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

**FORM 8-K**

**CURRENT REPORT  
Pursuant to Section 13 OR 15(d) of  
The Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): November 20, 2007

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**EVERY DENNISON CORPORATION**

(Exact name of registrant as specified in its charter)

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**Delaware**

(State or other jurisdiction  
of incorporation)

**1-7685**

(Commission  
File Number)

**95-1492269**

(IRS Employer  
Identification No.)

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**150 North Orange Grove Boulevard  
Pasadena, California**

(Address of principal executive offices)

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**91103**

(Zip Code)

Registrant's telephone number, including area code **(626) 304-2000**

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(Former name or former address, if changed since last report.)

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

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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### Item 1.01 Entry into a Material Definitive Agreement.

On November 14, 2007, Avery Dennison Corporation, a Delaware corporation (“Avery Dennison”) entered into an Underwriting Agreement with J.P. Morgan Securities Inc. and Citigroup Global Markets Inc. as representatives of the several underwriters named therein (the “Underwriters”) with respect to a registered public offering (the “Offering”) of 8,000,000 7.875% Corporate HiMEDS Units (the “HiMEDS Units”) for an aggregate principal amount of \$400 million. Pursuant to the Underwriting Agreement, the Underwriters have a 30-day option to purchase up to an additional 800,000 HiMEDS Units, solely to cover over-allotments, if any.

Each HiMEDS Unit has a stated amount of \$50 and is comprised of (i) a purchase contract obligating the holder to purchase from Avery Dennison for a price in cash of \$50, on the purchase contract settlement date (which shall be no later than November 15, 2010), a certain number of shares of Avery Dennison’s common stock, \$1.00 par value; and (ii) a 1/20, or 5%, undivided beneficial ownership interest in \$1,000 principal amount of Avery Dennison’s 5.350% Senior Notes due 2020 (the “Notes”). Holders of the HiMEDS Units will be entitled to receive quarterly contract adjustment payments of a rate of 2.525% per year of the stated amount of \$50 per HiMEDS Unit, subject to Avery Dennison’s right to defer such payments.

The Notes are being issued pursuant to an indenture, dated as of November 20, 2007, as supplemented by a supplemental indenture dated as of November 20, 2007 (as supplemented, the “Indenture”), between Avery Dennison and The Bank of New York Trust Company, N.A., as Trustee. The HiMEDS Units are being issued pursuant to a Purchase Contract and Pledge Agreement, dated as of November 20, 2007 (the “Purchase Contract and Pledge Agreement”), between Avery Dennison and The Bank of New York Trust Company, N.A.

Under the terms of the Purchase Contract and Pledge Agreement, the Notes are being pledged as collateral to secure the holders’ obligation to purchase the shares of common stock under the purchase contracts. The Notes will be remarketed prior to the purchase contract settlement date pursuant to the terms of the Purchase Contract and Pledge Agreement and a Remarketing Agreement to be executed in the future. The foregoing description of the agreements is qualified in its entirety by reference to the actual terms of the agreements, copies of which are attached hereto as exhibits.

Attached hereto as exhibits are the agreements and opinions relating to the Offering. The exhibits are expressly incorporated into the Registration Statement on Form S-3, and any related amendments thereto, filed by Avery Dennison on November 14, 2007, in connection with the Offering. In addition, exhibits 1.1, 4.1, 4.3, 4.4, 4.5, 4.6 and 4.7 are expressly incorporated into the Registration Statement on Form 8-A, and any related amendments thereto, filed by Avery Dennison on November 14, 2007, in connection with the Offering.

### Item 2.03 Creation of Direct Financial Obligation or an Obligation Under an Off-Balance Sheet Arrangement.

The disclosures in Item 1.01 above are incorporated in this section by reference.

### Item 8.01 Other Events.

On November 20, 1997, Avery Dennison completed the Offering described in Section 1.01, resulting in net proceeds of approximately \$387,000,000.

### Item 9.01 Financial Statements and Exhibits.

<u>Exhibit Number</u>	<u>Exhibit Title</u>
1.1	Underwriting Agreement dated November 14, 2007, between Avery Dennison and the Underwriters named therein.
4.1	Purchase Contract and Pledge Agreement, dated as of November 20, 2007, between Avery Dennison and The Bank of New York Trust Company, N.A., as Purchase Contract Agent, and The Bank of New York Trust Company, N.A. as Collateral Agent, Custodial Agent and Securities Intermediary.
4.2	Indenture, dated as of November 20, 2007, between Avery Dennison and The Bank of New York Trust Company, National Association.
4.3	First Supplemental Indenture between Avery Dennison and The Bank of New York Trust Company, N.A., as Trustee, dated as of November 20, 2007.
4.4	Form of Remarketing Agreement.
4.5	Form of Corporate HiMEDS Unit Certificate (included in Exhibit 4.1).
4.6	Form of Treasury HiMEDS Unit Certificate (included in Exhibit 4.1).
4.7	Form of 5.350% Senior Notes due 2020 (included in Exhibit 4.3).
5.1	Opinion of Latham & Watkins LLP.
23.1	Consent of Latham & Watkins LLP (included in Exhibit 5.1).

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**AVERY DENNISON CORPORATION**

Date: November 20, 2007

By: /s/ Daniel R. O'Bryant

Name: Daniel R. O'Bryant

Title: Executive Vice President, Finance and  
Chief Financial Officer

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## EXHIBIT INDEX

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AVERY DENNISON CORPORATION  
7.875% Corporate HiMEDS<sup>sm</sup> Units  
Underwriting Agreement

November 14, 2007

J.P. Morgan Securities Inc.  
Citigroup Global Markets Inc.  
As Representatives of the  
several Underwriters listed  
in Schedule 1 hereto

c/o J.P. Morgan Securities Inc.  
277 Park Avenue  
New York, New York 10172  
and  
Citigroup Global Markets Inc.  
388 Greenwich Street  
New York, New York 10013

Ladies and Gentlemen:

Avery Dennison Corporation, a Delaware corporation (the "Company"), proposes to issue and sell to the several Underwriters listed in Schedule 1 hereto (the "Underwriters"), for whom you are acting as representatives (the "Representatives"), an aggregate of 8,000,000 of its 7.875% Corporate HiMEDS<sup>sm</sup> Units (the "Equity Units") and, with respect to the grant by the Company to the Underwriters of the option described in Section 2(b) hereof, to issue and sell to the Underwriters all or any part of the Option Securities (as defined below). The aforesaid 8,000,000 Equity Units (the "Initial Securities") to be purchased by the Underwriters and all or any part of the 800,000 Equity Units subject to the option described in Section 2(b) hereof (the "Option Securities") are hereinafter called, collectively, the "Securities".

Each Security will have a stated amount of \$50 and will initially be comprised of (a) a purchase contract (a "Purchase Contract") under which the holder will purchase from the Company on or before November 15, 2010 a number of shares (the "Issuable Common Stock") of common stock, \$1.00 par value, of the Company (the "Common Stock") calculated as set forth in the Purchase Contract and Pledge Agreement (as defined herein) and (b) a 1/20 undivided beneficial interest in a Senior Note due November 15, 2020 (the "Senior Notes") of the Company having a principal amount of \$1,000.

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In accordance with the terms of the Purchase Contract and Pledge Agreement to be dated as of November 20, 2007 (the "Purchase Contract and Pledge Agreement") among the Company, The Bank of New York Trust Company, N.A., as purchase contract agent (the "Purchase Contract Agent") and attorney-in-fact of the Holders from time to time and The Bank of New York Trust Company, N.A., as collateral agent, custodial agent and securities intermediary (the "Collateral Agent"), the Senior Notes constituting a part of the Securities will be pledged by the Purchase Contract Agent, on behalf of the holders of the Securities, to the Collateral Agent for the benefit of the Company, pursuant to the Purchase Contract and Pledge Agreement to secure the holders' obligation to purchase the Issuable Common Stock under the Purchase Contracts. The rights and obligations of a holder of Securities in respect of Senior Notes (subject to the pledge thereof) and Purchase Contracts will initially be evidenced by a Corporate HiMEDS<sup>sm</sup> Units Certificate (as defined in the Purchase Contract and Pledge Agreement).

The Senior Notes will be issued pursuant to an Indenture, dated as of November 20, 2007, and a First Supplemental Indenture, dated as of November 20, 2007, establishing the terms of the Senior Notes (together, as may be amended or supplemented, the "Indenture") in each case, between The Bank of New York Trust Company, N.A., as trustee (the "Trustee"), and the Company.

Pursuant to a Remarketing Agreement (the "Remarketing Agreement") described in the Prospectus (as defined herein) among the Company, the remarketing agent (the "Remarketing Agent") and the Purchase Contract Agent, the Senior Notes will be remarketed, subject to certain terms and conditions.

The Company hereby confirms its agreement with the several Underwriters concerning the purchase and sale of the Securities, as follows:

1. Registration Statement. The Company has prepared and filed with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended, and the rules and regulations of the Commission thereunder (collectively, the "Securities Act"), a registration statement on Form S-3 (File No. 333-147369), including a prospectus, relating to the Securities and Issuable Common Stock. Such registration statement, as amended at the time it becomes effective, including the information, if any, deemed pursuant to Rule 430A, 430B or 430C under the Securities Act to be part of the registration statement at the time of its effectiveness ("Rule 430 Information"), is referred to herein as the "Registration Statement"; and as used herein, the term "Preliminary Prospectus" means each prospectus included in such registration statement (and any amendments thereto) before it becomes effective, any prospectus filed with the Commission pursuant to Rule 424(a) under the Securities Act and the prospectus included in the Registration Statement at the time of its effectiveness that omits Rule 430 Information, and the term "Prospectus" means the prospectus in the form first used (or made available upon request of purchasers pursuant to Rule 173 under the Securities Act) in connection with confirmation of sales of the Securities. If the Company has filed an abbreviated registration statement pursuant to Rule 462(b) under the Securities Act (the "Rule 462 Registration Statement"), then any reference herein to the term "Registration Statement" shall be deemed to include such Rule 462 Registration Statement. Any reference in this Agreement to the Registration Statement, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include the documents incorporated by reference therein pursuant to Item 12 of Form

S-3 under the Securities Act, as of the effective date of the Registration Statement or the date of such Preliminary Prospectus or the Prospectus, as the case may be, and any reference to “amend”, “amendment” or “supplement” with respect to the Registration Statement, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include any documents filed after such date under the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission thereunder (collectively, the “Exchange Act”) that are deemed to be incorporated by reference therein. Capitalized terms used but not defined herein shall have the meanings given to such terms in the Registration Statement and the Prospectus.

At or prior to the time when sales of the Securities were first made (the “Time of Sale”), the Company had prepared the following information (collectively, the “Time of Sale Information”): a Preliminary Prospectus dated November 14, 2007, and each “free-writing prospectus” (as defined pursuant to Rule 405 under the Securities Act) listed on Annex C hereto as constituting part of the Time of Sale Information.

2. Purchase of the Securities by the Underwriters. (a) The Company agrees to issue and sell the Securities to the several Underwriters as provided in this Agreement, and each Underwriter, on the basis of the representations, warranties and agreements set forth herein and subject to the conditions set forth herein, agrees, severally and not jointly, to purchase from the Company the respective number of Securities set forth opposite such Underwriter’s name in Schedule 1 hereto at a price per Security (the “Purchase Price”) set forth on Annex D hereto. The Company will not be obligated to deliver any of the Securities except upon payment for all the Securities to be purchased as provided herein. The public offering price of the Securities is not in excess of the price recommended by J.P. Morgan Securities Inc., acting as a “qualified independent underwriter” within the meaning of Rule 2720 of the Rules of Conduct of the Financial Industry Regulatory Authority.

(b) In addition, on the basis of the representations and warranties herein contained, and subject to the terms and conditions herein set forth, the Company hereby grants an option to the several Underwriters to purchase up to an additional 800,000 Equity Units at the Purchase Price. The option hereby granted will expire 30 days after the date hereof and may be exercised in whole or in part, from time to time, for the sole purpose of covering sales of Securities in excess of the aggregate number of Initial Securities, upon written notice by the Representatives to the Company on any business day during such 30-day period setting forth the number of Option Securities as to which the Representatives are exercising the option and the time and date of payment and delivery for such Option Securities. Any such time and date of delivery (each, an “Additional Closing Date”) shall be determined by the Representatives, but shall not be later than seven full business days after the exercise of said option, nor in any event prior to the Closing Date (as defined herein). If the option is exercised as to all or any portion of the Option Securities, each Underwriter severally and not jointly will purchase that number of Option Securities (to be adjusted by you so as to eliminate fractional shares) determined by multiplying such number of Option Securities by a fraction the numerator of which is the maximum number of Option Securities which such Underwriter is entitled to purchase and the denominator of which is the maximum number of Option Securities which all of the Underwriters are entitled to purchase hereunder. Any such election to purchase Option Securities shall be made in proportion to the maximum number of Option Securities to be sold by the Company.



(d) The Company understands that the Underwriters intend to make a public offering of the Securities as soon after the effectiveness of this Agreement as in the judgment of the Representatives is advisable, and initially to offer the Securities on the terms set forth in the Prospectus. The Company acknowledges and agrees that the Underwriters may offer and sell Securities to or through any affiliate of an Underwriter and that any such affiliate may offer and sell Securities purchased by it to or through any Underwriter.

(e) Payment for and delivery of the Initial Securities will be made at the offices of Simpson Thacher & Bartlett LLP at 10:00 A.M., New York City time, on November 20, 2007, or at such other time or place on the same or such other date, not later than the fifth business day thereafter, as the Representatives and the Company may agree upon in writing. The time and date of such payment and delivery is referred to herein as the "Closing Date".

(f) In addition, in the event that any or all of the Option Securities are purchased by the Underwriters, payment of the purchase price for, and delivery of certificates for, such Option Securities shall be made at the above-mentioned offices, or at such other place as shall be agreed upon by the Underwriters and the Company, on each Additional Closing Date as specified in the written notice from the Underwriters to the Company.

(g) Payment for the Securities shall be made by wire transfer in immediately available funds to the account(s) specified by the Company to the Representatives against delivery to the nominee of The Depository Trust Company, for the account of the Underwriters, of one or more Corporate HiMEDS<sup>SM</sup> Units Certificates representing the Securities, with any transfer taxes payable in connection with the sale of the Securities duly paid by the Company. The Corporate HiMEDS<sup>SM</sup> Units Certificates will be made available for inspection by the Representatives not later than 1:00 P.M., New York City time, on the business day prior to the Closing Date.

(h) The Company acknowledges and agrees that the Underwriters are acting solely in the capacity of an arm's length contractual counterparty to the Company with respect to the offering of Securities contemplated hereby (including in connection with determining the terms of the offering) and not as a financial advisor or a fiduciary to, or an agent of, the Company or any other person. Additionally, neither Representative nor any other Underwriter is advising the Company or any other person as to any legal, tax, investment, accounting or regulatory matters in any jurisdiction. The Company shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated hereby, and the Underwriters shall have no responsibility or liability to the Company with respect thereto. Any review by the Underwriters of the Company, the transactions contemplated hereby or other matters relating to such transactions will be performed solely for the benefit of the Underwriters and shall not be on behalf of the Company.

(i) The Company hereby confirms its engagement of J.P. Morgan Securities Inc. as, and J.P. Morgan Securities Inc. hereby confirms its agreement with the Company to render services as, a "qualified independent underwriter" within the meaning of Rule 2720(b)(15) of the Financial Industry Regulatory Authority, Inc. with respect to the offering and sale of the Securities. J.P. Morgan Securities Inc., in its capacity as qualified independent underwriter and not otherwise, is referred to herein as the "QIU."

3. Representations and Warranties of the Company. The Company represents and warrants to each Underwriter that:

(a) *Preliminary Prospectus*. No order preventing or suspending the use of any Preliminary Prospectus has been issued by the Commission, and each Preliminary Prospectus, at the time of filing thereof, complied in all material respects with the Securities Act and did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company makes no representation and warranty with respect to any statements or omissions made in reliance upon and in conformity with information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in any Preliminary Prospectus.

(b) *Time of Sale Information*. The Time of Sale Information, at the Time of Sale did not, and at the Closing Date will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company makes no representation and warranty with respect to any statements or omissions made in reliance upon and in conformity with information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in such Time of Sale Information. No statement of material fact included in the Prospectus has been omitted from the Time of Sale Information and no statement of material fact included in the Time of Sale Information that is required to be included in the Prospectus has been omitted therefrom.

(c) *Issuer Free Writing Prospectus*. The Company (including its agents and representatives, other than the Underwriters in their capacity as such) has not prepared, made, used, authorized, approved or referred to and will not prepare, make, use, authorize, approve or refer to any “written communication” (as defined in Rule 405 under the Securities Act) that constitutes an offer to sell or solicitation of an offer to buy the Securities (each such communication by the Company or its agents and representatives (other than a communication referred to in clauses (i) (ii) and (iii) below) an “Issuer Free Writing Prospectus”) other than (i) any document not constituting a prospectus pursuant to Section 2(a)(10)(a) of the Securities Act or Rule 134 under the Securities Act, (ii) the Preliminary Prospectus, (iii) the Prospectus, (iv) the documents listed on Annex C hereto as constituting the Time of Sale Information and (v) any electronic road show or other written communications, in each case approved in writing in advance by the Representatives. Each such Issuer Free Writing Prospectus complied in all material respects with the Securities Act, has been or will be (within the time period specified in Rule 433) filed in accordance with the Securities Act (to the extent required thereby) and, when taken together with the Preliminary Prospectus accompanying, or delivered prior to delivery of, such Issuer Free Writing Prospectus, did not, and at the Closing Date will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not

misleading; provided that the Company makes no representation and warranty with respect to any statements or omissions made in each such Issuer Free Writing Prospectus in reliance upon and in conformity with information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in any Issuer Free Writing Prospectus.

(d) *Registration Statement and Prospectus.* The Registration Statement is an “automatic shelf registration statement” as defined under Rule 405 of the Securities Act that has been filed with the Commission not earlier than three years prior to the date hereof; and no notice of objection of the Commission to the use of such registration statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Securities Act has been received by the Company. No order suspending the effectiveness of the Registration Statement has been issued by the Commission and no proceeding for that purpose or pursuant to Section 8A of the Securities Act against the Company or related to the offering has been initiated or threatened by the Commission; as of the applicable effective date of the Registration Statement and any amendment thereto, the Registration Statement complied and will comply in all material respects with the Securities Act and the Trust Indenture Act of 1939, as amended, and the rules and regulations of the Commission thereunder (collectively, the “Trust Indenture Act”), and did not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein not misleading; and as of the date of the Prospectus and any amendment or supplement thereto and as of the Closing Date, the Prospectus will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company makes no representation and warranty with respect to (i) that part of the Registration Statement that constitutes the Statement of Eligibility and Qualification (Form T-1) of the Trustee under the Trust Indenture Act or (ii) any statements or omissions made in reliance upon and in conformity with information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in the Registration Statement and the Prospectus and any amendment or supplement thereto.

(e) *Incorporated Documents.* The documents incorporated by reference in the Registration Statement, the Prospectus and the Time of Sale Information, when they became effective or were filed with the Commission, as the case may be, conformed in all material respects to the requirements of the Exchange Act and none of such documents contained any untrue statement of a material fact or omitted to state a 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 any further documents so filed and incorporated by reference in the Registration Statement, the Prospectus or the Time of Sale Information, when such documents become effective or are filed with the Commission, as the case may be, will conform in all material respects to the requirements of the Securities Act or the Exchange Act, as applicable, and will not contain any 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, in the light of the circumstances under which they were made, not misleading.

(f) *Financial Statements.* (i) The financial statements and the related notes thereto included or incorporated by reference in the Registration Statement, the Time of Sale Information and the Prospectus comply in all material respects with the applicable requirements of the Securities Act and the Exchange Act, as applicable, and present fairly in all material respects the consolidated financial position of the Company and its subsidiaries as of the dates indicated and the consolidated results of their operations and the changes in their cash flows for the periods specified; such financial statements have been prepared in conformity with generally accepted accounting principles applied on a consistent basis throughout the periods covered thereby, and the supporting schedules included or incorporated by reference in the Registration Statement present fairly the information required to be stated therein; and the other financial information included or incorporated by reference in the Registration Statement, the Time of Sale Information and the Prospectus has been derived from the accounting records of the Company and its subsidiaries (including Paxar Corporation) and presents fairly the information shown thereby; (ii) to the knowledge of the Company, the financial statements and the related notes thereto of Paxar Corporation included or incorporated by reference in the Registration Statement, the Time of Sale Information and the Prospectus comply in all material respects with the applicable requirements of the Securities Act and the Exchange Act, as applicable, and present fairly in all material respects the financial position of Paxar Corporation and its subsidiaries as of the dates indicated and their results of operations and changes in cash flows for the periods specified, and to the knowledge of the Company, such financial statements have been prepared in conformity with generally accepted accounting principles applied on a consistent basis throughout the periods covered thereby; and (iii) the pro forma financial information and the related notes thereto included or incorporated by reference in the Registration Statement, the Time of Sale Information and the Prospectus have been prepared in accordance with the applicable requirements of the Securities Act and the Exchange Act, as applicable, and the assumptions underlying such pro forma financial information are reasonable and are set forth in the Registration Statement, the Time of Sale Information and the Prospectus.

(g) *No Material Adverse Change.* Since the date of the most recent financial statements of the Company included or incorporated by reference in the Registration Statement, the Time of Sale Information and the Prospectus, neither the Company nor any of its subsidiaries has sustained any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor disturbance or dispute or any action, order or decree, except in each case as disclosed in the Registration Statement, the Time of Sale Information and the Prospectus; and, since the respective dates as of which information is given in the Registration Statement, the Time of Sale Information and the Prospectus, there has not been (i) any change in the capital stock of the Company or any of its subsidiaries, other than upon exercise of outstanding options and stock appreciation rights, or in the long-term debt of the Company or any of its subsidiaries, except in the ordinary course of business and not in excess of \$10 million, or (ii) any material adverse change, or any development involving a prospective material adverse change, in or affecting the general affairs, management, financial position, shareholders' equity or results of operations of the Company and its subsidiaries, except as disclosed in the Registration Statement, the Time of Sale Information and the Prospectus.

