN, TRANSFER, PLEDGE, ENCUMBER OR OTHERWISE DISPOSE OF THE SECURITY EXCEPT (A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, (B) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, (C) PURSUANT TO THE EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), OR (D) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT AND WHICH CONTINUES TO BE EFFECTIVE AT THE TIME OF SUCH TRANSFER;

(2) PRIOR TO ANY SUCH TRANSFER OTHER THAN A TRANSFER PURSUANT TO CLAUSE 1(D) ABOVE, IT WILL FURNISH TO SUCH TRANSFER AGENT, (OR ANY SUCCESSOR TRANSFER AGENT, AS APPLICABLE) SUCH CERTIFICATIONS, LEGAL OPINIONS OR OTHER INFORMATION AS THE TRANSFER AGENT OR THE COMPANY MAY REASONABLY REQUIRE TO CONFIRM THAT SUCH TRANSFER IS BEING MADE PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT; AND

(3) IT WILL DELIVER TO EACH PERSON TO WHOM THE COMMON STOCK EVIDENCED HEREBY IS TRANSFERRED (OTHER THAN A TRANSFER PURSUANT TO CLAUSE 1(D) ABOVE) A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND.

THIS LEGEND WILL BE REMOVED UPON THE EARLIER OF THE TRANSFER OF THE COMMON STOCK EVIDENCED HEREBY PURSUANT TO CLAUSE 1(D) ABOVE OR THE EXPIRATION OF TWO YEARS FROM THE ORIGINAL ISSUANCE OF THE SECURITY UPON THE CONVERSION OF WHICH THE COMMON STOCK EVIDENCED HEREBY WAS ISSUED. AS USED HEREIN, THE TERMS "UNITED STATES" AND "U.S. PERSON" HAVE THE MEANINGS GIVEN TO THEM BY REGULATION S UNDER THE SECURITIES ACT.

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(iii) Removal of the Restricted Securities Legends.

Each Security or share of Common Stock issued upon conversion of any Security shall bear the applicable Restricted Securities Legend set forth in Section 2.3(a)(i) or 2.3(a)(ii), as applicable, until the earlier of:

- (A) the date which is two years after the original issuance date of such Security; and
- (B) the date such Security has, or such shares of Common Stock issued upon conversion of a Security have been sold pursuant to an effective a registration statement under the Securities Act,

provided that Common Stock issued upon conversion of a Security that was previously sold pursuant to an effective registration statement shall not be required to bear such Restricted Securities Legend.

The Holder must give notice thereof to the Trustee, as applicable.

In the event Rule 144(k) as promulgated under the Securities Act is amended to shorten the two-year period under Rule 144(k), then, the references in the restrictive legends set forth above to "TWO YEARS", and in the corresponding transfer restrictions described above, the Securities and the shares of Common Stock will be deemed to refer to such shorter period, from and after receipt by the Trustee of an Officers' Certificate and an Opinion of Counsel to that effect. As soon as reasonably practicable after the Company knows of the effectiveness of any such amendment to shorten the two-year period under Rule 144(k), unless such changes would otherwise be prohibited by, or would cause a violation of, the federal securities laws applicable at the time, the Company will provide to the Trustee an Officers' Certificate and an Opinion of Counsel as to the effectiveness of such amendment and the effectiveness of such change to the restrictive legends and transfer restrictions.

Notwithstanding the foregoing, the Restricted Securities Legend may be removed if there is delivered to the Company such satisfactory evidence, which may include an opinion of independent counsel, as may be reasonably required by the Company that neither such legend nor the restrictions on transfer set forth therein are required to ensure that transfers of such Securities or Common Stock will not violate the registration requirements of the Securities Act. Upon provision of such satisfactory evidence, the Trustee, at the written direction of the Company, shall authenticate and deliver in exchange for such Securities another Security or Securities having an equal aggregate Principal Amount at Maturity, Issue Price and Stated Maturity that does not bear such legend. If the Restricted Securities Legend has been removed from a Securities as provided above, no other Security issued in exchange for all or any part of such Security shall bear such legend, unless the Company has reasonable cause to believe that such other Security is a "restricted security" within the meaning of Rule 144 and

instructs the Trustee in writing to cause a Restricted Securities Legend to appear thereon.

Any Security (or security issued in exchange or substitution thereof) as to which such restrictions on transfer shall have expired in accordance with their terms or as to which the conditions for removal of the Restricted Securities Legend set forth in Section 2.3(a)(iii) as set forth therein have been satisfied may, upon surrender of such Security for exchange to the Registrar in accordance with the provisions of Section 2.7 hereof, be exchanged for a new Security or Securities, of like tenor and aggregate Principal Amount at Maturity, Issue Price and Stated Maturity which shall not bear the Restricted Securities Legend required by Section 2.3(a)(i).

Any such Common Stock as to which such restrictions on transfer shall have expired in accordance with their terms or as to which the conditions for removal of the Restricted Securities Legend set forth in Section 2.3(a)(iii) as set forth therein have been satisfied may, upon surrender of the certificates representing such shares of Common Stock for exchange in accordance with the procedures of the Transfer Agent, be exchanged for a new certificate or certificates for a like aggregate number of shares of Common Stock, which shall not bear the Restricted Securities Legend required by Section 2.3(a)(ii).

(b) Global Security Legend.

Each Global Security shall also bear the following legend on the face thereof:

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY 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 THE DEPOSITORY TRUST COMPANY (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN. TRANSFERS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS TO NOMINEES OF THE DEPOSITORY TRUST COMPANY OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN ARTICLE TWO OF THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.

Section 2.4. Execution, Authentication, Delivery and Dating of the Securities.

(a) Two Officers shall execute the Securities on behalf of the Company by manual or facsimile signature. Securities bearing the manual or facsimile signatures of individuals who were at the time of the execution of the Securities 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 authentication of such Securities.

(b) At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities 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 in accordance with such Company Order shall authenticate and deliver such Securities as in this Indenture provided and not otherwise. 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 or on behalf of 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. The Trustee may appoint an authenticating agent or agents reasonably acceptable to the Company with respect to the Securities. Unless limited by the terms of such appointment, an authenticating agent may authenticate Securities whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent.

(c) Each Security shall be dated the date of its authentication. The Trustee shall authenticate and deliver Securities for original issue in an aggregate Principal amount of up to \$160.0 million (or \$184.0 million if the Initial Purchasers' option to purchase additional Securities as forth in Section 2 of the Purchase Agreement is exercised in full) upon one or more Company Orders without any further action by the Company. The aggregate Principal amount of Securities Outstanding at any time may not exceed the amount set forth in the foregoing sentence.

Section 2.5. Registrar and Paying Agent.

The Company shall maintain an office or agency where Securities may be presented for registration of transfer or for exchange (the "**Registrar**") and an office or agency where Securities may be presented for payment (the "**Paying Agent**"). The Registrar shall keep a register of the Securities (the "**Register**") and of their transfer and exchange. The Company may appoint one or more co-Registrars and one or more additional Paying Agents for the Securities. The term "Paying Agent" includes any additional paying agent and the term "Registrar" includes any additional registrar. The Company may change any Paying Agent or Registrar without prior notice to any Holder.

The Company will cause each Paying Agent (other than U.S. Bank National Association) to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section, that such Paying Agent will:

- (a) hold all sums of money or Common Stock held by it for the payment of any amounts due and payable in respect of the Securities in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as provided in this Indenture;
- (b) give the Trustee notice of any Default by the Company in the making of any such payment; and
- (c) at any time during the continuance of any such Default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

The Company shall give prompt written notice to the Trustee of the name and address of any Paying Agent who is not a party to this Indenture. If the Company fails to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall act as such. The Company or any Affiliate of the Company may act as Paying Agent or Registrar; *provided, however*, that none of the Company, its Subsidiaries or the Affiliates of the foregoing shall act:

- (i) as Paying Agent in connection with redemptions, offers to purchase and discharges, except as otherwise specified in this Indenture, and
- (ii) as Paying Agent or Registrar if a Default or Event of Default has occurred and is continuing.

The Company hereby initially appoints U.S. Bank National Association, as Registrar and Paying Agent for the Securities.

Section 2.6. Paying Agent to Hold Assets in Trust.

Not later than 10:00 a.m. (New York City time) on or prior to each due date of payments in respect of any Security, the Company shall deposit with one or more Paying Agents a sum of money in immediately available funds or Common Stock sufficient to make such payments when so becoming due. The Company at any time may require a Paying Agent to pay all money or Common Stock held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Company) shall have no further liability for the money or Common Stock so paid over to the Trustee.

The Company shall require each Paying Agent (other than the Trustee) to agree in writing that the Paying Agent shall hold in trust for the benefit of Holders or the Trustee all money and Common Stock held by the Paying Agent for the making of payments in respect of the Securities and shall notify the Trustee of any Default by the Company in making any such payment. At any time during the continuance of any such Default, the Paying Agent shall, upon the written request of the Trustee, forthwith pay to the Trustee all money and Common Stock so held in trust.

If the Company shall act as a Paying Agent, it shall, prior to or on each such due date, segregate and hold in trust for the benefit of the Holders a sum sufficient with monies held by all other Paying Agents, to pay such amounts so becoming due until such sums shall be paid to such Persons or otherwise disposed of as provided in this Indenture, and shall promptly notify the Trustee of its action or failure to act.

Section 2.7. General Provisions Relating to Registration, Transfer and Exchange.

The Securities are issuable only in registered form. A Holder may transfer a Security only by written application to the Registrar stating the name of the proposed transferee and otherwise complying with the terms of this Indenture. No such transfer shall be effected until, and such transferee shall succeed to the rights of a Holder only upon, final acceptance and registration of the transfer by the Registrar in the Register. Furthermore, any Holder of a Global Security shall, by acceptance of such Global Security, agree that transfers of beneficial interests in such Global Security may be effected only through a book-entry system maintained by the Holder of such Global Security (or its agent) and that ownership of a beneficial interest in the Global Security shall be required to be reflected in a book-entry. Notwithstanding the foregoing, in the case of a Restricted Security, a beneficial interest in a Global Security that is transferred in reliance on an exemption from the registration requirements of the Securities Act other than in accordance with Rule 144 or Rule 144A may only be transferred for a Physical Security.

When Securities are presented to the Registrar with a request to register the transfer or to exchange them for an equal Principal amount of Securities of other authorized denominations, the Registrar shall register the transfer or make the exchange as requested if the requirements hereunder for such transactions are met (including that such Securities are duly endorsed or accompanied by a written instrument of transfer duly executed by the Holder thereof or by an attorney who is authorized in writing to act on behalf of the Holder). Subject to Section 2.4, to permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Securities at the Registrar's request. No service charge shall be made for any registration of transfer or exchange or redemption of the Securities, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or other similar governmental charge payable upon exchanges pursuant to Sections 2.14, 7.5 or 10.7).

Neither the Company nor the Registrar shall be required to exchange or register a transfer of any Securities:

- (a) for a period of 15 days prior to the day of any selection of Securities for redemption under Article 10 hereof;
- (b) selected for redemption (except, in the case of Securities to be redeemed in part, the portion thereof not to be redeemed);

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(c) in respect of which a Fundamental Change Purchase Notice has been given and not withdrawn by the Holder thereof in accordance with the terms of this Indenture (except, in the case of Securities to be purchased in part, the portion thereof not to be purchased); or

(d) surrendered for conversion or, if a portion of any Security is surrendered for conversion, such portion thereof surrendered for conversion.

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

Section 2.8. Book-Entry Provisions for the Global Securities.

(a) The Global Securities initially shall:

(i) be registered in the name of the Depositary;

(ii) be delivered to the Trustee as Custodian for such Depositary, for credit to the accounts of the members of, participants in, the Depositary (the “**Agent Members**”) holding the Securities evidenced thereby; and

(iii) bear the Restricted Securities Legend set forth in Section 2.3(a)(i) until such time as such Restricted Securities Legend may be removed in accordance with Section 2.3.

(b) Agent Members shall have no rights under this Indenture with respect to any Global Security held on their behalf by the Depositary, or the Trustee as its custodian, or under such Global Security, and the Depositary may be treated by the Company, the Trustee and any agent of the Company or the Trustee as the absolute owner of such Global Security for all purposes whatsoever. Notwithstanding the foregoing, nothing contained herein shall prevent the Company, the Trustee or any agent of the Company or Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depositary or impair, as between the Depositary and the Agent Members, the operation of customary practices governing the exercise of the rights of a Holder of any Security.

(c) The registered Holder of a Global Security may grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action which a Holder is entitled to take under this Indenture or the Securities.

(d) A Global Security may not be transferred, in whole or in part, to any Person other than the Depositary, and no such transfer to any such other Person may be registered. Beneficial interests in a Global Security may be transferred in accordance with the rules and procedures of the Depositary and the provisions of Section 2.17 hereof.

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(e) If at any time:

(i) the Depositary notifies the Company in writing that it is no longer willing or able to continue to act as Depositary for the Global Securities, or the Depositary ceases to be a “clearing agency” registered under the Exchange Act and a successor depositary for the Global Securities is not appointed by the Company within 90 days of such notice or cessation;

(ii) the Company, at its option, notifies the Trustee in writing that it elects to cause the issuance of the Physical Securities under this Indenture in exchange for all or any part of the Securities represented by a Global Security or Global Securities; or

(iii) an Event of Default has occurred and is continuing and the Registrar has received a request from the Depositary for the issuance of Physical Securities in exchange for such Global Security or Global Securities,

then the Depositary shall surrender such Global Security or Global Securities to the Trustee for cancellation and the Company shall execute, and the Trustee, upon receipt of an Officers’ Certificate and Company Order for the authentication and delivery of Securities, shall authenticate and deliver in exchange for such Global Security or Global Securities, Physical Securities in an aggregate Principal amount equal to the aggregate Principal amount of such Global Security or Global Securities. Such Physical Securities shall be registered in such names as the Depositary shall identify in writing as the beneficial owners of the Securities represented by such Global Security or Global Securities (or any nominee thereof).

(f) Notwithstanding the foregoing, in connection with any transfer of beneficial interests in a Global Security to the beneficial

owners thereof pursuant to Section 2.8(d) hereof, the Registrar shall reflect on its books and records the date and a decrease in the aggregate Principal amount of such Global Security in an amount equal to the aggregate Principal amount of the beneficial interest in such Global Security to be transferred.

Section 2.9. Holder Lists.

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders and shall otherwise comply with Section 312(a) of the TIA. If the Trustee is not the Registrar, the Company shall furnish to the Trustee prior to or on each Interest Payment Date and at such other times as the Trustee may request in writing a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Holders relating to such Interest Payment Date or request, as applicable.

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Section 2.10. Persons Deemed Owners.

Prior to due presentment of a Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of principal of the Security or the payment of any Redemption Price or Fundamental Change Purchase Price in respect thereof and interest or Additional Amounts, if any, for any purpose under this Indenture, whether or not such Security be overdue, and neither the Company, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

Section 2.11. Mutilated, Destroyed, Lost or Stolen Securities.

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

If there is delivered to the Company and the Trustee

(a) evidence to their satisfaction of the destruction, loss or theft of any Security, and

(b) such security or indemnity as may be required by them to save each of them and any agent of either of them harmless, then, in the absence of actual notice to the Company or the Trustee that such Security has been acquired by a *bona fide* purchaser, the Company shall execute and, upon request, the Trustee shall authenticate and deliver, in lieu of any such destroyed, lost or stolen Security, a new Security 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, but subject to any conversion rights, may, instead of issuing a new Security, pay such Security, upon satisfaction of the condition set forth in the preceding paragraph.

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 issued pursuant to this Section 2.11 in lieu of any destroyed, lost or stolen Security shall constitute an original contractual obligation of the Company, whether or not the destroyed, lost or stolen Security shall be at any time enforceable by anyone, and such new Security shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Securities duly issued hereunder.

The provisions of this Section 2.11 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.

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Section 2.12. Treasury Securities.

In determining whether the Holders of the requisite Principal amount of Outstanding Securities have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Securities owned by the Company or any Affiliate of the Company 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 or waiver, only such Securities of which the Trustee has received written notice and are so owned shall be so disregarded.

Section 2.13. Temporary Securities.

Pending the preparation of Securities in definitive form, the Company may execute and the Trustee shall, upon written request of the Company, authenticate and deliver temporary Securities (printed or lithographed). Temporary Securities shall be issuable in any authorized denomination, and substantially in the form of the Securities in definitive form but with such omissions, insertions and variations as may be appropriate for temporary Securities, all as may be determined by the Company. Every such temporary Security shall be executed by the

Company and authenticated by the Trustee upon the same conditions and in substantially the same manner, and with the same effect, as the Securities in definitive form. Without unreasonable delay, the Company will execute and deliver to the Trustee Securities in definitive form (other than in the case of Securities in global form) and thereupon any or all temporary Securities (other than any such Securities in global form) may be surrendered in exchange therefor, at each office or agency maintained by the Company pursuant to Section 9.2 and the Trustee shall authenticate and deliver in exchange for such temporary Securities an equal Principal amount of Securities in definitive form. Such exchange shall be made by the Company at its own expense and without any charge therefor. Until so exchanged, the temporary Securities shall in all respects be entitled to the same benefits and subject to the same limitations under this Indenture as Securities in definitive form authenticated and delivered hereunder.

Section 2.14. Cancellation.

All Securities surrendered for payment, redemption, purchase, conversion, registration of transfer or exchange shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee. All Securities so delivered shall be canceled promptly by the Trustee, and no Securities shall be issued in lieu thereof except as expressly permitted by any of the provisions of this Indenture. Upon written instructions of the Company, the Trustee shall dispose of canceled Securities in accordance with its procedures for the disposition of cancelled securities in effect as of the date of such disposition. If the Company shall acquire any of the Securities, such acquisition shall not operate as a redemption or satisfaction of the Indebtedness represented by such Securities unless the same are delivered to the Trustee for cancellation.

Section 2.15. CUSIP Numbers.

The Company in issuing the Securities may use “CUSIP” numbers (if then generally in use), and the Trustee shall use CUSIP numbers in notices of redemption or exchange as a convenience to Holders; *provided* that any such notice shall state that no representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any such notice 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 shall promptly notify the Trustee of any change in the CUSIP numbers.

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Section 2.16. Defaulted Interest.

If the Company fails to make a payment of Principal of, or interest on any Security or any Redemption Price or Fundamental Change Purchase Price when due and payable, it shall pay interest on such unpaid amounts (to the extent lawful) from the required payment date, which shall, up to the expiration of any applicable grace period, accrue at the rate of interest borne by the Securities and thereafter at the rate of interest borne by the Securities plus 1.0% (such amounts, the “**Defaulted Interest**”) until the date on which such payment default is cured or waived. It may elect to pay such Defaulted Interest, plus any other interest payable on it, to the Persons who are Holders of Securities on which the Defaulted Interest is due on a subsequent special record date. The Company shall notify the Trustee in writing of the amount of Defaulted Interest the Company proposes to pay on each such Security. The Company shall fix any such special record date and payment date for such payment. At least 15 days before any such special record date, the Company shall mail to Holders affected thereby a notice that states the special record date, the Interest Payment Date and amount to be paid.

Section 2.17. Transfer Provisions.

Unless a Security is (i) transferred after the time period referred to in Rule 144(k) under the Securities Act or (ii) sold pursuant to a registration statement that has been declared effective under the Securities Act (and which continues to be effective at the time of such sale), the following provisions shall apply to any sale, pledge or other transfer of Securities:

- (a) Transfer of Securities.

The following provisions shall apply with respect to the registration of any proposed transfer of Securities to a QIB.

(i) If the Securities to be transferred consist of a beneficial interest in the Global Securities, the transfer of such interest may be effected only through the book-entry systems maintained by the Depository.

(ii) If the Securities to be transferred consist of Physical Securities, the Registrar shall register the transfer if such transfer is being made by a proposed transferor who has checked the box provided for on the form of Security stating (or has otherwise advised the Company and the Registrar in writing) that the sale has been made in compliance with the provisions of Rule 144A to a transferee who has signed the certification provided for on the form of Security stating or has otherwise advised the Company and the Registrar in writing that:

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- (A) it is purchasing the Securities for its own account or an account with respect to which it exercises sole investment discretion, in each case for investment and not with a view to distribution;
- (B) it and any such account is a QIB within the meaning of Rule 144A;
- (C) it is aware that the sale to it is being made in reliance on Rule 144A;

- (D) it acknowledges that it has received such information regarding the Company as it has requested pursuant to Rule 144A or has determined not to request such information; and
- (E) it is aware that the transferor is relying upon its foregoing representations in order to claim the exemption from registration provided by Rule 144A.

In addition, the Registrar shall reflect on its books and records the date and an increase in the Principal Amount at Maturity of the Global Securities in an amount equal to the aggregate Principal Amount at Maturity of the Physical Securities to be transferred, and the Trustee shall cancel the Physical Securities so transferred.

(b) Other Exchanges.

In the event that Global Securities are exchanged for Securities in definitive registered form pursuant to Section 2.7 prior to the effectiveness of a Shelf Registration Statement with respect to such Securities, such Securities may be exchanged only in accordance with the provisions of clauses (a) and (b) above (including the certification requirements intended to ensure that such transfers comply with Rule 144A) and such other procedures as may from time to time be adopted by the Company.

(c) General.

By its acceptance of any Security or shares of Common Stock issuable upon conversion of the Securities bearing the Restricted Securities Legend, each Holder of such Security or shares of Common Stock acknowledges the restrictions on transfer of such Security or shares of Common Stock set forth in this Indenture and agrees that it will transfer such Security and such Common Stock only as provided in this Indenture. The Registrar shall not register a transfer of any Security unless such transfer complies with the restrictions on transfer of such Security set forth in this Indenture. The Registrar shall be entitled to receive and conclusively rely on written instructions from the Company verifying that such transfer complies with such restrictions on transfer. In connection with any transfer of Securities, each Holder agrees by its acceptance of the Securities to furnish the Registrar or the Company such certifications, legal opinions or other information as either of them may reasonably require to confirm that such transfer is being made pursuant to an exemption from, or a transaction not subject to, the registration requirements of the Securities Act; provided that the Registrar shall not be required to determine (but may conclusively rely on a determination made by the Company with respect to) the sufficiency of any such certifications, legal opinions or other information.

The Registrar shall retain copies of all certifications, letters, notices and other written communications received pursuant to Section 2.8 hereof or this Section 2.17 in accordance with its customary procedures for the retention of records relating to the transfer of securities. The Company shall have the right to inspect and make copies of all such letters, notices or other written communications at any reasonable time upon the giving of reasonable written notice to the Registrar.

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ARTICLE 3 DISCHARGE OF INDENTURE

Section 3.1. Discharge of Liability on Securities. When (a) the Company delivers to the Trustee all Outstanding Securities (other than Securities replaced pursuant to Section 2.11) for cancellation, (b) all Outstanding Securities have become due and payable at their scheduled maturity within one year or all Outstanding Securities are scheduled for redemption within one year and the Company deposits with the Trustee cash or, in the event of a conversion pursuant to Article 12, Common Stock, sufficient to pay all amounts due and owing on all Outstanding Securities on the date of their scheduled maturity or the scheduled date of redemption (other than Securities replaced pursuant to Section 2.11) or (c) when no Securities are Outstanding, and if in any such case the Company pays all other sums payable hereunder by the Company, then this Indenture shall, subject to Section 5.8, cease to be of further effect. The Trustee shall join in the execution of a document prepared by the Company acknowledging satisfaction and discharge of this Indenture on demand of the Company accompanied by an Officers' Certificate and Opinion of Counsel and at the cost and expense of the Company.

Section 3.2. Repayment to the Company. The Trustee and the Paying Agent shall return to the Company upon written request any money or securities held by them for the payment of any amount with respect to the Securities that remains unclaimed for two years, subject to applicable unclaimed property law. After return to the Company, Holders entitled to the money or securities must look to the Company for payment as general creditors unless an applicable abandoned property law designates another Person and the Trustee and the Paying Agent shall have no further liability to the Holders with respect to such money or securities for that period commencing after the return thereof.

ARTICLE 4 DEFAULTS AND REMEDIES

Section 4.1. Events of Default. An “**Event of Default**”, wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

- (a) the Company defaults in the payment of the Principal amount or premium, if any, (a “**Defaulted Payment**”) on any Outstanding Security when the same becomes due and payable at its Stated Maturity, upon redemption, upon exercise of a Fundamental Change Purchase Right or otherwise, whether or not such payment is prohibited by Article 13;

(b) the Company defaults in the payment of interest or Additional Amounts, if any, on any Security when they become due and payable and such default continues for a period of 30 days whether or not such payment is prohibited by Article 13;

(c) the Company fails to perform or observe any other covenant or warranty made in this Indenture and the default continues for a period of 60 days after written notice of such failure, requiring the Company to remedy the same, shall have 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;

(d) the entry by a court having jurisdiction in the premises of (i) a decree or order for relief in respect of the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, in an involuntary case or proceeding under any applicable U.S. federal or state bankruptcy, insolvency, reorganization or other similar law or (ii) a decree or order adjudging the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, under any applicable U.S. federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or ordering the winding up or liquidation of its affairs; or

(e) the commencement by the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, of a voluntary case or proceeding under any applicable U.S. federal or state bankruptcy, insolvency, reorganization or other similar law, or the consent by the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, to the entry of a decree or order for relief in respect of the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, in an involuntary case or proceeding under any applicable U.S. federal or state bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against the Company, or the filing by the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, of a petition or answer or consent seeking reorganization or relief under any applicable U.S. federal or state law in the context of a bankruptcy, insolvency or reorganization proceeding, or the consent by the Company to the filing of such petition or to the appointment of or the taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or the making by the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, of an assignment for the benefit of creditors, or the admission by the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, expressly in furtherance of any such action.

A Default under clause (c) above is not an Event of Default until the Trustee notifies the Company, or the Holders of at least 25% of the Principal amount of the Securities at the time Outstanding notify the Company and the Trustee, of the Default and the Company does not cure such Default (and such Default is not waived) within the time specified in clause (c) above after actual receipt of such notice. Any such notice must specify the Default, demand that it be remedied and state that such notice is a "Notice of Default".

The Trustee shall, within 90 days of the occurrence of a Default, give to the Holders notice of all uncured Defaults known to it and written notice of any event which with the giving of notice or the lapse of time, or both, would become an Event of Default, its status and what action the Company is taking or proposes to take with respect thereto; *provided, however*, the Trustee shall be protected in withholding such notice if it, in good faith, determines that the withholding of such notice is in the best interest of such Holders, except in the case of a Default in the payment of the Principal of or interest on any of the Securities when due or in the payment of any redemption or Fundamental Change Purchase Right.

Section 4.2. Acceleration of Maturity; Rescission and Annulment.

If an Event of Default with respect to Outstanding Securities (other than an Event of Default specified in Section 4.1(d) or 4.1(e) hereof) occurs and is continuing, the Trustee or the Holders of at least 25% in aggregate Principal amount of the Outstanding Securities, by written notice to the Company, may declare the Principal amount, premium of any, and accrued and unpaid interest and Additional Amounts, if any, on the Outstanding Securities to be immediately due and payable. Upon such declaration of acceleration, such Principal amount and accrued and unpaid interest or Additional Amounts, if any, shall be immediately due and payable.