(h) *Organization and Good Standing.* The Company and each of its significant subsidiaries (as defined in Section 14 hereof) have been duly incorporated or organized and are validly existing and in good standing under the laws of their respective jurisdictions of incorporation or organization, are duly qualified to do business and are in good standing in each jurisdiction in which their respective ownership or lease of property or the conduct of their respective businesses requires such qualification, and have all power and authority necessary to own or hold their respective properties and to conduct the businesses in which they are engaged, except where the failure to be so qualified, in good standing or have such power or authority would not, individually or in the aggregate, be reasonably expected to have a material adverse effect on the general affairs, management, financial position, shareholders' equity or results of operations of the Company and its subsidiaries taken as a whole (a "Material Adverse Effect"). The subsidiaries listed in Schedule 2 to this Agreement are the only significant subsidiaries of the Company.

(i) *Capitalization.* The Company has an authorized capitalization as set forth in the Registration Statement, the Time of Sale Information and the Prospectus under the heading "Capitalization"; and, except as disclosed in the Registration Statement, the Time of Sale Information and the Prospectus, all the outstanding shares of capital stock or other equity interests of each subsidiary of the Company have been duly and validly authorized and issued, are fully paid and non-assessable and are owned directly or indirectly by the Company, free and clear of any lien, charge, encumbrance, security interest, restriction on voting or transfer or any other claim of any third party, including any right that does or will entitle any person, upon the issuance or sale of any security, to acquire from the Company or any of its subsidiaries any "Relevant Security", which is defined as any Common Stock or other security of the Company or any of its subsidiaries that is convertible into, or exercisable or exchangeable for Common Stock or other equity interests, or that holds the right to acquire any Common Stock or other equity interests of the Company or any of its subsidiaries or any other such Relevant Security, except for such rights as may have been fully satisfied or waived prior to the effectiveness of the Registration Statement, other than (i) directors' qualifying shares in foreign jurisdictions and (ii) restrictions on transfer under applicable law.

(j) *Due Authorization.* The Company has full right, power and authority to execute and deliver this Agreement, the Securities (comprised of the Purchase Contracts and the Senior Notes), the Indenture, the Purchase Contract and Pledge Agreement and the Remarketing Agreement (collectively, the "Transaction Documents") and to perform its obligations hereunder and thereunder; and all action required to be taken for the due and proper authorization, execution and delivery of each of the Transaction Documents and the consummation of the transactions contemplated thereby has been duly and validly taken.

(k) *Underwriting Agreement.* This Agreement has been duly authorized, executed and delivered by the Company.

(l) *The Securities.* The Securities (comprised of the Purchase Contracts and the Senior Notes) have been duly authorized by the Company and, when duly executed, authenticated, issued and delivered as provided in the relevant Transaction Document and paid for as provided herein, will be duly and validly issued and outstanding and will constitute valid and legally binding obligations of the Company enforceable against the Company in accordance with their terms,

subject to the Enforceability Exceptions, and the Purchase Contracts will be entitled to the benefits of the Purchase Contract and Pledge Agreement and the Senior Notes will be entitled to the benefits of the Indenture.

(m) *The Senior Notes.* The Senior Notes included in the Securities have been duly authorized by the Company and, when duly executed, authenticated, issued and delivered as provided in the Indenture, will be duly and validly issued and outstanding and will constitute valid and legally binding obligations of the Company enforceable against the Company in accordance with their terms, subject to the Enforceability Exceptions, entitled to the benefits of the Indenture.

(n) *The Issuable Common Stock.* The shares of Issuable Common Stock have been duly and validly authorized and reserved for issuance and, when issued and delivered in accordance with the terms of the Purchase Contracts, will be duly and validly issued, fully paid and non-assessable and free of any preemptive or similar rights.

(o) *Purchase Contract and Pledge Agreement.* The Purchase Contract and Pledge Agreement has been duly authorized by the Company and when duly executed and delivered in accordance with its terms by each of the parties thereto, will constitute a valid and legally binding agreement of the Company enforceable against the Company in accordance with its terms, subject to the Enforceability Exceptions, and will create, as collateral security for the performance when due by the holders from time to time of the Securities of their respective obligations under the Purchase Contracts, a valid security interest (as defined in the Uniform Commercial Code, as adopted and in effect in the State of New York) in favor of the Collateral Agent for the benefit of the Company, in the right, title and interest of such holders in the securities and other assets and interests pledged to the Collateral Agent pursuant to the Purchase Contract and Pledge Agreement.

(p) *The Indenture.* The Indenture has been duly authorized by the Company and upon effectiveness of the Registration Statement was or will have been duly qualified under the Trust Indenture Act and, when duly executed and delivered in accordance with its terms by each of the parties thereto, will constitute a valid and legally binding agreement of the Company enforceable against the Company in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability (collectively, the "Enforceability Exceptions").

(q) *Remarketing Agreement.* The Remarketing Agreement has been duly authorized by the Company, and when executed and delivered by the Company and each of the other parties thereto, will constitute a valid and legally binding agreement of the Company enforceable against the Company in accordance with its terms, subject to the Enforceability Exceptions .

(r) *Descriptions of the Transaction Documents.* The Transaction Documents and the Issuable Common Stock conform in all material respects to the description thereof contained in the Registration Statement, the Time of Sale Information and the Prospectus.

(s) *No Violation or Default.* Neither the Company nor any of its subsidiaries is (i) in violation of its charter or by-laws or similar organizational documents; (ii) in default, and no event has occurred that, with notice or lapse of time or both, would constitute such a default, in the due performance or observance of any term, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject; or (iii) in violation of any law or statute or any judgment, order, rule or regulation of any court or arbitrator or governmental or regulatory authority, except, in the case of clauses (ii) and (iii) above, for any such default or violation that would not, individually or in the aggregate, be reasonably expected to have a Material Adverse Effect.

(t) *No Conflicts.* The execution, delivery and performance by the Company of each of the Transaction Documents, the issuance and sale of the Securities and the Issuable Common Stock and compliance by the Company with the terms thereof and the consummation of the transactions contemplated by the Transaction Documents will not (i) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any of its subsidiaries pursuant to, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject or which does or will entitle any person to acquire any Relevant Security from the Company or any of its subsidiaries upon issuance or sale of Securities or upon the issuance of the Issuable Common Stock, (ii) result in any violation of the provisions of the charter or by-laws or similar organizational documents of the Company or any of its subsidiaries or (iii) result in the violation of any law or statute or any judgment, order, rule or regulation of any court or arbitrator or governmental or regulatory authority.

(u) *No Consents Required.* No consent, approval, authorization, order, registration or qualification of or with any court or arbitrator or governmental or regulatory authority is required for the execution, delivery and performance by the Company of each of the Transaction Documents, the issuance and sale of the Securities and the Issuable Common Stock and compliance by the Company with the terms thereof and the consummation of the transactions contemplated by the Transaction Documents, except for the registration of the Securities and the Issuable Common Stock under the Securities Act, the qualification of the Indenture under the Trust Indenture Act and such consents, approvals, authorizations, orders and registrations or qualifications as may be required under applicable state securities laws in connection with the purchase and distribution of the Securities by the Underwriters and the issuance by the Company of the Issuable Common Stock.

(v) *Legal Proceedings.* Except as disclosed in the Registration Statement, the Time of Sale Information and the Prospectus, there are no legal, governmental or regulatory investigations, actions, suits or proceedings pending to which the Company or any of its subsidiaries is or may be a party or to which any property of the Company or any of its subsidiaries is or may be the subject that, if determined adversely to the Company or any of its subsidiaries, individually or in the aggregate, would be reasonably expected to have a Material Adverse Effect; no such investigations, actions, suits or proceedings are threatened or, to the best knowledge of the Company, contemplated

by any governmental or regulatory authority or threatened by others; and (i) there are no current or pending legal, governmental or regulatory actions, suits or proceedings that are required under the Securities Act to be described in the Registration Statement or the Prospectus that are not so described in the Registration Statement, the Time of Sale Information and the Prospectus and (ii) there are no statutes, regulations or contracts or other documents that are required under the Securities Act to be filed as exhibits to the Registration Statement or described in the Registration Statement and the Prospectus that are not so filed as exhibits to the Registration Statement or described in the Registration Statement, the Time of Sale Information and the Prospectus.

(w) *Independent Accountants*. PricewaterhouseCoopers LLP, who have certified certain financial statements of the Company and its subsidiaries and Ernst & Young LLP, who have certified certain financial statements of Paxar Corporation, are each an independent registered public accounting firm with respect to the Company and its subsidiaries within the applicable rules and regulations adopted by the Commission and the Public Company Accounting Oversight Board (United States) and as required by the Securities Act.

(x) *Title to Intellectual Property*. The Company and its subsidiaries own or possess adequate rights to use all material patents, patent applications, trademarks, service marks, trade names, trademark registrations, service mark registrations, copyrights, licenses and know-how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures) as presently used in the conduct of their respective businesses; and the conduct of their respective businesses does not conflict in any material respect with any such rights of others, and the Company and its subsidiaries have not received any notice of any claim of infringement or conflict with any such rights of others, in each case except as would not, individually or in the aggregate, be reasonably expected to have a Material Adverse Effect.

(y) *Investment Company Act*. The Company is not and, after giving effect to the offering and sale of the Securities and the Issuable Common Stock and the application of the proceeds thereof as described in the Registration Statement, the Time of Sale Information and the Prospectus, will not be an “investment company” or an entity “controlled” by an “investment company” within the meaning of the Investment Company Act of 1940, as amended, and the rules and regulations of the Commission thereunder (collectively, “Investment Company Act”).

(z) *Compliance With Environmental Laws*. (i) The Company and its subsidiaries (x) are, and at all prior times were, in compliance with any and all applicable federal, state, local and foreign laws, rules, regulations, requirements, decisions and orders relating to the protection of human health or safety, the environment, natural resources, hazardous or toxic substances or wastes, pollutants or contaminants (collectively, “Environmental Laws”); (y) have received and are in compliance with all permits, licenses, certificates or other authorizations or approvals required of them under applicable Environmental Laws to conduct their respective businesses; and (z) have not received written or oral notice of any actual or potential liability under or relating to any Environmental Laws, including for the investigation or remediation of any disposal or release of hazardous or toxic substances or wastes, pollutants or contaminants, and have no knowledge of any event or condition that would reasonably be expected to result in any such notice, and (ii) there are no costs or liabilities associated with Environmental Laws of or relating to the Company or its subsidiaries, except in the case of each of (i) and (ii) above, for



any such failure to comply, or failure to receive required permits, licenses or approvals, or cost or liability, as would not, individually or in the aggregate, be reasonably expected to have a Material Adverse Effect; and (iii) except as disclosed in the Registration Statement, the Time of Sale Information and the Prospectus or except as would not, individually or in the aggregate, be reasonably expected to have a Material Adverse Effect, (x) there are no proceedings that are pending, or that are known to be contemplated, against the Company or any of its subsidiaries under any Environmental Laws in which a governmental entity is also a party, other than such proceedings regarding which it is reasonably believed no monetary sanctions of \$100,000 or more will be imposed, (y) the Company and its subsidiaries are not aware of any issues regarding compliance with Environmental Laws, or liabilities or other obligations under Environmental Laws or concerning hazardous or toxic substances or wastes, pollutants or contaminants, that could reasonably be expected to have a material effect on the capital expenditures, earnings or competitive position of the Company and its subsidiaries, and (z) none of the Company and its subsidiaries anticipates material capital expenditures relating to any Environmental Laws.

(aa) *Disclosure Controls.* The Company and its subsidiaries maintain an effective system of “disclosure controls and procedures” (as defined in Rule 13a-15(e) of the Exchange Act) that is designed to provide reasonable assurance that information required to be disclosed by the Company in reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Commission’s rules and forms, including controls and procedures designed to ensure that such information is accumulated and communicated to the Company’s management as appropriate to allow timely decisions regarding required disclosure. The Company and its subsidiaries have carried out evaluations of the effectiveness of their disclosure controls and procedures as required by Rule 13a-15 of the Exchange Act.

(bb) *Accounting Controls.* The Company and its consolidated subsidiaries maintain systems of “internal control over financial reporting” (as defined in Rule 13a-15(f) of the Exchange Act) that comply with the requirements of the Exchange Act and have been designed by, or under the supervision of, their respective principal executive and principal financial officers, or persons performing similar functions, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles, including, but not limited to internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management’s general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management’s general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Except as disclosed in the Registration Statement, the Time of Sale Information and the Prospectus, there are no material weaknesses in the Company’s internal controls.

(cc) *No Unlawful Payments.* Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee or other person associated with or acting on behalf of the Company or any of its subsidiaries has (i) used any corporate funds for

any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; (iii) violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977; or (iv) made any bribe, rebate, payoff, influence payment, kickback or other unlawful payment, in each case except as disclosed in the Registration Statement, the Time of Sale Information and the Prospectus or as would not, individually or in the aggregate, be reasonably expected to have a Material Adverse Effect.

(dd) *Compliance with Money Laundering Laws.* The operations of the Company and its subsidiaries are and, at all times relevant to the offering of the Securities and the Issuable Common Stock, have been conducted in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of governmental or regulatory authorities having jurisdiction over the Company and its subsidiaries, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental or regulatory authorities having jurisdiction over the Company and its subsidiaries (collectively, the “Money Laundering Laws”) and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the best knowledge of the Company, threatened.

(ee) *Compliance with OFAC.* None of the Company, any of its subsidiaries or, to the knowledge of the Company, any director, officer, agent, employee or Affiliate of the Company or any of its subsidiaries is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury (“OFAC”); and the Company will not directly or indirectly use the proceeds of the offering of the Securities hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC.

(ff) *No Registration Rights.* No person has the right to require the Company or any of its subsidiaries to register any securities for sale under the Securities Act by reason of the filing of the Registration Statement with the Commission or the issuance and sale of the Securities or the Issuable Common Stock.

(gg) *No Stabilization.* The Company has not taken, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of the price of the Securities or the Issuable Common Stock.

(hh) *Forward-Looking Statements.* No forward-looking statement (within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act) contained in the Registration Statement, the Time of Sale Information and the Prospectus has been made or reaffirmed without a reasonable basis or has been disclosed other than in good faith.

(ii) *Sarbanes-Oxley Act.* There is and has been no failure on the part of the Company or any of the Company’s directors or officers, in their capacities as such, to comply with any provision of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith (the “Sarbanes-Oxley Act”), including Section 402 related to loans and Sections 302 and 906 related to certifications.

(kk) *Status under the Securities Act.* The Company is not an ineligible issuer and is a well-known seasoned issuer, in each case as defined under the Securities Act, in each case at the times specified in the Securities Act in connection with the offering of the Securities or the Issuable Common Stock.

4. Further Agreements of the Company. The Company covenants and agrees with each Underwriter that:

(a) *Required Filings.* The Company will file the final Prospectus with the Commission within the time periods specified by Rule 424(b) and Rule 430A, 430B or 430C under the Securities Act, will file any Issuer Free Writing Prospectus (including the Term Sheet in the form of Annex D hereto) to the extent required by Rule 433 under the Securities Act; and will file promptly all reports and any definitive proxy or information statements required to be filed by the Company with the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the date of the Prospectus and for so long as the delivery of a prospectus is required in connection with the offering or sale of the Securities or the Issuable Common Stock; and the Company will furnish copies of the Prospectus and each Issuer Free Writing Prospectus (to the extent not previously delivered) to the Underwriters in New York City prior to 10:00 A.M., New York City time, on the business day next succeeding the date of this Agreement in such quantities as the Representatives may reasonably request. The Company will pay the registration fees for this offering within the time period required by Rule 456(b)(1)(i) under the Securities Act (without giving effect to the proviso therein) and in any event prior to the Closing Date and any Additional Closing Date, as the case may be.

(b) *Delivery of Copies.* The Company will deliver, without charge, (i) to the Representatives, two signed copies of the Registration Statement as originally filed and each amendment thereto, in each case including all exhibits and consents filed therewith and documents incorporated by reference therein; and (ii) to each Underwriter (A) a conformed copy of the Registration Statement as originally filed and each amendment thereto, in each case including all exhibits and consents filed therewith and (B) during the Prospectus Delivery Period (as defined below), as many copies of the Prospectus (including all amendments and supplements thereto and documents incorporated by reference therein) and each Issuer Free Writing Prospectus as the Representatives may reasonably request. As used herein, the term "Prospectus Delivery Period" means such period of time after the first date of the public offering of the Securities as in the opinion of counsel for the Underwriters a prospectus relating to the Securities is required by law to be delivered (or required to be delivered but for Rule 172 under the Securities Act) in connection with sales of the Securities by any Underwriter or dealer.

(c) *Amendments or Supplements; Issuer Free Writing Prospectuses.* Before making, preparing, using, authorizing, approving, referring to or filing any Issuer Free Writing Prospectus, and before filing any amendment or supplement to the Registration Statement or the Prospectus, the Company will furnish to the Representatives and counsel for the Underwriters a

copy of the proposed Issuer Free Writing Prospectus, amendment or supplement for review and will not make, prepare, use, authorize, approve, refer to or file any such Issuer Free Writing Prospectus or file any such proposed amendment or supplement to which the Representatives reasonably object.

(d) *Notice to the Representatives.* The Company will advise the Representatives promptly, and confirm such advice in writing, (i) when the Registration Statement has become effective; (ii) when any amendment to the Registration Statement has been filed or becomes effective; (iii) when any supplement to the Prospectus or any amendment to the Prospectus or any Issuer Free Writing Prospectus has been filed; (iv) of any request by the Commission for any amendment to the Registration Statement or any amendment or supplement to the Prospectus or the receipt of any comments from the Commission relating to the Registration Statement or any other request by the Commission for any additional information; (v) of the issuance by the Commission of any order suspending the effectiveness of the Registration Statement or preventing or suspending the use of any Preliminary Prospectus or the Prospectus or the initiation or threatening of any proceeding for that purpose or pursuant to Section 8A of the Securities Act; (vi) of the occurrence of any event within the Prospectus Delivery Period as a result of which the Prospectus, the Time of Sale Information or any Issuer Free Writing Prospectus as then amended or supplemented would include any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances existing when the Prospectus, the Time of Sale Information or any such Issuer Free Writing Prospectus is delivered to a purchaser, not misleading; (vii) of the receipt by the Company of any notice of objection of the Commission to the use of the Registration Statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Securities Act; and (viii) of the receipt by the Company of any notice with respect to any suspension of the qualification of the Securities for offer and sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose; and the Company will use its reasonable best efforts to prevent the issuance of any such order suspending the effectiveness of the Registration Statement, preventing or suspending the use of any Preliminary Prospectus or the Prospectus or suspending any such qualification of the Securities or the Issuable Common Stock and, if any such order is issued, will use its reasonable best efforts to obtain as soon as possible the withdrawal thereof.

(e) *Time of Sale Information.* If at any time prior to the Closing Date or any Additional Closing Date, as the case may be, (i) any event shall occur or condition shall exist as a result of which the Time of Sale Information as then amended or supplemented would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances, not misleading or (ii) it is necessary to amend or supplement the Time of Sale Information to comply with applicable law, the Company will immediately notify the Underwriters thereof and forthwith prepare and, subject to Section 4(c) above, file with the Commission (to the extent required) and furnish to the Underwriters and to such dealers as the Representatives may designate, such amendments or supplements to the Time of Sale Information as may be necessary so that the statements in the Time of Sale Information as so amended or supplemented will not, in the light of the circumstances, be misleading or so that the Time of Sale Information will comply with applicable law.

(f) *Ongoing Compliance.* If during the Prospectus Delivery Period (i) any event shall occur or condition shall exist as a result of which the Prospectus as then amended or supplemented would include any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances existing when the Prospectus is delivered to a purchaser, not misleading or (ii) it is necessary to amend or supplement the Prospectus to comply with applicable law, the Company will immediately notify the Underwriters thereof and forthwith prepare and, subject to Section 4(c) above, file with the Commission and furnish to the Underwriters and to such dealers as the Representatives may designate, such amendments or supplements to the Prospectus as may be necessary so that the statements in the Prospectus as so amended or supplemented will not, in the light of the circumstances existing when the Prospectus is delivered to a purchaser, be misleading or so that the Prospectus will comply with applicable law.

(g) *Blue Sky Compliance.* The Company will qualify the Securities and the Issuable Common Stock for offer and sale under the securities or Blue Sky laws of such jurisdictions as the Representatives shall reasonably request and will continue such qualifications in effect so long as required for distribution of the Securities or the Issuable Common Stock; provided that the Company shall not be required to (i) qualify as a foreign corporation or other entity or as a dealer in securities in any such jurisdiction where it would not otherwise be required to so qualify, (ii) file any general consent to service of process in any such jurisdiction or (iii) subject itself to taxation in any such jurisdiction if it is not otherwise so subject.

(h) *Earning Statement.* The Company will make generally available to its security holders and the Representatives as soon as practicable an earning statement that satisfies the provisions of Section 11(a) of the Securities Act and Rule 158 of the Commission promulgated thereunder covering a period of at least twelve months beginning with the first fiscal quarter of the Company occurring after the “effective date” (as defined in Rule 158) of the Registration Statement.

(i) *Clear Market.* During the period beginning from the date hereof and continuing to and including the date 90 days after the date hereof, the Company will not without the prior written consent of the Representatives: (i) directly or indirectly, issue, offer, sell, offer or sell, solicit offers to purchase, grant any call option, warrant or other right to purchase, purchase any put option or other right to sell, pledge, borrow or otherwise dispose of any shares of Common Stock or any security which is substantially similar to the Common Stock, including any security of the Company or any subsidiary that is convertible into, or exercisable or exchangeable for shares of Common Stock or equity securities, or that holds the right to acquire any shares of Common Stock or equity securities of the Company or any subsidiary other than pursuant to the terms of this Agreement, the issuance of shares of Common Stock upon the exercise of outstanding options or warrants, and the issuance of options or shares of Common Stock under existing stock option and incentive plans, or make any announcement of any of the foregoing; (ii) establish or increase any “put equivalent position” or liquidate or decrease any “call equivalent position” (in each case within the meaning of Section 16 of the Exchange Act and the rules and regulations promulgated thereunder) with respect to any shares of Common Stock or any security which is substantially similar to the shares of Common Stock; and (iii) otherwise

enter into any swap, derivative or other transaction or arrangement that transfers to another, in whole or in part, any economic consequence of ownership of any shares of Common Stock or any security which is substantially similar to the Common Stock, whether or not such transaction is to be settled by delivery of shares of Common Stock or any security which is substantially similar to the Common Stock, other securities, cash or other consideration, provided that the foregoing shall not apply to (i) the Company's buy back of shares of Common Stock pursuant to its stock buy back program, (ii) the Company's filing a shelf registration statement with respect to such securities, provided that the Company will not effect any sales of such securities pursuant to such shelf registration statement during the 90 day period described above or (iii) transactions relating to shares of Common Stock or other securities acquired in open market transactions after the completion of the offering the Securities and the Issuable Common Stock.

(j) *Issuable Common Stock*. The Company will reserve and keep available at all times, free of preemptive rights, the maximum number of Issuable Common Stock.

(k) *Use of Proceeds*. The Company will apply the net proceeds from the sale of the Securities and the Issuable Common Stock as described in the Registration Statement, the Time of Sale Information and the Prospectus under the heading "Use of proceeds".

(l) *No Stabilization*. The Company will not take, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of the price of the Securities or the Issuable Common Stock.

(m) *Exchange Listing*. The Company will use its best efforts to effect and maintain the listing of the Issuable Common Stock on The New York Stock Exchange.

(n) *Record Retention*. The Company will, pursuant to reasonable procedures developed in good faith, retain copies of each Issuer Free Writing Prospectus that is not filed with the Commission in accordance with Rule 433 under the Securities Act.

5. Certain Agreements of the Underwriters. Each Underwriter hereby represents and agrees that

(a) It has not and will not use, authorize use of, refer to, or participate in the planning for use of, any "free writing prospectus", as defined in Rule 405 under the Securities Act (which term includes use of any written information furnished to the Commission by the Company and not incorporated by reference into the Registration Statement and any press release issued by the Company) other than (i) a free writing prospectus that, solely as a result of use by such Underwriter, would not trigger an obligation to file such free writing prospectus with the Commission pursuant to Rule 433, (ii) any Issuer Free Writing Prospectus listed on Annex C or prepared pursuant to Section 3(c) or Section 4(c) above (including any electronic road show), or (iii) any free writing prospectus prepared by such Underwriter and approved by the Company in advance in writing (each such free writing prospectus referred to in clauses (i) or (iii), an "Underwriter Free Writing Prospectus"). Notwithstanding the foregoing, the Underwriters may use a term sheet substantially in the form of Annex D hereto without the consent of the Company.

(b) It is not subject to any pending proceeding under Section 8A of the Securities Act with respect to the offering (and will promptly notify the Company if any such proceeding against it is initiated during the Prospectus Delivery Period).

6. Conditions of Underwriters' Obligations. The obligation of each Underwriter to purchase Securities on the Closing Date or any Additional Closing Date as provided herein is subject to the performance by the Company of its covenants and other obligations hereunder and to the following additional conditions:

(a) *Registration Compliance; No Stop Order.* No order suspending the effectiveness of the Registration Statement shall be in effect, and no proceeding for such purpose, pursuant to Rule 401(g)(2) or pursuant to Section 8A under the Securities Act shall be pending before or threatened by the Commission; the Prospectus and each Issuer Free Writing Prospectus shall have been timely filed with the Commission under the Securities Act (in the case of a Issuer Free Writing Prospectus, to the extent required by Rule 433 under the Securities Act) and in accordance with Section 4(a) hereof; and all requests by the Commission for additional information shall have been complied with to the reasonable satisfaction of the Representatives.

(b) *Representations and Warranties.* The representations and warranties of the Company contained herein shall be true and correct on the date hereof and on and as of the Closing Date and each Additional Closing Date, as the case may be; and the statements of the Company and its officers made in any certificates delivered pursuant to this Agreement shall be true and correct on and as of the Closing Date and each Additional Closing Date, as the case may be.

(c) *No Downgrade.* Subsequent to the earlier of the Time of Sale and the execution and delivery of this Agreement, (i) no downgrading shall have occurred in the rating accorded the Company's debt securities by any "nationally recognized statistical rating organization" (as such term is defined by the Commission for purposes of Rule 436(g)(2) under the Securities Act) and (ii) no such organization (other than, as of the date hereof, Standard & Poor's Ratings Services and Moody's Investors Service, Inc.) shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of any of the Company's debt securities.

(d) *No Material Adverse Change.* No event or condition of a type described in Section 3(g) hereof shall have occurred or shall exist, which event or condition is not described in the Time of Sale Information (excluding any amendment or supplement thereto) and the Prospectus (excluding any amendment or supplement thereto) and the effect of which, in the judgment of the Representatives, makes it impracticable or inadvisable to proceed with the offering, sale or delivery of the Securities on the terms and in the manner contemplated by this Agreement, the Time of Sale Information and the Prospectus.

(e) *Officer's Certificate.* The Representatives shall have received on and as of the Closing Date and each Additional Closing Date, as the case may be, a certificate of a senior executive officer of the Company who has specific knowledge of the Company's financial

matters and is reasonably satisfactory to the Representatives (i) confirming that such officer has reviewed the Registration Statement, the Time of Sale Information and the Prospectus and, to the knowledge of such officer, the representations set forth in Sections 3(b) and 3(d) hereof are true and correct, (ii) confirming that the other representations and warranties of the Company in this Agreement are true and correct and that the Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied hereunder at or prior to the Closing Date and (iii) to the effect set forth in Sections 6(a), 6(c) and 6(d) above.

(f) *Comfort Letters.* (i) On the date of this Agreement and on the Closing Date and each Additional Closing Date, PricewaterhouseCoopers LLP shall have furnished to the Representatives, at the request of the Company, letters, dated the respective dates of delivery thereof and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, containing statements and information of the type customarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information of the Company and its consolidated subsidiaries contained or incorporated by reference in the Registration Statement, the Time of Sale Information and the Prospectus; provided, however, that the letter delivered on the Closing Date or any Additional Closing Date shall use a "cut-off" date no more than three business days prior to the Closing Date or such Additional Closing Date; and (ii) on the date of this Agreement and on the Closing Date and each Additional Closing Date, Ernst & Young LLP shall have furnished to the Representatives, at the request of the Company, letters, dated the respective dates of delivery thereof and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, containing statements and information of the type customarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information of Paxar Corporation and its subsidiaries contained or incorporated by reference in the Time of Sale Information and the Offering Memorandum; provided, however, that the letter delivered on the Closing Date or any Additional Closing Date shall use a "cut-off" date no more than three business days prior to the Closing Date or such Additional Closing Date.

(g) *Certificate of the Company's Chief Financial Officer.* On the date of this Agreement and on the Closing Date and each Additional Closing Date, the Chief Financial Officer of the Company shall have furnished to the Representatives, at the request of the Company, a Certificate, dated the date of delivery thereof and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, containing statements and information with respect to the financial statements and certain financial information of the Company and its consolidated subsidiaries contained or incorporated by reference in the Registration Statement, the Time of Sale Information and the Prospectus.

(h) *Opinion of Associate General Counsel of the Company.* Richard P. Randall, Esq., Vice President Corporate Governance, Associate General Counsel and Assistant Secretary of the Company, shall have furnished to the Representatives, at the request of the Company, his written opinion, dated the Closing Date and each Additional Closing Date and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, to the effect set forth in Annex A hereto.



(i) *Opinion and 10b-5 Statement of Counsel for the Company.* Latham & Watkins LLP, counsel for the Company, shall have furnished to the Representatives, at the request of the Company, their written opinion and 10b-5 Statement, dated the Closing Date and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, to the effect set forth in Annex B hereto.

(j) *Opinion and 10b-5 Statement of Counsel for the Underwriters.* The Representatives shall have received on and as of the Closing Date an opinion and 10b-5 Statement of Simpson Thacher & Bartlett LLP, counsel for the Underwriters, with respect to such matters as the Representatives may reasonably request, and such counsel shall have received such documents and information as they may reasonably request to enable them to pass upon such matters.

(k) *No Legal Impediment to Issuance.* No action shall have been taken and no statute, rule, regulation or order shall have been enacted, adopted or issued by any federal, state or foreign governmental or regulatory authority that would, as of the Closing Date or any Additional Closing Date, prevent the issuance or sale of the Securities; and no injunction or order of any federal, state or foreign court having jurisdiction over the Company shall have been issued that would, as of the Closing Date or any Additional Closing Date, prevent the issuance or sale of the Securities.

(l) *Good Standing.* The Representatives shall have received on and as of the Closing Date and each Additional Closing Date satisfactory evidence of the good standing of the Company and its significant subsidiaries in their respective jurisdictions of incorporation or organization and their good standing in such other jurisdictions as the Representatives may reasonably request, in each case in writing or any standard form of telecommunication from the appropriate governmental authorities of such jurisdictions.

(m) *Exchange Listing.* The Equity Units shall have been approved for listing on The New York Stock Exchange, subject to official notice of issuance. The Issuable Common Stock shall have been approved for listing on The New York Stock Exchange, subject to official notice of issuance.

(n) *Lock-up Agreements.* The “lock-up” agreements, each substantially in the form of Exhibit A hereto, between you and the officers and directors of the Company listed in Schedule 3 hereto, relating to sales and certain other dispositions of shares of Common Stock or certain other securities, delivered to you on or before the date hereof, shall be in full force and effect on the Closing Date.

(o) *Additional Documents.* On or prior to the Closing Date, the Company shall have furnished to the Representatives such further certificates and documents as the Representatives may reasonably request.

All opinions, letters, certificates and evidence mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof only if they are in form and substance reasonably satisfactory to counsel for the Underwriters.

## 7. Indemnification and Contribution.

(a) *Indemnification of the Underwriters.* The Company agrees to indemnify and hold harmless each Underwriter, its affiliates, directors and officers and each person, if any, who controls such Underwriter within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any and all losses, claims, damages and liabilities (including, without limitation, legal fees and other expenses reasonably incurred in connection with any suit, action or proceeding or any claim asserted, as such fees and expenses are incurred), joint or several, that arise out of, or are based upon, (i) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary in order to make the statements therein, not misleading, (ii) or any untrue statement or alleged untrue statement of a material fact contained in the Prospectus (or any amendment or supplement thereto), any Issuer Free Writing Prospectus or any Time of Sale Information, or caused by any omission or alleged omission to state therein a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, in each case except insofar as such losses, claims, damages or liabilities arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use therein.

(b) *Indemnification of the Company.* Each Underwriter agrees, severally and not jointly, to indemnify and hold harmless the Company, its directors, its officers who signed the Registration Statement and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act to the same extent as the indemnity set forth in Section 7(a) above, but only with respect to any losses, claims, damages or liabilities that arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to such Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in the Registration Statement, the Prospectus (or any amendment or supplement thereto), any Issuer Free Writing Prospectus or any Time of Sale Information, it being understood and agreed that the only such information consists of the following: (i) the names of the Underwriters in the table in the first paragraph under the caption "Underwriting" in the Preliminary Prospectus dated November 14, 2007 and the Prospectus; and (ii) the third, seventh (first sentence only) and eighth (first and last sentences only) paragraphs under the caption "Underwriting" in the Preliminary Prospectus dated November 14, 2007 and the Prospectus.

(c) *Notice and Procedures.* If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against any person in respect of which indemnification may be sought pursuant to either Section 7(a) or 7(b) above, such person (the "Indemnified Person") shall promptly notify the person against whom such indemnification may be sought (the "Indemnifying Person") in writing; provided, however, that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have under this Section 7 except to the extent that it has been materially prejudiced (through

the forfeiture of substantive rights or defenses) by such failure; and provided, further, that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have to an Indemnified Person otherwise than under this Section 7. If any such proceeding shall be brought or asserted against an Indemnified Person and it shall have notified the Indemnifying Person thereof, the Indemnifying Person shall retain counsel reasonably satisfactory to the Indemnified Person (who shall not, without the consent of the Indemnified Person, be counsel to the Indemnifying Person) to represent the Indemnified Person and any others entitled to indemnification pursuant to Section 7 that the Indemnifying Party may designate in such proceeding and shall pay the fees and expenses of such proceeding and shall pay the fees and expenses of counsel related to such proceeding, as incurred. In any such proceeding, any Indemnified Person shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Indemnified Person unless (i) the Indemnifying Person and the Indemnified Person shall have mutually agreed to the contrary; (ii) the Indemnifying Person has failed within a reasonable time to retain counsel reasonably satisfactory to the Indemnified Person; (iii) the Indemnified Person shall have reasonably concluded that there may be legal defenses available to it that are different from or in addition to those available to the Indemnifying Person; or (iv) the named parties in any such proceeding (including any impleaded parties) include both the Indemnifying Person and the Indemnified Person and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interest between them. It is understood and agreed that the Indemnifying Person shall not, in connection with any proceeding or related proceeding in the same jurisdiction, be liable for the fees and expenses of more than one separate firm (in addition to any local counsel) for all Indemnified Persons, and that all such fees and expenses shall be reimbursed as they are incurred against presentation of written invoices or statements therefor. Any such separate firm for any Underwriter, its affiliates, directors and officers and any controlling persons of such Underwriter shall be designated in writing by the Representatives and any such separate firm for the Company, its directors, its officers who signed the Registration Statement and any control persons of the Company shall be designated in writing by the Company. The Indemnifying Person shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final non-appealable judgment for the plaintiff, the Indemnifying Person agrees to indemnify each Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an Indemnified Person shall have requested that an Indemnifying Person reimburse the Indemnified Person for fees and expenses of counsel as contemplated by this paragraph, the Indemnifying Person shall be liable for any settlement of any proceeding effected without its written consent if (i) the Indemnifying Person shall not have responded to such written request, (ii) such settlement is entered into more than 30 days after receipt by the Indemnifying Person of such request on terms and conditions not less favorable than those set forth in such written request and (iii) the Indemnifying Person shall not have reimbursed the Indemnified Person in accordance with such request prior to the date of such settlement. No Indemnifying Person shall, without the written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding in respect of which any Indemnified Person is or could have been a party and indemnification could have been sought hereunder by such Indemnified Person, unless such settlement (x) includes an unconditional release of such Indemnified Person, in form and substance reasonably satisfactory to such Indemnified Person, from all liability on claims that are the subject matter of such proceeding and (y) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Person.

(d) *Contribution*. If the indemnification provided for in Sections 7(a) and 7(b) above is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then each Indemnifying Person under such paragraph, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other from the offering of the Securities or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) but also the relative fault of the Company on the one hand and the Underwriters on the other in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other shall be deemed to be in the same respective proportions as the net proceeds (before deducting expenses) received by the Company from the sale of the Securities and the total underwriting discounts and commissions received by the Underwriters in connection therewith, in each case as set forth in the table on the cover of the Prospectus, bear to the aggregate offering price of the Securities. The relative fault of the Company on the one hand and the Underwriters on the other shall be determined by reference to, among other things, 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 or by the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(e) *Limitation on Liability*. The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 7 were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation that does not take account of the equitable considerations referred to in Section 7(d) above. The amount paid or payable by an Indemnified Person as a result of the losses, claims, damages and liabilities referred to in Section 7(d) above shall be deemed to include, subject to the limitations set forth above, any legal or other expenses incurred by such Indemnified Person in connection with any such action or claim. Notwithstanding the provisions of this Section 7, in no event shall an Underwriter be required to contribute any amount in excess of the amount by which the total underwriting discounts and commissions received by such Underwriter with respect to the offering of the Securities exceeds the amount of any damages that such Underwriter has otherwise been required to pay by reason of such 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 Underwriters' obligations to contribute pursuant to this Section 7 are several in proportion to their respective purchase obligations hereunder and not joint.

(f) *Indemnification of the QIU*. The Company agrees to indemnify and hold harmless J.P. Morgan Securities Inc. in its capacity as QIU, its affiliates, directors and officers and each person, if any, who controls the QIU within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any and all losses, claims, damages and liabilities (including, without limitation, legal fees and other expenses incurred in connection

with any suit, action or proceeding or any claim asserted, as such fees and expenses are incurred), joint or several, that arise out of, or are based upon, (i) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary in order to make the statements therein, not misleading, or (ii) any untrue statement or alleged untrue statement of a material fact contained in the Prospectus (or any amendment or supplement thereto), any Issuer Free Writing Prospectus or any Time of Sale Information, or caused by any omission or alleged omission to state therein a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, or (iii) any act or omission to act or any alleged act or omission to act by J.P. Morgan Securities Inc. as QIU in connection with any transaction contemplated by this Agreement or undertaken in preparing for the purchase, sale and delivery of the Securities, except as to this clause (iii) to the extent that any such loss, claim, damage or liability results from the gross negligence or bad faith of J.P. Morgan Securities Inc. in performing the services as QIU.

(g) *Notice and Procedures for Indemnification of the QIU.* If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against the QIU in respect of which indemnification may be sought pursuant to paragraph (f) above, the QIU shall promptly notify the Company in writing; provided that the failure to notify the Company shall not relieve it from any liability that it may have under paragraph (f) above except to the extent that it has been materially prejudiced (through the forfeiture of substantive rights or defenses) by such failure; and provided, further, that the failure to notify the Company shall not relieve it from any liability that it may have to the QIU otherwise than under paragraph (f) above. If any such proceeding shall be brought or asserted against the QIU and it shall have notified the Company thereof, the Company shall retain counsel reasonably satisfactory to the QIU (who shall not, without the consent of the QIU, be counsel to the Company) to represent the QIU and shall pay the fees and expenses of such counsel related to such proceeding, as incurred. In any such proceeding, the QIU shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of the QIU unless (i) the Company and the QIU shall have mutually agreed to the contrary; (ii) the Company has failed within a reasonable time to retain counsel reasonably satisfactory to the QIU; (iii) the QIU shall have reasonably concluded that there may be legal defenses available to it that are different from or in addition to those available to the Company; or (iv) the named parties in any such proceeding (including any impleaded parties) include both the Company and the QIU and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interest between them. The Company shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the Company agrees to indemnify the QIU from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time the QIU shall have requested that the Company reimburse the QIU for fees and expenses of counsel as contemplated by this paragraph, the Company shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is

entered into more than 30 days after receipt by the Company of such request and (ii) the Company shall not have reimbursed the QIU in accordance with such request prior to the date of such settlement. The Company shall not, without the written consent of the QIU, effect any settlement of any pending or threatened proceeding in respect of which the QIU is or could have been a party and indemnification could have been sought hereunder by the QIU, unless such settlement (x) includes an unconditional release of the QIU, in form and substance reasonably satisfactory to the QIU, from all liability on claims that are the subject matter of such proceeding and (y) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of the QIU.

(h) *Contribution With Respect to Indemnification of the QIU.* If the indemnification provided for in paragraph (f) above is unavailable to the QIU or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then the Company, in lieu of indemnifying the QIU thereunder, shall contribute to the amount paid or payable by the QIU as a result of such losses, claims, damages or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the QIU on the other from the offering of the Securities or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) but also the relative fault of the Company on the one hand and the QIU on the other in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the QIU on the other shall be deemed to be in the same respective proportions as the net proceeds (before deducting expenses) received by the Company from the sale of the Securities, as set forth in the table on the cover of the Prospectus, bear to the total underwriting discounts and commissions received by the QIU. The relative fault of the Company on the one hand and the QIU on the other shall be determined by reference to, among other things, 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 or by the QIU and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(i) *Limitation on Liability With Respect to Indemnification of the QIU.* The Company and the QIU agree that it would not be just and equitable if contribution pursuant to paragraph (h) were determined by pro rata allocation or by any other method of allocation that does not take account of the equitable considerations referred to in paragraph (h) above. The amount paid or payable by the QIU as a result of the losses, claims, damages and liabilities referred to in paragraph (d) above shall be deemed to include, subject to the limitations set forth above, any legal or other expenses incurred by QIU in connection with any such action or claim. 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.

(j) *Non-Exclusive Remedies.* The remedies provided for in this Section 7 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Person or J.P. Morgan Securities Inc. in its capacity as QIU (and its affiliates, directors and officers and each person, if any, who controls it) at law or in equity.

8. Effectiveness of Agreement. This Agreement shall become effective upon the execution and delivery hereof by the parties hereto.

9. Termination. This Agreement may be terminated in the absolute discretion of the Representatives, by notice to the Company, if after the execution and delivery of this Agreement and prior to the Closing Date (i) trading generally shall have been suspended or materially limited on The New York Stock Exchange, the Nasdaq Global Market or the over-the-counter market; (ii) trading of any securities issued or guaranteed by the Company shall have been suspended on any exchange or in any over-the-counter market; (iii) a general moratorium on commercial banking activities shall have been declared by federal or New York State authorities or a material disruption in commercial banking or securities settlement or clearance; or (iv) there shall have occurred any outbreak or escalation of hostilities or any change in financial markets or any calamity or crisis, either within or outside the United States, that, in the judgment of the Representatives, is material and adverse and makes it impracticable or inadvisable to proceed with the offering, sale or delivery of the Securities on the terms and in the manner contemplated by this Agreement, the Time of Sale Information and the Prospectus.

10. Defaulting Underwriter. (a) If, on the Closing Date, any Underwriter defaults on its obligation to purchase the Securities that it has agreed to purchase hereunder, the non-defaulting Underwriters may in their discretion arrange for the purchase of such Securities by other persons satisfactory to the Company on the terms contained in this Agreement. If, within 36 hours after any such default by any Underwriter, the non-defaulting Underwriters do not arrange for the purchase of such Securities, then the Company shall be entitled to a further period of 36 hours within which to procure other persons satisfactory to the non-defaulting Underwriters to purchase such Securities on such terms. If other persons become obligated or agree to purchase the Securities of a defaulting Underwriter, either the non-defaulting Underwriters or the Company may postpone the Closing Date for up to five full business days in order to effect any changes that in the opinion of counsel for the Company or counsel for the Underwriters may be necessary in the Registration Statement and the Prospectus or in any other document or arrangement, and the Company agrees to promptly prepare any amendment or supplement to the Registration Statement and the Prospectus that effects any such changes. As used in this Agreement, the term "Underwriter" includes, for all purposes of this Agreement unless the context otherwise requires, any person not listed in Schedule 1 hereto that, pursuant to this Section 10, purchases Securities that a defaulting Underwriter agreed but failed to purchase.