If an Event of Default specified in Section 4.1(d) and 4.1(e) occurs, the Principal and accrued and unpaid interest and Additional Amounts, if any, on the Outstanding Securities shall become and be immediately due and payable, without any declaration or other act on the part of the Trustee or any Holder.

After such declaration of acceleration, but before a judgment or decree based on acceleration, the Holders of not less than a majority of the aggregate Principal amount of the Outstanding Securities, may, through notice to the Trustee on behalf of the Holders of all of the Securities, rescind and annul an acceleration and its consequences (including waiver of any defaults) if:

(a) all existing Events of Default, other than the nonpayment of Principal, interest or Additional Amounts, if any, on the Securities which have become due solely because of the acceleration, have been remedied, cured or waived; and

- (b) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction.

Section 4.3. Other Remedies.

If an Event of Default with respect to Outstanding Securities occurs and is continuing, the Trustee may pursue any available remedy by proceeding at law or in equity to collect the Defaulted Payment or interest due and payable on the Securities or to enforce the performance of any provision of the Securities.

The Trustee may maintain a proceeding in which it may prosecute and enforce all rights of action and claims under this Indenture or the Securities, even if it does not possess any of the Securities or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of, or acquiescence in, the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative.

Section 4.4. Waiver of Past Defaults.

The Holders, through the written consent of not less than a majority of the Principal amount of the Outstanding Securities, may, on behalf of the Holders of all of the Securities, waive an existing Default or Event of Default, except a Default or Event of Default:

- (a) set forth in Sections 4.1(a) and (b), *provided, however*, that subject to Section 4.7, the Holders of a majority of the Principal amount of the Outstanding Securities may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration); or
- (b) in respect of a covenant or provision hereof which, under Section 7.2 hereof, cannot be modified or amended without the consent of the Holders of each Outstanding Security affected.

Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture; *provided, however*, that no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

Section 4.5. Control by Majority.

The Holders of a majority of the Principal amount of the Outstanding Securities shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that:

- (a) conflicts with any law or with this Indenture;
- (b) the Trustee determines in good faith may be unduly prejudicial to the rights of the Holders not joining therein; or

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- (c) may expose the Trustee to personal liability, unless the Trustee is offered indemnity satisfactory to it.

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

Section 4.6. Limitation on Suit.

No Holder shall have any right to pursue any remedy with respect to this Indenture or the Securities (including, instituting any proceeding, judicial or otherwise, with respect to this Indenture or for the appointment of a receiver or trustee) unless:

- (a) such Holder has previously given written notice to the Trustee of an Event of Default that is continuing;
- (b) the Holders of at least 25% of the Principal amount of the Outstanding Securities shall have made written request to the Trustee to pursue the remedy;
- (c) such Holder or Holders have offered to the Trustee indemnity satisfactory to it against any costs, expenses and liabilities incurred in complying with such request;
- (d) the Trustee has failed to comply with the request for 60 days after its receipt of such notice, request and offer of indemnity; and
- (e) during such 60-day period, no direction inconsistent with such written request has been given to the Trustee by the Holders of a majority of the Principal amount of the Outstanding Securities;

provided, however, that no one or more of such Holders may use this Indenture to prejudice the rights of another Holder or to obtain preference or priority over another Holder.

Section 4.7. Unconditional Rights of Holders to Receive Payment and to Convert.

Notwithstanding any other provision of this Indenture or any provision of any Security, the right of any Holder to receive payment of the Principal of (including any Redemption Price or Fundamental Change Purchase Price) and accrued interest on such Security, on or after the respective due dates expressed in such Security or in the case of a redemption or repurchase, on the Redemption Date or Fundamental Change Purchase Date; as the case may be, or to institute suit for the enforcement of any such payment on or after such respective dates against the Company shall not be impaired or affected without the consent of such Holder.

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

Section 4.8. Collection of Indebtedness and Suits for Enforcement by the Trustee.

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(a) The Company covenants that if a Default or Event of Default described in Section 4.1(a) or (b) occurs and is continuing, then the Company will, upon demand of the Trustee, pay to it, for the benefit of the Holders of such Securities, the entire Principal then due and payable (as expressed therein or as a result of any acceleration effected pursuant to Section 4.2 hereof) on such Securities for any such amounts and, to the extent legally enforceable, interest or Additional Amounts, if any, on such Securities, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

If the Company fails to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Company and collect the monies adjudged or decreed to be payable in the manner provided by law out of the property of the Company, 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 by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

Section 4.9. Trustee May File Proofs of Claim.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company or the property of the Company or its creditors, the Trustee (irrespective of whether the Principal or interest and Additional Amounts, if any, or any Redemption Price or Fundamental Change Purchase Price, if applicable, shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Company for the payment of any such amount) shall be entitled and empowered, by intervention in such proceeding or otherwise:

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

(b) to collect and receive any monies, Common Stock or other property payable or deliverable on any such claim and to distribute the same,

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceedings is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel and any other amounts due the Trustee under Section 5.8.

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

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Section 4.10. Restoration of Rights and Remedies.

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

Section 4.11. Rights and Remedies Cumulative.

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in the last paragraph of Section 2.11, no right or remedy conferred in this Indenture 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 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 4.12. Delay or Omission Not Waiver.

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

Section 4.13. Priorities.

Any money collected by the Trustee pursuant to this Article shall be applied in the following order, at the date or dates fixed by the Trustee:

FIRST: to the payment of all amounts due to the Trustee under Section 5.8;

SECOND: to Holders for amounts due and unpaid on the Securities for the Principal, any Redemption Price or Fundamental Change Purchase Price, if applicable, or interest or Additional Amounts, if any, as applicable, ratably, without preference or priority of any kind, according to such amounts due and payable on the Securities; and

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THIRD: any remaining amounts shall be repaid to the Company.

The Trustee may fix a special record date and payment date for any payment to Holders pursuant to this Section 4.13. At least 15 days before such special record date, the Trustee shall mail to each Holder and the Company a notice that states the special record date, the payment date and the amount to be paid.

Section 4.14. Undertaking for Costs.

All parties to this Indenture agree, and each Holder of any Security by such Holder's acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section shall not apply to any suit instituted by the Trustee, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% of the Principal amount of the Outstanding Securities, or to any suit instituted by any Holder for the enforcement of (i) payments pursuant to Section 4.7, (ii) any Fundamental Change Purchase Right in accordance with Article 11 or (iii) conversion rights in accordance with Article 12. This Section 4.14 shall be in lieu of Section 315(e) of the TIA and such Section 315(e) is hereby expressly excluded from this Indenture, as permitted by the TIA.

Section 4.15. Waiver of Stay or Extension Laws.

The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim to take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE 5 THE TRUSTEE

Section 5.1. Certain Duties and Responsibilities.

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

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

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(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of

this Indenture; *provided, however*, that 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 or opinions to determine whether or not, on their face, they conform to the requirements to this Indenture (but need not investigate or confirm the accuracy of any facts stated therein).

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

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

(i) This paragraph (c) shall not be construed to limit the effect of paragraph (a) of this Section 5.1;

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

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

(d) Whether or not herein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section 5.1.

(e) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers. The Trustee may refuse to perform any duty or exercise any right or power unless it receives indemnity reasonably satisfactory to it against any loss, liability, cost or expense (including, without limitation, reasonable fees and expenses of counsel).

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

(g) The Trustee shall not be deemed to have notice or actual knowledge of any Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact a Default is received by the Trustee pursuant to Section 14.2 hereof, and such notice references the Securities and this Indenture.

(h) The rights, privileges, protections, immunities and benefits given to the Trustee hereunder, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each Paying Agent, authenticating agent, Conversion Agent or Registrar acting hereunder.

(i) 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.

Section 5.2. Certain Rights of Trustee.

Subject to the provisions of Section 5.1 hereof and subject to Section 315(a) through (d) of the TIA:

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

(b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel, or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on the Officers' Certificate or Opinion of Counsel.

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

(d) The Trustee shall not be liable for any action taken or omitted to be taken by it in good faith which it believed to be authorized or within the discretion or rights or powers conferred upon it by this Indenture, unless the Trustee's conduct constitutes negligence.

(e) The Trustee may consult with counsel of its selection and the advice of such counsel as to matters of law or legal interpretation shall be full and complete authorization and protection in respect of any action taken, omitted or suffered by it hereunder in good faith and in

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

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

Section 5.3. Individual Rights of Trustee.

The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company or any Affiliate of the Company with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest (as such term is defined in Section 310(b) of the TIA), it must eliminate such conflict within 90 days, apply to the Commission for permission to continue as trustee (to the extent permitted under Section 310(b) of the TIA) or resign. Any agent may do the same with like rights and duties. The Trustee is also subject to Sections 5.11 and 5.12 hereof.

Section 5.4. Money Held in Trust.

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

Section 5.5. Trustee's Disclaimer.

The recitals contained herein and in the Securities (except for those in the certificate of authentication) shall be taken as the statements of the Company, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Securities. The Trustee shall not be accountable for the use or application by the Company of Securities or the proceeds thereof.

Section 5.6. Notice of Defaults.

Within 90 days after the occurrence of any Default or Event of Default hereunder of which a Responsible Officer of the Trustee has received written notice, the Trustee shall give notice of the Default or Event of Default to Holders, unless such Default or Event of Default shall have been cured or waived; *provided, however*, that, except in the case of a Default or Event of Default described in Sections 4.1(a) or (b), the Trustee shall be protected in withholding such notice if and so long as Responsible Officers of the Trustee in good faith determine that the withholding of such notice is in the best interests of the Holders. The second sentence of this Section 5.6 shall be in lieu of the proviso to Section 315(b) of the TIA and such proviso is hereby expressly excluded from this Indenture, as permitted by the TIA. The Trustee shall not be deemed to have knowledge of a Default unless a Responsible Officer of the Trustee has received written notice of such Default.

Section 5.7. Reports by Trustee to Holders.

The Trustee shall transmit to Holders such reports concerning the Trustee and its actions under this Indenture as may be required by Section 313 of the TIA at the times and in the manner provided by the TIA.

A copy of each report at the time of its mailing to Holders shall be filed with the SEC, if required, and each stock exchange, if any, on which the Securities and the Common Stock are listed. The Company shall promptly notify the Trustee when the Securities or the Common Stock become listed on any stock exchange.

Section 5.8. Compensation and Indemnification.

The Company covenants and agrees to pay to the Trustee from time to time, and the Trustee shall be entitled to, such compensation as agreed to in writing by the Trustee and the Company (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) and the Company covenants and agrees to pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by or on behalf of it in accordance with any of the provisions of this Indenture (including the reasonable compensation and the expenses and disbursements of its counsel and of all agents and other persons not regularly in its employ), except to the extent that any such expense, disbursement or advance is due to its negligence or bad faith. When the Trustee incurs expenses or renders services in connection with an Event of Default specified in Section 4.1, the expenses (including the reasonable charges and expenses of its counsel) and the compensation for the services are intended to constitute expenses of administration under any bankruptcy law. The Company also covenants to indemnify the Trustee and its officers, directors, employees and agents for, and to hold such Persons harmless against, any loss, liability or expense (including attorney's fees and expenses) incurred by them, arising out of or in connection with the acceptance or administration of this Indenture or the trust hereunder or the performance of their duties hereunder, including the costs and expenses of defending themselves against or investigating any claim of liability in the premises, except to the extent that any such loss, liability or expense was due to the negligence or willful misconduct of such Persons. The obligations of the Company under this Section 5.8 to compensate and indemnify the Trustee and its officers, directors, employees and agents and to pay or reimburse such Persons for expenses, disbursements and advances shall constitute additional Indebtedness hereunder and shall survive the satisfaction and

discharge of this Indenture or the earlier resignation or removal of the Trustee. Such additional Indebtedness shall be a lien prior to that of the Securities upon all property and funds held or collected by the Trustee as such, except funds held in trust for the benefit of the Holders of particular Securities, and the Securities are hereby subordinated to such senior claim. “Trustee” for purposes of this Section 5.8 shall include any predecessor Trustee, in its capacity as Trustee, but the negligence or willful misconduct of any Trustee shall not affect the indemnification of any other Trustee. The Company’s payment obligations pursuant to this Section 5.8 shall survive the discharge of this Indenture and the resignation or removal of the Trustee.

Section 5.9. Replacement of Trustee.

A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee’s acceptance of appointment as provided in this Section 5.9.

The Trustee may resign and be discharged from the trust hereby created by so notifying the Company in writing. The Holders of at least a majority of the Principal amount of Outstanding Securities may remove the Trustee by so notifying the Trustee and the Company in writing. The Company must remove the Trustee if:

- (a) the Trustee fails to comply with Section 5.11 hereof or Section 310 of the TIA;
- (b) the Trustee becomes incapable of acting;
- (c) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law; or
- (d) Custodian or public officer takes charge of the Trustee or its property.

If the Trustee resigns or is removed or if a vacancy exists in the office of the Trustee for any reason, the Company shall promptly appoint a successor Trustee. The Trustee shall be entitled to payment of its fees and reimbursement of its expenses while acting as Trustee. Within one year after the successor Trustee takes office, the Holders of at least a majority of the Principal amount of Outstanding Securities may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

Any Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee if the Trustee fails to comply with Section 5.11.

If an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation or removal, the resigning or removed Trustee, or the Holders of a majority of the Outstanding Securities as applicable, may petition, at the expense of the Company, any court of competent jurisdiction for the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The Company shall issue a notice of the successor Trustee’s succession to the Holders. Upon payment of its charges, the retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, subject nevertheless to its lien, if any, provided for in Section 5.8 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 5.9 hereof, the Company’s obligations under Section 5.8 hereof shall continue for the benefit of the retiring Trustee with respect to expenses, losses and liabilities incurred by it prior to such replacement.

Section 5.10. Successor Trustee by Merger, Etc.

Subject to Section 5.11 hereof, if the Trustee consolidates with, merges or converts into, or transfers all or substantially all of its corporate trust business (including the administration of the trust created by this Indenture) to, another corporation or national banking association, the successor entity, without any further act, shall be the successor Trustee as to the Securities.

Section 5.11. Corporate Trustee Required; Eligibility.

The Trustee shall at all times satisfy the requirements of Section 310(a)(1), (2) and (5) of the TIA. The Trustee shall at all times have (or, in the case of a corporation included in a bank holding company system, the related bank holding company shall at all times have), a combined capital and surplus of at least \$50 million as set forth in its (or its related bank holding company’s) most recent published annual report of condition. The Trustee is subject to Section 310(b) of the TIA.

Section 5.12. Preferential Collection of Claims Against the Company.

The Trustee is subject to Section 311(a) of the TIA, excluding any creditor relationship listed in Section 311(b) of the TIA. A Trustee who has resigned or been removed shall be subject to Section 311(a) of the TIA to the extent indicated therein.

DISPOSITION

Section 6.1. Company May Consolidate, Etc., Only on Certain Terms.

The Company shall not consolidate with or merge into any other Person or convey, transfer, sell, lease or otherwise dispose of its properties and assets substantially as an entirety to any Person, and the Company shall not permit any Person to consolidate with or merge into the Company or convey, transfer, sell, lease or otherwise dispose of its properties and assets substantially as an entirety to the Company, unless:

(a) in the event that the Company shall consolidate with or merge into another Person or convey, transfer, sell, lease or otherwise dispose of its properties and assets substantially as an entirety to any Person, the Company shall be the surviving corporation or the Person formed by such consolidation or into which the Company is merged or the Person which acquires by such conveyance, transfer, sale, lease or disposition the Company's properties and assets substantially as an entirety shall be a Person organized and validly existing under the laws of the United States of America, any State thereof or the District of Columbia;

(b) in the event that the Company shall consolidate with or merge into another Person or convey, transfer, sell, lease or otherwise dispose of its properties and assets substantially as an entirety to any Person, and the entity surviving such transaction or transferee entity is not the Company, then such surviving or transferee entity shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, in form reasonably satisfactory to the Trustee, the due and punctual payment of all and any amounts when due on all the Securities and the performance of every covenant of this Indenture, the Securities and the Registration Rights Agreement (to the extent any obligations of the Company thereunder remain outstanding) on the part of the Company to be performed or observed and shall have provided for conversion rights provided in Article 12;

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(c) immediately after giving effect to such transaction, no Event of Default, and no event which, after notice or lapse of time or both, would become an Event of Default, shall have occurred and be continuing; and

(d) the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger, conveyance, transfer, sale, lease or disposition and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture, comply with this Article and that all conditions precedent herein provided for relating to such transaction have been complied with.

For purposes of the foregoing, the transfer (by lease, assignment, sale or otherwise) of the properties and assets of one or more Subsidiaries (other than to the Company or another Subsidiary), which, if such assets were owned by the Company, would constitute the properties and assets of the Company substantially as an entirety, shall be deemed to be the transfer of the properties and assets of the Company substantially as an entirety.

Section 6.2. Successor Corporation Substituted.

Upon any consolidation or merger by the Company with or into any other Person or any conveyance, transfer, sale, lease or other disposition of the properties and assets of the Company substantially as an entirety to any Person, in accordance with Section 6.1 hereof, the successor Person formed by such consolidation or into which the Company is merged or to which such conveyance, transfer, sale, lease or disposition is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein. In the event of any such conveyance, transfer, sale or disposition to the Company (which term shall for this purpose mean the Person named as the "Company" in the first paragraph of this Indenture or any successor Person which shall theretofore become such in the manner described in Section 6.1 hereof), except in the case of a lease to another Person, the predecessor Person shall be relieved of all obligations and covenants under this Indenture and the Securities and may be dissolved and liquidated.

ARTICLE 7 AMENDMENTS, SUPPLEMENTS AND WAIVERS

Section 7.1. Without Consent of Holders of Securities.

Without the consent of any Holders, the Company, when authorized by a Board Resolution, and the Trustee, at any time and from time to time, may amend this Indenture and the Securities to:

- (a) add to the covenants of the Company for the benefit of the Holders;
- (b) add any additional Events of Default for the benefit of the Holders;

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(c) surrender any right or power herein conferred upon the Company;

(d) provide for conversion rights of Holders if any reclassification or change of the Company's Common Stock or any consolidation, merger or sale of all or substantially all of the Company's assets occurs;

(e) provide for the assumption of the Company's obligations to the Holders in the case of a merger, consolidation or conveyance, sale, transfer or lease pursuant to Article 6 hereof;

(f) increase the Conversion Rate; *provided, however*, that such reduction in the Conversion Price shall not adversely affect the interest of the Holders (after taking into account tax and other consequences of such reduction);

(g) comply with the requirements of the Commission in order to effect or maintain the qualification of this Indenture under the TIA;

(h) make any changes or modifications to this Indenture necessary in connection with the registration of any Securities under the Securities Act as contemplated in the Registration Rights Agreement; *provided, however*, that such change or modification pursuant to this clause (g) does not, in the good faith opinion of the Board of Directors (as evidenced by a Board Resolution) and the Trustee, adversely affect the interests of the Holders in any material respect;

(i) cure any ambiguity or correct or supplement any provision herein which may be inconsistent with any other provision herein or which is otherwise defective, or make any other provisions with respect to matters or questions arising under this Indenture which the Company may deem necessary or desirable and which shall not be inconsistent with the provisions of this Indenture; *provided, however*, that such action pursuant to this clause (h) does not adversely affect the interests of the Holders in any material respect;

(j) secure the Securities; or

(k) add or modify any other provisions herein with respect to matters or questions arising hereunder which the Company and the Trustee may deem necessary or desirable and which will not adversely affect the interests of the Holders.

Section 7.2. With Consent of Holders of Securities.

Except as provided below in this Section 7.2, this Indenture or the Securities may be amended, modified or supplemented, and noncompliance in any particular instance with any provision of this Indenture or the Securities may be waived, (i) with the written consent of the Holders of at least a majority of the Principal amount of the Outstanding Securities or (ii) by the adoption of a resolution at a meeting of holders by at least a majority in aggregate Principal amount of the Securities represented at such meeting.

Without the written consent or the affirmative vote of each Holder of Securities affected thereby, an amendment or waiver under this Section 7.2 may not:

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(a) change the Stated Maturity of the Principal of, or the date any installment of interest is due on, any Security;

(b) reduce the Principal, Fundamental Change Purchase Price or Redemption Price of, or interest on, any Security;

(c) change the place of payment, or currency of payment from U.S. Dollars, of any amount owed or owing under the Security or any interest thereon;

(d) impair the right of any Holder to institute suit for the enforcement of any payment in or with respect to any Security;

(e) modify the obligation of the Company to maintain an office or agency in The City of New York pursuant to Section 9.2;

(f) except as otherwise permitted or contemplated by the Indenture, adversely affect the Fundamental Change Purchase Right of the Holders as provided in Article 11;

(g) except as otherwise permitted in this Indenture, reduce the Conversion Rate or otherwise impair the right of the Holders to convert any Security as provided in Article 12;

(h) modify the provisions of Article 10 in a manner adverse to the Holders;

(i) modify the provisions of Article 13 in a manner adverse to the Holders;

(j) modify any of the provisions of this Section, or reduce the percentage of aggregate Principal amount of Outstanding Securities required to waive a default, except 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; or

(k) reduce the percentage of the aggregate Principal amount of the Outstanding Securities the consent of whose Holders is required to modify or amend this Indenture.

It shall not be necessary for any Act of Holders under this Section 7.2 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

After an amendment under this Section 7.2 becomes effective the Company shall mail to each Holder a notice briefly describing the amendment.

Section 7.3. Compliance with Trust Indenture Act.

Every amendment to this Indenture or the Securities shall be set forth in a supplemental indenture that complies with the TIA as then in effect.

Section 7.4. Revocation of Consents and Effect of Consents or Votes.

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Until an amendment, supplement or waiver becomes effective, a written consent to it by a Holder is a continuing consent by the Holder and every subsequent Holder of a Security or portion of a Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent is not made on any Security; *provided, however*, that any such Holder or subsequent Holder may revoke the consent as to its Security or portion of a Security if the Trustee receives written notice of revocation before the date the amendment, supplement or waiver becomes effective.

An amendment, supplement or waiver becomes effective on receipt by the Trustee of written consents from or affirmative votes by, as applicable, the Holders of the requisite percentage of the Principal amount of the Outstanding Securities, and thereafter shall bind every Holder.

Section 7.5. Notation on or Exchange of Securities.

If an amendment, supplement or waiver changes the terms of a Security:

(a) the Trustee may require the Holder of a Security to deliver such Securities to the Trustee, the Trustee may place an appropriate notation on the Security as to the changed terms and return it to the Holder and the Trustee may place an appropriate notation on any Security thereafter authenticated; or

(b) if the Company or the Trustee so determines, the Company in exchange for the Security shall issue and the Trustee shall authenticate a new Security that reflects the changed terms.

Failure to make the appropriate notation or issue a new Security shall not affect the validity and effect of such amendment, supplement or waiver.

Section 7.6. Trustee to Sign Amendment, Etc.

The Trustee shall sign any amendment authorized pursuant to this Article 7 if the Trustee reasonably determines the amendment does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If the Trustee reasonably determines the amendment does adversely affect the rights, duties, liabilities or immunities of the Trustee, the Trustee may but need not sign it. In signing or refusing to sign any amendment hereunder, the Trustee shall be entitled to receive and shall be fully protected in relying upon an Officers' Certificate and an Opinion of Counsel as conclusive evidence that such amendment is authorized or permitted by this Indenture and that all conditions precedent relating thereto have been complied with.

Section 7.7. Effect of Amendment.

Upon the execution of any supplemental amendment under this Article, this Indenture shall be modified in accordance therewith, and such amendment shall form a part of this Indenture for all purposes; and every Holder theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

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ARTICLE 8 [INTENTIONALLY OMITTED]

ARTICLE 9 COVENANTS

Section 9.1. Payment of Principal, Redemption Price, Fundamental Change Purchase Price, Interest and Additional Amounts.

The Company will duly and punctually pay the Principal of, interest on, Additional Amounts, if any, and any Redemption Price or Fundamental Change Purchase Price in respect of, Securities when and if at any time any such foregoing amounts are due and payable in accordance with the terms of the Securities and this Indenture. The Company will deposit or cause to be deposited with the Trustee as directed by the Trustee, no later than 10:00 a.m. New York City time on the day of the Stated Maturity of any Security, the date of any installment of interest, or Additional Amounts, if any, the Fundamental Change Repurchase Date, the Redemption Date or any other date such payment is otherwise due.

Section 9.2. Maintenance of Offices or Agencies.

The Company hereby appoints the office of U.S. Bank Trust National Association, an Affiliate of the Trustee, located at 100 Wall Street, Suite 11600, New York, NY 10005 as its office in The Borough of Manhattan, The City of New York, where Securities may be:

- (A) presented or surrendered for payment;
- (b) surrendered for registration of transfer or exchange;
- (C) surrendered for conversion;

and where notices and demands to or upon the Company in respect of the Securities and this Indenture may be served.

The Company will maintain in The City of New York, an office or agency where Securities may be presented or surrendered for payment, where Securities may be surrendered for registration of transfer or exchange, where Securities may be surrendered for conversion and where notices and demands to or upon the Company in respect of the Securities and this Indenture may be served. The Company will give prompt written notice to the Trustee, and notice to the Holders in accordance with Section 14.2 hereof, of the appointment or termination of any such agents and of the location and any change in the location of any such office or agency not designated or appointed by the Trustee

If at any time the Company shall fail to maintain any such required office or agency in The City of New York, or shall fail to furnish the Trustee with the address thereof, presentations and surrenders may be made at, and notices and demands may be served on, the Corporate Trust Office or the office of agency of the Trustee in The Borough of Manhattan, The City of New York (which shall initially be located at U.S. Bank Trust National Association, an Affiliate of the Trustee, 100 Wall Street, Suite 1600, New York, NY 10005.

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The Company may also from time to time designate one or more other offices or agencies where the Securities 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 The City of New York, for such purposes.

Section 9.3. Corporate Existence.

Subject to Article 6 hereof, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence, rights (charter and statutory) and franchises of the Company and each Subsidiary; *provided, however*, that the Company shall not be required to preserve any such right or franchise if the Board of Directors shall determine in good faith that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries as a whole and that the loss thereof is not disadvantageous in any material respect to the Holders.

Section 9.4. Reports.

(a) The Company, shall deliver to the Trustee within 15 days after it files them with the Commission copies of the annual and quarterly reports, information, documents and other reports which the Company is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act; *provided, however*, the Company shall not be required to deliver to the Trustee any materials for which the Company has sought and received confidential treatment by the SEC. The Company also shall comply with the other provisions of Section 314(a) of the TIA.

(b) In the event the Company is at any time no longer subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, it shall continue to provide the Trustee with reports containing substantially the same information as would have been required to be filed with the SEC had the Company continued to have been subject to such reporting requirements. In such event, such reports shall be provided at the times the Company would have been required to provide reports had it continued to have been subject to such reporting requirements. The Company also shall comply with the other provisions of TIA Section 314(a). Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely conclusively on Officers' Certificates).