(b) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Underwriter or Underwriters by the non-defaulting Underwriters and the Company as provided in Section 10(a) above, the aggregate principal amount of such Securities that remains unpurchased does not exceed one-eleventh of the aggregate principal amount of all the Securities, then the Company shall have the right to require each non-defaulting Underwriter to purchase the principal amount of Securities that such Underwriter agreed to purchase hereunder plus such Underwriter's pro rata share (based on the principal amount of Securities that such Underwriter agreed to purchase hereunder) of the Securities of such defaulting Underwriter or Underwriters for which such arrangements have not been made.

(c) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Underwriter or Underwriters by the non-defaulting Underwriters and the Company as provided in Section 10(a) above, the aggregate principal amount of such Securities that remains unpurchased exceeds one-eleventh of the aggregate principal amount of all the Securities, or if the Company shall not exercise the right described in paragraph (b) above, then this Agreement shall terminate without liability on the part of the non-defaulting Underwriters. Any termination of this Agreement pursuant to this Section 10(b) shall be without liability on the part of the Company, except that the Company will continue to be liable for the payment of expenses as set forth in Section 11 hereof and except that the provisions of Section 7 hereof shall not terminate and shall remain in effect.

(d) Nothing contained herein shall relieve a defaulting Underwriter of any liability it may have to the Company or any non-defaulting Underwriter for damages caused by its default.

11. Payment of Expenses. (a) Whether or not the transactions contemplated by this Agreement are consummated or this Agreement is terminated, the Company will pay or cause to be paid all costs and expenses incident to the performance of its obligations hereunder, including without limitation, (i) the costs incident to the authorization, issuance, sale, preparation and delivery of the Securities and any taxes payable in that connection; (ii) the costs incident to the preparation, printing and filing under the Securities Act of the Registration Statement, the Preliminary Prospectus, any Issuer Free Writing Prospectus, any Time of Sale Information and the Prospectus (including all exhibits, amendments and supplements thereto) and the distribution thereof; (iii) the costs of reproducing and distributing each of the Transaction Documents; (iv) the fees and expenses of the Company's counsel and independent registered public accounting firms of the Company and Paxar Corporation; (v) the fees and expenses incurred in connection with the registration or qualification and determination of eligibility for investment of the Securities or the Issuable Common Stock under the laws of such jurisdictions as the Representatives may designate and the preparation, printing and distribution of a Blue Sky Memorandum (including the related fees and expenses of counsel for the Underwriters); (vi) any fees charged by rating agencies for rating the Securities; (vii) the fees and expenses of the Trustee, the Purchase Contract Agent, the Collateral Agent, the Remarketing Agent and any similar agent and any transfer agent, paying agent or registrar (including related fees and expenses of any counsel to such parties); (viii) any expenses and application fees incurred in connection with any filing with, and clearance of the offering by, the Financial Industry Regulatory Authority; (ix) all expenses incurred by the Company in connection with any "road show" presentation to potential investors; (x) any stock transfer taxes incurred in connection with this Agreement or the transactions contemplated by the Transaction Documents; and (xi) all expenses and application fees related to the listing of the Securities or the Issuable Common Stock on The New York Stock Exchange.

(b) If (i) this Agreement is terminated pursuant to Section 9, (ii) the Company for any reason fails to tender the Securities for delivery to the Underwriters or (iii) the Underwriters decline to purchase the Securities for any reason permitted under this Agreement, the Company agrees to reimburse the Underwriters for all out-of-pocket costs and expenses (including the fees and expenses of counsel to the Underwriters) reasonably incurred by the Underwriters in connection with this Agreement and the offering contemplated hereby.



12. Persons Entitled to Benefit of Agreement. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and the officers and directors and any controlling persons referred to herein, and the affiliates of each Underwriter referred to in Section 7 hereof. Nothing in this Agreement is intended or shall be construed to give any other person any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein. No purchaser of Securities from any Underwriter shall be deemed to be a successor merely by reason of such purchase.

13. Survival. The respective indemnities, rights of contribution, representations, warranties and agreements of the Company and the Underwriters contained in this Agreement or made by or on behalf of the Company or the Underwriters pursuant to this Agreement or any certificate delivered pursuant hereto shall survive the delivery of and payment for the Securities and shall remain in full force and effect, regardless of any termination of this Agreement or any investigation made by or on behalf of the Company or the Underwriters.

14. Certain Defined Terms. For purposes of this Agreement, (a) except where otherwise expressly provided, the term “affiliate” has the meaning set forth in Rule 405 under the Securities Act; (b) the term “business day” means any day other than a day on which banks are permitted or required to be closed in New York City; (c) the term “subsidiary” has the meaning set forth in Rule 405 under the Securities Act ; and (d) the term “significant subsidiary” has the meaning set forth in Rule 1-02 of Regulation S-X under the Exchange Act.

15. Miscellaneous. (a) *Authority of the Representatives*. Any action by the Underwriters hereunder may be taken by the Representatives on behalf of the Underwriters, and any such action taken by the Representatives shall be binding upon the Underwriters.

(b) *Notices*. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted and confirmed by any standard form of telecommunication. Notices to the Underwriters shall be given to the Representatives c/o J.P. Morgan Securities Inc., 277 Park Avenue, 8<sup>th</sup> Floor, New York, New York 10172 (fax: 212-622-8358); Attention: Equity Syndicate Desk, and Citigroup Global Markets Inc., 338 Greenwich Street, New York, New York 10013 (fax: 212-816-7912); Attention: General Counsel. Notices to the Company shall be given to it at Avery Dennison Corporation, 150 North Orange Grove Boulevard, Pasadena, California 91103 (fax: 626-304-2251); Attention: Richard P. Randall, Esq., Vice President Corporate Governance, Associate General Counsel and Assistant Secretary.

(c) *Governing Law*. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

(d) *Counterparts*. This Agreement may be signed in counterparts (which may include counterparts delivered by any standard form of telecommunication), each of which shall be an original and all of which together shall constitute one and the same instrument.

(e) *Amendments or Waivers.* No amendment or waiver of any provision of this Agreement, nor any consent or approval to any departure therefrom, shall in any event be effective unless the same shall be in writing and signed by the parties hereto.

(f) *Headings.* The headings herein are included for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.

If the foregoing is in accordance with your understanding, please indicate your acceptance of this Agreement by signing in the space provided below.

Very truly yours,

AVERY DENNISON CORPORATION

By /s/ Karyn E. Rodriguez  
Title: Vice President And Treasurer

Accepted as of the above written date:

J.P. MORGAN SECURITIES INC.

By: /s/ Authorized Signatory  
Authorized Signatory

CITIGROUP GLOBAL MARKETS INC.

By: /s/ Mark Doller  
Authorized Signatory

For themselves and on behalf of the  
several Underwriters listed  
in Schedule 1 hereto.

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<u>Underwriter</u>	<u>Number of Equity Units</u>
J.P. Morgan Securities Inc.	3,200,000
Citigroup Global Markets Inc.	1,752,800
Banc of America Securities LLC	1,148,000
Barclays Capital Inc.	927,200
Wachovia Capital Markets, LLC	<u>972,000</u>
Total	<u>8,000,000</u>

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Significant Subsidiaries of the Company

<u>Name</u>	<u>Jurisdiction</u>
(1) Paxar Corporation	New York
(2) Avery Dennison Coordination Center BVBA	Belgium
(3) Avery Dennison Hong Kong BV	Netherlands
(4) Avery Dennison Holding & Finance The Netherlands BV	Netherlands
(5) A.V. Chemie GMBH	Switzerland
(6) Avery Dennison Office Products Company	Nevada
(7) Avery Corp.	Delaware

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Officers and Directors to execute and deliver Lock-up Agreements

Dean A. Scarborough

Daniel R. O'Bryant

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Form of Opinion of Richard P. Randall, Esq., Vice President Corporate  
Governance, Associate General Counsel and Assistant Secretary of the Company

(1) With your consent, based solely on certificates from public officials, I confirm that each of the Significant Subsidiaries listed on Schedule 1 hereto is a corporation, validly existing and in good standing under the laws of the jurisdiction of its incorporation.

(2) The Company has 400,000,000 shares of authorized common stock, par value \$1.00 per share and 5,000,000 shares of authorized preferred stock, par value \$1.00 per share.

(3) The execution, delivery and performance by the Company of the Transaction Documents, and the performance of the obligations of the Company set forth therein, including the issuance and sale of the Securities and the Issuable Common Stock by the Company to you and the other Underwriters pursuant to the Underwriting Agreement, do not on the date hereof conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement or other agreement listed on Annex I to this opinion letter.

(4) To the best of my knowledge, except as disclosed in the Registration Statement and the Incorporated Documents, there are no material legal or governmental proceedings pending to which the Company or any of its subsidiaries is a party or to which any property of the Company or any of its subsidiaries is subject, and to the best of my knowledge, no such proceedings are threatened or contemplated by governmental authorities or threatened by others

Form of Opinion and 10b-5 Disclosure Letter of Latham & Watkins LLP,  
Counsel for the Company.

(1) The Registration Statement has become effective under the Act. With your consent, based solely on a telephonic confirmation by a member of the Staff of the Commission on [date], we confirm that no stop order suspending the effectiveness of the Registration Statement has been issued under the Act and no proceedings therefor have been initiated by the Commission. Each of the Preliminary Prospectus and the Prospectus has been filed in accordance with Rule 424(b) under the Act.

(2) The Registration Statement as of its filing date, including the information deemed to be a part thereof pursuant to Rule 430B under the Act, and the Prospectus, as of its date, each appeared on their face to be appropriately responsive in all material respects to the applicable form requirements for registration statements on Form S-3 under the Act and the rules and regulations of the Commission thereunder; it being understood, however, that we express no view with respect to Regulation S-T or the financial statements, schedules, or other financial data, included in, incorporated by reference in, or omitted from, the Registration Statement or the Prospectus. For purposes of this paragraph, we have assumed that the statements made in the Registration Statement and the Prospectus are correct and complete.

(3) The Company is a corporation under the DGCL with corporate power and authority to own its properties and to conduct its business as described in the Preliminary Prospectus and the Prospectus. With your consent, based solely on certificates from public officials, we confirm that the Company is validly existing and in good standing under the laws of the State of Delaware.

(4) The Underwriting Agreement has been duly authorized by all necessary corporate action of the Company and has been duly executed and delivered by the Company.

(5) The Indenture has been duly authorized by all necessary corporate action of the Company, and has been duly executed and delivered by the Company and is a legally valid and binding agreement of the Company enforceable against the Company in accordance with its terms, subject to the Enforceability Exceptions.

(6) The Senior Notes have been duly and validly authorized by all necessary corporate action of the Company, and when duly executed, authenticated and issued in accordance with the terms of the Indenture, and when delivered to and paid for by you in accordance with the terms of the Underwriting Agreement, will constitute valid and legally binding obligations of the Company, enforceable against the Company in accordance with their terms, subject to the Enforceability Exceptions.

(7) The Purchase Contract and Pledge Agreement has been duly authorized by all necessary corporate action of the Company, and has been duly executed and delivered by the Company, and is a legally valid and binding agreement of the Company enforceable against the Company in accordance with its terms, subject to the Enforceability Exceptions.



(8) The Purchase Contracts have been duly and validly authorized by all necessary corporate action of the Company, and when duly executed, authenticated and issued in accordance with the terms of the Purchase Contract and Pledge Agreement, and when delivered to and paid for by you in accordance with the terms of the Underwriting Agreement, will constitute valid and legally binding obligations of the Company, enforceable against the Company in accordance with their terms, subject to the Enforceability Exceptions.

(9) The Indenture has been qualified under the Trust Indenture Act of 1939, as amended.

(10) Assuming that the Purchase Contract Agent has been duly appointed as the attorney-in-fact of each Holder, then the Purchase Contract and Pledge Agreement creates a valid security interest in favor of The Bank of New York, as collateral agent (in such capacity, the "Collateral Agent") for the benefit of the Company in that portion of the Collateral (as defined in the Purchase Contract and Pledge Agreement) in which the Holder has rights and a valid security interest may be created under Article 9 of the New York UCC, which security interest secures the Obligations (as defined in the Purchase Contract and Pledge Agreement).

(11) The Remarketing Agreement has been duly authorized by all necessary corporate action of the Company, and is in a form that, upon the due execution delivered thereof by the Company and the other parties thereto, will constitute a valid and legally binding agreement of the Company enforceable against the Company in accordance with its terms, subject to the Enforceability Exceptions.

(12) The shares of Issuable Common Stock to be issued and sold by the Company pursuant to the Purchase Contracts have been duly authorized by all necessary corporate action of the Company and, when issued and paid for in accordance with the terms of the Purchase Contracts, will be validly issued, fully paid and nonassessable.

(13) The execution and delivery of the Transaction Documents, and the performance of the obligations of the Company set forth therein, including the issuance and sale of the Securities by the Company to you and the other Underwriters pursuant to the Underwriting Agreement, and the issuance and sale of the Issuable Common Stock pursuant to the Purchase Contracts, do not on the date hereof;

(i) violate the Governing Documents;

(ii) violate any federal or New York statute, rule or regulation applicable to the Company, or the DGCL;

(iii) result in the breach of or a default under any of the Specified Agreements; or

(iv) require any consents, approvals, or authorizations to be obtained by the Company from, or any registrations, declarations or filings to be made by the Company with, any governmental authority under any federal or New York statute, rule or regulation applicable to the Company, or the DGCL.

(14) **[Note: the following opinion to be included in a separate tax opinion]** The statements made in each of the Preliminary Prospectus and the Prospectus under the caption “Certain U.S. Federal Income Tax Consequences”, insofar as such statements purport to constitute summaries of United States federal income tax law and regulations or legal conclusions with respect thereto, constitute accurate summaries of the matters described therein in all material respects.

(15) The statements in the Preliminary Prospectus and Prospectus under the headings “Certain ERISA considerations” and incorporated by reference in the Preliminary Prospectus and the Prospectus from Item 3 of Part I of the Company’s Annual Report on Form 10-K for the year ended December 30, 2006 to the extent that they constitute summaries of matters of law or regulation, or legal conclusions, are accurate descriptions or summaries in all material respects;

(16) The statements in the Preliminary Prospectus and the Prospectus under the caption “Underwriting” insofar as they purport to describe or summarize certain provisions of the Underwriting Agreement or U.S. federal and New York laws referred to therein, are accurate descriptions or summaries in all material respects.

(17) The statements in the Registration Statement, the Time of Sale Information and the Prospectus under the captions “Description of the HiMEDS Units”, “Description of the purchase contracts”, “Certain provisions of the purchase contracts and the purchase contract and pledge agreement”, “Description of the senior notes” and “Description of Common Stock and Preferred Stock—Common Stock”, insofar as they purport to describe or summarize certain provisions of the Securities, the Purchase Contracts, the Purchase Contract and Pledge Agreement and Senior Notes, respectively, or U.S. federal and New York laws referred to therein, are accurate descriptions or summaries in all material respects.

(18) With your consent, based solely on certificates of officers of the Company as to factual matters, the Company is not, and immediately after giving effect to the offering and sale of the Securities and the application of the proceeds thereof as described in the Prospectus, will not be required to be registered as, an “investment company” within the meaning of the Investment Company Act of 1940, as amended.

(19) Each of the Incorporated Documents, as of its respective filing date, appeared on its face to be appropriately responsive in all material respects to the applicable requirements for reports on Forms 10-K, 10-Q, and 8-K, as the case may be, under the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission thereunder; it being understood, however, that we express no opinion with respect to Regulation S-T or the financial statements, financial schedules or other financial data, included in, incorporated by reference in, or omitted from such reports. For purposes of this paragraph, we have assumed that the statements made in the Incorporated Documents are correct and complete.

Such counsel shall also state that they have participated in conferences with representatives of the Company and with representatives of its independent accountants and counsel at which conferences the contents of the Registration Statement, the Time of Sale Information and the Prospectus and any amendment and supplement thereto and related matters were discussed and, although such counsel assume no responsibility for the accuracy, completeness or fairness of the Registration Statement, the Time of Sale Information, the Prospectus and any amendment or supplement thereto (except as expressly provided above), nothing has come to the attention of such counsel to cause such counsel to believe that the Registration Statement, at the time of its effective date (including the information, if any, deemed pursuant to Rule 430A, 430B or 430C to be part of the Registration Statement at the time of effectiveness), contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading, that the Time of Sale Information, at the Time of Sale (which such counsel may assume to be the date of the Underwriting Agreement) contained any untrue statement of a material fact or omitted to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading or that the Prospectus or any amendment or supplement thereto as of its date and the Closing Date contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, it being understood that we express no belief with respect to the financial statements, schedules, or other financial data included or incorporated by reference in, or omitted from, the Registration Statement, the Preliminary Prospectus, the Time of Sale Information or the Prospectus.

In rendering such opinion, such counsel may rely as to matters of fact on certificates of responsible officers of the Company and public officials that are furnished to the Underwriters.

The opinion of such counsel shall be rendered to the Underwriters pursuant to the requirements of the Underwriting Agreement and shall so state therein.

**Time of Sale Information**

[list each Issuer Free Writing Prospectus to be included in the Time of Sale Information]



FORM OF LOCK-UP AGREEMENT

November 14, 2007

J.P. Morgan Securities Inc.  
Citigroup Global Markets Inc.  
As Representatives of the  
several Underwriters listed  
in Schedule 1 hereto

c/o J.P. Morgan Securities Inc.  
277 Park Avenue  
New York, New York 10172  
and  
Citigroup Global Markets Inc.  
388 Greenwich Street  
New York, New York 10013

Re: Avery Dennison Corporation HiMEDS<sup>sm</sup> Units

Ladies and Gentlemen:

The undersigned understands that you, as Representatives of the several Underwriters propose to enter into an Underwriting Agreement (the "Underwriting Agreement") with Avery Dennison Corporation, a Delaware corporation (the "Company"), providing for the public offering (the "Public Offering") by the several Underwriters named in Schedule 1 to the Underwriting Agreement (the "Underwriters"), of 7.875% Corporate HiMEDS<sup>sm</sup> Units of the Company. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Underwriting Agreement.

In consideration of the Underwriters' agreement to purchase and make the Public Offering of the Securities, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned, in his personal capacity, and not in his capacity as an officer of the Company, hereby agrees that, without the prior written consent of Representatives on behalf of the Underwriters, the undersigned will not, during the period beginning from the date hereof and continuing to and including the date 90 days after the date hereof, without the prior written consent of the Representatives: (i) directly or indirectly, issue, offer, sell, offer or sell, solicit offers to purchase, grant any call option, warrant or other right to purchase, purchase any put option or other right to sell, pledge, borrow or otherwise dispose of any shares of Common Stock or any security which is substantially similar to the Common Stock, including any security of the Company or any subsidiary that is convertible into, or exercisable or

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exchangeable for shares of Common Stock or equity securities, or that holds the right to acquire any shares of Common Stock or equity securities of the Company or any subsidiary, other than the issuance of shares of Common Stock upon the exercise of outstanding options or warrants, and the issuance of options or shares of Common Stock under existing stock option and incentive plans, or make any announcement of any of the foregoing; (ii) establish or increase any "put equivalent position" or liquidate or decrease any "call equivalent position" (in each case within the meaning of Section 16 of the Exchange Act and the rules and regulations promulgated thereunder) with respect to any shares of Common Stock or any security which is substantially similar to the Common Stock; and (iii) otherwise enter into any swap, derivative or other transaction or arrangement that transfers to another, in whole or in part, any economic consequence of ownership of any shares of Common Stock or any security which is substantially similar to the shares of Common Stock, whether or not such transaction is to be settled by delivery of shares of Common Stock or any security which is substantially similar to the Common Stock, other securities, cash or other consideration.

The foregoing restrictions shall not apply to (i) the buy back of shares of Common Stock pursuant to the Company's stock buy back program, (ii) transfers of shares of Common Stock or common stock equivalents as a bona fide gift or by will or intestacy, including transfers to a trust where the beneficiaries of the trust are drawn solely from a group consisting of the undersigned, provided that each transferee agrees to be similarly restricted for the 90 day period or (iii) transfers by the undersigned and those others executing and delivering Letter Agreements substantially similar to this to the Underwriters on the date hereof of up to one million shares of Common Stock in the aggregate.

In furtherance of the foregoing, the Company, and any duly appointed transfer agent for the registration or transfer of the securities described herein, are hereby authorized to decline to make any transfer of securities if such transfer would constitute a violation or breach of this Letter Agreement.

The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this Letter Agreement. All authority herein conferred or agreed to be conferred and any obligations of the undersigned shall be binding upon the successors, assigns, heirs or personal representatives of the undersigned.

The undersigned understands that, if the Underwriting Agreement does not become effective, or if the Underwriting Agreement (other than the provisions thereof which survive termination) shall terminate or be terminated prior to payment for and delivery of the Common Stock to be sold thereunder, the undersigned shall be released from all obligations under this Letter Agreement.

The undersigned understands that the Underwriters are entering into the Underwriting Agreement and proceeding with the Public Offering in reliance upon this Letter Agreement.

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This Letter Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to the conflict of laws principles thereof.

Very truly yours,

By: \_\_\_\_\_  
Name:



**AVERY DENNISON CORPORATION**

and

**THE BANK OF NEW YORK TRUST COMPANY, N.A.**

as Purchase Contract Agent

and

**THE BANK OF NEW YORK TRUST COMPANY, N.A.**

as Collateral Agent, Custodial Agent and Securities Intermediary

**PURCHASE CONTRACT AND PLEDGE AGREEMENT**

**HiMEDS<sup>SM</sup> Units**

Dated as of November 20, 2007

“HiMEDS” is a service mark of J.P. Morgan Securities Inc.