Section 9.5. Delivery of Certain Information

At any time when the Company is not subject to Section 13 or 15(d) of the Exchange Act, upon the request of a Holder or any beneficial owner of Securities or holder or beneficial owner of shares of Common Stock issued upon conversion thereof, the Company will promptly furnish or cause to be furnished Rule 144A Information (as defined below) to such Holder or any beneficial owner of Securities or holder or beneficial owner of shares of Common Stock, or to a prospective purchaser of any such security designated by any such holder, as the case may be, to the extent required to permit compliance by such Holder or holder with Rule 144A under the Securities Act in connection with the resale of any such security. "Rule 144A Information" shall be such information as is specified pursuant to Rule 144A(d)(4) under the Securities Act. Whether a Person is a beneficial owner shall be determined by the Company to the Company's reasonable satisfaction.

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Section 9.6. Compliance Certificate.

The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year of the Company, an Officer's Certificate signed by two Officers of the Company stating that, in the course of the performance by the signers of their duties as Officers of the Company, they would normally have knowledge of any failure by the Company to comply with all conditions, or Default by the Company

with respect to any covenants, under this Indenture, and further stating whether or not they have knowledge of any such failure or Default and, if so, specifying each such failure or Default and the nature thereof. In the event an Officer of the Company comes to have actual knowledge of a Default, regardless of the date, and without regard to any period of grace or requirement of notice provided hereunder, the Company shall deliver an Officers' Certificate to the Trustee within five Business Days of obtaining such actual knowledge specifying such Default and the nature and status thereof.

When any Registration Default (as defined in the Registration Rights Agreement) occurs, the Company shall promptly deliver to the Trustee by registered or certified mail or by telegram, telex or facsimile transmission an Officer's Certificate specifying the nature of such Registration Default. In addition, the Company shall deliver to the Trustee no later than the close of business on the Business Day immediately preceding each Interest Payment Date during the continuance of a Registration Default and the first Interest Payment Date following the cure of a Registration Default (to the extent that Additional Amounts are then due and payable on such Interest Payment Date), an Officer's Certificate specifying the amount of Additional Amounts which have accrued and are then owing under the Registration Rights Agreement and which are due and payable on such Interest Payment Date. Unless and until a Responsible Officer of the Trustee receives such a certificate, the Trustee may assume without inquiry that no Additional Amounts are payable.

Section 9.7. Further Instruments and Acts

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

ARTICLE 10 REDEMPTION OF SECURITIES

Section 10.1. Optional Redemption.

At any time on or after August 5, 2008, except for Securities that it is required to purchase pursuant to Section 11.1 or required to convert pursuant to Section 12.1, the Company may, at its option, redeem the Securities in whole at any time or in part from time to time, on any date prior to the Stated Maturity of such Securities, upon notice as set forth in Section 10.4, at the Redemption Prices expressed as percentages of the Principal amount) as set forth below for Securities redeemed during the following periods described below:

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Period	Redemption Price
Beginning on August 5, 2008 and ending July 31, 2009	101.250%
Beginning on August 1, 2009 and ending July 31, 2010	100.625%

and 100% of the Principal amount if redeemed on August 1, 2010.

If the Company exercises its option to redeem the Securities pursuant to this Section 10.1, a Holder may nevertheless exercise its right to have its Securities purchased pursuant to Section 11.1, if applicable, or to convert such Securities pursuant to Article 12 at such time, in each case, until the close of business on the day that is one Business Day immediately preceding the Redemption Date.

The Company shall pay interest and Additional Amounts, if any, to the Holder of the Securities called for redemption pursuant to this Section 10.1 accrued and unpaid to, but excluding, the Redemption Date pursuant to Section 2.1(f)(ii); *provided, however*, that if the Redemption Date is an Interest Payment Date, the Company shall pay the interest and Additional Amounts, if any, to the Holder of record on the corresponding Regular Record Date, which may or may not be the same Person to whom the Company will pay the Redemption Price.

The Company shall not redeem any Securities pursuant to this Section 10.1 if there has occurred (prior to, on or after, as applicable, the giving by the Company of a Redemption Notice) and is continuing an Event of Default, other than a default in the payment of the applicable Redemption Price. The Paying Agent will promptly return to the respective Holders thereof any Securities held by it during the continuance of an Event of Default (other than a default in the payment of the Redemption Price with respect to the Securities).

Section 10.2. Notice to Trustee.

If the Company elects to redeem Securities pursuant to the provisions of Section 10.1 hereof (such election to be ordered by a Board Resolution), it shall notify the Trustee at least 45 days prior to the intended Redemption Date (unless a shorter notice shall be satisfactory to the Trustee) of (i) such intended Redemption Date, (ii) the Principal amount of Securities to be redeemed and (iii) the CUSIP numbers of the Securities to be redeemed.

Section 10.3. Selection of Securities to be Redeemed.

If fewer than all the Securities are to be redeemed, the Trustee shall select the particular Securities to be redeemed from the Outstanding Securities by a method that complies with the requirements of any exchange on which the Securities are listed, or, if the Securities are not listed on an exchange, on a *pro rata* basis or by lot or in accordance with any other method the Trustee considers fair and appropriate. The Trustee may select for redemption portions of the Principal amount of Securities that have denominations larger than \$1,000.

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Securities and portions thereof that the Trustee selects shall be in Principal amounts in integral multiples of \$1,000. Provisions of this Indenture that apply to Securities called for redemption also apply to portions of Securities called for redemption. The Trustee shall notify the Company promptly of the Securities or portions of Securities to be redeemed.

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

Securities and portions of Securities that are to be redeemed are convertible by the Holder until the close of business on the Business Day immediately preceding to the Redemption Date. If any Security selected for partial redemption is converted or elected to be purchased in part before termination of the conversion right or Fundamental Change Purchase Right with respect to the portion of the Security so selected, the converted or purchased portion of such Security shall be deemed to be the portion selected for redemption; *provided, however*, that the Holder of such Security so converted or purchased and deemed redeemed shall not be entitled to any additional interest payment as a result of such deemed redemption than such Holder would have otherwise been entitled to receive upon conversion or purchase of such Security unless otherwise specified in Section 2.1(f). Securities which have been converted or purchased during a selection of Securities to be redeemed may be treated by the Trustee as Outstanding for the purpose of such selection.

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 10.4. Notice of Redemption.

Notice of redemption shall be given in the manner provided in Section 14.2 to the Holders of Securities to be redeemed. Such notice shall be given no less than 30 and no more than 60 days prior to the Redemption Date.

All notices of redemption shall state:

- (a) such Redemption Date;
- (b) the Redemption Price and interest and Additional Amounts, if any, accrued and unpaid to, but excluding, the Redemption Date, if any;
- (c) if fewer than all the Outstanding Securities are to be redeemed, the Principal amount of Securities to be redeemed and the Principal amount of Securities which will be Outstanding after such partial redemption;
- (d) that on the Redemption Date the Redemption Price and interest and Additional Amounts, if any, accrued and unpaid to, but excluding, the Redemption Date, if any, will become due and payable upon each such Security to be redeemed;

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(e) the Conversion Rate, the date on which the right to convert the Securities to be redeemed will terminate and the places where such Securities may be surrendered for conversion;

(f) the place or places where such Securities are to be surrendered for payment of the Redemption Price, accrued and unpaid interest and Additional Amounts, if any; and

(g) the CUSIP number of the Securities.

The notice given shall specify the last date on which exchanges or transfers of Securities may be made pursuant to Section 2.7, and shall specify the serial numbers of Securities and the portions thereof called for redemption.

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 delivered at least 20 days prior to the date of the mailing of such notice (unless a shorter period shall be acceptable to the Trustee), by the Trustee in the name of and at the expense of the Company.

Section 10.5. Effect of Notice of Redemption.

Notice of redemption having been given as provided in Section 10.4 hereof, the Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified and from and after such date (unless the Company shall default in the payment of the Redemption Price and accrued and unpaid interest) such Securities shall cease to bear interest. Upon surrender of any such Security for redemption in accordance with such notice, such Security shall be paid by the Company at the Redemption Price.

Section 10.6. Deposit and Payment of Redemption Price.

Prior to or on any Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company or a Subsidiary or an Affiliate of either of them is acting as the Paying Agent, shall segregate and hold in trust as provided in Section 2.6) an amount of money in immediately available funds sufficient to pay the Redemption Price, accrued and unpaid interest and Additional Amounts, if any, in respect of all the Securities to be redeemed on that Redemption Date from the last Interest Payment Date to but not including the Redemption Date, other than any Securities called for redemption on that date which have been converted prior to the date of

such deposit. The Trustee and Paying Agent shall then cause such funds to be paid to the Holders of the Securities being redeemed in accordance with this Article.

If any Security delivered for redemption shall not be so redeemed by payment to the Holders thereof on the Redemption Date, the Principal amount of, and accrued and unpaid interest on such Security shall, until it is redeemed or converted, bear Defaulted Interest from the Redemption Date to but not including the actual date of redemption or conversion, and each such Security shall remain convertible into shares of Common Stock pursuant to Article 12 until such Security shall have been so redeemed.

If any Security called for redemption is converted, any money deposited with the Trustee or with a 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 to receive interest as provided in Section 2.1(f)) be paid to the Company upon request by the Company or, if then held by the Company, shall be discharged from such trust.

Section 10.7. Securities Redeemed in Part.

Any Security which is to be redeemed only in part shall be surrendered at an office or agency of the Company designated for that purpose pursuant to Section 9.2 hereof (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 the Holder's 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, a new Security or Securities of any authorized denomination as requested by such Holder in Principal amount equal to and in exchange for the unredeemed portion of the Security so surrendered, *provided* that no single Security may be purchased in part unless the portion of the Principal amount of such Security to be Outstanding after such purchase is equal to \$1,000 or an integral multiple thereof.

ARTICLE 11 PURCHASE AT THE OPTION OF A HOLDER UPON FUNDAMENTAL CHANGE

Section 11.1. Fundamental Change Purchase Right.

(a) In the event that a Fundamental Change shall occur at any time prior to the Maturity of the Securities, each Holder shall have the right (the "**Fundamental Change Purchase Right**"), at the Holder's option, but subject to the provisions of Section 11.2 hereof, to require the Company to purchase for cash, and upon the exercise of such right the Company shall purchase, all of such Holder's Securities not theretofore called for redemption, or any portion of the Principal amount thereof that is equal to \$1,000 or an integral multiple thereof as directed by such Holder pursuant to Section 11.3 (*provided* that no single Security may be purchased in part unless the portion of the Principal amount of such Security to be Outstanding after such purchase is equal to \$1,000 or an integral multiple thereof), on the date (the "**Fundamental Change Purchase Date**") that is 30 days after the date of the Fundamental Change Event Notice (or if such 30th day is not a Business Day, the next succeeding Business Day) at a price equal to 100% of the Principal amount of the Securities to be purchased (the "**Fundamental Change Purchase Price**") plus accrued and unpaid interest and Additional Amounts, if any, to, but excluding, the Fundamental Change Purchase Date; *provided, however*, that if the Fundamental Change Purchase Date is an Interest Payment Date, the Company shall pay such interest to the Holder of Record on the corresponding Regular Record Date, which may or may not be the same person to whom, the Company will pay the Fundamental Change Purchase Price. If the Holders have a Fundamental Change Purchase Right pursuant to this Section 11.1(a), the Company shall issue a press release through Dow Jones & Company, Inc. or Bloomberg Business News containing the relevant information and make such information available on the Company's web site or through another public medium as the Company may use at such time.

Section 11.2. Fundamental Change Notice.

No later than 10 days after the occurrence of a Fundamental Change, the Company shall mail a written notice of the Fundamental Change (the "**Fundamental Change Notice**") by first-class mail to the Trustee and to each Holder (and to beneficial owners as required by applicable law) pursuant to Section 14.2. The Fundamental Change Notice shall include a form of notice (the "**Fundamental Change Purchase Notice**") substantially in the form of Exhibit B hereto to be completed by the Holder and delivered to the Paying Agent pursuant to Section 11.3, and shall state the following:

- (a) that it is a Fundamental Change Notice pursuant to this Section;
- (b) the events causing a Fundamental Change and the date of such Fundamental Change;
- (c) the procedures with which such Holder must comply to exercise its right to have its Securities purchased pursuant to Section 11.1;
- (d) the date by which the completed Fundamental Change Purchase Notice pursuant to Section 11.3 and the Securities the Holder elects to have purchased pursuant to Section 11.1 must be delivered to the Paying Agent in order to have such Securities purchased by the Company pursuant to Section 11.1;
- (e) the name and address of the Paying Agent and the Conversion Agent

(f) that the Securities as to which a Fundamental Change Purchase Notice has been given may be converted, if they are otherwise convertible pursuant to Article 12, only if the completed and delivered Fundamental Change Purchase Notice has been withdrawn in accordance with the terms of the Indenture;

(g) the Holder's conversion rights pursuant to Article 12 and the Conversion Rate then in effect and any adjustments thereto;

(h) the Fundamental Change Purchase Date and the Fundamental Change Purchase Price, if applicable;

(i) that the Securities must be surrendered to the Paying Agent to collect payment;

(j) that the Fundamental Change Purchase Price for any Security as to which a Fundamental Change Purchase Notice has been duly given and not withdrawn will be paid promptly following the later of the Fundamental Change Purchase Date and the time of surrender of such Security as described in (i);

(k) that, unless the Company defaults in making payment of such Fundamental Change Purchase Price, interest, or Additional Amounts, if any, on the Securities surrendered for purchase by the Company will cease to accrue on and after the Fundamental Change Purchase Date, if applicable;

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

(m) the CUSIP number of the Securities; and

No failure by the Company to give the foregoing Fundamental Change Notice shall limit any Holder's right to exercise its rights pursuant to Section 11.1 or affect the validity of the proceedings for the purchase of its Securities hereunder.

Section 11.3. Exercise of Fundamental Change Purchase Right.

To exercise a Fundamental Change Purchase Right pursuant to Section 11.1, a Holder must deliver to the Trustee at its offices on or prior to the Repurchase Date the following:

(a) a completed Fundamental Change Purchase Notice, the form of which is provided in Exhibit B hereto; and

(b) the Securities or cause such Securities to be delivered through the facilities of the Depository, as applicable, with respect to which the Fundamental Change Purchase Right is being exercised, with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer, in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or such Holder's attorney duly authorized in writing.

Section 11.4. Withdrawal of Fundamental Change Purchase Notice.

(a) Notwithstanding anything herein to the contrary, any Holder which has delivered a completed Fundamental Change Purchase Notice to the Paying Agent shall have the right to withdraw such Fundamental Change Purchase Notice by delivery of a written notice of withdrawal delivered to the office of the Paying Agent in accordance with the Fundamental Change Purchase Notice at any time prior to the close of business on the Business Day immediately preceding the Fundamental Change Purchase Date specifying:

(i) the certificate number, if any, of the Security in respect of which such notice of withdrawal is being submitted;

(ii) the Principal amount of the Security with respect to which such notice of withdrawal is being submitted; and

(iii) the Principal amount, if any, of such Security which remains subject to the original Fundamental Change Purchase Notice and which has been or will be delivered for purchase by the Company.

The Paying Agent shall promptly notify the Company of the receipt by it of any Fundamental Change Purchase Notice or written notice of withdrawal thereof.

Section 11.5. Deposit and Payment of the Fundamental Change Purchase Price

(a) If a Holder has exercised its rights pursuant to Section 11.1 and has satisfied the conditions for the exercise of such rights in accordance with Section 11.3, then the Company shall, prior to 10:00 a.m. (New York City time) on the Business Day following the Fundamental Change Purchase Date, deposit with the Trustee or with the Paying Agent (or, if the Company or a Subsidiary or an Affiliate of either of them is acting as the Paying Agent, shall segregate and hold in trust as provided in Section 2.4) an amount of money in immediately available funds, if deposited on such Business Day, sufficient to pay the aggregate Fundamental Change Purchase Price of all the Securities or portions thereof which are to be purchased as of the Fundamental Change Purchase Date. The Trustee or Paying Agent, as applicable, shall pay the Holder the applicable Fundamental Change Purchase Price multiplied by the Principal amount of Securities for which such rights were exercised on the Fundamental Change Purchase Date.

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(b) If any Security delivered for purchase pursuant to Section 11.1 shall not be so paid on the Fundamental Purchase Date, the Principal amount of and interest on such Security and Additional Amounts, if any, shall, until it is paid, bear Defaulted Interest from the Fundamental Change Purchase Date to but not including the date of actual payment hereunder, and each such Security shall remain convertible into shares of Common Stock pursuant to Article 12 until such Security shall have been paid.

Section 11.6. Effect of Delivery of Fundamental Change Purchase Notice and Purchase.

(a) Upon receipt by the Paying Agent of a Fundamental Change Purchase Notice, the Holder of the Security in respect of which such Fundamental Change Purchase Notice was delivered shall (unless such Fundamental Change Purchase Notice is withdrawn pursuant to Section 11.3(c)) thereafter be entitled to receive solely the Fundamental Change Purchase Price with respect to such Security, and, if applicable, any accrued and unpaid interest pursuant to Section 2.1(f) and Additional Amounts, if any. Securities in respect of which a Fundamental Change Purchase Notice has been delivered by the Holder thereof may not be converted pursuant to Article 12 on or after the date of the delivery of such Fundamental Change Purchase Notice unless such Fundamental Change Purchase Notice which has been completed and delivered to the Paying Agent has first been validly withdrawn pursuant to Section 11.4.

(b) All Securities delivered for purchase shall be canceled by the Trustee or Paying Agent, as applicable.

Section 11.7. Physical Securities Purchased in Part.

Any Physical Security which is to be purchased only in part shall be surrendered at the office of the Paying Agent (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or such Holder's attorney 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, a new Security or Securities, of any authorized denomination as requested by such Holder in Principal amount equal to, and in exchange for, the portion of the Principal amount of the Security so surrendered which is not purchased.

Section 11.8. Covenant to Comply With Securities Laws Upon Purchase of Securities.

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When complying with the provisions of this Article 11 (*provided* that such offer or purchase constitutes an "issuer tender offer" for purposes of Rule 13e-4 (which term, as used herein, includes any successor provision thereto) under the Exchange Act at the time of such offer or purchase), the Company shall (a) comply with Rule 13e-4, Rule 14e-1 (or any successor provisions) and any other tender offer rules under the Exchange Act which may then be applicable, (b) file the related Schedule TO (or any successor schedule, form or report) under the Exchange Act and (c) otherwise comply with all Federal and state securities laws so as to permit the rights and obligations under this Article 11 to be exercised in the time and in the manner specified in this Article 11.

Section 11.9. Repayment to the Company.

The Trustee and the Paying Agent shall return to the Company any cash that remains unclaimed, together with interest or dividends, if any, thereon (subject to the provisions of Section 5.4), held by them for the payment of the Fundamental Change Purchase Price; *provided, however*, that to the extent that the aggregate amount of cash deposited by the Company pursuant to Section 11.5 exceeds the aggregate Fundamental Change Purchase Price of the Securities or portions thereof which the Company is obligated to purchase on the purchase date then, unless otherwise agreed in writing with the Company, promptly after the Business Day following such purchase date, the Trustee or Paying Agent, as applicable, shall return any such excess to the Company together with interest or dividends, if any, thereon, subject to the provisions of Section 5.4.

ARTICLE 12 CONVERSION OF SECURITIES

Section 12.1. Conversion Right; Expiration of Conversion Right; Conversion Price.

(a) Subject to and upon compliance with the provisions of this Article, a Holder shall have the right, at any time and from time to time, to convert any Security or any portion of the Principal amount thereof which is an integral multiple of \$1,000, or of such portion thereof, into duly authorized, fully paid and nonassessable shares of Common Stock, at the Conversion Rate in effect at the time of conversion at any time prior to the close of business or the business immediately preceding the Stated Maturity of the Securities subject to prior redemption or repurchase of the Securities. In the event Securities are called for redemption, a Holder may convert any Security at any time prior to the close of business on the Business Day immediately preceding the Redemption Date, unless the Company fails to pay the Redemption Price, in which case such Holder may convert any Security at any time prior to the close of business on the earliest to occur of the date on which the Redemption Price is paid or the Stated Maturity.

(b) Each Security shall be convertible at the office of the Conversion Agent into fully paid and nonassessable shares (calculated to the nearest 1/100th of a share) of Common Stock. The Security will be converted into shares of Common Stock at the Conversion Rate therefore.

(c) The rate at which shares of Common Stock shall be delivered upon conversion (the "**Conversion Rate**") shall be initially 229.8851 shares of Common Stock for each \$1,000 Principal amount of Securities, subject to adjustment, in certain instances, as provided in Section 12.4.

(d) No payment or adjustment will be made for dividends on, or other distributions with respect to, any Common Stock except as provided in this Article 12.

(e) A Security in respect of which a Holder has delivered a Fundamental Change Purchase Notice exercising the option of such Holder to require the Company to purchase such Security may be converted only if such notice of exercise is withdrawn in accordance with Section 11.4.

Section 12.2. Exercise of Conversion Right

(a) To exercise the conversion right with respect to a Physical Security, a Holder must (1) deliver a completed conversion notice, the form of which is provided in Exhibit C, to the Depository stating that the Holder elects to convert such Physical Security or, if less than the entire Principal amount thereof is to be converted, the portion thereof to be converted, (2) deliver duly signed completed conversion notice and the Physical Security duly endorsed or assigned to the Company or in blank, at the office of any Conversion Agent, (3) pay all interest to which the Holder is not entitled, if any, pursuant to Section 2.1(f) and (4) pay any transfer taxes or other applicable taxes or duties, if required.

(b) To convert interests in a Global Security, a Holder must deliver to DTC the appropriate instruction form for conversion pursuant to DTC's conversion program and comply with the provisions of Section 12.2(a)(3) and (4).

(c) To the extent provided in Section 2.1(f), Securities surrendered for conversion during the period from the close of business on any Regular Record Date to the opening of business on the next succeeding Interest Payment Date (except in the case of any Security whose Stated Maturity is prior to such Interest Payment Date) shall be accompanied by payment by such Holder in immediately available funds to the Company of an amount equal to the interest to be received on such Interest Payment Date on Principal amount of Securities being surrendered for conversion. To the extent provided in Section 2.1, Securities which have been called for redemption on a Redemption Date or which are repurchasable on a Redemption Date or a Fundamental Change Event Repurchase Date respectively that occurs from the close of business on a Regular Record Date and or prior to the close of business the Business Day immediately preceding such Interest Payment Date, shall not require such concurrent payment to the Company upon surrender for conversion, and, if such Securities are converted during the time period set forth in the preceding sentence, the Holders of such converted Securities shall be entitled to receive (and retain) any accrued interest on the Principal amount of such surrendered Securities, if any.

(d) Securities shall be deemed to have been converted immediately prior to the close of business on the day of surrender of such Securities for conversion in accordance with the foregoing provisions, and at such time the rights of the Holders of such Securities as Holders shall cease, and the Person or Persons entitled to receive the shares of Common Stock issuable upon conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock at such time.

(e) In the case of any Security which is converted in part only, or a Holder converts less than the Principal amount it owns at such time, upon such conversion the Company shall execute and the Trustee shall authenticate and deliver to the Holder thereof, at the expense of the Company, a new Security or Securities of authorized denominations in Principal amount equal to the unconverted portion of the Principal amount of such Securities.

(f) As promptly as practicable on or after the Conversion Date, the Company shall cause to be issued and delivered to such Conversion Agent a certificate or certificates for the number of full shares of Common Stock issuable upon conversion of such Securities, together with payment in lieu of any fraction of a share as provided in Section 12.3 hereof. The Company hereby initially appoints U.S. Bank National Association as the Conversion Agent.

(g) A Security in respect of which a Holder has delivered a Fundamental Change Purchase Notice exercising the option of such Holder to require the Company to purchase such Security may be converted only if such notice of exercise is withdrawn in accordance with Section 11.4.

(h) If shares of Common Stock to be issued upon conversion of a Restricted Security, or Securities to be issued upon conversion of a Restricted Security in part only, are to be registered in a name other than that of the Holder of such Restricted Security, such Holder must deliver to the Conversion Agent a certificate in substantially the form set forth in Exhibit C annexed hereto, dated the date of surrender of such Restricted Security and signed by such Holder, as to compliance with the restrictions on transfer applicable to such Restricted Security. None of the Trustee, any Conversion Agent, Registrar or Transfer Agent shall be required to register in a name other than that of the Holder of shares of Common Stock or Securities issued upon conversion of any such Restricted Security not so accompanied by a properly completed certificate.

Section 12.3. Fractions of Shares.

No fractional shares of Common Stock shall be issued upon conversion of any Security or Securities. If more than one Security shall be surrendered for conversion at one time by the same Holder, the number of full shares of Common Stock which shall be issued upon conversion thereof shall be computed on the basis of the Principal amount of the Securities (or specified portions thereof) so surrendered. Instead of any fractional shares of Common Stock which would otherwise be issued upon conversion of any Security or Securities (or

specified portions thereof), the Company shall pay a cash adjustment in respect of such fraction (calculated to the nearest one-100th of a share) in an amount equal to the same fraction of the Closing Sale Price of a share of Common Stock on the last Business Day preceding the Conversion Date.

Section 12.4. Adjustment of Conversion Rate.

The Conversion Rate shall be subject to adjustment, calculated in good faith by the Company from time to time as follows:

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

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

(ii) the denominator of which shall be the number of shares of Common Stock outstanding at the close of business on the date fixed for such determination,

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

(b) In case the Company shall issue rights or warrants to all holders of its outstanding shares of Common Stock entitling them (for a period expiring within forty-five (45) days after the date fixed for determination of stockholders entitled to receive such rights or warrants) to subscribe for or purchase shares of Common Stock at a price per share less than the Current Market Price on the date such issuance is first publicly announced by the Company, the Conversion Rate shall be increased so that the same shall equal the rate determined by multiplying the Conversion Rate in effect immediately prior to the date fixed for determination of stockholders entitled to receive such rights or warrants by a fraction,

(i) the numerator of which shall be the number of shares of Common Stock outstanding at the close of business on the date fixed for determination of stockholders entitled to receive such rights or warrants plus the total number of additional shares of Common Stock offered for subscription or purchase, and

(ii) the denominator of which shall be the sum of the number of shares of Common Stock outstanding at the close of business on the date fixed for determination of stockholders entitled to receive such rights or warrants plus the number of shares that the aggregate offering price of the total number of shares so offered would purchase at such Current Market Price.

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Such adjustment shall be successively made whenever any such rights or warrants are issued, and shall become effective immediately after the opening of business on the day following the date fixed for determination of stockholders entitled to receive such rights or warrants. To the extent that shares of Common Stock are not delivered after the expiration of such rights or warrants, the Conversion Rate shall be readjusted to the Conversion Rate that would then be in effect had the adjustments made upon the issuance of such rights or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights or warrants are not so issued, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such issuance had not been so declared or made. In determining whether any rights or warrants entitle the holders to subscribe for or purchase shares of Common Stock at less than such Current Market Price, and in determining the aggregate offering price of such shares of Common Stock, there shall be taken into account any consideration received by the Company for such rights or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by the Board of Directors.

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

(d) In case the Company shall, by dividend or otherwise, distribute to all holders of its Common Stock shares of any class of capital stock of the Company or evidences of its indebtedness or assets (including cash and securities, but excluding any rights or warrants referred to in Section 12.4(b), and excluding any dividend or distribution referred to in Section 12.4(a) (any of the foregoing hereinafter in this Section 12.4(d)) called the “**Distribution**”), then, in each such case (unless the Company elects to reserve such Distribution for distribution to the Holders upon the conversion of the Securities so that any such Holder converting Securities will receive upon such conversion, in addition to the shares of Common Stock to which such Holder is entitled, the amount and kind of such Distribution which such

Holder would have received if such Holder had converted its Securities into Common Stock immediately prior to the Distribution Record Date), the Conversion Rate shall be increased so that the same shall be equal to the rate determined by multiplying the Conversion Rate in effect at the close of business on the Distribution Record Date with respect to such distribution by a fraction,

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

(ii) the denominator of which shall be the Current Market Price on such Distribution Record Date less (A) in the case of Distributions other than cash, the Fair Market Value (as determined by the Board of Directors, whose determination shall be conclusive, and described in a resolution of the Board of Directors) on the Distribution Record Date of the portion of such Distributions applicable to one share of Common Stock and (B) in the case of Distributions of cash, the amount of such Distributions applicable to one share of Common Stock,

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such adjustment to become effective immediately prior to the opening of business on the day following such Distribution Record Date; *provided* that if the then Fair Market Value (as so determined) of the portion of the Distribution so distributed applicable to one share of Common Stock is equal to or greater than the Current Market Price on the Distribution Record Date, in lieu of the foregoing adjustment, adequate provision shall be made so that each Holder shall have the right to receive upon conversion the amount of Distribution such Holder would have received had such Holder converted its Securities immediately prior to the Distribution Record Date. If such dividend or distribution is not so paid or made, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared. If the Board of Directors determines the Fair Market Value of any distribution for purposes of this Section 12.4(d) by reference to the actual or when issued trading market for any securities, it must in doing so consider the prices in such market over the same period used in computing the Current Market Price on the applicable Distribution Record Date. Notwithstanding the foregoing, if the Distribution distributed by the Company to all holders of its Common Stock consists of capital stock of, or similar equity interests in, a Subsidiary or other business unit, the Conversion Rate shall be increased so that the same shall be equal to the rate determined by multiplying the Conversion Rate in effect on the Distribution Record Date with respect to such distribution by a fraction:

(i) the numerator of which shall be the sum of (x) the average Closing Sale Price over the ten consecutive Trading Day period (the “**Spinoff Valuation Period**”) commencing on and including the fifth Trading Day after the date on which “ex-dividend trading” commences on the Common Stock on the New York Stock Exchange or such other national or regional exchange or market on which the Common Stock is then listed or quoted and (y) the average Fair Market Value (as determined by the Board of Directors, whose determination shall be conclusive, and described in a resolution of the Board of Directors) over the Spinoff Valuation Period of the portion of the Distribution so distributed applicable to one share of Common Stock; and

(ii) the denominator of which shall be the average Closing Sale Price over the Spinoff Valuation Period,

such adjustment to become effective immediately prior to the opening of business on the day following such Distribution Record Date; *provided* that the Company may in lieu of the foregoing adjustment elect to reserve the *pro rata* portion of such capital stock or equity interests in such Subsidiary or business unit (together with any distributions or dividends made or paid thereon from time to time) for the benefit of the Holders, so that each Holder shall have the right to receive upon conversion of Securities the amount of the Distribution such Holder would have received had such Holder converted each Security on the Distribution Record Date with respect to such distribution.

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Rights or warrants distributed by the Company to all holders of Common Stock entitling the holders thereof to subscribe for or purchase shares of the Company’s capital stock (either initially or under certain circumstances), which rights or warrants, until the occurrence of a specified event or events (“**Trigger Event**”): (i) are deemed to be transferred with such shares of Common Stock; (ii) are not exercisable; and (iii) are also issued in respect of future issuances of Common Stock, shall be deemed not to have been distributed for purposes of this Section 12.4 (and no adjustment to the Conversion Rate under this Section 12.4 will be required) until the occurrence of the earliest Trigger Event, whereupon such rights and warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Conversion Rate shall be made under this Section 12.4(d). If any such right or warrant, including any such existing rights or warrants distributed prior to the date of this Indenture, are subject to events, upon the occurrence of which such rights or warrants become exercisable to purchase different securities, evidences of indebtedness or other assets, then the date of the occurrence of any and each such event shall be deemed to be the date of distribution and record date with respect to new rights or warrants with such rights (and a termination or expiration of the existing rights or warrants without exercise by any of the holders thereof). In addition, in the event of any distribution (or deemed distribution) of rights or warrants, or any Trigger Event or other event (of the type described in the preceding sentence) with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to the Conversion Rate under this Section 12.4 was made, (1) in the case of any such rights or warrants that shall all have been redeemed or repurchased without exercise by any holders thereof, the Conversion Rate shall be readjusted upon such final redemption or repurchase to give effect to such distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per share redemption or repurchase price received by a holder or holders of Common Stock with respect to such rights or warrants (assuming such holder had retained such rights or warrants), made to all holders of Common Stock as of the date of such redemption or repurchase, and (2) in the case of such rights or warrants that shall have expired or been terminated without exercise by any holders thereof, the Conversion Rate shall be readjusted as if such rights and warrants had not been issued.

No adjustment of the Conversion Rate shall be made pursuant to this Section 12.4(d) in respect of rights or warrants distributed or deemed distributed on any Trigger Event to the extent that such rights or warrants are actually distributed, or reserved by the Company for

distribution to Holders upon conversion by such Holders of Securities to Common Stock, unless such rights or warrants have become separated from the Common Stock in accordance with the provisions of the relevant agreement such that the Holders would not thereafter be entitled to receive such rights or warrants in respect of Common Stock issuable upon conversion of the Securities. In such circumstances an adjustment to the Conversion Rate shall be made with respect to Securities then outstanding pursuant to Section 12.4(d) (to the extent required thereby) upon the separation of the rights or warrants from the Common Stock.

For purposes of this Section 12.4(d) and Sections 12.4(a) and (b), any dividend or distribution to which this Section 12.4(d) is applicable that also includes shares of Common Stock, or rights or warrants to subscribe for or purchase shares of Common Stock (or both), shall be deemed instead to be (1) a dividend or distribution of the evidences of indebtedness, assets or shares of capital stock other than such shares of Common Stock or rights or warrants (and any Conversion Rate adjustment required by this Section 12.4(d) with respect to such dividend or distribution shall then be made) immediately followed by (2) a dividend or distribution of such shares of Common Stock or such rights or warrants (and any further Conversion Rate adjustment required by Sections 12.4(a) and (b) with respect to such dividend or distribution shall then be made), except

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(A) the Distribution Record Date of such dividend or distribution shall be substituted as “the date fixed for the determination of stockholders entitled to receive such dividend or other distribution”, “the date fixed for the determination of stockholders entitled to receive such rights or warrants” and “the date fixed for such determination” within the meaning of Section 12.4(a) and (b) and

(B) any shares of Common Stock included in such dividend or distribution shall not be deemed “outstanding at the close of business on the date fixed for such determination” within the meaning of Section 12.4(a).

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

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

(ii) the denominator of which shall be the number of shares of Common Stock outstanding (including any tendered or exchanged shares (including Purchased Shares)) at the Expiration Time multiplied by the Closing Sale Price on the Trading Day next succeeding the Expiration Time,

such adjustment to become effective immediately prior to the opening of business on the day following the Expiration Time. If the Company is obligated to purchase shares pursuant to any such tender or exchange offer, but the Company is permanently prevented by applicable law from effecting any such purchases or all such purchases are rescinded, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such tender or exchange offer had not been made.

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(B) In case of a tender or exchange offer made by a Person other than the Company or any Subsidiary for an amount that increases the offeror’s ownership of Common Stock to more than 25% of the Common Stock outstanding and shall involve the payment by such Person of consideration per share of Common Stock having a Fair Market Value (as determined by the Board of Directors, whose determination shall be conclusive, and described in a resolution of the Board of Directors) that as of the last time (the “**Offer Expiration Time**”) tenders or exchanges may be made pursuant to such tender or exchange offer (as it shall have been amended) exceeds the Closing Sale Price of a share of Common Stock on the Trading Day next succeeding the Offer Expiration Time, and in which, as of the Offer Expiration Time, the Board of Directors is not recommending rejection of the offer, the Conversion Rate shall be increased so that the same shall equal the rate determined by multiplying the Conversion Rate in effect immediately prior to the Offer Expiration Time by a fraction,

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

(ii) the denominator of which shall be the number of shares of Common Stock outstanding (including any tendered or exchanged shares (including Accepted Purchased Shares)) at the Offer Expiration Time multiplied by the Closing Sale Price on the Trading Day next succeeding the Offer Expiration Time,

such adjustment to become effective immediately prior to the opening of business on the day following the Offer Expiration Time. If such Person is obligated to purchase shares pursuant to any such tender or exchange offer, but such Person is permanently prevented by applicable law from effecting any such purchases or all such purchases are rescinded, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such tender or exchange offer had not been made. Notwithstanding the foregoing, the adjustment described in this Section 12.4(e)(B) shall not be made if, as of the Offer Expiration Time, the offering documents with respect to such offer disclose a plan or intention to cause the Company to engage in any transaction described in Article 6 or a binding share exchange.

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

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(1) “**Current Market Price**”, as of any date of determination, shall mean the average of the daily Closing Sale Prices for the ten consecutive Trading Days immediately preceding (A) in the case of a determination pursuant to Section 12.4(b), the date such issuance or distribution is publicly announced and (B) otherwise, the earlier of such date of determination and the day before the “ex” date with respect to the issuance, distribution, subdivision or combination requiring such computation immediately prior to the date in question. For purpose of this paragraph, the term “ex” date, (1) when used with respect to any issuance or distribution, means the first date on which the Common Stock trades, regular way, on the relevant exchange or in the relevant market from which the Closing Sale Price was obtained without the right to receive such issuance or distribution, and (2) when used with respect to any subdivision or combination of shares of Common Stock, means the first date on which the Common Stock trades, regular way, on such exchange or in such market after the time at which such subdivision or combination becomes effective.

If another issuance, distribution, subdivision or combination to which Section 12.4 applies occurs during the period applicable for calculating “Current Market Price” pursuant to the definition in the preceding paragraph, “Current Market Price” shall be calculated for such period in a manner determined by the Board of Directors to reflect the impact of such issuance, distribution, subdivision or combination on the Closing Sale Price during such period.

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

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

(g) The Company may make such increases in the Conversion Rate, in addition to those required by Section 12.4(a), (b), (c), (d) or (e) as the Board of Directors considers to be advisable to avoid or diminish any income tax to any holders of Common Stock or rights to purchase Common Stock resulting from any dividend or distribution of stock (or rights to acquire stock) or from any event treated as such for income tax purposes.

(h) To the extent permitted by applicable law, the Company from time to time may increase the Conversion Rate by any amount for any period of time if the period is at least twenty (20) days, the increase is irrevocable during the period and the Board of Directors shall have made a determination that such increase would be in the best interests of the Company, which determination shall be conclusive. Whenever the Conversion Rate is increased pursuant to the preceding sentence, the Company shall mail to Holders of record of the Securities a notice of the increase at least fifteen (15) days prior to the date the increased Conversion Rate takes effect, and such notice shall state the increased Conversion Rate and the period during which it will be in effect.

(i) No adjustment in the Conversion Rate shall be required unless such adjustment would require an increase or decrease of at least one percent (1%) in such rate; *provided* that any adjustments that by reason of this Section 12.4(h) are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Article 14 shall be made by the Company in good faith and shall be made to the nearest cent or to the nearest one-ten thousandth (1/10,000) of a share, as the case may be.

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(j) Whenever the Conversion Rate is adjusted as herein provided, the Company shall promptly file with the Trustee and any conversion agent other than the Trustee an Officers’ Certificate setting forth the Conversion Rate after such adjustment and setting forth a

brief statement of the facts requiring such adjustment. Unless and until a Responsible Officer of the Trustee shall have received such Officers' Certificate, the Trustee shall not be deemed to have knowledge of any adjustment of the Conversion Rate and may assume that the last Conversion Rate of which it has knowledge is still in effect. Promptly after delivery of such certificate, the Company shall prepare a notice of such adjustment of the Conversion Rate setting forth the adjusted Conversion Rate and the date on which each adjustment becomes effective and shall mail such notice of such adjustment of the Conversion Rate to the Holder of each Security at his last address appearing on the Register provided for in Section 2.5 of this Indenture, within twenty (20) days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of any such adjustment.

(k) In any case in which this Section 12.4 provides that an adjustment shall become effective immediately after (1) a record date or Distribution Record Date for an event (including without limitation, any event described in Section 12.4(d)), (2) the date fixed for the determination of stockholders entitled to receive a dividend or distribution pursuant to Section 12.4(a), (3) a date fixed for the determination of stockholders entitled to receive rights or warrants pursuant to Section 12.4(b), or (4) the Expiration Time for any tender or exchange offer pursuant to Section 12.4(e), (each a "**Determination Date**"), the Company may elect to defer until the occurrence of the applicable Adjustment Event (as hereinafter defined) (x) issuing to the Holder of any Security converted after such Determination Date and before the occurrence of such Adjustment Event, the additional shares of Common Stock or other securities issuable upon such conversion by reason of the adjustment required by such Adjustment Event over and above the Common Stock issuable upon such conversion before giving effect to such adjustment and (y) paying to such Holder any amount in cash in lieu of any fraction pursuant to Section 12.3. For purposes of this Section 12.4(k), the term "**Adjustment Event**" shall mean:

- (i) in any case referred to in clause (1) hereof, the occurrence of such event;
- (ii) in any case referred to in clause (2) hereof, the date any such dividend or distribution is paid or made;
- (iii) in any case referred to in clause (3) hereof, the date of expiration of such rights or warrants; and
- (iv) in any case referred to in clause (4) hereof, the date a sale or exchange of Common Stock pursuant to such tender or exchange offer is consummated and becomes irrevocable.

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

Section 12.5. Consolidation or Merger of the Company.

If any of the following events occurs, namely:

- (a) any reclassification or change of the outstanding Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination) as a result of which holders of Common Stock shall be entitled to receive capital stock, securities or other property or assets (including cash) with respect to or in exchange for such Common Stock;
- (b) any merger, consolidation, statutory share exchange or combination of the Company with another Person as a result of which holders of Common Stock shall be entitled to receive stock, securities or other property or assets (including cash or any combination thereof) with respect to or in exchange for such Common Stock; or
- (c) any sale or conveyance of all or substantially all of the properties and assets of the Company to any other Person as a result of which holders of Common Stock shall be entitled to receive stock, securities or other property or assets (including cash or any combination thereof) with respect to or in exchange for such Common Stock;

the Company or the successor or purchasing Person, as the case may be, shall execute with the Trustee a supplemental indenture (which shall comply with the Trust Indenture Act as in force at the date of execution of such supplemental indenture, if such supplemental indenture is then required to so comply) providing that such Securities shall be convertible into the kind and amount of shares of stock and other securities or property or assets (including cash) which such Holder would have been entitled to receive upon such reclassification, change, merger, consolidation, statutory share exchange, combination, sale or conveyance had such Securities been converted into Common Stock immediately prior to such reclassification, change, merger, consolidation, statutory share exchange, combination, sale or conveyance assuming such holder of Common Stock did not exercise its rights of election, if any, as to the kind or amount of securities, cash or other property receivable upon such merger, consolidation, statutory share exchange, sale or conveyance (*provided* that if the kind or amount of securities, cash or other property receivable upon such merger, consolidation, statutory share exchange, sale or conveyance is not the same for each share of Common Stock in respect of which such rights of election shall not have been exercised ("**Non-Electing Share**"), then for the purposes of this Section 12.5, the kind and amount of securities, cash or other property receivable upon such merger, consolidation, statutory share exchange, sale or conveyance for each Non-Electing Share shall be deemed to be the kind and amount so receivable per share by a plurality of the Non-Electing Shares). Such supplemental indenture shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Article 12. If, in the case of any such reclassification, change, merger, consolidation, statutory share exchange, combination, sale or conveyance, the stock or other securities and assets receivable thereupon by a holder of Common Stock includes shares of stock or other securities and assets of a Person other than the successor or purchasing Person, as the case may be, in such reclassification, change, merger, consolidation, statutory share exchange, combination, sale or conveyance, then such

supplemental indenture shall also be executed by such other Person and shall contain such additional provisions to protect the interests of the Holders as the Board of Directors shall reasonably consider necessary by reason of the foregoing, including to the extent practicable the provisions providing for the Fundamental Change Purchase Right set forth in Article 11 hereof.

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The Company shall cause notice of the execution of such supplemental indenture to be mailed to each Holder, at the address of such Holder as it appears on the register of the Securities maintained by the Registrar, within 20 days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of such supplemental indenture.

The above provisions of this Section 12.5 shall similarly apply to successive reclassifications, mergers, consolidations, statutory share exchanges, combinations, sales and conveyances.

If this Section 12.5 applies to any event or occurrence, Section 12.4 shall not apply.

Section 12.6. Notice of Adjustments of Conversion Rate.

Whenever the Conversion Rate is adjusted as herein provided (other than in the case of an adjustment pursuant to the second paragraph of Section 12.4(h) for which the notice required by such paragraph has been provided), the Company shall promptly file with the Trustee and any Conversion Agent other than the Trustee an Officers' Certificate setting forth the adjusted Conversion Price and showing in reasonable detail the facts upon which such adjustment is based. Promptly after delivery of such Officers' Certificate, the Company shall prepare a notice or press release stating that the Conversion Rate has been adjusted and setting forth the adjusted Conversion Rate and the date on which each adjustment becomes effective, shall issue such notice or press release through Dow Jones & Company Inc. or Bloomberg Business News and shall make the information available on the Company's website or through another public medium as the Company may use at such time. Failure to deliver such notice shall not affect the legality or validity of any such adjustment.

Section 12.7. Notice Prior to Certain Actions.

In case at any time after the date hereof:

(a) the Company shall become party to a consolidation or merger for which approval of any stockholders of the Company is required, or enters into the sale or conveyance to another Person or entity or group of Persons or entities acting in concert as a partnership, limited partnership, syndicate or other group (within the meaning of Rule 13d-3 under the Securities Exchange Act of 1934, as amended) of all or substantially all of the property and assets of the Company;

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(b) the Company shall declare a dividend (or any other distribution) on its Common Stock payable otherwise than in cash out of its capital surplus or its consolidated retained earnings;

(c) the Company shall authorize the granting to the holders of its Common Stock of rights or warrants to subscribe for or purchase any shares of any class (or of securities convertible into shares of any class) or of any other rights;

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

(e) there shall occur the voluntary or involuntary dissolution, liquidation or winding up of the Company;

the Company shall cause to be filed at each office or agency maintained for the purpose of conversion of securities pursuant to Section 9.2, and shall cause to be provided to the Trustee and all Holders in accordance with Section 14.2, at least 20 days (or 10 days in any case specified in clause (a) or (b) above) prior to the applicable record or effective date hereinafter specified, a notice stating:

(i) the date on which a record is to be taken for the purpose of such dividend, distribution, rights or warrants, or, if a record is not to be taken, the date as of which the holders of shares of Common Stock of record to be entitled to such dividend, distribution, rights or warrants are to be determined; or;

(ii) the date on which such reclassification, merger, consolidation, statutory share exchange, combination, sale, transfer, conveyance, dissolution, liquidation or winding up is expected to become effective, and the date as of which it is expected that holders of shares of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities, cash or other property deliverable upon such reclassification, merger, consolidation, statutory share exchange, sale, transfer, dissolution, liquidation or winding up.

Neither the failure to give such notice nor any defect therein shall affect the legality or validity of the proceedings or actions described in clauses (a) through (e) of this Section 12.6.

Section 12.8. Company to Reserve Common Stock: Registration, Listing.

(a) The Company shall at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued Common Stock, for the purpose of effecting the conversion of the Securities, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all Securities then outstanding into such Common Stock at any time (assuming that, at the time of the computation of such number of shares or securities, all such Securities would be held by a single Holder); *provided, however*, that nothing contained herein shall preclude the Company from satisfying its obligations in respect of the conversion of the Securities by delivery of purchased shares of Common Stock which are then held in the treasury of the Company.

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(b) If any shares of Common Stock which would be issuable upon conversion of Securities hereunder require registration with or approval of any governmental authority before such shares or securities may be issued upon such conversion, the Company will in good faith and as expeditiously as possible endeavor to cause such shares or securities to be duly registered or approved, as the case may be. The Company further covenants that so long as the Common Stock shall be listed on the New York Stock Exchange, the Company will, if permitted by the rules of such exchange, list and keep listed all Common Stock issuable upon conversion of the Securities, and the Company will endeavor to list the shares of Common Stock required to be delivered upon conversion of the Securities prior to such delivery upon any other national securities exchange upon which the outstanding Common Stock is listed at the time of such delivery.

Section 12.9. Common Stock to be Fully Paid and Nonassessable.

The Company covenants that all Common Stock which may be issued upon conversion of Securities will upon issue be fully paid and nonassessable and, except as provided in Section 12.10, the Company will pay all taxes, liens and charges with respect to the issue thereof.

Section 12.10. Taxes on Conversions.

Except as provided in the next sentence, the Company will pay any and all taxes (other than taxes on income) and duties that may be payable in respect of the issue or delivery of shares of Common Stock on conversion of Securities pursuant to Article 12. A Holder delivering a Security for conversion shall be liable for and will be required to pay any tax or duty which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock in a name other than that of the Holder of the Security or Securities to be converted, and no such issue or delivery shall be made unless the Person requesting such issue has paid to the Company the amount of any such tax or duty, or has established to the satisfaction of the Company that such tax or duty has been paid.

Section 12.11. Cancellation of Converted Securities.

All Securities delivered for conversion shall be delivered to the Trustee to be canceled by or at the direction of the Trustee.

Section 12.12. Responsibility of Trustee for Conversion Provisions.

The Trustee, subject to the provisions of Section 5.1, and any Conversion Agent shall not at any time be under any duty or responsibility to any Holder to determine whether any facts exist which may require any adjustment of the Conversion Rate, or with respect to the nature or intent of any such adjustments when made, or with respect to the method employed, or herein or in any supplemental indenture provided to be employed, in making the same. Neither the Trustee, subject to the provisions of Section 5.1, nor any Conversion Agent shall be accountable with respect to the validity or value (of the kind or amount) of any Common Stock or of any other securities or property, which may at any time be issued or delivered upon the conversion of any Security; and it or they do not make any representation with respect thereto. Neither the Trustee, subject to the provisions of Section 5.1, nor any Conversion Agent shall be responsible for any failure of the Company to make any cash payment or to issue, transfer or deliver any shares of stock or share certificates or other securities or property upon the surrender of any Security for the purpose of conversion; and the Trustee, subject to the provisions of Section 5.1, and any Conversion Agent shall not be responsible or liable for any failure of the Company to comply with any of the covenants of the Company contained in this Article.

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ARTICLE 13 SUBORDINATION

Section 13.1. Agreement of Subordination

(a) The Company covenants and agrees, and each Holder of Securities issued hereunder by its acceptance thereof likewise covenants and agrees, that all Securities shall be issued subject to the provisions of this Article 13; and each Person holding any Security, whether upon original issue or upon transfer, assignment or exchange thereof, accepts and agrees to be bound by such provisions.

(b) The payment of the Principal of and interest, and Additional Amounts, if any, on all Securities (and any Redemption Price or Fundamental Change Purchase Price in respect of Securities) issued hereunder shall, to the extent and in the manner hereinafter set forth, be subordinated and subject in right of payment to the prior payment in full in cash or other payment satisfactory to the holders of Senior Indebtedness of all Senior Indebtedness, whether outstanding at the date of this Indenture or thereafter incurred.

(c) No provision of this Article 13 shall prevent the occurrence of any Default or Event of Default hereunder.

Section 13.2. Payments To Holders

(a) No payment shall be made with respect to the Principal of or interest, and Additional Amounts, if any, on the Securities (including, but not limited to, any Redemption Price or Fundamental Change Purchase Price), except payments and distributions made by the Trustee as permitted by the first or second paragraph of Section 13.5, if:

(i) a default by the Company in the payment of principal of, or premium, if any, or interest on, rent or other payment obligations due on any Senior Indebtedness occurs and is continuing (or, in the case of Senior Indebtedness for which there is a period of grace, in the event of such a default that continues beyond the period of grace, if any, specified in the instrument or lease evidencing such Senior Indebtedness); or

(ii) a default, other than a payment default as described in clause (i) above, on any Designated Senior Indebtedness occurs and is continuing that permits the holders of such Designated Senior Indebtedness or their representatives to accelerate its maturity (or, in the case of a lease constituting Designated Senior Indebtedness, that permits the landlord under such lease either to terminate the lease or to require the Company to make an irrevocable offer to terminate the lease following an event of default thereunder) and the Company or the Trustee receives a notice that such default has occurred and is continuing (a “**Payment Blockage Notice**”) from a Representative or holder of Designated Senior Indebtedness or the Company.

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(b) Subject to the provisions of Section 13.5, if the Company or the Trustee receives any Payment Blockage Notice from any holder of Designated Senior Indebtedness or any Representative thereof pursuant to clause (ii) above, no subsequent Payment Blockage Notice shall be effective for purposes of this Section unless and until at least 365 days shall have elapsed since the initial effectiveness of the immediately prior Payment Blockage Notice. No nonpayment default that existed or was continuing on the date of delivery of any Payment Blockage Notice to the Trustee (unless such default was waived, cured or otherwise ceased to exist and thereafter subsequently reoccurred) shall be, or be made, the basis for a subsequent Payment Blockage Notice.

(c) The Company may and shall resume payments on and distributions in respect of the Securities upon the earlier of:

(i) in the case of a default referred to in clause (a)(i) above, the date upon which all such payments due in respect of such Senior Indebtedness have been paid in full in cash or other payment satisfactory to the holders of such Senior Indebtedness, or

(ii) in the case of a default referred to in clause (a)(ii) above, the earlier of (A) the date on which such default is cured, waived or ceased to exist or (B) 179 days after the date on which the applicable Payment Blockage Notice is received, unless this Article 13 otherwise prohibits the payment or distribution at the time of such payment or distribution; *provided*, that if such Designated Senior Indebtedness has been accelerated (or, in the case of a lease constituting Designated Senior Indebtedness, if as a result of such default the landlord under such lease has given the Company notice of its intention to terminate the lease or to require the Company to make an irrevocable offer to terminate the lease following an event of default thereunder), the Company shall make no payments on or distributions in respect of the Securities and the Trustee shall not receive or retain any such payments or distributions until such Designated Senior Indebtedness has been paid in full in cash or other payment satisfactory to the holders of that Designated Senior Indebtedness or such acceleration (or terminated, in the case of a lease constituting Designated Senior Indebtedness) has been cured or waived.