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PURCHASE CONTRACT AND PLEDGE AGREEMENT, dated as of November 20, 2007, among AVERY DENNISON CORPORATION, a Delaware corporation (the “**Company**”), THE BANK OF NEW YORK TRUST COMPANY, N.A., a New York banking corporation, acting as purchase contract agent for, and for purposes of the Pledge created hereby as attorney-in-fact of, the Holders from time to time of the Units (in such capacities, together with its successors and assigns in such capacities, the “**Purchase Contract Agent**”), The Bank of New York Trust Company, N.A., as collateral agent hereunder for the benefit of the Company (in such capacity, together with its successors in such capacity, the “**Collateral Agent**”), as custodial agent (in such capacity, together with its successors in such capacity, the “**Custodial Agent**”), and as securities intermediary (as defined in Section 8-102(a)(14) of the UCC) with respect to the Collateral Account (in such capacity, together with its successors in such capacity, the “**Securities Intermediary**”).

#### RECITALS

WHEREAS, the Company has duly authorized the execution and delivery of this Agreement and the Certificates evidencing the Units;

WHEREAS, all things necessary to make the Purchase Contracts, when the Certificates are executed by the Company and authenticated, executed on behalf of the Holders and delivered by the Purchase Contract Agent, as provided in this Agreement, the valid obligations of the Company, and to constitute these presents a valid agreement of the Company, in accordance with its terms, have been done;

WHEREAS, pursuant to the terms of this Agreement and the Purchase Contracts, the Holders of the Units have irrevocably authorized the Purchase Contract Agent, as attorney-in-fact of such Holders, among other things, to execute and deliver this Agreement on behalf of such Holders and to grant the Pledge provided herein of the Collateral to secure the Obligations.

NOW, THEREFORE, the parties hereto agree as follows:

#### ARTICLE 1 DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.01. *Definitions.* For all purposes of this Agreement, 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, and nouns and pronouns of the masculine gender include the feminine and neuter genders;
  - (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;
  - (c) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, Exhibit or other subdivision;
-

(d) the following terms which are defined in the UCC shall have the meanings set forth therein: “**certificated security**,” “**control**,” “**financial asset**,” “**entitlement order**,” “**securities account**” and “**security entitlement**”; and

(e) the following terms have the meanings given to them in this Section 1.01(e):

“**Act**” has the meaning, with respect to any Holder, set forth in Section 1.04(a).

“**Address for Notices**” has the meaning set forth in Section 1.05.

“**Adjusted Applicable Market Value**” has the meaning set forth in Section 5.01(a).

“**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.

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

“**Anti-Dilution Factor**” has the meaning set forth in Section 5.01(a).

“**Applicable Market Value**” has the meaning set forth in Section 5.01(a).

“**Applicants**” has the meaning set forth in Section 7.12(b).

“**Bankruptcy Code**” means Title 11 of the United States Code, or any other law of the United States that from time to time provides a uniform system of bankruptcy laws.

“**Beneficial Owner**” means, with respect to a Book-Entry Interest, a Person who is the beneficial owner of such Book-Entry Interest as reflected on the books of the Depository or on the books of a Person maintaining an account with such Depository (directly as a Depository Participant or as an indirect participant, in each case in accordance with the rules of such Depository).

“**Board of Directors**” means the board of directors of the Company or a duly authorized committee of that board.

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



**“Book-Entry Interest”** means a beneficial interest in a Global Certificate, registered in the name of a Depository or a nominee thereof, ownership and transfers of which shall be maintained and made through book entries by such Depository as provided in Section 3.06.

**“Business Day”** means any day other than a Saturday, Sunday or any other day on which banking institutions and trust companies in New York City are permitted or required by any applicable law to remain closed or a day on which the Indenture Trustee or the Collateral Agent is closed for business; *provided* that for purposes of the second paragraph of Section 1.12 only, the term “Business Day” shall also be deemed to exclude any day on which DTC is closed.

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

**“Cash Consideration”** has the meaning set forth in Section 5.02(a)(ii).

**“Cash Merger”** has the meaning set forth in Section 5.04(b)(ii).

**“Cash Settlement”** has the meaning set forth in Section 5.02(a)(i).

**“Certificate”** means a Corporate HiMEDS Units Certificate or a Treasury HiMEDS Units Certificate.

**“Closing Price”** has the meaning set forth in Section 5.01(a).

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

**“Collateral”** means the collective reference to:

(i) the Collateral Account and all investment property and other financial assets from time to time credited to the Collateral Account and all security entitlements with respect thereto, including, without limitation, (A) the Senior Notes and security entitlements relating thereto that are a component of the Corporate HiMEDS Units from time to time, (B) any Treasury Securities and security entitlements relating thereto Transferred to the Securities Intermediary from time to time in connection with the creation of Treasury HiMEDS Units in accordance with Section 3.13 and (C) payments made by Holders pursuant to Section 5.02;

(ii) all Proceeds of any of the foregoing (whether such Proceeds arise before or after the commencement of any proceeding under any applicable bankruptcy, insolvency or other similar law, by or against the pledgor or with respect to the pledgor); and

(iii) all powers and rights now owned or hereafter acquired under or with respect to the Collateral.

**“Collateral Account”** means the securities account of The Bank of New York Trust Company, N.A., as Collateral Agent, maintained on the books of the Securities Intermediary and designated “The Bank of New York Trust Company, N.A., as Collateral Agent of Avery Dennison Corporation, as pledgee of The Bank of New York Trust Company, N.A., as the Purchase Contract Agent on behalf of and as attorney-in-fact for the Holders.”

**“Collateral Agent”** means the Person named as “Collateral Agent” in the first paragraph of this Agreement until a successor Collateral Agent shall have become such pursuant to this Agreement, and thereafter “Collateral Agent” shall mean the Person who is then the Collateral Agent hereunder.

**“Collateral Substitution”** means:

(i) with respect to a Corporate HiMEDS Unit, the substitution of the Pledged Senior Note included in such Corporate HiMEDS Unit with Treasury Securities in an aggregate principal amount at maturity equal to the aggregate principal amount of such Pledged Senior Note; or

(ii) with respect to a Treasury HiMEDS Unit, the substitution of the Pledged Treasury Securities included in such Treasury HiMEDS Unit with Senior Notes in an aggregate principal amount equal to the aggregate principal amount at maturity of the Pledged Treasury Securities.

**“Common Stock”** means the common stock, par value \$1.00 per share, of the Company or, subject to Section 5.04, 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 on exchange shall be substantially in the proportion which the total number of shares of such class resulting from all such reclassifications bears to the total number of shares of all such classes resulting from all such reclassifications.

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

**“Constituent Person”** has the meaning set forth in Section 5.04(b)(i).

**“Contract Adjustment Payments”** means the payments payable by the Company on the Payment Dates in respect of each Purchase Contract, at a rate per year of 2.525% of the Stated Amount per Purchase Contract.

**“Corporate HiMEDS Unit”** means a HiMEDS Unit, initially issued in substantially the form set forth as Exhibit A hereto in the Stated Amount of \$50, which represents (i) beneficial ownership by the Holder of a 1/20, or 5.00%, undivided beneficial ownership interest in a Senior Note with a principal amount of \$1,000 and (ii) the rights and obligations of the Company and the Holder under one Purchase Contract.

**“Corporate HiMEDS Units Certificate”** means a certificate evidencing the rights and obligations of a Holder in respect of the number of Corporate HiMEDS Units specified on such certificate.

**“Corporate Trust Office”** means the office of the Purchase Contract Agent at which, at any particular time, its corporate trust business shall be principally administered, which office at the date hereof is located at 601 Travis Street, 18<sup>th</sup> Floor, Houston, Texas 77002, Attention: Corporate Trust Administration.

**“Current Market Price”** per share of the Common Stock or any other security on any day means:

(a) with respect to Section 5.04(a)(ii), Section 5.04(a)(iv) in the event of an adjustment not relating to a Spin-Off and Section 5.04(a)(v), the average of the Closing Prices over the twenty consecutive Trading Day period ending on the Trading Day before the Ex-Date with respect to the issuance or distribution requiring such computation;

(b) with respect to Section 5.04(a)(iv) in the event of an adjustment relating to a Spin-Off, (i) if the Spin-Off is not effected simultaneously with an Initial Public Offering of the securities being distributed in the Spin-Off, the average of the Closing Prices of the Common Stock over the 10 consecutive Trading Day period commencing on and including the Trading Day following the Effective Date of the Spin-Off and (ii) if an Initial Public Offering of the securities being distributed in the Spin-Off is to be effected simultaneously with the Spin-Off, the Closing Price of the Common Stock on the Trading Day on which the Initial Public Offering price of the securities being distributed in the Spin-Off is determined; and

(c) with respect to Section 5.04(a)(vi), the average of the Closing Prices over the twenty consecutive Trading Day period commencing on the Trading Day immediately succeeding the Tender Expiration Date.

**“Custodial Agent”** means the Person named as Custodial Agent in the first paragraph of this Agreement until a successor Custodial Agent shall have become such pursuant to the applicable provisions of this Agreement, and thereafter **“Custodial Agent”** shall mean the Person who is then the Custodial Agent hereunder.

**“Deferred Contract Adjustment Payments”** has the meaning set forth in Section 5.11(a).

**“Depository”** means a clearing agency registered under Section 17A of the Exchange Act that is designated to act as Depository for the HiMEDS Units as contemplated by Sections 3.06 and 3.08.

**“Depository Participant”** means a broker, dealer, bank, other financial institution or other Person for whom from time to time the Depository effects book entry transfers and pledges of securities deposited with the Depository.

**“DTC”** means The Depository Trust Company.

**“Early Settlement”** has the meaning set forth in Section 5.07(a).

**“Early Settlement Amount”** has the meaning set forth in Section 5.07(b).

**“Early Settlement Date”** has the meaning set forth in Section 5.07(b).

“**Effective Date**” has the meaning set forth in Section 5.04(b)(ii).

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended.

“**event of default**” has the meaning set forth in Section 13.01(b).

“**Exchange Act**” means the Securities Exchange Act of 1934 and any statute successor thereto, in each case as amended from time to time, and the rules and regulations promulgated thereunder.

“**Exchange Property Unit**” has the meaning set forth in Section 5.04(b)(i).

“**Ex-Date**,” when used with respect to any issuance or distribution, shall mean the first date on which the Common Stock or such other security, as applicable, trades in a regular way on the principal U.S. securities exchange or quotation system on which the Common Stock or such other security, as applicable, is listed or quoted at such time, without the right to receive such issuance or distribution.

“**Expiration Date**” has the meaning set forth in Section 1.04(e).

“**Extension Period**” has the meaning set forth in Section 5.11(a).

“**Fair Market Value**” means the fair market value as determined in good faith by the Board of Directors, whose determination shall be conclusive and set forth in a resolution of the Board of Directors; *provided, however*, that with respect to a Spin-Off, such term means (a) in the case of any Spin-Off that is effected simultaneously with an Initial Public Offering of the securities being distributed in the Spin-Off, the initial public offering price of those securities, and (b) in the case of any other Spin-Off, the average of the Closing Prices of the securities being distributed in the Spin-Off over the 10 consecutive Trading Day period commencing on and including the Trading Day following the effective date of the Spin-Off.

“**Global Certificate**” means a Certificate that evidences all or part of the HiMEDS Units and is registered in the name of the Depositary or a nominee thereof.

“**High Settlement Rate**” has the meaning set forth in Section 5.01(a)(i).

“**HiMEDS Unit**” means a Corporate HiMEDS Unit or a Treasury HiMEDS Unit, as the case may be.

“**Holder**” means, with respect to a HiMEDS Unit, the Person in whose name the HiMEDS Unit evidenced by a Certificate is registered in the Security Register; *provided, however*, that solely for the purpose of determining whether the Holders of the requisite number of HiMEDS Units have voted on any matter (and not for any other purpose hereunder), if the HiMEDS Unit remains in the form of one or more Global Certificates and if the Depositary that is the registered holder of such Global Certificate has sent an omnibus proxy assigning voting rights to the Depositary Participants to whose accounts the HiMEDS Units are credited on the record date, the term “Holder” shall mean such Depositary Participant acting at the direction of the Beneficial Owners.

“**Indemnified Parties**” has the meaning set forth in Section 15.08(b).

“**Indemnitees**” has the meaning set forth in Section 7.07(c).

“**Indenture**” means the Indenture, dated as of November 20, 2007, between the Company and the Indenture Trustee (including any provisions of the TIA that are deemed incorporated therein), as heretofore amended and supplemented and as amended and supplemented by the Supplemental Indenture pursuant to which the Senior Notes will be issued.

“**Indenture Trustee**” means The Bank of New York Trust Company, N.A., as trustee under the Indenture, or any successor thereto.

“**Initial Public Offering**” means the first time securities of the same class or type as the securities being distributed in the Spin-Off are offered to the public for cash.

“**Issuer Order**” means a written order signed in the name of the Company by (i) either its Chief Executive Officer, its President or one of its Vice Presidents, and (ii) either its Corporate Secretary or one of its Assistant Corporate Secretaries or its Treasurer or one of its Assistant Treasurers, and delivered to the Purchase Contract Agent.

“**Last Failed Remarketing**” has the meaning set forth in Section 5.02(c)(ii).

“**Loss**” or “**Losses**” has the meaning set forth in Section 15.08(b).

“**Low Settlement Rate**” has the meaning set forth in Section 5.01(a)(iii).

“**Make-Whole Shares**” has the meaning set forth in Section 5.04(b)(ii).

“**Merger Early Settlement**” has the meaning set forth in Section 5.04(b)(ii).

“**Merger Early Settlement Date**” has the meaning set forth in Section 5.04(b)(ii).

“**Minimum Settlement Rate**” means 0.7682, subject to adjustment as contemplated by Section 5.04(a).

“**Minimum Stock Price**” has the meaning set forth in Section 5.04(b)(iii)(3).

“**NASDAQ**” means the NASDAQ Global Select Market.

“**NYSE**” means the New York Stock Exchange.

“**Obligations**” means, with respect to each Holder, all obligations and liabilities of such Holder under such Holder’s Purchase Contract and this Agreement or any other document made, delivered or given in connection herewith or therewith, in each case whether on account of principal, interest (including, without limitation, interest accruing before and after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to such Holder, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding), fees, indemnities, costs, expenses or otherwise (including, without limitation, all fees and disbursements of counsel to the Company or the Collateral Agent or the Securities Intermediary that are required to be paid by the Holder pursuant to the terms of any of the foregoing agreements).

**“Observation Period”** means the 20 consecutive Trading Day period ending on the third scheduled Trading Day immediately preceding the Purchase Contract Settlement Date.

**“Officers’ Certificate”** means a certificate signed by (i) either the Company’s Chief Executive Officer, its President or one of its Vice Presidents, and (ii) either the Company’s Corporate Secretary or one of its Assistant Corporate Secretaries or its Treasurer or one of its Assistant Treasurers, and delivered to the Purchase Contract Agent.

Any Officers’ Certificate delivered with respect to compliance with a condition or covenant provided for in this Agreement (other than the Officers’ Certificate provided for in Section 10.05) shall include:

- (i) a statement that each officer signing the Officers’ Certificate has read the covenant or condition and the definitions relating thereto;
- (ii) a brief statement of the nature and scope of the examination or investigation undertaken by each officer in rendering the Officers’ Certificate;
- (iii) a statement that, in the opinion of each such officer, each such officer has made such examination or investigation as is necessary to enable such officer to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (iv) a statement as to whether, in the opinion of each such officer, such condition or covenant has been complied with.

**“Opinion of Counsel”** means a written opinion of counsel, who may be counsel to the Company (and who may be an employee of the Company), and who shall be reasonably acceptable to the Purchase Contract Agent. An opinion of counsel may rely on certificates as to matters of fact.

**“Outstanding HiMEDS Units”** means, with respect to any HiMEDS Unit and as of the date of determination, all HiMEDS Units evidenced by Certificates theretofore authenticated, executed and delivered under this Agreement, except:

- (i) if a Termination Event has occurred, (x) Corporate HiMEDS Units for which the underlying Senior Notes have been theretofore deposited with the Purchase Contract Agent in trust for the Holders of such Corporate HiMEDS Units and (y) Treasury HiMEDS Units for which Treasury Securities have been deposited with the Purchase Contract Agent in trust for the Holders of such Treasury HiMEDS Units;
- (ii) HiMEDS Units evidenced by Certificates theretofore cancelled by the Purchase Contract Agent or delivered to the Purchase Contract Agent for cancellation or deemed cancelled pursuant to the provisions of this Agreement; and

(iii) HiMEDS Units evidenced by Certificates in exchange for or in lieu of which other Certificates have been authenticated, executed on behalf of the Holder and delivered pursuant to this Agreement, other than any such Certificate in respect of which there shall have been presented to the Purchase Contract Agent proof satisfactory to it that such Certificate is held by a protected purchaser in whose hands the HiMEDS Units evidenced by such Certificate are valid obligations of the Company;

*provided, however*, that in determining whether the Holders of the requisite number of the HiMEDS Units have given any request, demand, authorization, direction, notice, consent or waiver hereunder, HiMEDS Units owned by the Company or any Affiliate of the Company shall be disregarded and deemed not to be Outstanding HiMEDS Units, except that, in determining whether the Purchase Contract Agent shall be authorized and protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only HiMEDS Units that a Responsible Officer of the Purchase Contract Agent actually knows to be so owned shall be so disregarded. HiMEDS Units so owned that have been pledged in good faith may be regarded as Outstanding HiMEDS Units if the pledgee establishes to the satisfaction of the Purchase Contract Agent the pledgee's right so to act with respect to such HiMEDS Units and that the pledgee is not the Company or any Affiliate of the Company.

**"Payment Date"** means each February 15, May 15, August 15 and November 15 of each year, commencing February 15, 2008.

**"Person"** means a legal person, including any individual, corporation, estate, partnership, joint venture, association, joint-stock company, limited liability company, trust, unincorporated organization or government or any agency or political subdivision thereof or any other entity of whatever nature.

**"Plan"** means an "employee benefit plan" within the meaning of Section 3(3) of ERISA that is subject to Title I of ERISA, a plan, individual retirement account or other arrangement that is subject to Section 4975 of the Code or provisions under any Similar Laws, and entities whose underlying assets are considered to include "plan assets" of any such plan, account or arrangement.

**"Pledge"** means the lien and security interest in the Collateral created by this Agreement.

**"Pledged Senior Notes"** means Senior Notes and security entitlements with respect thereto from time to time credited to the Collateral Account and not then released from the Pledge.

**"Pledged Treasury Securities"** means Treasury Securities and security entitlements with respect thereto from time to time credited to the Collateral Account and not then released from the Pledge.

**"Predecessor Certificate"** means a Predecessor Corporate HiMEDS Units Certificate or a Predecessor Treasury HiMEDS Units Certificate.

**"Predecessor Corporate HiMEDS Units Certificate"** of any particular Corporate HiMEDS Units Certificate means every previous Corporate HiMEDS Units Certificate evidencing all or a portion of the rights and obligations of the Company and the Holder under the Corporate HiMEDS Units evidenced thereby; and, for the purposes of this definition, any

Corporate HiMEDS Units Certificate authenticated and delivered under Section 3.10 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Corporate HiMEDS Units Certificate shall be deemed to evidence the same rights and obligations of the Company and the Holder as the mutilated, destroyed, lost or stolen Corporate HiMEDS Units Certificate.

**“Predecessor Treasury HiMEDS Units Certificate”** of any particular Treasury HiMEDS Units Certificate means every previous Treasury HiMEDS Units Certificate evidencing all or a portion of the rights and obligations of the Company and the Holder under the Treasury HiMEDS Units evidenced thereby; and, for the purposes of this definition, any Treasury HiMEDS Units Certificate authenticated and delivered under Section 3.10 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Treasury HiMEDS Units Certificate shall be deemed to evidence the same rights and obligations of the Company and the Holder as the mutilated, destroyed, lost or stolen Treasury HiMEDS Units Certificate.

**“Proceeds”** has the meaning ascribed thereto in the UCC and includes, without limitation, all interest, dividends, cash, instruments, securities, financial assets and other property received, receivable or otherwise distributed upon the sale (including, without limitation, the remarketing), exchange, collection or disposition of any financial assets from time to time credited to the Collateral Account.

**“Pro Rata”** shall mean pro rata to each Holder according to the aggregate Stated Amount of the HiMEDS Units held by such Holder in relation to the aggregate Stated Amount of all HiMEDS Units outstanding.

**“Prospectus”** means the prospectus relating to the delivery of shares or any securities in connection with an Early Settlement pursuant to Section 5.07 or a Merger Early Settlement of Purchase Contracts pursuant to Section 5.04(b)(ii), in the form in which first filed, or transmitted for filing, with the Securities and Exchange Commission after the effective date of the Registration Statement pursuant to Rule 424(b) under the Securities Act, including the documents incorporated by reference therein as of the date of such Prospectus.

**“Purchase Contract”** means, with respect to any HiMEDS Unit, the contract forming a part of such HiMEDS Unit and obligating the Company to (i) sell, and the Holder of such HiMEDS Unit to purchase, not later than the Purchase Contract Settlement Date, for \$50 in cash, a number of shares of Common Stock equal to the applicable Settlement Rate, and (ii) pay the Holder thereof Contract Adjustment Payments, in each case on the terms and subject to the conditions set forth in Article 5.

**“Purchase Contract Agent”** means the Person named as the “Purchase Contract Agent” in the first paragraph of this Agreement until a successor Purchase Contract Agent shall have become such pursuant to the applicable provisions of this Agreement, and thereafter “Purchase Contract Agent” shall mean such Person or any subsequent successor who is appointed pursuant to this Agreement.



“**Purchase Contract Settlement Date**” means November 15, 2010; *provided, however*, that in the event one or more of the three scheduled Trading Days immediately following the last Trading Day of the Observation Period shall not be a Trading Day, the Purchase Contract Settlement Date shall be postponed until such Trading Day that is the third Trading Day immediately following the last Trading Day of the Observation Period.

“**Purchase Contract Settlement Fund**” has the meaning set forth in Section 5.03(a).

“**Purchase Price**” has the meaning set forth in Section 5.01(a).

“**Purchased Shares**” has the meaning set forth in Section 5.04(a)(vi).

“**Put Right**” has the meaning set forth in Section 5.03(a) of the Supplemental Indenture.