(d) Upon any payment by the Company, or distribution of assets of the Company of any kind or character, whether in cash, property or securities, to creditors upon any dissolution, winding-up, liquidation or reorganization of the Company (whether voluntary or involuntary) or in the event of bankruptcy, insolvency, receivership, assignment for the benefit of creditors or similar proceedings, all amounts due or to become due upon all Senior Indebtedness shall first be paid in full in cash, or other payments satisfactory to the holders of Senior Indebtedness, before any payment is made on account of the Principal of, premium, if any, or interest and Additional Amounts, if any, on the Securities (except payments made pursuant to Section 3.1 from monies deposited with the Trustee pursuant thereto prior to commencement of proceedings for such dissolution, winding-up, liquidation or reorganization); and upon any such dissolution or winding-up or liquidation or reorganization of the Company or bankruptcy, insolvency, receivership or other proceeding, any payment by the Company, or distribution of assets of the Company of any kind or character, whether in cash, property or securities, to which the Holders of the Securities or the Trustee would be entitled, except for the provision of this Article 13, shall (except as aforesaid) be paid by the Company or by any receiver, trustee in bankruptcy, liquidating trustee, agent or other Person making such payment or distribution, or by the Holders of the Securities or by the Trustee under this Indenture if received by them or it, directly to the holders of Senior Indebtedness (*pro rata* to such holders on the basis of the respective amounts of Senior Indebtedness held by such holders, or as otherwise required by law or a court order) or their representative or representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing any Senior Indebtedness may have been issued, as their respective interests may appear, to the extent necessary to pay all Senior Indebtedness in full in cash, or other payment satisfactory to the holders of Senior Indebtedness, after giving effect to any concurrent payment or distribution to or for the holders of Senior Indebtedness, before any payment or distribution is made to the Holders of the Securities or to the Trustee.

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(e) For purposes of this Article 13, the words, “cash, property or securities” shall not be deemed to include shares of stock of the Company as reorganized or readjusted, or securities of the Company or any other corporation provided for by a plan of reorganization or readjustment, the payment of which is subordinated at least to the extent provided in this Article 13 with respect to the Securities to the payment of all Senior Indebtedness which may at the time be outstanding; provided that (i) the Senior Indebtedness is assumed by the new corporation, if any, resulting from any reorganization or readjustment, and (ii) the rights of the holders of Senior Indebtedness (other than

leases which are not assumed by the Company or the new corporation, as the case may be) are not, without the consent of such holders, altered by such reorganization or readjustment. The consolidation of the Company with, or the merger of the Company into, another corporation or the liquidation or dissolution of the Company following the conveyance, transfer or lease of its property as an entirety, or substantially as an entirety, to another corporation upon the terms and conditions provided for in Article 6 shall not be deemed a dissolution, winding-up, liquidation or reorganization for the purposes of this Section 5.2 if such other corporation shall, as a part of such consolidation, merger, conveyance, transfer or lease, comply with the conditions stated in Article 6.

(f) In the event of any acceleration of the Securities because of an Event of Default, no payment or distribution shall be made to the Trustee or any Holder of Securities in respect of the Principal of or interest, or Additional Amounts, if any, on the Securities by the Company (including, but not limited to, any Redemption Price or Fundamental Change Purchase Price), except payments and distributions made by the Trustee as permitted by Section 13.5, until all Senior Indebtedness has been paid in full in cash or other payment satisfactory to the holders of Senior Indebtedness or such acceleration is rescinded in accordance with the terms of this Indenture. If payment of the Securities is accelerated because of an Event of Default, the Company shall promptly notify holders of Senior Indebtedness of such acceleration.

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(g) In the event that, notwithstanding the foregoing provisions, any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities (including, without limitation, by way of setoff or otherwise), prohibited by the foregoing, shall be received by the Trustee, any Paying Agent or the Holders of the Securities before all Senior Indebtedness is paid in full, in cash or other payment satisfactory to the holders of Senior Indebtedness, or provision is made for such payment thereof in accordance with its terms in cash or other payment satisfactory to the holders of Senior Indebtedness, such payment or distribution shall be held in trust for the benefit of and shall be paid over or delivered to the holders of Senior Indebtedness or their representative or representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing any Senior Indebtedness may have been issued, as their respective interests may appear, as calculated by the Company, for application to the payment of all Senior Indebtedness remaining unpaid to the extent necessary to pay all Senior Indebtedness in full, in cash or other payment satisfactory to the holders of Senior Indebtedness, after giving effect to any concurrent payment or distribution to or for the holders of such Senior Indebtedness.

(h) Nothing in this Section 13.2 shall apply to claims of, or payments to, the Trustee under or pursuant to Article 5. This Section 13.2 shall be subject to the further provisions of Section 13.5.

Section 13.3. Subrogation Of Securities

(a) Subject to the payment in full, in cash or other payment satisfactory to the holders of Senior Indebtedness, of all Senior Indebtedness, the rights of 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 13 (equally and ratably with the holders of all indebtedness of the Company which by its express terms is subordinated to other indebtedness of the Company to substantially the same extent as the Securities are subordinated and is entitled to like rights of subrogation) to the rights of the holders of Senior Indebtedness to receive payments or distributions of cash, property or securities of the Company applicable to the Senior Indebtedness until the Principal of and interest and Additional Amounts, if any, on the Securities shall be paid in full in cash or other payment satisfactory to the holders of Senior Indebtedness; and, for the 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 13, and no payment over pursuant to the provisions of this Article 13, to or for the benefit of the holders of Senior Indebtedness by Holders of the Securities or the Trustee, shall, as between the Company, its creditors other than holders of Senior Indebtedness, and the Holders of the Securities, be deemed to be a payment by the Company to or on account of the Senior Indebtedness; and no payments or distributions of cash, property or securities to or for the benefit of the Holders of the Securities pursuant to the subrogation provisions of this Article 13, which would otherwise have been paid to the holders of Senior Indebtedness shall be deemed to be a payment by the Company to or for the account of the Securities. It is understood that the provisions of this Article 13 are and are intended solely for the purposes of defining the relative rights of the Holders of the Securities, on the one hand, and the holders of the Senior Indebtedness, on the other hand.

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(b) Nothing contained in this Article 13 or elsewhere in this Indenture or in the Securities is intended to or shall impair, as among the Company, its creditors other than the 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, interest and Additional Amounts, if any, on the Securities as and when the same shall become due and payable in accordance with their terms, or is intended to or shall affect the relative rights of the Holders of the Securities and creditors of the Company other than the holders of the Senior Indebtedness, nor shall anything herein or therein prevent the Trustee or the Holder of any Security from exercising all remedies otherwise permitted by applicable law upon default under this Indenture, subject to the rights, if any, under this Article 13 of the holders of Senior Indebtedness in respect of cash, property or securities of the Company received upon the exercise of any such remedy.

(c) Upon any payment or distribution of assets of the Company referred to in this Article 5, the Trustee, subject to the provisions of Article 5, and the Holders of the Securities shall be entitled to rely upon any order or decree made by any court of competent jurisdiction in which such bankruptcy, dissolution, winding-up, liquidation or reorganization proceedings are pending, or a certificate of the receiver, trustee in bankruptcy, liquidating trustee, agent or other Person making such payment or distribution, delivered to the Trustee or to the Holders of the Securities, for the purpose of ascertaining the Persons entitled to participate in such distribution, the holders of the Senior Indebtedness and

other indebtedness of the Company, the amount thereof or payable thereon and all other facts pertinent thereto or to this Article 13.

Section 13.4. Authorization To Effect Subordination

Each Holder of a Security by the Holder's acceptance thereof authorizes and directs the Trustee on the Holder's behalf to take such action as may be necessary or appropriate to effectuate the subordination as provided in this Article 13 and appoints the Trustee to act as the Holder's attorney-in-fact for any and all such purposes. If the Trustee does not file a proper proof of claim or proof of debt in the form required in any proceeding referred to in Section 13.3 hereof at least 30 days before the expiration of the time to file such claim, the holders of any Senior Indebtedness or their representatives are hereby authorized to file an appropriate claim for and on behalf of the Holders of the Securities.

Section 13.5. Notice To Trustee

(a) The Company shall give prompt written notice in the form of an Officers' Certificate to a Responsible Officer of the Trustee and to any Paying Agent of any fact known to the Company which would prohibit the making of any payment of monies to or by the Trustee or any Paying Agent in respect of the Securities pursuant to the provisions of this Article 13. Notwithstanding the provisions of this Article 5 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 of monies to or by the Trustee in respect of the Securities pursuant to the provisions of this Article 13, unless and until a Responsible Officer of the Trustee shall have received written notice thereof at the Corporate Trust Office from the Company (in the form of an Officers' Certificate) or a Representative or a holder or holders of Senior Indebtedness or from any trustee, agent or other representative thereof; and before the receipt of any such written notice, the Trustee, subject to the provisions of Article 5, shall be entitled in all respects to assume that no such facts exist; provided that if on a date not less than one Business Day prior to the date upon which by the terms hereof any such monies may become payable for any purpose (including, without limitation, the payment of the principal of, or premium, if any, or interest on any Security) the Trustee shall not have received, with respect to such monies, the notice provided for in this Section 13.5, then, anything herein contained to the contrary notwithstanding, the Trustee shall have full power and authority to receive such monies and to apply the same to the purpose for which they were received, and shall not be affected by any notice to the contrary which may be received by it on or after such prior date. Notwithstanding anything in this Article 13 to the contrary, nothing shall prevent any payment by the Trustee to the Holders of monies deposited with it pursuant to Section 3.1 during the pendency of a Payment Blockage Notice, and any such payment shall not be subject to the provisions of Article 13.

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(b) The Trustee, subject to the provisions of Article 5, shall be entitled to rely on the delivery to it of a written notice by a Representative or a Person representing himself to be a holder of Senior Indebtedness (or a trustee, agent or other representative on behalf of such holder) to establish that such notice has been given by a Representative or a holder of Senior Indebtedness or a trustee, agent or other representative on behalf of any such holder or holders. 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 13, 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 5, and if such evidence is not furnished the Trustee may defer any payment to such Person pending judicial determination as to the right of such Person to receive such payment.

Section 13.6. Trustee's Relation To Senior Indebtedness

(a) The Trustee in its individual capacity shall be entitled to all the rights set forth in this Article 13 in respect of any Senior Indebtedness at any time held by it, to the same extent as any other holder of Senior Indebtedness, and nothing in Article 5 or elsewhere in this Indenture shall deprive the Trustee of any of its rights as such holder.

(b) With respect to the holders of Senior Indebtedness, the Trustee undertakes to perform or to observe only such of its covenants and obligations as are specifically set forth in this Article 13, and no implied covenants or obligations with respect to the holders of Senior Indebtedness shall be read into this Indenture against the Trustee. The Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Indebtedness and, subject to the provisions of Article 8, the Trustee shall not be liable to any holder of Senior Indebtedness if it shall pay over or deliver to Holders of Securities, the Company or any other Person money or assets to which any holder of Senior Indebtedness shall be entitled by virtue of this Article 13 or otherwise provided that such pay over or delivery occurs prior to first Business Day after the Trustee's receipt of written notice of any fact that would prohibit the making of such payment of monies or delivery of assets to or by the Trustee in respect of the Securities pursuant to the provisions of this Article 13.

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Section 13.7. No Impairment Of Subordination

(a) 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 noncompliance by the Company with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof which any such holder may have or otherwise be charged with.

(b) Without limiting the generality of Section 13.7(a), 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 5 or the obligations hereunder of the Holders of the Securities to the holders of Senior Indebtedness, do any one or more of the following: (1) change the manner, place or terms of payment or the amount of interest, fees or other amounts payable, in respect of Senior Indebtedness; (2) extend the time of payment of, or renew, increase or otherwise alter, Senior Indebtedness, or amend, waive, or otherwise modify any terms of any instrument or agreement of any kind evidencing, guaranteeing, securing or otherwise affecting or relating to Senior Indebtedness; (3) exchange, release, sell, fail to perfect any security interest or other Lien on or otherwise deal with, any property pledged, mortgaged or otherwise subject to a security interest or other Lien securing Senior Indebtedness; (4) release any guarantor or any other Person liable in any manner for the payment or collection of Senior Indebtedness; (5) exercise or fail to exercise any right, power, privilege, or remedy in respect of Senior Indebtedness or under any instrument or agreement evidencing, guaranteeing, securing or otherwise affecting or relating to Senior Indebtedness; (6) give or fail to give any notice, or take or fail to take any other action, required by law, by agreement or otherwise to preserve the rights of any holder of Senior Indebtedness or with respect to any property pledged, mortgaged or otherwise subject to a security interest or Lien securing Senior Indebtedness; (7) perform or fail to perform any obligation of the holder of Senior Indebtedness under any instrument or agreement evidencing, guaranteeing, securing or otherwise affecting or relating to Senior Indebtedness; or (8) take or fail to take any action that might otherwise constitute a defense available to, or a discharge of, the Company or any guarantor or other Person liable in respect of Senior Indebtedness or the Trustee in respect of this Indenture; provided, however, that in no event shall any such actions limit the right of the Holders of the Securities to take any action to accelerate the maturity of the Securities pursuant to Article 4 hereof or to pursue any rights or remedies hereunder or under applicable laws if the taking of such action does not otherwise violate the terms of this Indenture.

Section 13.8. Certain Conversions Deemed Payment

(a) For the purposes of this Article 13 only, (1) the issuance and delivery of junior securities upon conversion of Securities in accordance with Article 12 shall not be deemed to constitute a payment or distribution on account of the principal of or interest on Securities or on account of the purchase or other acquisition of Securities, and (2) the payment, issuance or delivery of cash (except in satisfaction of fractional shares pursuant to Section 12.3), property or securities (other than junior securities) upon conversion of a Security shall be deemed to constitute payment on account of the principal of such Security. For the purposes of this Section 13.8, the term “junior securities” means (a) shares of any stock of any class of the Company, or (b) securities of the Company which are subordinated in right of payment to all Senior Indebtedness which may be outstanding at the time of issuance or delivery of such securities to substantially the same extent as, or to a greater extent than, the Securities are so subordinated as provided in this Article. Nothing contained in this Article 13 or elsewhere in this Indenture or in the Securities is intended to or shall impair, as among the Company, its creditors other than holders of Senior Indebtedness and the Holders, the right, which is absolute and unconditional, of the Holder of any Security to convert such Security in accordance with Article 12.

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Section 13.9. Article Applicable To Paying Agents

(a) If 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 shall (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 in addition to or in place of the Trustee; provided, however, that Section 13.5(a) shall not apply to the Company or any Affiliate of the Company if it or such Affiliate acts as Paying Agent.

Section 13.10. Senior Indebtedness Entitled To Rely

(a) The holders of Senior Indebtedness (including, without limitation, Designated Senior Indebtedness) shall have the right to rely upon this Article 13, and no amendment or modification of the provisions contained herein (or in the definition of any defined term used in any of the provisions of this Article 13) shall diminish the rights of such holders unless such holders shall have agreed in writing thereto.

ARTICLE 14 OTHER PROVISIONS OF GENERAL APPLICATION

Section 14.1. Trust Indenture Act Controls.

This Indenture is subject to the provisions of the TIA which are required to be part of this Indenture, and shall, to the extent applicable, be governed by such provisions.

Section 14.2. Notices.

Any notice or communication to the Company or the Trustee is duly given if in writing (which may be by facsimile with the original to follow) and delivered in person or mailed by first-class mail to the address set forth below:

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(a) if to the Company:

Quantum Corporation
1650 Technology Drive, Suite 800
San Jose, California 95110

Attention: General Counsel
Fax: (408) 944-4040
Telephone: (408) 944-4000

With a copy to:

Wilson Sonsini Goodrich & Rosati,
Professional Corporation
650 Page Mill Road
Palo Alto, California 94304
Attention: Steve Bochner
Fax: (650) 493-6811
Telephone: (650) 493-9300

(b) if to the Trustee:

U.S. Bank National Association
633 West 5th Street, 24th Floor
Los Angeles, California 90071
Attn: Attention: Corporate Trust Services
(Quantum Corporation 4.375% Convertible Subordinated Notes due 2010)
Facsimile: (213) 615 6197
Telephone: (213) 615 6043

The Company or the Trustee by notice to the other may designate additional or different addresses for subsequent notices or communications.

Any notice or communication to a Holder shall be mailed by first class mail to his address shown on the Register kept by the Registrar. Failure to mail a notice or communication to a Holder or any defect in such notice or communication shall not affect its sufficiency with respect to other Holders. If the company mails a notice or communication to Holders, it shall mail a copy to the Trustee at the same time.

If a notice or communication is mailed or sent in the manner provided above within the time prescribed it is duly given as of the date it is mailed, whether or not the addressee receives it, except that notice to the Trustee shall only be effective upon receipt thereof by the Trustee.

Section 14.3. Communication by Holders with Other Holders.

Holdes may communicate pursuant to Section 312(b) of the TIA with other Holders with respect to their rights under the Securities or this Indenture. The Company, the Trustee, the Registrar and anyone else shall have the protection of Section 312(c) of the TIA.

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Section 14.4. Acts of Holders of Securities.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agent or proxy duly appointed in writing.

Except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments or record or both are delivered to the Trustee and, where it is hereby expressly required, to the Company. Such instrument or instruments and record (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 or proxy, or of the holding by any Person of a Security, shall be sufficient for any purpose of this Indenture and (subject to Section 5.1) conclusive in favor of the Trustee and the Company if made in the manner provided in this Section.

(b) The fact and date of the execution by any Person of any such instrument or writing may be provided in any manner which the Trustee reasonably deems sufficient.

(c) The Principal amount and serial numbers of Securities held by any Person, and the date of such Person holding the same, shall be proved by the Register.

(d) Any request, demand, authorization, direction, notice, consent, election, waiver or other Act of the Holders 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 in reliance thereon, whether or not notation of such action is made upon such Security.

Section 14.5. Certificate and Opinion as to Conditions Precedent.

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 an Opinion of Counsel, unless such Officer knows, or in the exercise of reasonable care should know, that the Opinion of Counsel with respect to the matters upon which such certificate or opinion is based is erroneous. Any such Opinion of Counsel may be based, insofar as it relates to factual matters, upon a certificate 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 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.

Upon any application or request by the Company to the Trustee to take any action under any provision of this Indenture, the Company shall furnish to the Trustee an Officers' Certificate stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such Counsel all such conditions precedent, if any, have been complied with, except that in the case of any such application or request as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or request, no additional certificate or opinion need be furnished; *provided, however*, that, at any time that an Opinion of Counsel is required to be delivered hereunder, the opining counsel may, with the consent of the Trustee, deliver to the Trustee the Opinion of Counsel in question addressed to a party other than the Trustee with text to the effect that the Trustee may rely on such opinion rather than by delivering a separate Opinion of Counsel to the Trustee directly.

Section 14.6. Statements Required in Certificate or Opinion.

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

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

Section 14.7. Effect of Headings and Table of Contents.

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

Section 14.8. Successors and Assigns.

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

Section 14.9. Separability Clause.

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

Section 14.10. Benefits of Indenture.

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

Section 14.11. Governing Law.

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

Section 14.12. Counterparts.

This instrument may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original but all such counterparts shall together constitute but one and the same instrument.

Section 14.13. Legal Holidays.

In any case where any Interest Payment Date, Redemption Date, Repurchase Date or Stated Maturity of any Security or the last day on which a Holder has a right to convert such Security shall not be a Business Day at any Place of Payment or Place of Conversion, then (notwithstanding any other provision of this Indenture or of the Securities) payment of Principal or interest on or conversion of the Securities, need not be made at such Place of Payment or Place of Conversion on such day, but may be made on the next succeeding Business Day at such Place of Payment or Place of Conversion with the same force and effect as if made on the Interest Payment Date, Redemption Date, Repurchase Date or at the Stated Maturity or on such last day for conversion; *provided, however*, that in the case that payment is made on such succeeding Business Day, no interest shall accrue on the amount so payable for the period from and after such Interest Payment Date, Redemption Date, Repurchase Date or Stated Maturity, as applicable.

Section 14.14. Recourse Against Others.

No recourse for the payment of the Principal of or interest on any Securities, or for any claim based thereon or otherwise in respect thereof, shall be had against any incorporator, stockholder, officer or director or manager, as such, past, present or future, of the Company of any successor entity to either the Company, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance thereof and as part of the consideration for the issue thereof, expressly waived and released.

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[SIGNATURE PAGE FOLLOWS]

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

QUANTUM CORPORATION

By: /s/ Michael Lambert
Name: Michael Lambert
Title: Executive Vice President and CFO

U.S. BANK NATIONAL ASSOCIATION,
As Trustee

By: /s/ Paula Oswald
Name: Paula Oswald
Title: Vice President

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EXHIBIT A

FORM OF SECURITY

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

THIS SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY DTC OR BY A NOMINEE OF DTC TO DTC OR ANOTHER NOMINEE OF DTC OR BY DTC OR ANY SUCH NOMINEE TO A SUCCESSOR OF DTC OR A NOMINEE OF SUCH SUCCESSOR.

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QUANTUM CORPORATION

4.375% Convertible Subordinated Notes due 2010

CUSIP NO. 747906 AD 7

No. _____ Principal Amount \$ _____

Quantum Corporation, a Delaware corporation (including any successor corporation under the Indenture hereinafter referred to, the "Company"), for value received, hereby promises to pay to Cede & Co., or its registered assigns, the principal sum of _____ U.S. Dollars (\$ _____) on August 1, 2010.

Interest Payment Dates: February 1 and August 1, commencing February 1, 2004.

Regular Record Dates: January 1 and July 15.

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

IN WITNESS WHEREOF, the Company has caused this Security to be duly executed manually or by facsimile by its duly authorized officers.

QUANTUM CORPORATION

By: _____
Name:
Title:

By: _____
Name:
Title:

Dated: _____, 2003

Trustee's Certificate of Authentication

This is one of the 4.375% Convertible Subordinated Notes due 2010 described in the within-named Indenture.

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: _____
Authorized Signatory

Dated: _____, 20__

QUANTUM CORPORATION

4.375% Convertible Subordinated Notes due 2010

SECTION 1 Indenture; Securities.

This Security is one of a duly authorized series of the 4.375% Convertible Subordinated Notes due 2010 (the "Securities") of Quantum Corporation, a Delaware corporation (including any successor Person under the Indenture hereinafter referred to, the "Company"), issued under an Indenture, dated as of July 30, 2003 (the "Indenture"), between the Company and U.S. Bank National Association, as trustee (the "Trustee"). The terms of the Security include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended ("TIA"). This Security is subject to all such terms, and Holders are referred to the Indenture and the TIA for a statement of all such terms. To the extent permitted by applicable law, in the event of any inconsistency or difference between the terms of this Security and the terms of the Indenture, the terms of the Indenture shall control. Capitalized terms used but not defined herein have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

SECTION 2 Principal and Interest.

The Company promises to pay interest on the Principal amount of the Securities at the interest rate of 4.375% per annum from July 30, 2003 until repayment in full at Stated Maturity, or until such date on which the Securities are converted redeemed or purchased as provided herein. The Company will pay interest on this Security semi-annually in arrears on February 1 and August 1 of each year (each, an "Interest Payment Date"), commencing February 1, 2004.

Interest on the Securities shall be computed (i) for any full semi-annual period for which a particular interest rate is applicable, on the

basis of a 360-day year comprised of twelve 30-day months and (ii) for any period for which a particular interest rate is applicable for less than a full semi-annual period for which interest is calculated, on the basis of a 30-day month and, for such periods of less than a month, the actual number of days elapsed over a 30-day month.

Further reference is made to Sections 2.1(c) through Section 2.1(f) of the Indenture for other provisions of the Securities relating to the payment of interest.

If the Principal amount hereof or any portion of such Principal amount or any interest on any Security is not paid when due (whether upon acceleration pursuant to Section 4.2 of the Indenture, upon the date set for payment of the Redemption Prices pursuant to Section 10.1 of the Indenture or the Fundamental Change Purchase Price pursuant to Section 11.1 of the Indenture or upon the Stated Maturity of this Security), then in each such case the overdue amount shall, to the extent permitted by law, bear interest at the rate of interest borne by the Securities, up to the expiration of any applicable grace period and, thereafter, at the rate borne by the Securities plus 1%, compounded semi-annually (“**Defaulted Interest**”), which interest shall accrue from the date on which such overdue amount was originally due until the date on which such payment default is cured or waived. All Defaulted Interest shall be payable on demand. It may elect to pay such Defaulted Interest, plus any other interest payable on it, to the Persons who are Holders on which the interest is due on a subsequent special record date. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each such Security. The Company shall fix any such special record date and payment date for such payment. At least 15 days before any such special record date, the Company shall mail to Holders affected thereby a notice that states the special record date, the Interest Payment Date and amount to be paid.

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SECTION 3 Method of Payment.

Except as provided below, interest will be paid (i) on the Global Securities to DTC in immediately available funds, (ii) on any Physical Securities having an aggregate Principal amount of \$2,000,000 or less, by check mailed to the Holders of such Securities; and (iii) on any Physical Securities having an aggregate Principal amount of more than \$2,000,000, by check mailed to the Holders of such Securities or by wire transfer in immediately available funds at the election of the Holders of these Securities.

At Stated Maturity the Company will pay interest on definitive Securities at the Company’s office or agency in New York City, which initially will be the Corporate Trust Office of the Trustee in New York City.

Principal on Physical Securities will be payable, upon Stated Maturity or when due, at the office or agency of the Company in New York City, maintained for such purpose, initially the Corporate Trust Office of the Trustee in New York City.

Subject to the terms and conditions of the Indenture, the Company will make payments in cash in respect of Redemption Prices, any Fundamental Change Purchase Price and at Stated Maturity to Holders who surrender Securities to a Paying Agent to collect such payments in respect of the Securities. The Company will pay cash amounts in money of the United States that at the time of payment is legal tender for payment of public and private debts. However, the Company may make such cash payments by check payable in such money.

SECTION 4 Paying Agent, Conversion Agent and Registrar.

Initially, U.S. Bank National Association will act as Paying Agent, Conversion Agent and Registrar. The Company may appoint and change any Paying Agent, Conversion Agent or Registrar without notice, other than notice to the Trustee; provided that the Company will maintain at least one Paying Agent in the State of New York, City of New York, Borough of Manhattan, which shall initially be an office or agency of the Trustee. The Company or any of its Subsidiaries or any of their Affiliates may act as Paying Agent, Conversion Agent or Registrar.

SECTION 5 Indenture.

The Securities are general unsecured subordinated obligations of the Company limited to \$160,000,000 in aggregate Principal amount (or up to \$184,000,000 if the Initial Purchasers exercise in full their option to purchase additional Securities pursuant to the Purchase Agreement). The Indenture does not limit other indebtedness of the Company, secured or unsecured.

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SECTION 6 Optional Redemption.

Reference is made to Article 10 of the Indenture regarding the Company’s right to optionally redeem the Securities, which is incorporated into this Security by reference as if stated herein in its entirety.

SECTION 7 Purchase Right Upon a Fundamental Change.

Reference is made to Article 11 of the Indenture regarding the Company’s obligations to the Holders upon a Fundamental Change and the Holders’ rights to require the Company to repurchase their Securities upon a Fundamental Change, which is incorporated into this Security by reference as if stated herein in its entirety.

SECTION 8 Conversion Right.

Reference is made to Article 12 of the Indenture regarding the Holders' right to convert their Securities and related matters, which is incorporated into this Security by reference as if stated herein in its entirety.

SECTION 9 Subordination of Securities.

The indebtedness evidenced by the Securities is, to the extent and in the manner provided in Article 13 of the Indenture, expressly subordinate and subject in right of payment to the prior payment in full of all Senior Indebtedness of the Company, as defined in the Indenture, whether outstanding at the date of the Indenture or thereafter incurred, and this Security is issued subject to the provisions of the Indenture with respect to such subordination. Each holder of this Security, by accepting the same, agrees to and shall be bound by such provisions and authorizes the Trustee on its behalf to take such action as may be necessary or appropriate to effectuate the subordination so provided and appoints the Trustee his or her attorney-in-fact for such purpose.

SECTION 10 No Sinking Fund.

The Securities are not subject to a sinking fund.

SECTION 11 Absolute Obligation.

No reference herein to the Indenture and no provision of this Security or of the Indenture shall alter or impair the obligation of the Company under the Indenture and this Security which is absolute and unconditional, to pay the Principal of or interest on this Security, and Additional Amounts, if any, at the place and time and in the coin or currency herein prescribed or to convert this Security as provided in the Indenture.

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SECTION 12 Denominations; Transfer; Exchange.

The Securities are issuable in registered form, without coupons, in denominations of \$1,000 and integral multiples of \$1,000 in excess thereof. A Holder may transfer and register the transfer or exchange of Securities in accordance with the Indenture.

Pursuant to the Indenture, when this Security (or any portion thereof in integral multiples of \$1,000 in principle amount) is presented to the Registrar with a request to register the transfer or to exchange it for an equal Principal amount other authorized denominations, the Registrar shall register the transfer or make the exchange as requested if the requirements hereunder for such transactions are met (including that such portions thereof are duly endorsed or accompanied by a written instrument of transfer duly executed by the Holder thereof or by an attorney who is authorized in writing to act on behalf of the Holder). Subject to Section 2.4 of the Indenture, to permit registrations of transfers and exchanges the Company shall execute, and the Trustee shall authenticate, Securities at the Registrar's request. No service charge shall be made for any registration of transfer or exchange or redemption of the Securities, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or other similar governmental charge payable upon exchanges pursuant to Sections 2.14, 7.5 or 10.7 of the Indenture).

Pursuant to the Indenture, neither the Company nor the Registrar shall be required to exchange or register a transfer of this Security (or any portion thereof):

- (a) for a period of 15 days prior to the day of any selection of Securities for redemption under Article 10 hereof;
- (b) selected for redemption (except, in the case of Securities to be redeemed in part, the portion thereof not to be redeemed);
- (c) in respect of which a Fundamental Change Purchase Notice has been given and not withdrawn by the Holder thereof in accordance with the terms of this Indenture (except, in the case of Securities to be purchased in part, the portion thereof not to be purchased); or
- (d) surrendered for conversion or, if a portion of any Security is surrendered for conversion, such portion thereof surrendered for conversion.

In the event of redemption, conversion or purchase of the Securities in part only, a new Security or Securities for the unredeemed, unconverted or unpurchased portion thereof will be issued in the name of the Holder hereof.

SECTION 13 Persons Deemed Owners.

The registered Holder of this Security shall be treated as its owner for all purposes.

SECTION 14 Discharge Prior to Redemption or Stated Maturity.

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Subject to certain conditions contained in the Indenture, the Company may discharge its obligations under the Securities and the Indenture if (1)(A) all of the Outstanding Securities shall become due and payable at their scheduled Stated Maturity within one year or (B) all of the Outstanding Securities are scheduled for redemption within one year or have all been converted, and (2) the Company shall have

deposited with the Trustee cash or, in the event of a conversion pursuant to the terms of the Indenture, Common Stock, sufficient to pay all amounts due and owing on all Outstanding Securities on the date of their scheduled maturity or the scheduled date of redemption, as the case may be.

SECTION 15 Amendment; Supplement; Waiver.

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

SECTION 16 Defaults and Remedies.

Reference is made to Article 4 of the Indenture for the Events of Default, remedies and related provisions with respect to the Securities, which is incorporated into this security by reference as if stated herein in its entirety.

SECTION 17 Authentication.

This Security shall not be valid until the Trustee executes the certificate of authentication in the space provided therefore on the Security.

SECTION 18 Abbreviations.

Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian) and U/G/M/A (= Uniform Gifts to Minors Act).

SECTION 19 CUSIP Numbers.

Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused one or more CUSIP numbers, as appropriate, to be printed on this Security and the Trustee may use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on this Security or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

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SECTION 20 Governing Law.

The Indenture and this Security shall be governed by, and construed in accordance with, the laws of the State of New York.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture which has in it the text of this Security in larger type. Requests may be made to:

QUANTUM CORPORATION
1650 Technology Drive, Suite 800
San Jose, California 95110
Attn: General Counsel
Facsimile No.: (408) 944-4040

SECTION 21 Successor Corporation.

In the event a successor Person assumes all the obligations of the Company under this Security, pursuant to the terms hereof and of the Indenture, the Company will be released from all such obligations.

SECTION 22 Registration Rights.

The Holders of the Securities are entitled to the benefits of a Resale Registration Rights Agreement, dated as of July 30, 2003, among the Company, Lehman Brothers Inc., Morgan Stanley & Co. Incorporated, and McDonald Investments Inc., including the receipt of Additional Amounts upon a registration default (as defined in such agreement).

A-8

ASSIGNMENT FORM

To assign this Security, fill in the form below and have your signature guaranteed: (I) or (we) assign and transfer this Security to:

(Insert assignee's social security or tax I.D. number)

(Print or type assignee's name, address and zip code)

and irrevocably appoint _____ to transfer this Security on the books of the Company. The agent may substitute another to act for him.

Your Name: _____
(Print your name exactly as it appears on the face of this Security)

In connection with any transfer of this Security occurring prior to the date which is the end of the period referred to in Rule 144(k) under the Securities Act (other than a transfer pursuant to an effective registration statement under the Securities Act), the undersigned confirms that without utilizing any general solicitation or general advertising that:

[Check One]

(a) this Security is being transferred in compliance with the exemption from registration under the Securities Act of 1933, as amended, provided by Rule 144A thereunder.

or

(b) this Security is being transferred other than in accordance with (a) above and documents are being furnished which comply with the conditions of transfer set forth in this Security and the Indenture.

If none of the foregoing boxes is checked, the Trustee or other Registrar shall not be obligated to register this Security in the name of any Person other than the Holder hereof unless the conditions to any such transfer of registration set forth herein and in Sections 2.7, 2.8 and 2.17 of the Indenture shall have been satisfied.

Dated: _____

Your Signature: _____
(Sign exactly as your name appears on the face of this Security)

Signature Guarantee*: _____

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

A-9

TO BE COMPLETED BY PURCHASER IF (a) ABOVE IS CHECKED.

The undersigned represents and warrants that it is purchasing this Security for its own account or an account with respect to which it exercises sole investment discretion, in each case for investment and not with a view to distribution, and that it and any such account is a "Qualified Institutional Buyer" within the meaning of Rule 144A under the Securities Act of 1933 and is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Company as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon the undersigned's foregoing representations in order to claim the exemption from registration provided by Rule 144A.

Dated: _____

NOTICE: To be executed by an executive officer.

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SCHEDULE OF EXCHANGES FOR PHYSICAL SECURITIES

The following exchanges of a part of this Global Security for Physical Securities have been made:

<u>Date of Exchange</u>	<u>Amount of decrease in Principal Amount of this Global Security</u>	<u>Amount of increase in Principal Amount of this Global Security</u>	<u>Principal Amount of this Global Security following such decrease (or increase)</u>	<u>Signature of authorized officer of Trustee</u>
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FORM OF FUNDAMENTAL CHANGE PURCHASE NOTICE

TO: Quantum Corporation
1650 Technology Drive, Suite 800
San Jose, California 95110

The undersigned registered owner of this Security hereby irrevocably acknowledges receipt of a notice from Quantum Corporation (the "**Company**") as to the occurrence of a Fundamental Change with respect to the Company and requests and instructs the Company to repay the entire Principal amount of this Security, or the portion thereof (which is \$1,000 Principal amount or an integral multiple thereof) below designated, in accordance with the terms of the Indenture referred to in this Security, together with interest, and Additional Amounts, if any, accrued and unpaid to, but excluding, such date, to the registered Holder hereof.

Your Name: _____
(Print your name exactly as it appears on the face of this Security)

Dated: _____

Your Signature: _____
(Sign exactly as your name appears on the face of this Security)

Signature Guarantee*: _____

Social Security or other Taxpayer Identification Number: _____

Principal amount to be converted (if less than all): \$ _____

Certificate number (if applicable): _____

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

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FORM OF CONVERSION NOTICE

TO: Quantum Corporation
1650 Technology Drive, Suite 800
San Jose, California 95110

The undersigned registered owner of this Security hereby irrevocably exercises the option to convert this Security, or the portion hereof (which is \$1,000 Principal amount or an integral multiple thereof) below designated, into shares of Common Stock in accordance with the terms of the Indenture referred to in this Security, and directs that the shares issuable and deliverable upon such conversion, together with any check in payment for fractional shares and any Securities representing any unconverted Principal amount hereof, be issued and delivered to the registered Holder hereof unless a different name has been indicated below. If shares or any portion of this Security not converted are to be issued in the name of a Person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto. To the extent provided in the Indenture, any amount required to be paid to the undersigned on account of interest, if any, accompanies this Security.

Your Name: _____
(Print your name exactly as it appears on the face of this Security)

Dated: _____

Your Signature: _____
(Sign exactly as your name appears on the face of this Security)

Signature Guarantee*: _____

Social Security or other Taxpayer Identification Number: _____

Principal amount to be converted (if less than all): \$ _____

Fill in for registration of shares (if to be issued) and Securities (if to be delivered) other than to and in the name of the registered Holder

(Name)

(Street Address)

(City, State and Zip Code)

* *Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).*

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**Resale Registration Rights Agreement
among
Quantum Corporation,
Lehman Brothers Inc.,
Morgan Stanley & Co. Incorporated
and
McDonald Investments Inc.
Dated as of July 30, 2003**

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Resale Registration Rights Agreement, dated as of July 30, 2003, among Quantum Corporation, a Delaware corporation (together with any successor entity, herein referred to as the “**Company**”), and Lehman Brothers Inc., Morgan Stanley & Co. Incorporated and McDonald Investments Inc. (the “**Initial Purchasers**”).

Pursuant to the Purchase Agreement, dated July 25, 2003, between the Company and the Initial Purchasers (the “**Purchase Agreement**”), the Initial Purchasers have agreed to purchase from the Company \$160,000,000 aggregate principal amount of 4.375% Convertible Subordinated Notes due 2010 (the “**Notes**”) (\$184,000,000 aggregate principal amount if the Initial Purchasers exercise in full their option to purchase additional Notes, as set forth in the Purchase Agreement). The Notes initially will be convertible into fully paid, nonassessable common stock, par value \$0.01 per share, of the Company (the “**Common Stock**”) on the terms, and subject to the conditions, set forth in the Indenture (as defined herein). To induce the Initial Purchasers to purchase the Notes, the Company has agreed to provide the registration rights set forth in this Agreement pursuant to the Purchase Agreement.

The parties hereby agree as follows:

1. Definitions. As used in this Agreement, the following capitalized terms shall have the following meanings:

Additional Amounts: As defined in Section 3(a) hereof.

Additional Amounts Payment Date: Each Interest Payment Date. For purposes of this Agreement, if no Notes are outstanding, “Additional Amounts Payment Date” shall mean, each February 1 and August 1 commencing February 1, 2004.

Affiliate: As such term is defined in Rule 405 under the Securities Act.

Agreement: This Resale Registration Rights Agreement, as amended, modified or otherwise supplemented from time to time in accordance with the terms hereof.

Blue Sky Application: As defined in Section 6(a) hereof.

Broker-Dealer: Any broker or dealer registered under the Exchange Act.

Business Day: A day other than a Saturday or Sunday or any day on which banking institutions in New York City are authorized or obligated by law or executive order to close.

Closing Date: The date of this Agreement.

Commission: Securities and Exchange Commission.

Common Stock: As defined in the preamble hereto.

Company: As defined in the preamble hereto.

Effectiveness Period: As defined in Section 2(a)(iii) hereof.

Effectiveness Target Date: As defined in Section 2(a)(ii) hereof.

Exchange Act: Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission thereunder.

Holder: A Person who owns, beneficially or otherwise, Transfer Restricted Securities.

Indemnified Holder: As defined in Section 6(a) hereof.

Indenture: The Indenture, dated as of July 30, 2003, between the Company and U.S. National Bank Association as trustee, pursuant to which the Notes are to be issued, as such Indenture is amended, modified or supplemented from time to time in accordance with the terms thereof.

Initial Purchasers: As defined in the preamble hereto.

Interest Payment Date: Each February 1 and August 1 of each year, commencing February 1, 2004.

Majority of Holders: Holders holding more than 50% of the aggregate principal amount of Notes outstanding at the time of determination; *provided* that, for the purpose of this definition, a holder of shares of Common Stock which constitute Transfer Restricted Securities when issued upon conversion of Notes shall be deemed to hold an aggregate principal amount of Notes (in addition to the principal amount of Notes held by such holder) equal to the product of (x) the number of such shares of Common Stock received upon conversion of Notes then held by such holder and (y) the prevailing conversion price, such prevailing conversion price as determined in accordance with Section 12.1 of the Indenture.

NASD: National Association of Securities Dealers, Inc.

NYSE: New York Stock Exchange.

Notes: As defined in the preamble hereto.

Person: An individual, partnership, corporation, unincorporated organization, limited liability company, trust, joint venture or a government or agency or political subdivision thereof.

Prospectus: The prospectus included in a Shelf Registration Statement, as amended or supplemented by any prospectus supplement and by all other amendments thereto, including post-effective amendments, and all material incorporated by reference into such Prospectus.

Purchase Agreement: As defined in the preamble hereto.

2.

Questionnaire: As defined in Section 2(b) hereof.

Record Holder: With respect to any Additional Amounts Payment Date, each Person who is a Holder on the record date with respect to the Interest Payment Date on which such Additional Amounts Payment Date shall occur, or if no Notes are outstanding, each January 15 and July 15, commencing on January 15, 2004. In the case of a Holder of shares of Common Stock issued upon conversion of the Notes, "Record Holder" shall mean each Person who is a Holder of shares of Common Stock which constitute Transfer Restricted Securities on the January 15th or July 15th preceding the relevant Additional Amounts Payment Date.

Registration Default: As defined in Section 3(a) hereof.

Sales Notice: As defined in Section 4(e) hereof.

Securities Act: Securities Act of 1933, as amended, and the rules and resolutions of the Commission thereunder.

Shelf Filing Deadline: As defined in Section 2(a)(i) hereof.

Shelf Registration Statement: As defined in Section 2(a)(i) hereof.

Suspension Period. As defined in Section 4(b)(i) hereof.

TIA: Trust Indenture Act of 1939, as amended, and the rules and regulations of the Commission thereunder, in each case, as in effect on the date the Indenture is qualified under the TIA.

3.

Transfer Restricted Securities: Each Note and each share of Common Stock issued upon conversion of Notes until the earliest to occur of:

- (i) the date on which such Note or such shares of Common Stock issued upon conversion thereof has been effectively registered under the Securities Act and disposed of in accordance with the Shelf Registration Statement;
- (ii) the date on which such Note or such shares of Common Stock issued upon conversion thereof (A) has been transferred in compliance with Rule 144 under the Securities Act or (B) may be sold or transferred by a person who is not an Affiliate of the Company pursuant to Rule 144 under the Securities Act (or any other similar provision then in force) without any volume or manner of sale restrictions thereunder; or
- (iii) the date on which such Note or such shares of Common Stock issued upon conversion thereof ceases to be outstanding (whether as a result of redemption, repurchase and cancellation, conversion or otherwise).

Trustee: As defined in Section 1.1 of the Indenture.

Underwritten Registration or Underwritten Offering: A registration in which securities of the Company are sold to an underwriter for reoffering to the public.

2. Shelf registration.

(a) The Company shall:

- (i) not later than 90 days after the date hereof (the “**Shelf Filing Deadline**”), cause to be filed a registration statement pursuant to Rule 415 under the Securities Act (together with any amendments thereto, and including any documents incorporated by reference therein, the “**Shelf Registration Statement**”), which Shelf Registration Statement shall provide for resales of all Transfer Restricted Securities held by Holders that have provided the information required pursuant to the terms of Section 2(b) hereof;
- (ii) use its reasonable efforts to cause the Shelf Registration Statement to be declared effective by the Commission not later than 180 days after the date hereof (the “**Effectiveness Target Date**”); and
- (iii) use its reasonable efforts to keep the Shelf Registration Statement continuously effective, supplemented and amended as required by the provisions of Section 4(b) hereof to the extent necessary to ensure that (A) it is available for resales by the Holders of Transfer Restricted Securities entitled to the benefit of this Agreement and (B) conforms with the requirements of this Agreement and the Securities Act until the earliest to occur (the “**Effectiveness Period**”) of:
 - (1) two years following the last date of original issuance of Notes; or
 - (2) the date when (x) all of the Holders of Transfer Restricted Securities (other than the Company and its Affiliates) are able to sell all Transfer Restricted Securities immediately pursuant to Rule 144(k) under the Securities Act or any successor rule thereto, (y) when all Transfer Restricted Securities have ceased to be outstanding (whether as a result of redemption, repurchase and cancellation, conversion or otherwise) or (z) all Transfer Restricted Securities have been registered under the Shelf Registration Statement and have been sold.

(b) To have its Transfer Restricted Securities included in the Shelf Registration Statement pursuant to this Agreement, each Holder shall complete the Selling Securityholder Notice and Questionnaire as specified in Section 4(d) hereof, the form of which is contained in Exhibit A to this Agreement (the “**Questionnaire**”). The Company shall mail the Questionnaire to Holders not later than 30 calendar days prior to the date the Company intends, in good faith, to have the Shelf Registration Statement declared effective by the Commission.

3. *Additional Amounts.*

(a) If:

- (i) the Shelf Registration Statement is not filed with the Commission prior to or on the Shelf Filing Deadline;
- (ii) the Shelf Registration Statement has not been declared effective by the Commission prior to or on the Effectiveness Target Date;
- (iii) except as provided in Section 4(b)(i) hereof, the Shelf Registration Statement is filed and declared effective but, during the Effectiveness Period, shall thereafter cease to be effective or fail to be usable for its intended purpose without being succeeded within five Business Days by a post-effective amendment to the Shelf Registration Statement, a supplement to the Prospectus or a report filed with the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act that cures such failure and, in the case of a post-effective amendment, is itself immediately declared effective; or
- (iv)(A) prior to or on the 30th or 60th day, as the case may be, of any Suspension Period, such suspension has not been terminated or (B) Suspension Periods exceed an aggregate of 90 days in any 360 day period,

(each such event referred to in foregoing clauses (i) through (iv), a “**Registration Default**”), the Company hereby agrees to pay additional amounts (“**Additional Amounts**”) with respect to the Transfer Restricted Securities from and including the day following the Registration Default to but excluding the earliest to occur of (1) the day on which the Registration Default has been cured and (2) the date the Shelf Registration Statement is not longer required to be kept effective, pursuant to Section 2(a), accruing at a rate:

(A) in respect of the Notes, to each holder of Notes, (x) with respect to the first 90-day period during which a Registration Default shall have occurred and be continuing, equal to 0.25% per annum of the principal amount of the Notes, and (y) with respect to the period commencing on the 91st day following the day the Registration Default shall have occurred and be continuing, equal to 0.50% per annum of the principal amount of the Notes; *provided* that in no event shall Additional Amounts accrue at a rate per year exceeding 0.50% of the principal amount of the Notes; and

(B) in respect of any shares of Common Stock issued upon conversion of the Notes, to each holder of shares of Common Stock, (x) with respect to the first 90-day period in which a Registration Default shall have occurred and be continuing, equal to 0.25% per annum of the principal amount of the Notes converted into such shares of Common Stock and (y) with respect to the period commencing on the 91st day following the day the Registration Default shall have occurred and be continuing, equal to 0.50% per annum of the principal amount of the Notes converted into such shares of Common Stock; *provided* that in no event shall Additional Amounts accrue at a rate per year exceeding 0.50% of the principal amount of the Notes converted into such shares of Common Stock.

(b) All accrued Additional Amounts shall be paid in arrears to Record Holders by the Company on each Additional Amounts Payment Date by wire transfer of immediately available funds or by federal funds check. Following the cure of all Registration Defaults relating to any particular Notes or shares of Common Stock issued upon conversion of Notes, the accrual of Additional Amounts with respect to such Notes or such shares of Common Stock shall cease. The Company agrees to deliver all notices, certificates and other documents contemplated by the Indenture in connection with the payment of Additional Amounts.

No Additional Amounts shall accrue with respect to any Transfer Restricted Security from and after the earlier of the date on which such security cease to be a Transfer Restricted Security and the expiration of the Effectiveness Period. All obligations of the Company set forth in this Section 3 that are outstanding with respect to any Transfer Restricted Security at the time such security ceases to be a Transfer Restricted Security shall survive until such time as all such obligations with respect to such Transfer Restricted Security shall have been satisfied in full.

The Additional Amounts set forth above shall be the exclusive monetary remedy available to the Holders of Transfer Restricted Securities for such Registration Default.

4. *Registration Procedures.*

(a) In connection with the Shelf Registration Statement, the Company shall comply with all the provisions of Section 4(b) hereof and shall use its reasonable efforts to effect such registration to permit the sale of the Transfer Restricted Securities being sold in accordance with the intended method or methods of distribution thereof, and pursuant thereto, shall as expeditiously as possible prepare and file with the Commission a Shelf Registration Statement relating to the registration on any appropriate form under the Securities Act.

(b) In connection with the Shelf Registration Statement and any Prospectus required by this Agreement to permit the sale or resale of Transfer Restricted Securities, the Company shall:

(i) Subject to any notice by the Company in accordance with this Section 4(b) of the existence of any fact or event of the kind described in Section 4(b)(iii)(D) and the Company's right to invoke a Suspension Period (as defined in below) in the manner described in this Section 4(b)(i), use its reasonable efforts to keep the Shelf Registration Statement continuously effective during the Effectiveness Period; upon the occurrence of any event that would cause the Shelf Registration Statement or the Prospectus contained therein (A) to contain a material misstatement or omission or (B) not be effective and usable for resale of Transfer Restricted Securities during the Effectiveness Period, unless a Suspension Period is then in effect the Company shall file promptly an appropriate amendment to the Shelf Registration Statement, a supplement to the Prospectus or a report filed with the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act, in the case of clause (A), correcting any such misstatement or omission, and, in the case of either clause (A) or (B), use its reasonable efforts to cause such amendment to be declared effective and the Shelf Registration Statement and the related Prospectus to become usable for their intended purposes as soon as practicable thereafter. Notwithstanding the foregoing, the Company may suspend the effectiveness of the Shelf Registration Statement by written notice to the Holders for a period not to exceed an aggregate of 30 days in any 90-day period, or 90 days in any 360-day period (each such period, a "**Suspension Period**"), if:

6.

(x) an event occurs and is continuing as a result of which the Shelf Registration Statement would, in the Company's reasonable judgment, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; and

(y) the Company reasonably determines that the disclosure of such event at such time would have a material adverse effect on the business of the Company and its subsidiaries, taken as a whole;

provided that, in the event the disclosure relates to a previously undisclosed proposed or pending material business transaction, the disclosure of which the Company's board of directors determines would impede the Company's ability to consummate such transaction, the Company may extend a Suspension Period from 30 days to 60 days; *provided, however*, that Suspension Periods shall in no event exceed an aggregate of 90 days in any 360-day period. The Company shall not be required to specify in the written notice to the Holders the nature of the event giving rise to the Suspension Period.

(ii) Prepare and file with the Commission such amendments and post-effective amendments to the Shelf Registration Statement as may be necessary to keep the Shelf Registration Statement effective during the Effectiveness Period; cause the Prospectus to be supplemented by any required Prospectus supplement, and as so supplemented to be filed pursuant to Rule 424 under the Securities Act, and to comply fully with the applicable provisions of Rules 424 and 430A under the Securities Act in a timely manner; and comply with the provisions of the Securities Act with respect to the disposition of all securities covered by the Shelf Registration Statement during the applicable period in accordance with the intended method or methods of distribution by the sellers thereof set forth in the Shelf Registration Statement or supplement to the Prospectus.

(iii) Advise the underwriter(s), if any, and selling Holders promptly (but in any event within three Business Days) and, if requested by such Persons, to confirm such advice in writing:

(A) when the Prospectus or any Prospectus supplement or post-effective amendment has been filed, and, with respect to the Shelf Registration Statement or any post-effective amendment thereto, when the same has become effective;

7.

(B) of any request by the Commission for amendments to the Shelf Registration Statement or amendments or supplements to the Prospectus or for additional information relating thereto;

(C) of the issuance by the Commission of any stop order suspending the effectiveness of the Shelf Registration Statement under the Securities Act or of the suspension by any state securities commission of the qualification of the Transfer Restricted Securities for offering or sale in any jurisdiction, or the initiation of any proceeding for any of the preceding purposes; or

(D) of the existence of any fact or the happening of any event, during the Effectiveness Period (but not as to the substance of any such fact or event), that makes any statement of a material fact made in the Shelf Registration Statement, the Prospectus, any amendment or supplement thereto, or any document incorporated by reference therein untrue, or that requires the making of any additions to or changes in the Shelf Registration Statement or the Prospectus in order to make the statements therein not misleading.

If at any time the Commission shall issue any stop order suspending the effectiveness of the Shelf Registration Statement, or any state securities commission or other regulatory authority shall issue an order suspending the qualification or exemption from qualification of the Transfer Restricted Securities under state securities or Blue Sky laws, the Company shall use its reasonable efforts to obtain promptly the withdrawal or lifting of such order and will provide to the Initial Purchasers and each Holder who is named in the Shelf Registration Statement prompt notice of the withdrawal of any such order.

(iv) If requested by any selling Holders or the underwriter(s), if any, promptly incorporate in the Shelf Registration Statement or Prospectus, pursuant to a supplement or post-effective amendment if necessary, such information as such selling Holders and underwriter(s), if any, may reasonably request to have included therein, including, without limitation: (1) information relating to the “Plan of Distribution” of the Transfer Restricted Securities, (2) information with respect to the principal amount of Notes or number of shares of Common Stock issuable upon conversion of Notes being sold to such underwriter(s), (3) the purchase price being paid therefor and (4) any other terms of the offering of the Transfer Restricted Securities to be sold in such offering; *provided* that with respect to any information requested for inclusion by a selling Holder, this clause (vi) shall apply only to information that relates to the Transfer Restricted Securities to be sold by such selling Holder; and make all required filings of such Prospectus supplement or post-effective amendment as soon as reasonably practicable after the Company is notified of the matters to be incorporated in such Prospectus supplement or post-effective amendment.