“**Record Date**” for any distribution and any Contract Adjustment Payment and any Deferred Contract Adjustment Payment payable on any Payment Date means, as to any Global Certificate or any other Certificate, the first day of the calendar month in which the relevant Payment Date falls (whether or not a Business Day).

“**Reference Dividend**” has the meaning set forth in Section 5.04(a)(v).

“**Reference Price**” has the meaning set forth in Section 5.01(a)(ii).

“**Registration Statement**” means a registration statement under the Securities Act prepared by the Company covering, *inter alia*, the delivery by the Company of any securities in connection with an Early Settlement on the Early Settlement Date or a Merger Early Settlement of Purchase Contracts on the Merger Early Settlement Date under Section 5.04(b)(ii), including all exhibits thereto and the documents incorporated by reference in the prospectus contained in such registration statement, and any post-effective amendments thereto.

“**Remarketing Agent**” has the meaning set forth in Section 5.02(c)(i).

“**Remarketing Agreement**” means the Remarketing Agreement to be entered into by and among the Company, the Remarketing Agent and the Purchase Contract Agent.

“**Remarketing Date**” means the ninth scheduled Business Day immediately preceding the Purchase Contract Settlement Date, which Business Day is expected to be November 1, 2010.

“**Remarketing Fee**” has the meaning set forth in Section 5.02(c)(i).

“**Remarketing Notice**” has the meaning set forth in Section 5.02(c)(i).

“**Remarketing Period**” means the seven scheduled Business Day period beginning on the Remarketing Date; *provided, however*, that in no event shall the Remarketing Period extend beyond the third scheduled Trading Day immediately preceding the Purchase Contract Settlement Date.

**“Remarketing Value”** means, with respect to any Senior Note, the \$1,000 principal amount of such Senior Note.

**“Reorganization Event”** means:

- (i) any consolidation or merger of the Company with or into another Person or of another Person with or into the Company;
- (ii) any sale, transfer, lease or conveyance to another Person of the assets and property of the Company as an entirety or substantially as an entirety;
- (iii) any statutory share exchange of the Company with another Person (other than in connection with a merger or acquisition); or
- (iv) any liquidation, dissolution or termination of the Company (other than as a result of or after the occurrence of a Termination Event).

**“Reset Rate”** has the meaning set forth in Section 5.01(f)(i) of the Supplemental Indenture.

**“Responsible Officer”** means, when used with respect to the Purchase Contract Agent, any officer of the Purchase Contract Agent within the Corporate Trust Administration (or any successor unit, department or division of the Purchase Contract Agent) located at the Corporate Trust Office of the Purchase Contract Agent who has direct responsibility for the administration of the Agreement and, for the purposes of Section 7.01(b)(ii), also means, with respect to a particular corporate trust matter, any other officer, trust officer or person performing similar functions to whom such matter is referred because of his or her knowledge of and familiarity of the particular subject.

**“Rights”** has the meaning set forth in Section 5.04(a)(x).

**“Securities Act”** means the Securities Act of 1933 and any statute successor thereto, in each case as amended from time to time, and the rules and regulations promulgated thereunder.

**“Securities Intermediary”** means the Person named as Securities Intermediary in the first paragraph of this Agreement until a successor Securities Intermediary shall have become such pursuant to the applicable provisions of this Agreement, and thereafter “Securities Intermediary” shall mean such successor or any subsequent successor.

**“Security Register”** and **“Security Registrar”** have the respective meanings set forth in Section 3.05.

**“Senior Indebtedness”** means indebtedness of any kind of the Company unless the instrument under which such indebtedness is incurred expressly provides that it is on a parity in right of payment with or subordinate in right of payment to the Contract Adjustment Payments.

**“Senior Notes”** means the series of notes designated the Senior Notes due 2020 to be issued by the Company under the Indenture, which Senior Notes will mature on November 15, 2020, or on such earlier date not earlier than November 15, 2012 as the Company may elect in accordance with the Indenture in connection with a successful remarketing.

“**Separate Senior Notes**” means Senior Notes that are not components of Corporate HiMEDS Units.

“**Settlement Date**” means, as applicable, the Purchase Contract Settlement Date, the Early Settlement Date or the Merger Early Settlement Date.

“**Settlement Rate**” has the meaning set forth in Section 5.01(a).

“**Similar Law**” means provisions under any federal, state, local, non-U.S. or other laws or regulations that are similar to the fiduciary responsibility provisions of Title I of ERISA or the prohibited transaction provisions of Title I of ERISA or Section 4975 of the Code.

“**Spin-Off**” means a distribution to all or substantially all holders of the Common Stock consisting of shares of capital stock of any class or series of, or similar equity interests in, or relating to a subsidiary or other business unit of the Company.

“**Stated Amount**” means \$50.

“**Stock Price**” has the meaning set forth in Section 5.04(b)(iii).

“**Subsequent Remarketing Date**” has the meaning set forth in Section 5.02(c)(i).

“**Supplemental Indenture**” means the First Supplemental Indenture, dated as of the date hereof, between the Company and the Indenture Trustee, pursuant to which the Senior Notes are issued.

“**Tender Expiration Date**” has the meaning set forth in Section 5.04(a)(vi).

“**Tender Expiration Time**” has the meaning set forth in Section 5.04(a)(vi).

“**Termination Date**” means the date, if any, on which a Termination Event occurs.

“**Termination Event**” means the occurrence of any of the following events:

(i) at any time on or prior to the Purchase Contract Settlement Date, a judgment, decree or court order shall have been entered granting relief under the Bankruptcy Code, adjudicating the Company to be insolvent, or approving as properly filed a petition seeking reorganization or liquidation of the Company or any other similar applicable Federal or state law and if such judgment, decree or order shall have been entered more than 60 days prior to the Purchase Contract Settlement Date, such decree or order shall have continued undischarged and unstayed for a period of 60 days;

(ii) at any time on or prior to the Purchase Contract Settlement Date, a judgment, decree or court order for the appointment of a receiver or liquidator or trustee or assignee in bankruptcy or insolvency of the Company or of its property, or for the termination or liquidation

of its affairs, shall have been entered and if such judgment, decree or order shall have been entered more than 60 days prior to the Purchase Contract Settlement Date, such judgment, decree or order shall have continued undischarged and unstayed for a period of 60 days; or

(iii) at any time on or prior to the Purchase Contract Settlement Date, the Company shall file a petition for relief under the Bankruptcy Code, or shall consent to the filing of a bankruptcy proceeding against it, or shall file a petition or answer or consent seeking reorganization or liquidation under the Bankruptcy Code or any other similar applicable Federal or State law, or shall consent to the filing of any such petition, or shall consent to the appointment of a receiver or liquidator or trustee or assignee in bankruptcy or insolvency of it or of its property, or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due.

“**Threshold Appreciation Price**” has the meaning set forth in Section 5.01(a)(i).

“**TIA**” means the Trust Indenture Act of 1939, as amended from time to time, or any successor legislation.

“**TRADES**” means the Treasury/Reserve Automated Debt Entry System maintained by the Federal Reserve Bank of New York pursuant to the TRADES Regulations.

“**TRADES Regulations**” means the regulations of the United States Department of the Treasury, published at 31 C.F.R. Part 357, as amended from time to time. Unless otherwise defined herein, all terms defined in the TRADES Regulations are used herein as therein defined.

“**Trading Day**” has the meaning set forth in Section 5.01(a).

“**Transfer**” means:

(i) in the case of certificated securities in registered form, delivery as provided in Section 8-301(a) of the UCC, indorsed to the transferee or in blank by an effective endorsement;

(ii) in the case of Treasury Securities, registration of the transferee as the owner of such Treasury Securities on TRADES; and

(iii) in the case of security entitlements, including, without limitation, security entitlements with respect to Treasury Securities, a securities intermediary indicating by book entry that such security entitlement has been credited to the transferee’s securities account.

“**Treasury HiMEDS Unit**” means a HiMEDS Unit, initially issued in substantially the form set forth as Exhibit B hereto in a Stated Amount of \$50, which represents (i) a 1/20, or 5.00%, undivided beneficial ownership interest in a Treasury Security having a principal amount at maturity equal to \$1,000 and (ii) the rights and obligations of the Company and the Holder under one Purchase Contract.

“**Treasury HiMEDS Units Certificate**” means a certificate evidencing the rights and obligations of a Holder in respect of the number of Treasury HiMEDS Units specified on such certificate.

“**Treasury Securities**” means zero-coupon U.S. treasury securities that mature on November 15, 2010 (CUSIP No. 912820MJ3).

“**UCC**” means the Uniform Commercial Code as in effect in the State of New York from time to time.

“**Underwriters**” means the underwriters identified in Schedule 1 to the Underwriting Agreement.

“**Underwriting Agreement**” means the Underwriting Agreement, dated as of November 14, 2007, among the Company and the Underwriters, relating to the offer and sale by the Company of Corporate HiMEDS Units.

“**Value**” means, with respect to any item of Collateral on any date, as to:

- (i) Cash, the amount thereof;
- (ii) Senior Notes, the aggregate principal amount thereof; and
- (iii) Treasury Securities, the aggregate principal amount at maturity thereof.

“**Vice President**” 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 1.02. *Compliance Certificates and Opinions.* Except as otherwise expressly provided by this Agreement, upon any application or request by the Company to the Purchase Contract Agent to take any action in accordance with any provision of this Agreement, the Company shall furnish to the Purchase Contract Agent an Officers’ Certificate stating that all conditions precedent, if any, provided for in this Agreement relating to the proposed action have been complied with and, if requested by the Purchase Contract Agent, 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 Agreement relating to such particular application or request, no additional certificate or opinion need be furnished.

Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Agreement (other than the Officers’ Certificate provided for in Section 10.05) shall include:

- (i) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;
- (ii) 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;
- (iii) a statement that, in the opinion of each such individual, he or she has made such examination or investigation as is necessary to enable such individual to express an informed opinion as to whether or not such covenant or condition has been complied with; and

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

Section 1.03. *Form of Documents Delivered to Purchase Contract Agent.* In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents. Any certificate or opinion of an officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which its certificate or opinion is based are erroneous. Any such certificate or Opinion of Counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

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

Section 1.04. *Acts of Holders; Record Dates.* (a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Agreement 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 an agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Purchase Contract Agent and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the “**Act**” of the Holders signing such instrument or instruments. Reasonable proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Agreement and (subject to Section 7.01) conclusive in favor of the Purchase Contract Agent and the Company, if made in the manner provided in this Section.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved in any manner which the Purchase Contract Agent deems sufficient.

(c) The ownership of HiMEDS Units shall be proved by the Security Register.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any HiMEDS Unit shall bind every future Holder of the same HiMEDS Unit and the Holder of every Certificate evidencing such HiMEDS Unit 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 Purchase Contract Agent or the Company in reliance thereon, whether or not notation of such action is made upon such Certificate.

(e) The Company may set any date as a record date for the purpose of determining the Holders of Outstanding HiMEDS Units entitled to give, make or take any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Agreement to be given, made or taken by Holders of HiMEDS Units. If any record date is set pursuant to this Section 1.04(e), the Holders of the Outstanding Corporate HiMEDS Units and the Outstanding Treasury HiMEDS Units, as the case may be, on such record date, and no other Holders, shall be entitled to take the relevant action with respect to the Corporate HiMEDS Units or the Treasury HiMEDS Units, as the case may be, whether or not such Holders remain Holders after such record date; *provided* that no such action shall be effective hereunder unless taken prior to or on the applicable Expiration Date by Holders of the requisite number of Outstanding HiMEDS Units on such record date. Nothing contained in this Section 1.04(e), shall be construed to prevent the Company from setting a new record date for any action for which a record date has previously been set pursuant to this Section 1.04(e) (whereupon the record date previously set shall automatically and with no action by any Person be cancelled and be of no effect), and nothing contained in this Section 1.04(e) shall be construed to render ineffective any action taken by Holders of the requisite number of Outstanding HiMEDS Units on the date such action is taken. Promptly after any record date is set pursuant to this Section 1.04(e), the Company, at its own expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Purchase Contract Agent in writing and to each Holder of HiMEDS Units in the manner set forth in Section 1.06.

With respect to any record date set pursuant to this Section 1.04(e), the Company may designate any date as the “**Expiration Date**” and from time to time may change the Expiration Date to any earlier or later day; *provided* that no such change shall be effective unless notice of the proposed new Expiration Date is given to the Purchase Contract Agent in writing, and to each Holder of HiMEDS Units in the manner set forth in Section 1.06, prior to or on the existing Expiration Date. If an Expiration Date is not designated with respect to any record date set pursuant to this Section, the Company shall be deemed to have initially designated the 180th day after such record date as the Expiration Date with respect thereto, subject to its right to change the Expiration Date as provided in this Section 1.04(e). Notwithstanding the foregoing, no Expiration Date shall be later than the 180th day after the applicable record date.

Section 1.05. *Notices.* All notices, requests, consents and other communications provided for herein (including, without limitation, any modifications of, or waivers or consents under, this Agreement) shall be given or made in writing (including, without limitation, by telecopy) delivered to the intended recipient at the “**Address for Notices**” specified below its name on the signature pages hereof or, as to any party, at such other address as shall be designated by such party in a notice to the other parties. Except as otherwise provided in this Agreement, all such communications shall be deemed to have been duly given when transmitted by telecopier or personally delivered or, in the case of a mailed notice, upon receipt, in each case given or addressed as aforesaid.

The Purchase Contract Agent shall send to the Indenture Trustee at the following address a copy of any notices in the form of Exhibits C, D, E or F hereto it sends or receives:

The Bank of New York Trust Company, N.A.  
601 Travis Street  
18<sup>th</sup> Floor  
Houston, Texas 77002  
Telecopier No.: 713-483-7038  
Attention: Corporate Trust Administration

Section 1.06. *Notice to Holders; Waiver.*

Where this Agreement provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to each Holder affected by such event, at its address as it appears in the Security Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Where this Agreement provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Purchase Contract Agent, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give such notice by mail, then such notification as shall be made with the approval of the Purchase Contract Agent shall constitute a sufficient notification for every purpose hereunder.

Section 1.07. *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 1.08. *Successors and Assigns.* This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the Company, the Purchase Contract Agent, the Collateral Agent, the Custodial Agent, the Securities Intermediary and the Purchase Contract Agent, and the Holders from time to time of the HiMEDS Units, by their acceptance of the same, shall be deemed to have agreed to be bound by the provisions hereof and to have ratified the agreements of, and the grant of the Pledge hereunder by, the Purchase Contract Agent.

Section 1.09. *Separability Clause.* In case any provision in this Agreement or in the HiMEDS Units shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof and thereof shall not in any way be affected or impaired thereby.

Section 1.10. *Benefits of Agreement.* Nothing contained in this Agreement or in the HiMEDS Units, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder and, to the extent provided hereby, the Holders, any benefits or any



legal or equitable right, remedy or claim under this Agreement. The Holders from time to time shall be beneficiaries of this Agreement and shall be bound by all of the terms and conditions hereof and of the HiMEDS Units evidenced by their Certificates by their acceptance of delivery of such Certificates.

Section 1.11. *Governing Law; Submission to Jurisdiction; Waiver of Venue Objection*. THIS AGREEMENT AND THE HiMEDS UNITS SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. The Company, the Collateral Agent, the Custodial Agent, the Securities Intermediary and the Holders from time to time of the HiMEDS Units, acting through the Purchase Contract Agent as their attorney-in-fact, hereby submit to the nonexclusive jurisdiction of the United States District Court for the Southern District of New York and of any New York state court sitting in New York City for the purposes of all legal proceedings arising out of or relating to this Agreement or the transactions contemplated hereby. The Company, the Collateral Agent, the Custodial Agent, the Securities Intermediary and the Holders from time to time of the HiMEDS Units, acting through the Purchase Contract Agent as their attorney-in-fact, irrevocably waive, to the fullest extent permitted by applicable law, any objection which they may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient forum.

Section 1.12. *Legal Holidays*. In any case where any Payment Date shall not be a Business Day (notwithstanding any other provision of this Agreement or the HiMEDS Units), Contract Adjustment Payments or other distributions shall not be paid on such date, but Contract Adjustment Payments and Deferred Contract Adjustment Payments or such other distributions shall be paid on the next succeeding Business Day, unless such Business Day is in the next succeeding calendar year, in which case such Contract Adjustment Payments or other distributions shall be paid on the immediately preceding Business Day, in each case with the same force and effect as if made on such scheduled Payment Date; *provided* that no interest or other payment shall accrue or be payable by the Company or to any Holder in respect of such payment or distribution for the period from and after any such scheduled Payment Date.

In any case where the Purchase Contract Settlement Date or any Early Settlement Date or Merger Early Settlement Date shall not be a Business Day (notwithstanding any other provision of this Agreement or the HiMEDS Units), Purchase Contracts shall not be performed and Early Settlement and Merger Early Settlement shall not be effected on such date, but Purchase Contracts shall be performed or Early Settlement or Merger Early Settlement shall be effected, as applicable, on the next succeeding Business Day with the same force and effect as if made on such Purchase Contract Settlement Date, Early Settlement Date or Merger Early Settlement Date, as applicable.

Section 1.13. *Counterparts*. This Agreement may be executed in any number of counterparts by the parties hereto on separate counterparts, each of which, when so executed and delivered, shall be deemed an original, but all such counterparts shall together constitute one and the same instrument.

Section 1.14. *Inspection of Agreement.* A copy of this Agreement shall be available at all reasonable times during normal business hours at the Corporate Trust Office for inspection by any Holder or Beneficial Owner.

Section 1.15. *Appointment of Financial Institution as Agent for the Company.* The Company may appoint a financial institution (which may be the Collateral Agent) to act as its agent in performing its obligations and in accepting and enforcing performance of the obligations of the Purchase Contract Agent and the Holders, under this Agreement and the Purchase Contracts, by giving notice of such appointment in the manner provided in Section 1.05. Any such appointment shall not relieve the Company in any way from its obligations hereunder.

Section 1.16. *No Waiver.* No failure on the part of the Company, the Purchase Contract Agent, the Collateral Agent, the Securities Intermediary or any of their respective agents to exercise, and no course of dealing with respect to, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise by the Company, the Collateral Agent, the Securities Intermediary or any of their respective agents of any right, power or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies herein are cumulative and are not exclusive of any remedies provided by law.

Section 1.17. *Tax Treatment.* The Company intends to treat and each beneficial owner of a Corporate HiMEDS Unit or Treasury HiMEDS Unit, by acceptance of a beneficial interest in a Corporate HiMEDS Unit or Treasury HiMEDS Unit, as applicable, agrees to treat:

- (i) each Corporate HiMEDS Unit as an investment unit consisting of an interest in a Senior Note and a Purchase Contract;
- (ii) the initial fair market value of each Senior Note as \$50 and the initial fair market value of each Purchase Contract as \$0 and to allocate the purchase price for each Corporate HiMEDS Unit accordingly;
- (iii) each Treasury HiMEDS Unit as an investment unit consisting of Treasury securities and a Purchase Contract;
- (iv) such Holder, for all purposes, as the owner of the applicable interests in the Collateral Account, including the Senior Notes or the Treasury Securities; and
- (v) the Senior Notes as indebtedness for tax purposes.

## ARTICLE 2 CERTIFICATE FORMS

Section 2.01. *Forms of Certificates Generally.* The Certificates (including the form of Purchase Contract forming part of each Unit evidenced thereby) shall be in substantially the form set forth in Exhibit A hereto (in the case of Corporate HiMEDS Units Certificates) or Exhibit B hereto (in the case of Treasury HiMEDS Units Certificates), with such letters, numbers or other marks of identification or designation and such legends or endorsements printed, lithographed or

engraved thereon as may be required by the rules of any securities exchange on which the HiMEDS Units are listed or any depositary therefor, or as may, consistently herewith, be determined by the officers of the Company executing such Certificates, as evidenced by their execution of the Certificates.

The definitive Certificates shall be produced in any manner as determined by the officers of the Company executing the HiMEDS Units evidenced by such Certificates, consistent with the provisions of this Agreement, as evidenced by their execution thereof.

Every Global Certificate authenticated, executed on behalf of the Holders and delivered hereunder shall bear a legend in substantially the following form:

“THIS CERTIFICATE IS A GLOBAL CERTIFICATE WITHIN THE MEANING OF THE PURCHASE CONTRACT AGREEMENT HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF CEDE & CO., AS NOMINEE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (THE “DEPOSITARY”), THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY. THIS CERTIFICATE IS EXCHANGEABLE FOR CERTIFICATES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITARY OR ITS NOMINEE ONLY IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE PURCHASE CONTRACT AGREEMENT AND NO TRANSFER OF THIS CERTIFICATE (OTHER THAN A TRANSFER OF THIS CERTIFICATE AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY) MAY BE REGISTERED EXCEPT IN LIMITED CIRCUMSTANCES.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REQUESTED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY), 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.”

Section 2.02. *Form of Purchase Contract Agent’s Certificate of Authentication.* The form of the Purchase Contract Agent’s certificate of authentication of the HiMEDS Units shall be in substantially the form set forth on the form of the applicable Certificates.

Section 2.03. *Global Certificates.* So long as the HiMEDS Units are evidenced by one or more Global Certificates deposited with the Depositary, procedures for transfer, exchange, Cash Settlement, Early Settlement or Merger Early Settlement will be governed by standing arrangements between the Depositary and the Purchase Contract Agent.

ARTICLE 3  
THE HiMEDS UNITS

Section 3.01. *Amount; Form and Denominations.* The aggregate number of HiMEDS Units evidenced by Certificates authenticated, executed on behalf of the Holders and delivered hereunder is limited to 8,000,000 (up to 8,800,000 if the Underwriters exercise their over-allotment option in accordance with the terms of the Underwriting Agreement), except for Certificates authenticated, executed and delivered upon registration of transfer of, in exchange for, or in lieu of, other Certificates pursuant to Section 3.04, Section 3.05, Section 3.10, Section 3.13, Section 3.14 or Section 8.05.

The Certificates shall be issuable only in registered form and only in denominations of a single Corporate HiMEDS Unit or Treasury HiMEDS Unit and any integral multiple thereof.