8.

(v) Furnish to each selling Holder and each of the underwriter(s), if any, without charge, at least one copy of the Shelf Registration Statement, as first filed with the Commission, and of each amendment thereto (and any documents incorporated by reference therein or exhibits thereto (or exhibits incorporated in such exhibits by reference) as such Person may request).

(vi) Deliver to each selling Holder and each of the underwriter(s), if any, without charge, as many copies of the Prospectus (including each preliminary prospectus) and any amendment or supplement thereto as such Persons reasonably may request; subject to any notice by the Company in accordance with this Section 4(b) of the existence of any fact or event of the kind described in Section 4(b)(iii) (D), the Company hereby consents to the use of the Prospectus and any amendment or supplement thereto by each of the selling Holders and each of the underwriter(s), if any, in connection with the offering and the sale of the Transfer Restricted Securities covered by the Prospectus or any amendment or supplement thereto.

(vii) The Company shall:

(A) set forth in full in the underwriting agreement, if any, indemnification provisions and procedures which provide rights no less protective than those set forth in Section 6 hereof with respect to all parties to be indemnified; and

(B) deliver such other documents and certificates as may be reasonably requested by such parties to evidence compliance with clause (A) above and with any customary conditions contained in the underwriting agreement or other agreement entered into by the selling Holders pursuant to this clause (ix).

(viii) Before any public offering of Transfer Restricted Securities, cooperate with the selling Holders, the underwriter(s), if any, and their respective counsel in connection with the registration and qualification of the Transfer Restricted Securities under the securities or Blue Sky laws of such jurisdictions in the United States as the selling Holders or underwriter(s), if any, may reasonably request and do any and all other acts or things necessary or advisable to enable the disposition in such jurisdictions of the Transfer Restricted Securities covered by the Shelf Registration Statement; *provided, however*, that the Company shall not be required (A) to register or qualify as a foreign corporation or a dealer of securities where it is not now so qualified or to take any action that would subject it to the service of process in any jurisdiction where it is not now so subject or (B) to subject itself to taxation in any such jurisdiction if it is not now so subject.

(ix) Cooperate with the selling Holders and the underwriter(s), if any, to facilitate the timely preparation and delivery of certificates representing Transfer Restricted Securities to be sold and not bearing any restrictive legends (unless required by applicable securities laws); and enable such Transfer Restricted Securities to be in such denominations and registered in such names as the Holders or the underwriter(s), if any, may request at least two Business Days before any sale of Transfer Restricted Securities made by such underwriter(s).

9.

(x) Use its reasonable efforts to cause the Transfer Restricted Securities covered by the Shelf Registration Statement to be registered with or approved by such other U.S. governmental agencies or authorities as may be necessary to enable the seller or sellers thereof or the underwriter(s), if any, to consummate the disposition of such Transfer Restricted Securities.

(xi) Subject to Section 4(b)(i) hereof, if any fact or event contemplated by Section 4(b)(iii)(D) hereof shall exist or have occurred, use its reasonable efforts to prepare a supplement or post-effective amendment to the Shelf Registration Statement or related Prospectus or any document incorporated therein by reference or file any other required document so that, as thereafter delivered to the purchasers of Transfer Restricted Securities, the Prospectus will not contain an untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading; *provided* that the Company shall not be required to comply with the obligations in this Section 4(b)(xiii) during any Suspension Period.

(xii) Provide CUSIP numbers for all Transfer Restricted Securities not later than the effective date of the Shelf Registration Statement and provide the Trustee under the Indenture with certificates for the Notes that are in a form eligible for deposit with The Depository Trust Company.

(xiii) Cooperate and assist in any filings required to be made with the NASD and the NYSE and in the performance of any due diligence investigation by any underwriter that is required to be retained in accordance with the rules and regulations of the NASD and the NYSE.

(xiv) Otherwise use its reasonable efforts to comply with all applicable rules and regulations of the Commission and all reporting requirements under the Exchange Act.

(xv) Cause the Indenture to be qualified under the TIA not later than the effective date of the Shelf Registration Statement required by this Agreement, and, in connection therewith, cooperate with the Trustee and the holders of Notes to effect such changes to the Indenture as may be required for such Indenture to be so qualified in accordance with the terms of the TIA; and execute and use its reasonable efforts to cause the Trustee thereunder to execute all documents that may be required to effect such changes and all other forms and documents required to be filed with the Commission to enable such Indenture to be so qualified in a timely manner.

(xvi) Cause all Common Stock covered by the Shelf Registration Statement to be listed or quoted, as the case may be, on each securities exchange or automated quotation system on which similar securities issued by the Company are then listed or quoted.

10.

(c) Each Holder agrees by acquisition of a Transfer Restricted Security that, upon receipt of any notice from the Company of the existence of any fact of the kind described in Section 4(b)(iii)(D) hereof, such Holder will, and will use its reasonable efforts to cause any underwriter(s) in an Underwritten Offering to, forthwith discontinue disposition of Transfer Restricted Securities pursuant to the Shelf Registration Statement until:

(i) such Holder has received copies of the supplemented or amended Prospectus contemplated by Section 4(b)(xiii) hereof; or,

(ii) such Holder is advised in writing by the Company that the use of the Prospectus may be resumed, and has received copies of any additional or supplemental filings that are incorporated by reference in the Prospectus.

Each Holder agrees to keep the existence and receipt of a Suspension Notice confidential. If so directed by the Company, each Holder will deliver to the Company (at the Company's expense) all copies, other than permanent file copies then in such Holder's possession, of the Prospectus covering such Transfer Restricted Securities that was current at the time of receipt of such notice of suspension.

(d) Each Holder who intends to be named as a selling Holder in the Shelf Registration Statement shall complete the Questionnaire and deliver it to the Company within 20 Business Days after the date of a written request therefor by the Company (which request shall include a copy of the Questionnaire). Holders who do not complete the Questionnaire and deliver it to the Company prior to effectiveness of the Shelf Registration Statement shall not be eligible to be named as selling securityholders in the Prospectus or preliminary Prospectus included in the Shelf Registration Statement at the time of effectiveness thereof and, therefore, shall not be permitted to sell any Transfer Restricted Securities pursuant to the Shelf Registration Statement. Upon receipt of a completed Questionnaire following the effectiveness of the Shelf Registration Statement, the Company shall use its reasonable efforts to file, within 10 Business Days after such Questionnaire is received, any amendments or supplements to the Shelf Registration Statement or supplements to a related Prospectus as are necessary to allow such Holder to be named as a selling Holder in the Prospectus included therein and to permit such Holder to transfer its Transfer Restricted Securities pursuant to the Shelf Registration Statement. The Company shall pay the Additional Amounts described in Section 3(a) to such Holder in respect of such Holder's Transfer Restricted Securities if the Company fails to make such filings within such period or, if such filing is a post-effective amendment, if such amendment is not declared effective within 45 days of such filing. Notwithstanding any of the foregoing, the Company shall not be required to file more than one post-effective amendment to the Shelf Registration Statement in any fiscal quarter. In addition, each Holder who intends to be named as a selling Holder in the Shelf Registration Statement shall promptly respond to the Company by providing such other information as the Company may from time to time reasonably request in writing regarding the Holder and the proposed distribution by such Holder of its Transfer Restricted Securities in connection with the Shelf Registration Statement or Prospectus or preliminary Prospectus included therein.

11.

(e) Upon the effectiveness of the Shelf Registration Statement, each Holder shall notify the Company at least three Business Days prior to any intended distribution of Transfer Restricted Securities pursuant to the Shelf Registration Statement (a "**Sale Notice**"), which notice shall be effective for five Business Days. Each Holder of Transfer Restricted Securities, by accepting the same, agrees to hold any communication by the Company in response to a Sale Notice in confidence.

5. *Registration Expenses.*

(a) All expenses incident to the Company's performance of or compliance with this Agreement shall be borne by the Company regardless of whether a Shelf Registration Statement becomes effective, including, without limitation:

- (i) all registration and filing fees and expenses (including filings made by any Initial Purchasers or Holders with the NASD);
- (ii) all fees and expenses of compliance with federal securities and state Blue Sky or securities laws;
- (iii) all expenses of printing (including printing of Prospectuses and certificates for the shares of Common Stock to be issued upon conversion of the Notes) and the Company's messenger and delivery services and telephone expenses;
- (iv) all fees and disbursements of counsel to the Company and, subject to Section 5(b) below, the Holders of Transfer Restricted Securities;
- (v) all application and filing fees in connection with listing (or authorizing for quotation) the Common Stock issuable on conversion of the Notes on a national securities exchange or automated quotation system pursuant to the requirements hereof; and
- (vi) all fees and disbursements of independent certified public accountants of the Company (including the expenses of any special audit and comfort letters required by or incident to such performance).

The Company shall bear its internal expenses (including, without limitation, all salaries and expenses of its officers and employees performing legal, accounting or other duties), the expenses of any annual audit and the fees and expenses of any Person, including special experts, retained by the Company.

(b) In connection with the Shelf Registration Statement required by this Agreement, including any amendment or supplement thereto, and any other documents delivered to any Holders, the Company shall reimburse the Initial Purchasers and the Holders of Transfer Restricted Securities being registered pursuant to the Shelf Registration Statement, as applicable, for the reasonable fees and disbursements of not more than one counsel, which shall be Simpson Thacher & Bartlett LLP, or such other counsel as may be chosen by a Majority of Holders for whose benefit the Shelf Registration Statement is being prepared. The Holders of Transfer Restricted Securities being registered shall be responsible for all underwriting commissions and discounts, if any, attributable to the sale of such Transfer Restricted Securities.

12.

6. *Indemnification and Contribution.*

(a) The Company shall indemnify and hold harmless each Holder, such Holder's officers, directors and employees and each person, if any, who controls such Holder within the meaning of the Securities Act (each, an "**Indemnified Holder**"), from and against any loss, claim, damage or liability, joint or several, or any action in respect thereof (including, but not limited to, any loss, claim, damage, liability or action relating to resales of the Transfer Restricted Securities), to which such Indemnified Holder may become subject, insofar as any such loss, claim, damage, liability or action arises out of, or is based upon:

- (i) any untrue statement or alleged untrue statement of a material fact contained in (A) the Shelf Registration Statement or Prospectus or any amendment or supplement thereto or (B) any blue sky application or other document or any amendment or supplement thereto prepared or executed by the Company (or based upon written information furnished by or on behalf of the Company expressly for use in such blue sky application or other document or amendment on supplement) filed in any jurisdiction specifically for the purpose of qualifying any or all of the Transfer Restricted Securities under the securities law of any state or other jurisdiction (such application or document being hereinafter called a "**Blue Sky Application**"); or
- (ii) the omission or alleged omission to state therein any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading,

and shall reimburse each Indemnified Holder promptly upon demand for any legal or other expenses reasonably incurred by such Indemnified Holder in connection with investigating or defending or preparing to defend against any such loss, claim, damage, liability or action as such expenses are incurred; *provided, however*, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage, liability or action arises out of, or is based upon, (A) any untrue statement or alleged untrue statement or omission or alleged omission made in the Shelf Registration Statement or Prospectus or amendment or supplement thereto or Blue Sky Application or other document referred to in Section 6(a)(i) hereof in reliance upon and in conformity with written information furnished to the Company by or on behalf of any Holder (or its related Indemnified Holder) specifically for use therein, or (B) the failure by the Holder or Indemnified Holder to deliver to any purchaser of its Transfer Restricted Securities the Prospectus and any supplement or amendment thereto in the form provided to such Holder or Indemnified Holder by the Company if such Holder is required to so deliver pursuant to the prospectus delivery requirements of the Securities Act. The foregoing indemnity agreement is in addition to any liability which the Company may otherwise have to any Indemnified Holder.

(b) Each Holder, severally and not jointly, shall indemnify and hold harmless the Company, its officers, directors and employees and each person, if any, who controls the Company within the meaning of the Securities Act, from and against any loss, claim, damage or liability, joint or several, or any action in respect thereof, to which the Company or any such officer, director, employee or controlling person may become subject, insofar as any such loss, claim, damage or liability or action arises out of, or is based upon:

(i) any untrue statement or alleged untrue statement of any material fact contained in the Shelf Registration Statement or Prospectus or any amendment or supplement thereto or any Blue Sky Application or other document referred to in Section 6(a)(i) hereof; or

(ii) the omission or the alleged omission to state therein any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading,

but in each case only to the extent that such untrue statement or alleged untrue statement or omission or alleged omission was made in reliance upon and in conformity with written information furnished to the Company by or on behalf of such Holder (or its related Indemnified Holder) specifically for use therein, and shall reimburse the Company and any such officer, employee or controlling person promptly upon demand for any legal or other expenses reasonably incurred by the Company or any such officer, employee or controlling person in connection with investigating or defending or preparing to defend against any such loss, claim, damage, liability or action as such expenses are incurred. The foregoing indemnity agreement is in addition to any liability which any Holder may otherwise have to the Company and any such officer, director, employee or controlling person.

(c) Promptly after receipt by an indemnified party under this Section 6 of notice of any claim or the commencement of any action, the indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under this Section 6, notify the indemnifying party in writing of the claim or the commencement of that action; *provided, however*, that the failure to notify the indemnifying party shall not relieve it from any liability which it may have under this Section 6 except to the extent it has been materially prejudiced by such failure and, *provided, further*, that the failure to notify the indemnifying party shall not relieve it from any liability which it may have to an indemnified party otherwise than under this Section 6. If any such claim or action shall be brought against an indemnified party, and it shall notify the indemnifying party thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it wishes, jointly with any other similarly notified indemnifying party, to assume the defense thereof with counsel satisfactory to the indemnified party. After notice from the indemnifying party to the indemnified party of its election to assume the defense of such claim or action, the indemnifying party shall not be liable to the indemnified party under this Section 6 for any legal or other expenses subsequently incurred by the indemnified party in connection with the defense thereof other than reasonable costs of investigation; *provided, however*, that a Majority of Holders shall have the right to employ a single counsel to represent jointly a Majority of Holders and their respective officers, directors, employees and controlling persons who may be subject to liability arising out of any claim in respect of which indemnity may be sought by a Majority of Holders against the Company under this Section 6, if a Majority of Holders seeking indemnification shall have been advised by counsel that there may be one or more legal defenses available to them and their respective officers, employees and controlling persons that are different from or additional to those available to the Company and its officers, directors, employees and controlling persons, the fees and expenses of a single separate counsel shall be paid by the Company. No indemnifying party shall:

(i) without the prior written consent of the indemnified parties (which consent shall not be unreasonably withheld) settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent includes an unconditional release of each indemnified party from all liability arising out of such claim, action, suit or proceeding; or

(ii) be liable for any settlement of any such action effected without its written consent (which consent shall not be unreasonably withheld), but if settled with its written consent or if there be a final judgment for the plaintiff in any such action, the indemnifying party agrees to indemnify and hold harmless any indemnified party from and against any loss or liability by reason of such settlement or judgment.

(d) If the indemnification provided for in this Section 6 shall for any reason be unavailable or insufficient to hold harmless an indemnified party under Section 6(a) or 6(b) in respect of any loss, claim, damage or liability (or action in respect thereof) referred to therein, each indemnifying party shall, in lieu of indemnifying such indemnified party, contribute to the amount paid or payable by such indemnified party as a result of such loss, claim, damage or liability (or action in respect thereof):

(i) in such proportion as is appropriate to reflect the relative benefits received by the Company from the offering and sale of the Transfer Restricted Securities on the one hand and a Holder with respect to the sale by such Holder of the Transfer Restricted Securities on the other; or

(ii) if the allocation provided by clause (6)(d)(i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause 6(d)(i) but also the relative fault of the Company on the one hand and the Holders on the other in connection with the statements or omissions or alleged statements or alleged omissions that resulted in such loss, claim, damage or liability (or action in respect thereof), as well as any other relevant equitable considerations.

The relative benefits received by the Company on the one hand and a Holder on the other with respect to such offering and such sale shall be deemed to be in the same proportion as the total net proceeds from the offering of the Notes purchased under the Purchase Agreement (before deducting expenses) received by the Company on the one hand, bear to the total proceeds received by such Holder with respect to its sale of Transfer Restricted Securities on the other. The relative fault of the parties shall be determined by reference to whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company on the one hand or the Holders on the other, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and each Holder agree that it would not be just and equitable if the amount of contribution pursuant to this Section 6(d) were determined by *pro rata* allocation or by any other method of allocation that does not take into account the equitable considerations referred to in the first sentence of this paragraph (d). The amount paid or payable by an indemnified party as a result of the loss, claim, damage or liability, or action in respect thereof, referred to above in this Section 6 shall be deemed to include, for purposes of this Section 6, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending or preparing to defend any such action or claim. Notwithstanding the provisions of this Section 6, no Holder shall be required to contribute any amount in excess of the amount by which the total price at which the Transfer Restricted Securities purchased by it were resold exceeds the amount of any damages which such Holder has otherwise been required to pay by reason of any untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Holders' obligations to contribute as provided in this Section 6(d) are several and not joint.

15.

7. **Rule 144A.** In the event the Company is not subject to Section 13 or 15(d) of the Exchange Act, the Company hereby agrees with each Holder, for so long as any Transfer Restricted Securities remain outstanding, to make available to any Holder or beneficial owner of Transfer Restricted Securities in connection with any sale thereof and any prospective purchaser of such Transfer Restricted Securities from such Holder or beneficial owner, the information required by Rule 144A(d)(4) under the Securities Act in order to permit resales of such Transfer Restricted Securities pursuant to Rule 144A.

8. **Participation in Underwritten Registrations.** The Holders of Transfer Restricted Securities covered by the Shelf Registration Statement who desire to do so may sell such Transfer Restricted Securities in an Underwritten Offering if approved by the Company in its sole discretion; *provided, however*, that no Holder may participate in any Underwritten Registration hereunder unless such Holder:

(i) agrees to sell such Holder's Transfer Restricted Securities on the basis provided in any underwriting arrangements approved by the Persons entitled hereunder to approve such arrangements; and

(ii) completes and executes all reasonable questionnaires, powers of attorney, indemnities, underwriting agreements, lock-up letters and other documents required under the terms of such underwriting arrangements.

9. **Selection of Underwriters.** In any Underwritten Offering, the investment banker or investment bankers and manager or managers that will administer the offering will be selected by a Majority of Holders whose Transfer Restricted Securities are included in such offering.

10. **Miscellaneous.**

(a) **Remedies.** The Company acknowledges and agrees that any failure by the Company to comply with its obligations under Section 2 hereof may result in material irreparable injury to the Initial Purchasers or the Holders for which there is no adequate remedy at law, that it will not be possible to measure damages for such injuries precisely and that, in the event of any such failure, the Initial Purchasers or any Holder may obtain such relief as may be required to specifically enforce the Company's obligations under Section 2 hereof; *provided* that specific performance shall be the sole equitable remedy available to Holders hereunder. The Company further agrees to waive the defense in any action for specific performance that a remedy at law would be adequate.

16.

(b) **Actions Affecting Transfer Restricted Securities.** The Company shall not, directly or indirectly, take any action with respect to the Transfer Restricted Securities as a class that would adversely affect the ability of the Holders of Transfer Restricted Securities to include such Transfer Restricted Securities in a registration undertaken pursuant to this Agreement.

(c) **No Inconsistent Agreements.** The Company will not, on or after the date of this Agreement, enter into any agreement with respect to its securities that is inconsistent with the rights granted to the Holders in this Agreement or otherwise conflicts with the provisions hereof. In addition, the Company shall not grant to any of its security holders (other than the Holders of Transfer Restricted Securities in such capacity) the right to include any of its securities in the Shelf Registration Statement provided for in this Agreement other than the Transfer Restricted Securities. The Company has not previously entered into any agreement (which has not expired or been terminated) granting any registration rights with respect to its securities to any Person which rights conflict with the provisions hereof.

(d) **Amendments and Waivers.** This Agreement may not be amended, modified or supplemented, and waivers or consents to or departures from the provisions hereof may not be given, unless the Company has obtained the written consent of a Majority of Holders or such greater percentage of the Holders as required by the Indenture.

(e) **Notices.** All notices and other communications provided for or permitted hereunder shall be made in writing by hand-delivery, first-class mail (registered or certified, return receipt requested), telex, facsimile transmission, or air courier guaranteeing overnight delivery:

(i) if to a Holder, at the address set forth on the records of the registrar under the Indenture or the transfer agent of the Common Stock, as the case may be; and

(ii) if to the Company:

Quantum Corporation
1650 Technology Drive, Suite 800,
San Jose, CA 95110
Attention: General Counsel
Fax: (408) 944 4040
Telephone: (408) 944 4000

With a copy to:

Wilson Sonsini Goodrich & Rosati, Professional Corporation
650 Page Mill Road
Palo Alto, CA 94304
Attention: Steven Bochner, Esq.
Fax: (650) 493-8311
Telephone: (650) 493 9300

17.

All such notices and communications shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when answered back, if telexed; when receipt acknowledged, if transmitted by facsimile; and on the next Business Day, if timely delivered to an air courier guaranteeing overnight delivery.

(f) **Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties, including, without limitation and without the need for an express assignment, subsequent Holders of Transfer Restricted Securities; *provided, however*, that (i) this Agreement shall not inure to the benefit of or be binding upon a successor or assign of a Holder unless and to the extent such successor or assign acquired Transfer Restricted Securities from such Holder and (ii) nothing contained herein shall be deemed to permit any assignment, transfer or other disposition of Transfer Restricted Securities in violation of the terms of the Purchase Agreement or the Indenture. If any transferee of any Holder shall acquire Transfer Restricted Securities, in any manner, whether by operation of law or otherwise, such Transfer Restricted Securities shall be held subject to all of the terms of this Agreement, and by taking and holding such Transfer Restricted Securities such person shall be conclusively deemed to have agreed to be bound by and to perform all of the terms and provisions of this Agreement.

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

(h) **Securities Held by the Company or its Affiliates.** Whenever the consent or approval of Holders of a specified percentage of Transfer Restricted Securities is required hereunder, Transfer Restricted Securities held by the Company or its Affiliates shall not be counted in determining whether such consent or approval was given by the Holders of such required percentage.

(i) **Headings.** The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

(j) **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the law of the State of New York.

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

18.

(l) **Confidentiality.** Notwithstanding anything in this Agreement to the contrary, the Company and each prospective investor (and any employee, representative or other agent of the Company or any prospective investor) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the transactions contemplated by this Agreement and all materials of any kind (including opinions or other tax analyses) that are provided to it relating to such tax treatment and tax structure. However, any such information relating to the tax treatment or tax structure is required to be kept confidential to the extent necessary to comply with any applicable federal or state securities laws.

(m) **Entire Agreement.** This Agreement is intended by the parties as a final expression of their agreement and intended to be a complete and exclusive statement of the agreement and understanding of the parties hereto in respect of the subject matter contained herein. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein with respect to the registration rights granted by the Company with respect to the Transfer Restricted Securities. This Agreement supersedes all prior agreements and understandings between the parties with respect to such subject matter.

[SIGNATURE PAGE FOLLOWS]

19.

In Witness Whereof, the parties have executed this Agreement as of the date first written above.

QUANTUM CORPORATION

By /s/ Michael Lambert
Name: Michael Lambert
Title: Executive Vice President and CFO

LEHMAN BROTHERS, INC.
MORGAN STANLEY & CO. INCORPORATED
MCDONALD INVESTMENTS INC.

By:

LEHMAN BROTHERS INC.

By /s/ Barbara M. Byrne
Name: Barbara Byrne
Title: Managing Director

MORGAN STANLEY & CO. INCORPORATED

By /s/ Colm Callan
Name: Colm Callan
Title: Vice President

[SIGNATURE PAGE TO RESALE REGISTRATION RIGHTS AGREEMENT]

EXHIBIT A
QUANTUM CORPORATION

FORM OF SELLING SECURITYHOLDER NOTICE AND QUESTIONNAIRE

The undersigned beneficial owner of 4.375% Convertible Subordinated Notes due 2010 (CUSIP No. 747906 AD 7) (the “Notes”), or common stock, par value \$0.01 issuable upon conversion thereof (the “Common Stock” and together with the Notes, the “Transfer Restricted Securities”) of Quantum Corporation, a Delaware corporation (the “Company”), understands that the Company has filed, or intends shortly to file, with the Securities and Exchange Commission (the “Commission”) a registration statement on Form S-3 or such other form as may be available (the “Shelf Registration Statement”), for the registration and resale under Rule 415 of the Securities Act of 1933, as amended (the “Securities Act”), of the Transfer Restricted Securities in accordance with the terms of the Resale Registration Rights Agreement, dated as of July 30, 2003 (the “Registration Rights Agreement”) among the Company, Lehman Brothers Inc., Morgan Stanley & Co. Incorporated and McDonald Investments Inc. A copy of the Registration Rights Agreement is available from the Company upon request at the address set forth below. All capitalized terms not otherwise defined herein have the meaning ascribed thereto in the Registration Rights Agreement.

Each beneficial owner of Transfer Restricted Securities is entitled to the benefits of the Registration Rights Agreement. In order to sell or otherwise dispose of any Transfer Restricted Securities pursuant to the Shelf Registration Statement, a beneficial owner of Transfer Restricted Securities generally will be required to be named as a selling securityholder in the related Prospectus, deliver a Prospectus to purchasers of Transfer Restricted Securities and be bound by those provisions of the Registration Rights Agreement applicable to such beneficial owner (including certain indemnification rights and obligations, as described below). Beneficial owners that do not complete this Notice and Questionnaire and deliver it to Quantum will not be permitted to be named as selling securityholders in the prospectus included in the Shelf Registration statement at the time of effectiveness thereof and, therefore, will not be permitted to sell any Transfer Restricted Securities pursuant to the Shelf Registration Statement. The Company has obligations to use its reasonable efforts to name beneficial owners in the Shelf Registration Statement as selling securityholders in certain other circumstances described in the Registration Rights Agreement. The Company has agreed to pay additional amounts pursuant to the Registration Rights Agreement under certain circumstances as set forth therein.

Upon any sale of Transfer Restricted Securities pursuant to a Shelf Registration Statement, the undersigned beneficial owner (the **“Selling Securityholder”**) will be required to deliver to the Company and the trustee for the Notes the Notice to Transfer (completed and signed) set forth in Exhibit 1 to this Notice and Questionnaire.

Certain legal consequences arise from being named as a selling securityholder in the Shelf Registration Statement and the related Prospectus. Accordingly, holders and beneficial owners of Transfer Restricted Securities are advised to consult their own securities law counsel regarding the consequences of being named or not being named as a selling securityholder in the Shelf Registration Statement and the related Prospectus.

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NOTICE

The undersigned beneficial owner (the **“Selling Securityholder”**) of Transfer Restricted Securities hereby gives notice to the Company of its intention to sell or otherwise dispose of Transfer Restricted Securities beneficially owned by it and listed below in Item 3 (unless otherwise specified under Item 3) pursuant to the Shelf Registration Statement. The undersigned, by signing and returning this Questionnaire, understands that it will be bound by the terms and conditions of this Questionnaire and the Registration Rights Agreement.