Section 3.02. *Rights and Obligations Evidenced by the Certificates.* Each Corporate HiMEDS Units Certificate shall evidence the number of Corporate HiMEDS Units specified therein, with each such Corporate HiMEDS Unit representing (i) the ownership by the Holder thereof of a 1/20, or 5.00%, undivided beneficial interest in \$1,000 principal amount of a Senior Note, subject to the Pledge of such interest by such Holder pursuant to this Agreement and (ii) the rights and obligations of the Holder thereof and the Company under one Purchase Contract. The Purchase Contract Agent is hereby authorized, as attorney-in-fact for, and on behalf of, the Holder of each Corporate HiMEDS Unit, to pledge, pursuant to Article 11 hereof, the Senior Note, forming a part of such Corporate HiMEDS Unit, to the Collateral Agent for the benefit of the Company, and to grant to the Collateral Agent, for the benefit of the Company, a security interest in the right, title and interest of such Holder in such Senior Note to secure the obligation of the Holder under each Purchase Contract to purchase shares of Common Stock.

Upon the formation of a Treasury HiMEDS Unit pursuant to Section 3.13, each Treasury HiMEDS Unit Certificate shall evidence the number of Treasury HiMEDS Units specified therein, with each such Treasury HiMEDS Unit representing (i) the ownership by the Holder thereof of a 1/20, or 5.00%, undivided beneficial interest in a Treasury Security with a principal amount at maturity equal to \$1,000, subject to the Pledge of such interest by such Holder pursuant to this Agreement, and (ii) the rights and obligations of the Holder thereof and the Company under one Purchase Contract. The Purchase Contract Agent is hereby authorized, as attorney-in-fact for, and on behalf of, the Holder of each Treasury HiMEDS Unit, to pledge, pursuant to Article 11, such Holder's interest in the Treasury Security forming a part of such Treasury HiMEDS Unit, to the Collateral Agent for the benefit of the Company, and to grant to the Collateral Agent for the benefit of the Company, a security interest in the right, title and interest of such Holder in such Treasury Security to secure the obligation of the Holder under each Purchase Contract to purchase shares of Common Stock.

Prior to the purchase of shares of Common Stock under each Purchase Contract, such Purchase Contracts shall not entitle the Holder of a HiMEDS Unit to any of the rights of a holder of shares of Common Stock, including, without limitation, the right to vote or receive any dividends or other payments or to consent or to receive notice as a stockholder in respect of the meetings of stockholders or for the election of directors of the Company or for any other matter, or any other rights whatsoever as a stockholder of the Company.

Section 3.03. *Execution, Authentication, Delivery and Dating.* Subject to the provisions of Section 3.13 and Section 3.14, upon the execution and delivery of this Agreement, and at any time and from time to time thereafter, the Company may deliver Certificates executed by the Company to the Purchase Contract Agent for authentication, execution on behalf of the Holders and delivery, together with its Issuer Order for authentication of such Certificates, and the Purchase Contract Agent in accordance with such Issuer Order shall authenticate, execute on behalf of the Holders and deliver such Certificates.

The Certificates shall be executed on behalf of the Company by any one of its Chairman of the Board of Directors, its Chief Executive Officer, its President, its Treasurer or one of its Vice Presidents. The signature of any of these officers on the Certificates may be manual or facsimile.

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

No Purchase Contract evidenced by a Certificate shall be valid until such Certificate has been executed on behalf of the Holder by the manual signature of an authorized officer of the Purchase Contract Agent, as such Holder's attorney-in-fact. Such signature by an authorized officer of the Purchase Contract Agent shall be conclusive evidence that the Holder of such Certificate has entered into the Purchase Contract or Purchase Contracts evidenced by such Certificate.

Each Certificate shall be dated the date of its authentication.

No Certificate shall be entitled to any benefit under this Agreement or be valid or obligatory for any purpose unless there appears on such Certificate a certificate of authentication substantially in the form provided for herein executed by an authorized officer of the Purchase Contract Agent by manual signature, and such certificate upon any Certificate shall be conclusive evidence, and the only evidence, that such Certificate has been duly authenticated and delivered hereunder.

Section 3.04. *Temporary Certificates.* Pending the preparation of definitive Certificates, the Company shall execute and deliver to the Purchase Contract Agent, and the Purchase Contract Agent shall authenticate, execute on behalf of the Holders, and deliver, in lieu of such definitive Certificates, temporary Certificates which are in substantially the form set forth in Exhibit A or Exhibit B hereto, as the case may be, with such letters, numbers or other marks of identification or designation and such legends or endorsements printed, lithographed or engraved thereon as may be required by the rules of any securities exchange on which the Corporate HiMEDS Units or Treasury HiMEDS Units, as the case may be, are listed, or as may, consistently herewith, be determined by the officers of the Company executing such Certificates, as evidenced by their execution of the Certificates.

If temporary Certificates are issued, the Company will cause definitive Certificates to be prepared without unreasonable delay. After the preparation of definitive Certificates, the temporary Certificates shall be exchangeable for definitive Certificates upon surrender of the temporary Certificates at the Corporate Trust Office, at the expense of the Company and without charge to the Holder. Upon surrender for cancellation of any one or more temporary Certificates, the Company shall execute and deliver to the Purchase Contract Agent, and the Purchase Contract Agent shall authenticate, execute on behalf of the Holder, and deliver in exchange therefor, one or more definitive Certificates of like tenor and denominations and evidencing a like number of HiMEDS Units as the temporary Certificate or Certificates so surrendered. Until so exchanged, the temporary Certificates shall in all respects evidence the same benefits and the same obligations with respect to the HiMEDS Units evidenced thereby as definitive Certificates.

Section 3.05. *Registration; Registration of Transfer and Exchange.* The Purchase Contract Agent shall keep at the Corporate Trust Office a register (the “**Security Register**”) in which, subject to such reasonable regulations as it may prescribe, the Purchase Contract Agent shall provide for the registration of Certificates and of transfers of Certificates (the Purchase Contract Agent, in such capacity, the “**Security Registrar**”). The Security Registrar shall record separately the registration and transfer of the Certificates evidencing Corporate HiMEDS Units and Treasury HiMEDS Units.

Upon surrender for registration of transfer of any Certificate at the Corporate Trust Office, the Company shall execute and deliver to the Purchase Contract Agent, and the Purchase Contract Agent shall authenticate, execute on behalf of the designated transferee or transferees, and deliver, in the name of the designated transferee or transferees, one or more new Certificates of any authorized denominations, like tenor, and evidencing a like number of Corporate HiMEDS Units or Treasury HiMEDS Units, as the case may be.

At the option of the Holder, Certificates may be exchanged for other Certificates, of any authorized denominations and evidencing a like number of Corporate HiMEDS Units or Treasury HiMEDS Units, as the case may be, upon surrender of the Certificates to be exchanged at the Corporate Trust Office. Whenever any Certificates are so surrendered for exchange, the Company shall execute and deliver to the Purchase Contract Agent, and the Purchase Contract Agent shall authenticate, execute on behalf of the Holder, and deliver the Certificates which the Holder making the exchange is entitled to receive.

All Certificates issued upon any registration of transfer or exchange of a Certificate shall evidence the ownership of the same number of Corporate HiMEDS Units or Treasury HiMEDS Units, as the case may be, and be entitled to the same benefits and subject to the same obligations under this Agreement as the Corporate HiMEDS Units or Treasury HiMEDS Units, as the case may be, evidenced by the Certificate surrendered upon such registration of transfer or exchange.

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

No service charge shall be made for any registration of transfer or exchange of a Certificate, but the Company and the Purchase Contract Agent may require payment from the Holder of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Certificates, other than any exchanges pursuant to Section 3.04, Section 3.06 and Section 8.05 not involving any transfer.

Notwithstanding the foregoing, the Company shall not be obligated to execute and deliver to the Purchase Contract Agent, and the Purchase Contract Agent shall not be obligated to authenticate, execute on behalf of the Holder and deliver any Certificate in exchange for any other Certificate presented or surrendered for registration of transfer or for exchange on or after the Business Day immediately preceding the earliest to occur of any Early Settlement Date with respect to such Certificate, any Merger Early Settlement Date with respect to such Certificate, the Purchase Contract Settlement Date or the Termination Date. In lieu of delivery of a new Certificate, upon satisfaction of the applicable conditions specified above in this Section and receipt of appropriate registration or transfer instructions from such Holder, the Purchase Contract Agent shall:

(i) if the Purchase Contract Settlement Date or an Early Settlement Date or a Merger Early Settlement Date with respect to such other Certificate has occurred, deliver the shares of Common Stock issuable in respect of the Purchase Contracts forming a part of the HiMEDS Units evidenced by such other Certificate; or

(ii) if a Termination Event, Early Settlement, or Merger Early Settlement shall have occurred prior to the Purchase Contract Settlement Date, or a Cash Settlement shall have occurred, transfer the Senior Notes, or the Treasury Securities, as the case may be, evidenced thereby, in each case subject to the applicable conditions and in accordance with the applicable provisions of Section 3.15 and Article 5.

Section 3.06. *Book-Entry Interests.* The Certificates, on original issuance, will be issued in the form of one or more fully registered Global Certificates, to be delivered to the Depository or its custodian by, or on behalf of, the Company. The Company hereby designates DTC as the initial Depository. Such Global Certificates shall initially be registered on the Security Register in the name of Cede & Co., the nominee of the Depository, and no Beneficial Owner will receive a definitive Certificate representing such Beneficial Owner's interest in such Global Certificate, except as provided in Section 3.09. The Purchase Contract Agent shall enter into an agreement with the Depository if so requested by the Company. Unless and until definitive, fully registered Certificates have been issued to Beneficial Owners pursuant to Section 3.09:

(i) the provisions of this Section 3.06 shall be in full force and effect;

(ii) the Company shall be entitled to deal with the Depository for all purposes of this Agreement (including, without limitation, making Contract Adjustment Payments and receiving approvals, votes or consents hereunder) as the Holder of the HiMEDS Units and the sole holder of the Global Certificates and shall have no obligation to the Beneficial Owners; *provided* that a Beneficial Owner may directly enforce against the Company, without any consent, proxy, waiver or involvement of the Depository of any kind, such Beneficial Owner's right to receive a definitive Certificate representing the HiMEDS Units beneficially owned by such Beneficial Owner, as set forth in Section 3.09;

(iii) to the extent that the provisions of this Section 3.06 conflict with any other provisions of this Agreement, the provisions of this Section 3.06 shall control; and

(iv) except as set forth in the proviso of clause (ii) of this Section 3.06, the rights of the Beneficial Owners shall be exercised only through the Depository and shall be limited to those established by law and agreements between such Beneficial Owners and the Depository or the Depository Participants. The Depository will make book entry transfers among Depository Participants and receive and transmit payments of Contract Adjustment Payments to such Depository Participants.

Transfers of securities evidenced by Global Certificates shall be made through the facilities of the Depository, and any cancellation of, or increase or decrease in the number of, such securities (including the creation of Treasury HiMEDS Units and the recreation of Corporate HiMEDS Units pursuant to Section 3.13 and Section 3.14 respectively) shall be accomplished by making appropriate annotations on the Schedule of Increases and Decreases for such Global Certificate.

Section 3.07. *Notices to Holders.* Whenever a notice or other communication to the Holders is required to be given under this Agreement, the Company or the Company's agent shall give such notices and communications to the Holders and, with respect to any HiMEDS Units registered in the name of the Depository or the nominee of the Depository, the Company or the Company's agent shall, except as set forth herein, have no obligations to the Beneficial Owners.

Section 3.08. *Appointment of Successor Depository.* If the Depository elects to discontinue its services as securities depository with respect to the HiMEDS Units, the Company may, in its sole discretion, appoint a successor Depository with respect to the HiMEDS Units.

Section 3.09. *Definitive Certificates.*

If:

(i) the Depository notifies the Company that it is unwilling or unable to continue its services as securities depository with respect to the HiMEDS Units and no successor Depository has been appointed pursuant to Section 3.08 within 90 days after such notice; or

(ii) the Depository ceases to be a "clearing agency" registered under Section 17A of the Exchange Act when the Depository is required to be so registered to act as the Depository and so notifies the Company, and no successor Depository has been appointed pursuant to Section 3.08 within 90 days after such notice;

(iii) to the extent permitted by the Depository, the Company determines at any time that the HiMEDS Units shall no longer be represented by Global Certificates and shall inform such Depository of such determination and participants in such Depository elect to withdraw their beneficial interests in the HiMEDS Units from such Depository, following notification by the Depository of their right to do so; or



(iv) a Beneficial Owner requests to exchange such Beneficial Owner's interest in the Global Certificates for definitive Certificates in order to exercise or enforce such Beneficial Owner's rights under the HiMEDS Units represented by such Global Certificates,

then (x) definitive Certificates shall be prepared by the Company with respect to such HiMEDS Units and delivered to the Purchase Contract Agent and (y) upon surrender of the Global Certificates representing the HiMEDS Units by the Depositary, accompanied by registration instructions (other than in the case of clause (iv) above), the Company shall cause definitive Certificates to be delivered to Beneficial Owners in accordance with instructions provided by the Depositary. The Company and the Purchase Contract Agent shall not be liable for any delay in delivery of such instructions and may conclusively rely on and shall be authorized and protected in relying on, such instructions. Each definitive Certificate so delivered shall evidence HiMEDS Units of the same kind and tenor as the Global Certificate so surrendered in respect thereof.

Section 3.10. *Mutilated, Destroyed, Lost and Stolen Certificates.* If any mutilated Certificate is surrendered to the Purchase Contract Agent, the Company shall execute and deliver to the Purchase Contract Agent, and the Purchase Contract Agent shall authenticate, execute on behalf of the Holder, and deliver in exchange therefor, a new Certificate, evidencing the same number of Corporate HiMEDS Units or Treasury HiMEDS Units, as the case may be, and bearing a Certificate number not contemporaneously outstanding.

If there shall be delivered to the Company and the Purchase Contract Agent (i) evidence to their satisfaction of the destruction, loss or theft of any Certificate, and (ii) such security or indemnity as may be required by them to hold each of them and any agent of any of them harmless, then, in the absence of notice to the Company or the Purchase Contract Agent that such Certificate has been acquired by a protected purchaser, the Company shall execute and deliver to the Purchase Contract Agent, and the Purchase Contract Agent shall authenticate, execute on behalf of the Holder, and deliver to the Holder, in lieu of any such destroyed, lost or stolen Certificate, a new Certificate, evidencing the same number of Corporate HiMEDS Units or Treasury HiMEDS Units, as the case may be, and bearing a Certificate number not contemporaneously outstanding.

Notwithstanding the foregoing, the Company shall not be obligated to execute and deliver to the Purchase Contract Agent, and the Purchase Contract Agent shall not be obligated to authenticate, execute on behalf of the Holder, and deliver to the Holder, a Certificate on or after the Business Day immediately preceding the earliest of any Early Settlement Date with respect to such lost or mutilated Certificate, any Merger Early Settlement Date with respect to such lost or mutilated Certificate, the Purchase Contract Settlement Date or the Termination Date. In lieu of delivery of a new Certificate, upon satisfaction of the applicable conditions specified above in this Section and receipt of appropriate registration or transfer instructions from such Holder, the Purchase Contract Agent shall:

(i) if the Purchase Contract Settlement Date (including upon any Cash Settlement) or an Early Settlement Date or a Merger Early Settlement Date with respect to such lost, stolen, destroyed or mutilated Certificate has occurred, deliver the shares of Common Stock issuable in respect of the Purchase Contracts forming a part of the HiMEDS Units evidenced by such Certificate; or

(ii) if a Merger Early Settlement or an Early Settlement with respect to such lost or mutilated Certificate or if a Termination Event shall have occurred prior to the Purchase Contract Settlement Date or a Cash Settlement shall have occurred, transfer the Senior Notes or the Treasury Securities, evidenced thereby, in each case subject to the applicable conditions and in accordance with the applicable provisions of Section 3.15 and Article 5.

Upon the issuance of any new Certificate under this Section, the Company and the Purchase Contract Agent may require the payment by the Holder of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other fees and expenses (including, without limitation, the fees and expenses of the Purchase Contract Agent) connected therewith.

Every new Certificate issued pursuant to this Section in lieu of any destroyed, lost or stolen Certificate shall constitute an original additional contractual obligation of the Company and of the Holder in respect of the HiMEDS Units evidenced thereby, whether or not the destroyed, lost or stolen Certificate (and the HiMEDS Units evidenced thereby) shall be at any time enforceable by anyone, and shall be entitled to all the benefits and be subject to all the obligations of this Agreement equally and proportionately with any and all other Certificates delivered hereunder.

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

Section 3.11. *Persons Deemed Owners.* Prior to due presentment of a Certificate for registration of transfer, the Company and the Purchase Contract Agent, and any agent of the Company or the Purchase Contract Agent, may treat the Person in whose name such Certificate is registered as the owner of the HiMEDS Units evidenced thereby for purposes of (subject to any applicable record date) any payment or distribution with respect to the Senior Notes, payment of Contract Adjustment Payments and performance of the Purchase Contracts and for all other purposes whatsoever in connection with such HiMEDS Units, whether or not such payment, distribution, or performance shall be overdue and notwithstanding any notice to the contrary, and neither the Company nor the Purchase Contract Agent, nor any agent of the Company or the Purchase Contract Agent, shall be affected by notice to the contrary.

Notwithstanding the foregoing, with respect to any Global Certificate, nothing contained herein shall prevent the Company, the Purchase Contract Agent or any agent of the Company or the Purchase Contract Agent, from giving effect to any written certification, proxy or other authorization furnished by the Depository (or its nominee), as a Holder, with respect to such Global Certificate, or impair, as between such Depository and the related Beneficial Owner, the operation of customary practices governing the exercise of rights of the Depository (or its nominee) as Holder of such Global Certificate. None of the Company, the Purchase Contract Agent or any agent of the Company or the Purchase Contract Agent will have any responsibility

or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Global Certificate or maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

Section 3.12. *Cancellation.* All Certificates surrendered for delivery of shares of Common Stock on or after the Purchase Contract Settlement Date or in connection with an Early Settlement or a Merger Early Settlement or for delivery of the Senior Notes underlying the appropriate ownership interests in the Senior Notes or Treasury Securities, as the case may be, after the occurrence of a Termination Event or pursuant to a Cash Settlement, an Early Settlement or a Merger Early Settlement, or upon the registration of transfer or exchange of a HiMEDS Unit, or a Collateral Substitution or the recreation of Corporate HiMEDS Units shall, if surrendered to any Person other than the Purchase Contract Agent, be delivered to the Purchase Contract Agent along with appropriate written instructions regarding the cancellation thereof and, if not already cancelled, shall be promptly cancelled by it. The Company may at any time deliver to the Purchase Contract Agent for cancellation any Certificates previously authenticated, executed and delivered hereunder which the Company may have acquired in any manner whatsoever, and all Certificates so delivered shall, upon an Issuer Order, be promptly cancelled by the Purchase Contract Agent. No Certificates shall be authenticated, executed on behalf of the Holder and delivered in lieu of or in exchange for any Certificates cancelled as provided in this Section, except as expressly permitted by this Agreement. All cancelled Certificates held by the Purchase Contract Agent shall be disposed of in accordance with its customary practices.

If the Company or any Affiliate of the Company shall acquire any Certificate, such acquisition shall not operate as a cancellation of such Certificate unless and until such Certificate is delivered to the Purchase Contract Agent cancelled or for cancellation.

Section 3.13. *Creation of Treasury HiMEDS Units by Substitution of Treasury Securities.* (a) Subject to the conditions set forth in this Agreement, a Holder of Corporate HiMEDS Units may, at any time from and after the date of this Agreement and on or prior to 4:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date, effect a Collateral Substitution and separate the Senior Notes from the related Purchase Contracts in respect of such Holder's Corporate HiMEDS Units by substituting for such Senior Notes, Treasury Securities in an aggregate principal amount at maturity equal to the aggregate principal amount of such Senior Notes; *provided* that Holders may make Collateral Substitutions only in integral multiples of 20 Corporate HiMEDS Units. To effect such substitution, the Holder must:

- (1) Transfer to the Securities Intermediary, for credit to the Collateral Account, Treasury Securities or security entitlements with respect thereto having a Value equal to the aggregate principal amount of the Pledged Senior Notes to be released; and
- (2) Transfer the related Corporate HiMEDS Units to the Purchase Contract Agent accompanied by a notice to the Purchase Contract Agent, substantially in the form of Exhibit C hereto, (i) stating that the Holder has Transferred the relevant amount of Treasury Securities to the Securities Intermediary for credit to the Collateral Account and (ii) requesting that the Purchase Contract Agent instruct the

Collateral Agent to release the Pledged Senior Notes underlying such Corporate HiMEDS Units, whereupon the Purchase Contract Agent shall promptly provide an instruction to such effect to the Collateral Agent, substantially in the form of Exhibit G hereto (A) stating that such Holder has notified the Purchase Contract Agent that such Holder has Transferred Treasury Securities or security entitlements with respect thereto to the Securities Intermediary for credit to the Collateral Account, (B) stating the Value of the Treasury Securities or security entitlements with respect thereto Transferred by such Holder and (C) requesting that the Collateral Agent release from the Pledge the Pledged Senior Notes that are a component of such Corporate HiMEDS Units.

Upon confirmation that the Treasury Securities described in clause (1) above or security entitlements with respect thereto have been credited to the Collateral Account and receipt of the instruction to the Collateral Agent described in clause (2) above, the Collateral Agent shall release such Pledged Senior Notes from the Pledge and shall instruct the Securities Intermediary by a notice, substantially in the form of Exhibit H hereto, to Transfer such Pledged Senior Notes to the Purchase Contract Agent for distribution to such Holder, free and clear of the Pledge created hereby.

Upon credit to the Collateral Account of Treasury Securities or security entitlements with respect thereto delivered by a Holder of Corporate HiMEDS Units and receipt of the related instruction from the Collateral Agent, the Securities Intermediary shall promptly Transfer the appropriate Pledged Senior Notes to the Purchase Contract Agent for distribution to such Holder, free and clear of the Pledge created hereby.