Pursuant to the Registration Rights Agreement, the undersigned has agreed to indemnify and hold harmless the Company, the Company’s directors, the Company’s officers who sign the Shelf Registration Statement and each person, if any, who controls the Company within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against certain losses arising in connection with statements concerning the undersigned made in the Shelf Registration Statement or the related Prospectus in reliance upon the information provided in this Questionnaire.

The undersigned hereby provides the following information to the Company and represents and warrants that such information is accurate and complete:

QUESTIONNAIRE

1. *Information Regarding Selling Securityholder*

- (a) Full legal name of Selling Securityholder: _____
- (b) Full legal name of registered holder (if not the same as (a) above) through which Transfer Restricted Securities listed in Item (3) below are held: _____
- (c) Full legal name of DTC participant (if applicable and if not the same as (b) above) through which Transfer Restricted Securities listed in Item (3) are held: _____

2. *Address for Notices to Selling Securityholders*

Telephone: _____

Fax: _____

Contact Person: _____

3. *Beneficial Ownership of Transfer Restricted Securities*

- (a) Type of Transfer Restricted Securities beneficially owned, and principal amount of Securities or number of shares of Common Stock, as the case may be, beneficially owned: _____
- (b) CUSIP No(s). of such Transfer Restricted Securities beneficially owned: _____

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4. Beneficial Ownership of the Company's Securities Owned by the Selling Securityholder

Except as set forth below in this Item (4), the undersigned is not the beneficial or registered owner of any securities of the Company other than the Transfer Restricted Securities listed above in Item (3) ("**Other Securities**").

(a) Type and amount of Other Securities beneficially owned by the Selling Securityholder:

(b) CUSIP No(s). of such Other Securities beneficially owned:

5. Relationship with the Company

Except as set forth below, neither the undersigned nor any of its affiliates, officers, directors or principal equity holders (5% or more) has held any position or office or has had any other material relationship with the Company (or its predecessors or affiliates) during the past three years.

State any exceptions here: _____

6. Plan of Distribution

Except as set forth below, the undersigned (including its donees or pledgees) intends to distribute the Transfer Restricted Securities listed above in Item (3) pursuant to the Shelf Registration Statement only as follows (if at all). Such Transfer Restricted Securities may be sold from time to time directly by the undersigned or, alternatively, through underwriters, broker-dealers or agents. If the Transfer Restricted Securities are sold through underwriters or broker-dealers, the Selling Securityholder will be responsible for underwriting discounts or commissions or agent's commissions. Such Transfer Restricted Securities may be sold in one or more transactions at fixed prices, at prevailing market prices at the time of sale, at varying prices determined at the time of sale, or at negotiated prices. Such sales may be effected in transactions (which may involve crosses or block transactions):

(i) on any national securities exchange or quotation service on which the Transfer Restricted Securities may be listed or quoted at the time of sale;

(ii) in the over-the-counter market;

(iii) in transactions otherwise than on such exchanges or services or in the over-the-counter market; or

(iv) through the writing of options.

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In connection with sales of the Transfer Restricted Securities or otherwise, the undersigned may enter into hedging transactions with broker-dealers, which may in turn engage in short sales of the Transfer Restricted Securities and deliver Transfer Restricted Securities to close out such short positions, or loan or pledge Transfer Restricted Securities to broker-dealers that in turn may sell such securities.

State any exceptions here: _____

Note: In no event will such method(s) of distribution take the form of an underwritten offering of the Transfer Restricted Securities without the prior agreement of the Company.

7. Instructions for Delivery of Questionnaire

Please return the completed and executed Questionnaire to Quantum Corporation at:

Quantum Corporation
1650 Technology Drive
San Jose, CA 95110
Attention: Mary Springer
Fax: (408) 944-4040

8. Acknowledgments

The undersigned acknowledges that it understands its obligation to comply with the provisions of the Exchange Act and the rules and regulations promulgated thereunder relating to stock manipulation, particularly Regulation M thereunder (or any successor rules or regulations), in connection with any offering of Transfer Restricted Securities pursuant to the Shelf Registration Statement. The undersigned agrees that neither it nor any person acting on its behalf will engage in any transaction in violation of such provisions.

The Selling Securityholder hereby acknowledges its obligations under the Registration Rights Agreement to indemnify and hold harmless

certain persons as set forth therein. Pursuant to the Registration Rights Agreement, the Company has agreed under certain circumstances to indemnify the Selling Securityholders against certain liabilities.

In accordance with the undersigned's obligation under the Registration Rights Agreement to provide such information as may be required by law for inclusion in the Shelf Registration Statement, the undersigned agrees to promptly notify the Company of any inaccuracies or changes in the information provided herein that may occur subsequent to the date hereof at any time while the Shelf Registration Statement remains effective. All notices hereunder and pursuant to the Registration Rights Agreement shall be made in writing at the address set forth above.

By signing below, the undersigned consents to the disclosure of the information contained herein in its answers to items (1) through (6) above and the inclusion of such information in the Shelf Registration Statement and the related Prospectus. The undersigned understands that such information will be relied upon by the Company in connection with the preparation or amendment of the Shelf Registration Statement and the related Prospectus.

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IN WITNESS WHEREOF, the undersigned, by authority duly given, has caused this Questionnaire to be executed and delivered either in person or by its duly authorized agent.

Beneficial Owner

By: _____
Name:
Title:
Date:

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EXHIBIT 1

**NOTICE TO TRANSFER PURSUANT
TO REGISTRATION STATEMENT**

Quantum Corporation

Re: Quantum Corporation (the "Company") 4.375% Convertible Subordinated Notes due 2010 (the "Notes")

Dear Sirs:

Please be advised that _____ has transferred \$ _____ aggregate principal amount of the above-referenced Notes of the Company or the common stock issued on conversion of the Notes (the "Common Stock"), pursuant to the Registration Statement on Form S-3 (File No. _____) filed by the Company.

We hereby certify that the prospectus delivery requirements, if any, of the Securities Act of 1933, as amended, have been satisfied with respect to the transfer described above and the above named beneficial owner of the Notes or the Common Stock is named as a selling securityholder in the prospectus dated _____, or in amendments or supplements thereto, and that the aggregate principal amount of the Notes or number of the Common Stock transferred are [all or a portion of] the Notes or the Common Stock listed in such prospectus, as amended or supplemented, opposite such owner's name.

Beneficial Owner

Very truly yours,

[name]

By: _____
(Authorized Signature)

Dated:

Exhibit 4.4

NOTICE OF TRANSFER PURSUANT
TO REGISTRATION STATEMENT

U.S. Bank National Association
550 S. Hope Street, Suite 500
Los Angeles, California 90071
Attention: Corporate Trust Services

Quantum Corporation
1650 Technology Drive, Suite 800
San Jose, California, 95110
Attention: General Counsel

Re: Quantum Corporation (the "**Company**") 4.375% Convertible Subordinated Notes due 2010 (the "**Notes**")

Dear Sirs:

Please be advised that _____ has transferred \$_____ aggregate principal amount of the above-referenced Notes or the Company's Common Stock, issued on conversion of the Notes, pursuant to the Registration Statement on Form S-3 (File No. -) filed by the Company.

We hereby certify that the prospectus delivery requirements, if any, of the Securities Act of 1933, as amended, have been satisfied with respect to the transfer described above and that the above-named beneficial owner of the Notes or Common Stock is named as a selling securityholder in the Prospectus dated _____, 2003 or in amendments or supplements thereto, and that the aggregate principal amount of the Notes or number of shares of Common Stock transferred are [a portion of] the Notes or Common Stock listed in such Prospectus as amended or supplemented opposite such owner's name.

Very truly yours,

(Name)

By: _____
(Authorized Signature)

Dated:

**CERTIFICATE OF DESIGNATION OF RIGHTS, PREFERENCES
AND PRIVILEGES OF
SERIES B JUNIOR PARTICIPATING PREFERRED STOCK
OF QUANTUM CORPORATION**

Pursuant to Section 151 of the General Corporation Law of the State of Delaware:

Quantum Corporation, a Delaware corporation (the “**Corporation**”), organized and existing under the laws of the State of Delaware, does by its Chief Executive Officer and under its corporate seal hereby certify as follows:

1. That pursuant to the authority conferred upon the Board of Directors by the Amended and Restated Certificate of Incorporation of the Corporation (as such may be amended from time to time, the “**Restated Certificate**”), the Board of Directors on July 23, 1999 designated a series of 1,000,000 shares of Preferred Stock as Series B Junior Participating Preferred Stock.

2. That no shares of Series B Junior Participating Preferred Stock have been issued to date.

3. That pursuant to the authority conferred upon the Board of Directors by the Restated Certificate, the Board of Directors on July 8, 2003, adopted the following resolutions designating the Series B Junior Participating Preferred Stock:

“**RESOLVED:** That pursuant to the authority granted to and vested in the Board of Directors of the Corporation in accordance with the provisions of its Amended and Restated Certificate of Incorporation, the Board of Directors hereby designates a series of 1,000,000 shares of Preferred Stock designated as Series B Junior Participating Preferred Stock and fixes the relative rights, preferences and limitations thereof (in addition to the provisions set forth in the Amended and Restated Certificate of Incorporation of the Corporation, which are applicable to the Preferred Stock of all classes and series) as follows:

I. Series B Junior Participating Preferred Stock.

Section 1. Designation and Amount. The shares of such series shall be designated as “Series B Junior Participating Preferred Stock.” The Series B Junior Participating Preferred Stock shall have a par value of \$0.01 per share, and the number of shares constituting such series shall be 1,000,000.

Section 2. Proportional Adjustment. In the event the Corporation shall at any time after the issuance of any share or shares of Series B Junior Participating Preferred Stock (i) declare any dividend on the Corporation’s Common Stock, par value \$0.01 per share (“**Common Stock**”), payable in shares of Common Stock, (ii) subdivide the outstanding Common Stock or (iii) combine the outstanding Common Stock into a smaller number of shares, then in each such case the Corporation shall simultaneously effect a proportional adjustment to the number of outstanding shares of Series B Junior Participating Preferred Stock, if any.

Section 3. Dividends and Distributions.

(a) Subject to the prior and superior right of the holders of any shares of any series of Preferred Stock ranking prior and superior to the shares of Series B Junior Participating Preferred Stock with respect to dividends, the holders of shares of Series B Junior Participating Preferred Stock shall be entitled to receive when, as and if declared by the Board of Directors out of funds legally available for that purpose, quarterly dividends payable in cash on the last day of January, April, July and October in each year (each such date being referred to herein as a “Quarterly Dividend Payment Date”), commencing on the first Quarterly Dividend Payment Date after the first issuance of a share or fraction of a share of Series B Junior Participating Preferred Stock, in an amount per share (rounded to the nearest cent) equal to 1,000 times the aggregate per share amount of all cash dividends, and 1,000 times the aggregate per share amount (payable in kind) of all non-cash dividends or other distributions (except as provided in Section I(2) hereof) other than a dividend payable in shares of Common Stock or a subdivision of the outstanding shares of Common Stock (by reclassification or otherwise), declared on the Common Stock since the immediately preceding Quarterly Dividend Payment Date, or, with respect to the first Quarterly Dividend Payment Date, since the first issuance of any share or fraction of a share of Series B Junior Participating Preferred Stock.

(b) The Corporation shall declare a dividend or distribution on the Series B Junior Participating Preferred Stock as provided in paragraph (a) above immediately after it declares a dividend or distribution on the Common Stock (other than a dividend payable in shares of Common Stock).

(c) Dividends shall begin to accrue on outstanding shares of Series B Junior Participating Preferred Stock from the Quarterly Dividend Payment Date next preceding the date of issue of such shares of Series B Junior Participating Preferred Stock, unless the date of issue of such shares is prior to the record date for the first Quarterly Dividend Payment Date, in which case dividends on such shares shall begin to accrue from the date of issue of such shares, or unless the date of issue is a Quarterly Dividend Payment Date or is a date after the record date for the determination of holders of shares of Series B Junior Participating Preferred Stock entitled to receive a quarterly dividend and before such Quarterly Dividend Payment Date, in either of which events such dividends shall begin to accrue from such Quarterly Dividend Payment Date. Accrued but unpaid dividends shall not bear interest. Dividends paid on the shares of Series B Junior Participating Preferred Stock in an amount less than the total amount of such dividends at the time accrued and payable on such shares shall be allocated pro rata on a share-by-share basis among all such shares at the time outstanding. The Board of Directors may fix a record date for the determination of holders of shares of Series B Junior Participating Preferred Stock entitled to receive payment of a dividend or distribution declared thereon, which record date shall be no more than 30 days prior to the date fixed for the payment thereof.

Section 4. Voting Rights. The holders of shares of Series B Junior Participating Preferred Stock shall have the following voting rights:

- (a) Each share of Series B Junior Participating Preferred Stock shall entitle the holder thereof to 1,000 votes on all matters upon which holders of Common Stock are entitled to vote.
- (b) Except as otherwise provided herein, in the Restated Certificate or in any other Certificate of Designations creating a series of Preferred Stock, and except as otherwise required by law, the holders of Series B Junior Participating Preferred Stock and Common Stock and any other capital stock or the Corporation having general voting rights shall vote together as one class on all matters submitted to a vote of stockholders of the Corporation.
- (c) Except as required by law, holders of Series B Junior Participating Preferred Stock shall have no special voting rights, and their consent shall not be required (except to the extent they are entitled to vote with holders of Common Stock as set forth herein) for taking any corporate action.

Section 5. Certain Restrictions.

- (a) The Corporation shall not declare any dividend on, make any distribution on, or redeem or purchase or otherwise acquire for consideration any shares of Common Stock after the first issuance of a share or fraction of a share of Series B Junior Participating Preferred Stock unless concurrently therewith it shall declare a dividend on the Series B Junior Participating Preferred Stock as required by Section I(3) hereof.
- (b) Whenever quarterly dividends or other dividends or distributions payable on the Series B Junior Participating Preferred Stock as provided in Section I(3) are in arrears, thereafter and until all accrued and unpaid dividends and distributions, whether or not declared, on shares of Series B Junior Participating Preferred Stock outstanding shall have been paid in full, the Corporation shall not:
 - (i) declare or pay dividends on, make any other distributions on, or redeem or purchase or otherwise acquire for consideration any shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series B Junior Participating Preferred Stock;
 - (ii) declare or pay dividends on, make any other distributions on any shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with Series B Junior Participating Preferred Stock, except dividends paid ratably on the Series B Junior Participating Preferred Stock and all such parity stock on which dividends are payable or in arrears in proportion to the total amounts to which the holders of all such shares are then entitled;

- (iii) redeem or purchase or otherwise acquire for consideration shares of any stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series B Junior Participating Preferred Stock, provided that the Corporation may at any time redeem, purchase or otherwise acquire shares of any such parity stock in exchange for shares of any stock of the Corporation ranking junior (either as to dividends or upon dissolution, liquidation or winding up) to the Series B Junior Participating Preferred Stock;

- (iv) purchase or otherwise acquire for consideration any shares of Series B Junior Participating Preferred Stock, or any shares of stock ranking on a parity with the Series B Junior Participating Preferred Stock, except in accordance with a purchase offer made in writing or by publication (as determined by the Board of Directors) to all holders of such shares upon such terms as the Board of Directors, after consideration of the respective annual dividend rates and other relative rights and preferences of the respective series and classes, shall determine in good faith will result in fair and equitable treatment among the respective series or classes.

- (c) The Corporation shall not permit any subsidiary of the Corporation to purchase or otherwise acquire for consideration any shares of stock of the Corporation unless the Corporation could, under paragraph (a) of this Section I(5), purchase or otherwise acquire such shares at such time and in such manner.

Section 6. Reacquired Shares. Any shares of Series B Junior Participating Preferred Stock purchased or otherwise acquired by the Corporation in any manner whatsoever shall be retired and canceled promptly after the acquisition thereof. All such shares shall upon their cancellation become authorized but unissued shares of Preferred Stock and may be reissued as part of a new series of Preferred Stock to be created by resolution or resolutions of the Board of Directors, subject to the conditions and restrictions on issuance set forth herein and, in the Restated Certificate, as then amended.

Section 7. Liquidation, Dissolution or Winding Up. Upon any liquidation, dissolution or winding up of the Corporation, the holders of shares of Series B Junior Participating Preferred Stock shall be entitled to receive an aggregate amount per share equal to 1,000 times the aggregate amount to be distributed per share to holders of shares of Common Stock plus an amount equal to any accrued and unpaid dividends on such shares of Series B Junior Participating Preferred Stock.

Section 8. Consolidation, Merger, etc. In case the Corporation shall enter into any consolidation, merger, combination or other transaction in which the shares of Common Stock are exchanged for or changed into other stock or securities, cash and/or any other property, then in any such case the shares of Series B Junior Participating Preferred Stock shall at the same time be similarly exchanged or changed in an amount per share equal to 1,000 times the aggregate amount of stock, securities, cash and/or any other property (payable in kind), as the case may be, into which or for which each share of Common Stock is changed or exchanged.

Section 9. No Redemption. The shares of Series B Junior Participating Preferred Stock shall not be redeemable.

Section 10. Ranking. The Series B Junior Participating Preferred Stock shall rank junior to all other series of the Corporation's Preferred Stock as to the payment of dividends and the distribution of assets, unless the terms of any such series shall provide otherwise.

Section 11. Amendment. The Restated Certificate shall not be further amended in any manner which would materially alter or change the powers, preference or special rights of the Series B Junior Participating Preferred Stock so as to affect them adversely without the affirmative vote of the holders of a majority of the outstanding shares of Series B Junior Participating Preferred Stock, voting separately as a class.

Section 12. Fractional Shares. Series B Junior Participating Preferred Stock may be issued in fractions of a share which shall entitle the holder, in proportion to such holder's fractional shares, to exercise voting rights, receive dividends, participate in distributions and to have the benefit of all other rights of holders of Series B Junior Participating Preferred Stock.

I, Richard Belluzzo, Chief Executive Officer of Quantum Corporation further declare under penalty of perjury that the matters set forth in the foregoing Certificate of Designation are true and correct of my own knowledge.

Executed at Milpitas, California on July 8, 2003.

/s/ Richard Belluzzo_____

Richard Belluzzo,

President and Chief Executive Officer

Exhibit 5.1

October 9, 2003

Quantum Corporation
1650 Technology Drive, Suite 800
San Jose, CA 95110

Ladies and Gentlemen:

We are acting as counsel to Quantum Corporation, a Delaware corporation (the "Company"), in connection with the shelf registration by the Company under the Securities Act of 1933, as amended (the "Act"), of (a) \$160,000,000 in aggregate principal amount of the Company's 4.375% Convertible Subordinated Notes due August 1, 2010 (the "Notes") and (b) 36,781,616 shares of Common Stock, par value \$0.01 per share (the "Shares"), of the Company initially issuable upon conversion of the Notes, pursuant to the Registration Statement on Form S-3 filed on October 9, 2003 with the Securities and Exchange Commission (the "Registration Statement").

We have reviewed such corporate records, certificates and other documents, and such questions of law, as we have considered necessary or appropriate for the purposes of this opinion. We have assumed that all signatures are genuine, that all documents submitted to us as originals are authentic, that all copies of documents submitted to us conform to the originals, and that the Notes have been duly authenticated by the Trustee for the Notes as provided in the Indenture for the Notes.

We have relied as to certain matters on information obtained from public officials, officers of the Company, and other sources believed by us to be responsible.

Based upon the foregoing, and subject to the qualifications set forth below, we are of the opinion that:

1. The Notes have been duly authorized and constitute the valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws of general applicability relating to or affecting creditors' rights and to general equity principles (regardless of whether enforceability is considered at law or in equity).
2. The Shares have been duly authorized and, when issued upon such conversion in accordance with the terms of the Notes, will be validly issued, fully paid and nonassessable.

The foregoing opinion is subject to the qualifications that we express no opinion as to (i) waivers of defenses or statutory or constitutional rights or waivers of unmatured claims or rights, (ii) rights to indemnification, contribution or exculpation to the extent that they purport to indemnify any party against, or release or limit any party's liability for, its own breach or failure to comply with statutory obligations, or to the extent such provisions are contrary to public policy, or (iii) rights to collection or liquidated damages or penalties on overdue or defaulted obligations.

We are members of the bar of the State of New York. We do not purport to be experts in, and do not express any opinion on, any laws other than the law of the State of New York, the Delaware General Corporation Law and the Federal laws of the United States of America.

We hereby consent to the filing of this opinion as Exhibit 5.1 to the Registration Statement and to the reference to our firm under the heading "Legal Matters" in the Prospectus contained in the Registration Statement. 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.

Sincerely,

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

Quantum Corporation

Exhibit 12.1

Statement of Computation of Ratio of Earnings to Fixed Charges

	Three Months Ended	For the year ended March 31,				
	June 29, 2003	2003	2002	2001	2000	1999
Income (loss) from continuing operations before income taxes	(6,278)	(137,173)	(58,612)	309,675	322,585	264,318
Add fixed charges	6,675	26,628	27,650	23,876	24,011	23,007
Earnings (as defined)	397	(110,545)	(30,962)	333,551	346,596	287,325
Fixed charges						
Interest expense	6,408	25,378	26,522	22,766	23,320	22,367
Estimated interest component of rent expenses	267	1,250	1,128	1,110	691	640
Total fixed charges	6,675	26,628	27,650	23,876	24,011	23,007
Ratio of earnings to fixed charges (1)	Note 1	Note 1	Note 1	14.0	14.4	12.5
 <u>Pro forma ratio of earnings to fixed charges</u>						
Income (loss) from continuing operations before income taxes	(6,278)	(137,173)				
Add-back interest on 7% convertible subordinated debt	5,031	20,125				
Less interest on 4.375% convertible subordinated debt	(1,750)	(7,000)				
Pro forma fixed charges	3,394	13,503				
Pro forma earnings (as defined)	397	(110,545)				
Total fixed charges	6,675	26,628				
Add-back interest on 4.375% convertible subordinated debt	1,750	7,000				
Less interest on 7% convertible subordinated debt	(5,031)	(20,125)				
Pro forma fixed charges	3,394	13,503				
Ratio of earnings to fixed charges	Note 2	Note 2				

(1) For the purpose of calculating such ratios, "earnings" consist of income from continuing operations before income taxes plus fixed charges and "fixed charges" consist of interest expense (net of capitalized portion), capitalized interest, amortization of debt discount and the portion of rental expense representative of interest expense. Earnings before fixed charges were inadequate to cover total fixed charges by \$137.2 million and \$58.6 million for the fiscal years ended March 31, 2003 and March 31, 2002, respectively, and by \$6.3 million for the three months ended June 29, 2003.

(2) The pro forma ratio of earnings to fixed charges gives effect to the issuance of the notes and the use of the net proceeds from the issuance to reduce our 7% convertible subordinated notes. Regulation S-K section 229.503(d) under the Securities Act requires that we include these pro forma ratios. Pro forma earnings before fixed charges were inadequate to cover total pro forma fixed charges by \$124.0 million for the fiscal year ended March 31, 2003 and by \$3.0 million for the three months ended June 29, 2003.

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) [x]

U.S. BANK NATIONAL ASSOCIATION
(Exact name of Trustee as specified in its charter)

31-0841368

I.R.S. Employer Identification No.

180 East Fifth Street
St. Paul, Minnesota
(Address of principal executive offices)

55101
(Zip Code)

Paula Oswald
U.S. Bank National Association
633 W. 5TH Street, 24th Floor
Los Angeles, CA 90071
(213) 615-6043
(Name, address and telephone number of agent for service)

Quantum Corporation
(Issuer with respect to the Securities)

DELAWARE
(State or other jurisdiction of incorporation or organization)

94-2665054
(I.R.S. Employer Identification No.)

1650 Technology Drive, Suite 800 San Jose, CA
(Address of Principal Executive Offices)

95110
(Zip Code)

4.375% Convertible Subordinated Notes due August 1, 2010
(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.*
Trustee is authorized to exercise corporate trust powers.

Item 2. AFFILIATIONS WITH OBLIGOR. *If the obligor is an affiliate of the Trustee, describe each such affiliation.*

None

In answering this item, the trustee has relied, in part, upon information furnished by the obligor and the underwriters, and the trustee disclaims responsibility for the accuracy or completeness of such information. The trustee has also examined its own books and records for the purpose of answering this item.

Items 3-15 *Items 3-15 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 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.*
3. A copy of the certificate of authority of the Trustee to exercise corporate trust powers.*
4. A copy of the existing bylaws of the Trustee.*
5. A copy of each Indenture referred to in Item 4. 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. A copy of the latest report of condition of the trustee published pursuant to law or the requirements of its supervising or examining authority, attached as Exhibit 7.

* Incorporated by reference to Registration Number 333-67188.

A copy of the Articles of Association of the trustee, as now in effect, is on file with the Securities and Exchange Commission as an Exhibit with corresponding exhibit number to the Form T-1 of Structured Obligations Corporation, filed pursuant to Section 305(b) (2) of the Trust Indenture Act of 1939, as amended (the "Act"), on November 16, 2001 (Registration No. 333-67188), and is incorporated herein by reference.

NOTE

The answers to this statement insofar as such answers relate to what persons have been underwriters for any securities of the obligors within three years prior to the date of filing this statement, or what persons are owners of 10% or more of the voting securities of the obligors, or affiliates, are based upon information furnished to the Trustee by the obligors. While the Trustee has no reason to doubt the accuracy of any such information, it cannot accept any responsibility therefor.

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 Los Angeles, State of California on the 1st day of October, 2003.

**U.S. BANK NATIONAL
ASSOCIATION**

By: /s/ Paula Oswald
Paula Oswald
Vice President

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Exhibit 6

CONSENT

In accordance with Section 321(b) of the Trust Indenture Act of 1939, the undersigned, 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: October 1, 2003

**U.S. BANK NATIONAL
ASSOCIATION**

By: /s/ Paula Oswald
Paula Oswald
Vice President

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Exhibit 7

**U.S. Bank National Association
Statement of Financial Condition
As of 6/30/2003**

(\$000's)

		6/30/2003
Assets		
Cash and Due From Depository Institutions	\$	11,987,100
Federal Reserve Stock		0
Securities		35,336,411
Federal Funds		4,955,134
Loans & Lease Financing Receivables		118,648,100
Fixed Assets		1,864,465
Intangible Assets		9,999,520
Other Assets		8,735,830
Total Assets	\$	191,526,560
Liabilities		
Deposits	\$	132,461,590
Fed Funds		5,061,915
Treasury Demand Notes		0
Trading Liabilities		303,140
Other Borrowed Money		20,320,775
Acceptances		150,586
Subordinated Notes and Debentures		6,326,523
Other Liabilities		5,864,946
Total Liabilities	\$	170,489,475
Equity		
Minority Interest in Subsidiaries	\$	999,216
Common and Preferred Stock		18,200
Surplus		11,015,123
Undivided Profits		9,004,546
Total Equity Capital	\$	21,037,085
Total Liabilities and Equity Capital	\$	191,526,560

To the best of the undersigned's determination, as of the date hereof, the above financial information is true and correct.

**U.S. Bank National
Association**

By: /s/ Paula Oswald
Paula Oswald
Vice President

Date: October 1, 2003

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