Upon receipt of such Senior Notes, the Purchase Contract Agent shall promptly:

- (i) cancel the related Corporate HiMEDS Units;
- (ii) Transfer the Pledged Senior Notes to the Holder (such Senior Notes shall be tradable as a separate security, independent of the resulting Treasury HiMEDS Units); and
- (iii) authenticate, execute on behalf of such Holder and deliver Treasury HiMEDS Units in book-entry form, or if applicable, in the form of a Treasury HiMEDS Units Certificate executed by the Company in accordance with Section 3.03 evidencing the same number of Purchase Contracts as were evidenced by the cancelled Corporate HiMEDS Units.

Holders who elect to separate the Senior Notes from the related Purchase Contracts and to substitute Treasury Securities for such Senior Notes shall be responsible for any fees or expenses (including, without limitation, fees and expenses payable to the Collateral Agent) in respect of the substitution, and neither the Company nor the Purchase Contract Agent shall be responsible for any such fees or expenses.

(b) In the event a Holder making a Collateral Substitution pursuant to this Section 3.13 fails to effect a book-entry transfer of the Corporate HiMEDS Units or fails to deliver Corporate HiMEDS Units Certificates to the Purchase Contract Agent after depositing Treasury

Securities with the Securities Intermediary, as the case may be, any distributions on the Senior Notes constituting a part of such Corporate HiMEDS Units shall be held in the name of the Purchase Contract Agent or its nominee in trust for the benefit of such Holder, until such Corporate HiMEDS Units are so transferred or the Corporate HiMEDS Units Certificate is so delivered, as the case may be, or such Holder provides evidence satisfactory to the Company and the Purchase Contract Agent that such Corporate HiMEDS Units Certificate has been destroyed, lost or stolen, together with any indemnity that may be required by the Purchase Contract Agent and the Company.

(c) Except as described in Section 5.02 or in this Section 3.13 or in connection with a Cash Settlement, an Early Settlement, a Merger Early Settlement or a Termination Event, for so long as the Purchase Contract underlying a Corporate HiMEDS Unit remains in effect, such Corporate HiMEDS Units shall not be separable into its constituent parts, and the rights and obligations of the Holder in respect of the 1/20, or 5.00% of a Senior Note and the Purchase Contract comprising such Corporate HiMEDS Units may be acquired, and may be transferred and exchanged, only as single Corporate HiMEDS Unit or integral multiples thereof.

Section 3.14. *Recreation of Corporate HiMEDS Units.* (a) Subject to the conditions set forth in this Agreement, a Holder of Treasury HiMEDS Units may recreate Corporate HiMEDS Units at any time on or prior to 4:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date; *provided* that Holders of Treasury HiMEDS Units may only recreate Corporate HiMEDS Units in integral multiples of 20 Treasury HiMEDS Units. To recreate Corporate HiMEDS Units, the Holder must:

- (1) Transfer to the Securities Intermediary for credit to the Collateral Account, Senior Notes or security entitlements with respect thereto having a Value equal to the aggregate principal amount at maturity of the Pledged Treasury Securities to be released; and
- (2) Transfer the related Treasury HiMEDS Units to the Purchase Contract Agent accompanied by a notice to the Purchase Contract Agent, substantially in the form of Exhibit C hereto, (i) stating that the Holder has Transferred the relevant amount of Senior Notes to the Securities Intermediary for the credit to the Collateral Account and (ii) requesting that the Purchase Contract Agent instruct the Collateral Agent to release the Pledged Treasury Securities underlying such Treasury HiMEDS Units, whereupon the Purchase Contract Agent shall promptly provide an instruction to such effect to the Collateral Agent, substantially in the form of Exhibit I hereto (A) stating that such Holder has notified the Purchase Contract Agent that such Holder has Transferred Senior Notes or security entitlements with respect thereto to the Securities Intermediary for credit to the Collateral Account, (B) stating the Value of the Senior Notes or security entitlements with respect thereto Transferred by such Holder and (C) requesting that the Collateral Agent release from the Pledge the Pledged Treasury Securities that are a component of such Treasury HiMEDS Units.

Upon confirmation that the Senior Notes described in clause (1) above or security entitlements with respect thereto has been credited to the Collateral Account and receipt of the instruction to the Collateral Agent to the Collateral Agent described in clause (2) above, the Collateral Agent shall release such Pledged Treasury Securities from the Pledge and shall instruct the Securities Intermediary by a notice, substantially in the form of Exhibit J hereto, to Transfer such Pledged Treasury Securities to the Purchase Contract Agent for distribution to such Holder, free and clear of the Pledge created hereby.

Upon credit to the Collateral Account of Senior Notes or security entitlements with respect thereto delivered by a Holder of Treasury HiMEDS Units and receipt of the related instruction from the Collateral Agent, the Securities Intermediary shall promptly Transfer the appropriate Pledged Treasury Securities to the Purchase Contract Agent for distribution to such Holder, free and clear of the Pledge created hereby.

Upon receipt of such Treasury Securities, the Purchase Contract Agent shall promptly:

(i) cancel the related Treasury HiMEDS Units;

(ii) Transfer the Pledged Treasury Securities to the Holder; and

(iii) authenticate, execute on behalf of such Holder and deliver Corporate HiMEDS Units in book-entry form or, if applicable, in the form of a Corporate HiMEDS Units Certificate executed by the Company in accordance with Section 3.03 evidencing the same number of Purchase Contracts as were evidenced by the cancelled Treasury HiMEDS Units.

Holders who elect to recreate Corporate HiMEDS Units shall be responsible for any fees or expenses (including, without limitation, fees and expenses payable to the Collateral Agent) in respect of the recreation, and neither the Company nor the Purchase Contract Agent shall be responsible for any such fees or expenses.

(b) Except as provided in Section 5.02 or in this Section 3.14 or in connection with a Cash Settlement, an Early Settlement, a Merger Early Settlement or a Termination Event, for so long as the Purchase Contract underlying a Treasury HiMEDS Unit remains in effect, such Treasury HiMEDS Unit shall not be separable into its constituent parts and the rights and obligations of the Holder of such Treasury HiMEDS Unit in respect of the 1/20, or 5.00%, of a Treasury Security and the Purchase Contract comprising such Treasury HiMEDS Unit may be acquired, and may be transferred and exchanged, only as a single Treasury HiMEDS Unit or integral multiples thereof.

Section 3.15. *Transfer of Collateral upon Occurrence of Termination Event.* (a) Upon receipt by the Collateral Agent of written notice pursuant to Section 5.06 from the Company that a Termination Event has occurred, the Collateral Agent shall release all Collateral from the Pledge and shall promptly instruct the Securities Intermediary to Transfer:

(i) any Pledged Senior Notes or security entitlements with respect thereto;

(ii) any Pledged Treasury Securities,

(iii) any payments by Holders pursuant to Section 5.02; and

(iv) any Proceeds and all principal payments the Collateral Agent receives in respect of the foregoing,

to the Purchase Contract Agent for the benefit of the Holders for distribution to such Holders, in accordance with their respective interests, free and clear of the Pledge created hereby.

(b) If such Termination Event shall result from the Company's becoming a debtor under the Bankruptcy Code, and if the Collateral Agent shall for any reason fail or be unable promptly to effectuate the release and Transfer of all Pledged Senior Notes, Pledged Treasury Securities and payments by Holders pursuant to Section 5.02 and Proceeds of any of the foregoing, as the case may be, as provided by this Section 3.15, the Purchase Contract Agent shall use its commercially reasonable efforts to obtain an opinion of a nationally recognized law firm to the effect that, notwithstanding the Company's being the debtor in such a bankruptcy case, the Collateral Agent will not be prohibited from releasing or Transferring the Collateral as provided in this Section 3.15, and shall deliver or cause to be delivered such opinion to the Collateral Agent within ten days after the occurrence of such Termination Event, and if (A) the Purchase Contract Agent shall be unable to obtain such opinion within ten days after the occurrence of such Termination Event or (B) the Collateral Agent shall continue, after delivery of such opinion, to refuse to effectuate the release and Transfer of all Pledged Senior Notes, Pledged Treasury Securities and the payments by Holders pursuant to Section 5.02 and Proceeds of any of the foregoing, as the case may be, as provided in this Section 3.15, then the Purchase Contract Agent shall within fifteen days after the occurrence of such Termination Event commence an action or proceeding in the court having jurisdiction of the Company's case under the Bankruptcy Code seeking an order requiring the Collateral Agent to effectuate the release and transfer of all Pledged Senior Notes, Pledged Treasury Securities and the payments by Holders pursuant to Section 5.02 and Proceeds of any of the foregoing, or as the case may be, as provided by this Section 3.15.

(c) Upon the occurrence of a Termination Event and the Transfer to the Purchase Contract Agent of the Pledged Senior Notes or the Pledged Treasury Securities, as the case may be, pursuant to Section 3.15(a), the Purchase Contract Agent shall request transfer instructions with respect to such Pledged Senior Notes or Pledged Treasury Securities, as the case may be, from each Holder by written request, substantially in the form of Exhibit D hereto, mailed to such Holder at its address as it appears in the Security Register.

(d) Upon book-entry transfer of the Corporate HiMEDS Units or the Treasury HiMEDS Units or delivery of a Corporate HiMEDS Units Certificate or Treasury HiMEDS Units Certificate to the Purchase Contract Agent with such transfer instructions, the Purchase Contract Agent shall transfer the Pledged Senior Notes or Pledged Treasury Securities, as the case may be, and Proceeds of any of the foregoing, underlying such Corporate HiMEDS Units or Treasury HiMEDS Units, as the case may be, to such Holder by book-entry transfer, or other appropriate procedures, in accordance with such instructions and, in the case of the Pledged Senior Notes, in accordance with the terms of the Supplemental Indenture. In the event a Holder of Corporate HiMEDS Units or Treasury HiMEDS Units fails to effect such transfer or delivery, the Pledged Senior Notes or Pledged Treasury Securities, as the case may be, and Proceeds of any of the foregoing and any distributions thereon, shall be held in the name of the Purchase Contract Agent or its nominee in trust for the benefit of such Holder, until the earlier to occur of:

(i) the transfer of such Corporate HiMEDS Units or Treasury HiMEDS Units or surrender of the Corporate HiMEDS Units Certificate or Treasury HiMEDS Units Certificate or the receipt by the Company and the Purchase Contract Agent from such Holder of satisfactory evidence that such Corporate HiMEDS Units Certificate or Treasury HiMEDS Units Certificate has been destroyed, lost or stolen, together with any indemnity that may be required by the Purchase Contract Agent and the Company; and

(ii) the expiration of the time period specified in the abandoned property laws of the state in which the Purchase Contract Agent holds such property.

Section 3.16. *No Consent to Assumption.* Each Holder of a Unit, by acceptance thereof, shall be deemed expressly to have withheld any consent to the assumption under Section 365 of the Bankruptcy Code or otherwise, of the Purchase Contract by the Company or its trustee, receiver, liquidator or a person or entity performing similar functions in the event that the Company becomes the debtor under the Bankruptcy Code or subject to other similar state or Federal law providing for reorganization or liquidation.

Section 3.17. *Substitutions.* Whenever a Holder has the right to substitute Treasury Securities, Senior Notes or security entitlements for any of them, as the case may be, for financial assets held in the Collateral Account, such substitution shall not constitute a novation of the security interest created hereby.

#### ARTICLE 4 THE SENIOR NOTES

Section 4.01. *Interest Payments; Rights to Interest Payments Preserved.* (a) The Collateral Agent shall transfer all income and distributions received by it on account of the Pledged Senior Notes from time to time held in the Collateral Account (The Bank of New York Trust Company, N.A. ABA# 021000018, for credit to GLA# 211065, for final credit to: TAS#765910, Ref.: Avery Dennison HiMEDS Units Collateral Account, Attn: Brian R. Echausse) to the Purchase Contract Agent for distribution to the applicable Holders as provided in this Agreement and the Purchase Contracts.

(b) Any payment on any Pledged Senior Note which is paid on any Payment Date shall, subject to receipt thereof by the Purchase Contract Agent from the Company or from the Collateral Agent as provided in Section 4.01(a), be paid by the Purchase Contract Agent to the Person in whose name the Corporate HiMEDS Units Certificate (or one or more Predecessor Corporate HiMEDS Units Certificates) of which such Pledged Senior Note forms a part is registered at 5:00 p.m., New York City time, on the Record Date for such Payment Date or to the Holder of Corporate HiMEDS Units transforming Corporate HiMEDS Units into Treasury HiMEDS Units or exercising an Early Settlement in accordance with Section 5.07.

(c) Each Corporate HiMEDS Units Certificate evidencing Senior Notes delivered under this Agreement upon registration of transfer of or in exchange for or in lieu of any other Corporate HiMEDS Units Certificate shall carry the right to accrued and unpaid interest, and to accrue interest, which were carried by the Senior Notes underlying such other Corporate HiMEDS Units Certificate.



(d) In the case of any Corporate HiMEDS Unit with respect to which:

- (i) Cash Settlement of the underlying Purchase Contract is properly effected pursuant to Section 5.02(a);
- (ii) Early Settlement of the underlying Purchase Contract is properly effected pursuant to Section 5.07;
- (iii) Merger Early Settlement of the underlying Purchase Contract is properly effected pursuant to Section 5.04(b)(ii); or
- (iv) a Collateral Substitution is properly effected pursuant to Section 3.13,

in each case on a date that is after any Record Date and prior to or on the next succeeding Payment Date, interest on the Senior Notes underlying such Corporate HiMEDS Unit otherwise payable on such Payment Date shall be payable on such Payment Date notwithstanding such Cash Settlement, Early Settlement, Merger Early Settlement or Collateral Substitution, and such payment or distributions shall, subject to receipt thereof by the Purchase Contract Agent, be payable to the Person in whose name the Corporate HiMEDS Units Certificate (or one or more Predecessor Corporate HiMEDS Units Certificates) was registered at 5:00 p.m., New York City time, on the Record Date.

(e) Except as otherwise expressly provided in Section 4.01(d), in the case of any Corporate HiMEDS Units with respect to which Cash Settlement, Early Settlement or Merger Early Settlement of the underlying Purchase Contract is properly effected, or with respect to which a Collateral Substitution has been effected, payments on the related Senior Notes that would otherwise be payable or made after the Purchase Contract Settlement Date, Early Settlement Date, Merger Early Settlement Date or the date of the Collateral Substitution, as the case may be, shall not be payable hereunder to the Holder of such Corporate HiMEDS Units; *provided, however*, that to the extent that such Holder continues to hold Separate Senior Notes that formerly comprised a part of such Holder's Corporate HiMEDS Units, such Holder shall be entitled to receive payments on such Separate Senior Notes.

Section 4.02. *Notice and Voting.* (a) Upon receipt of any notices and other communications in respect of any Pledged Senior Notes, including notice of any meeting at which holders of the Senior Notes are entitled to vote or solicitation of consents, waivers or proxies of holders of the Senior Notes, the Collateral Agent shall use reasonable efforts to send promptly to the Purchase Contract Agent such notice or communication, and as soon as reasonably practicable after receipt of a written request therefor from the Purchase Contract Agent, execute and deliver to the Purchase Contract Agent such proxies and other instruments in respect of such Pledged Senior Notes (in form and substance satisfactory to the Collateral Agent) as are prepared by the Company and delivered to the Purchase Contract Agent with respect to the Pledged Senior Notes.

(b) Upon receipt of notice of any meeting at which holders of Senior Notes are entitled to vote or upon any solicitation of consents, waivers or proxies of holders of Senior Notes, the Purchase Contract Agent shall, as soon as practicable thereafter, mail, first class, postage pre-paid, to the Holders of Corporate HiMEDS Units a notice:

(i) containing such information as is contained in the notice or solicitation;

(ii) stating that each Holder on the record date set by the Purchase Contract Agent therefor (which, to the extent possible, shall be the same date as the record date for determining the holders of Senior Notes, as the case may be, entitled to vote) shall be entitled to instruct the Purchase Contract Agent as to the exercise of the voting rights pertaining to such Senior Notes underlying their Corporate HiMEDS Units; and

(iii) stating the manner in which such instructions may be given.

Upon the written request of the Holders of Corporate HiMEDS Units on such record date received by the Purchase Contract Agent at least six days prior to such meeting, the Purchase Contract Agent shall endeavor insofar as practicable to vote or cause to be voted, in accordance with the instructions set forth in such requests, the maximum number of Senior Notes, as the case may be, as to which any particular voting instructions are received. In the absence of specific instructions from the Holder of a Corporate HiMEDS Unit, the Purchase Contract Agent shall abstain from voting the Senior Notes underlying such Corporate HiMEDS Unit. The Company hereby agrees, if applicable, to solicit Holders of Corporate HiMEDS Units to timely instruct the Purchase Contract Agent in order to enable the Purchase Contract Agent to vote such Senior Notes.

(c) The Holders of Corporate HiMEDS Units and Treasury HiMEDS Units shall have no voting or other rights in respect of Common Stock.

Section 4.03. *Payments to Purchase Contract Agent.* The Securities Intermediary shall use commercially reasonable efforts to deliver any payments required to be made by it to the Purchase Contract Agent hereunder to the account designated by the Purchase Contract Agent for such purpose not later than 12:00 p.m., New York City time, on the Business Day such payment is received by the Securities Intermediary; *provided, however,* that if such payment is received on a day that is not a Business Day or after 11:00 a.m., New York City time, on a Business Day, then the Securities Intermediary shall use commercially reasonable efforts to deliver such payment to the Purchase Contract Agent no later than 10:30 a.m., New York City time, on the next succeeding Business Day.

Section 4.04. *Payments Held in Trust.* If the Purchase Contract Agent or any Holder shall receive any principal payments on account of financial assets credited to the Collateral Account and not released therefrom in accordance with this Agreement, the Purchase Contract Agent or such Holder shall hold the same as trustee of an express trust for the benefit of the Company and, upon receipt of an Officers' Certificate of the Company so directing, promptly deliver the same to the Securities Intermediary for credit to the Collateral Account or to the Company for application to the Obligations of the Holders, and the Purchase Contract Agent and Holders shall acquire no right, title or interest in any such payments of principal amounts so received. The Purchase Contract Agent shall have no liability under this Section 4.04 unless and until it has been notified in writing that such payment was delivered to it erroneously and shall have no liability for any action taken, suffered or omitted to be taken prior to its receipt of such notice.

ARTICLE 5  
THE PURCHASE CONTRACTS

Section 5.01. *Purchase of Shares of Common Stock.* (a) Each Purchase Contract shall obligate the Holder of the related HiMEDS Units to purchase, and the Company to sell, on the Purchase Contract Settlement Date at a price equal to the Stated Amount (the “**Purchase Price**”), a number of newly issued shares of Common Stock (subject to Section 5.08) equal to the Settlement Rate unless an Early Settlement, a Merger Early Settlement or a Termination Event with respect to the HiMEDS Units of which such Purchase Contract is a part shall have occurred. The “**Settlement Rate**” is equal to:

(i) if the Adjusted Applicable Market Value is equal to or greater than \$65.09 (the “**Threshold Appreciation Price**”), the Settlement Rate will equal a number of shares of Common Stock determined by the following formula (such Settlement Rate being referred to as the “**High Settlement Rate**”):

$$\left[ \frac{SA + \left[ \frac{SA}{RP} \times (AAMV - TAP) \right]}{AAMV} \right] \times AF$$

where:

“SA” refers to the Stated Amount (\$50.00);

“RP” refers to the Reference Price (\$51.25);

“AAMV” refers to the Adjusted Applicable Market Value;

“TAP” refers to the Threshold Appreciation Price (\$65.09); and

“AF” refers to the Anti-Dilution Factor.

(ii) if the Adjusted Applicable Market Value is less than the Threshold Appreciation Price of \$65.09 but greater than \$51.25 (the “**Reference Price**”), the Settlement Rate will be the number of shares of Common Stock per Purchase Contract having a value equal to the Stated Amount divided by the Applicable Market Value;

(iii) if the Adjusted Applicable Market Value is less than or equal to the Reference Price, the Settlement Rate will be 0.9756 shares of Common Stock per Purchase Contract (such Settlement Rate being referred to as the “**Low Settlement Rate**”);

and in each case rounded upward or downward to the nearest 1/10,000th of a share.

“**Adjusted Applicable Market Value**” means the product of:

(x) the Applicable Market Value; and

(y) the Anti-Dilution Factor in effect on the relevant Settlement Date;

*provided, however*, that if an adjustment to the Anti-Dilution Factor is required to be made pursuant to Section 5.04 during the period taken into consideration for determining the Applicable Market Value, appropriate and customary adjustments shall be made to the Anti-Dilution Factor.

“**Applicable Market Value**” means the average of the Closing Prices per share of Common Stock (or any securities distributed in a Spin-Off or any common stock constituting part of an Exchange Property Unit) over the Trading Days in the Observation Period; *provided, however*, that if the Company enters into a Reorganization Event, Applicable Market Value shall mean the Exchange Property Unit value. Following the occurrence of any such event, references herein to the purchase or issuance of shares of our Common Stock should be construed to be references to settlement into Exchange Property Units. For purposes of calculating the Exchange Property Unit value, if applicable:

(i) the value of any common stock shall be determined using the average of the Closing Prices per unit of such common stock during the Observation Period; and

(ii) the value of any other property, including securities other than common stock, shall be the value of such property determined at the effective time of the applicable Reorganization Event.

The “**Closing Price**” per share of Common Stock, or any securities distributed in a Spin-Off or any common stock constituting part of an Exchange Property Unit, as the case may be, on any date of determination means:

(i) the closing sale price (or, if no closing sale price is reported, the last reported sale price) per share on the principal U.S. national or regional securities exchange on which such security is so listed or quoted;

(ii) if such security is not so listed or quoted on a U.S. national or regional securities exchange, the last quoted bid price for the such security in the over-the-counter market as reported by the Pink Sheets LLC or similar organization; or

(iii) if such quoted bid price is not available, the market value of such security on such date as determined by a nationally recognized independent investment banking firm retained for this purpose by the Company.

A “**Trading Day**” means a day during which trading in securities generally occurs on:

(i) the principal U.S. national or regional securities exchange on which the Common Stock, any security distributed in a Spin-Off or any common stock constituting part of an Exchange Property Unit, as the case may be, is then listed; or

(ii) if the Common Stock, any security distributed in a Spin-Off or any common stock constituting part of an Exchange Property Unit, as the case may be, is not listed on a U.S. national or regional securities exchange, on the principal over-the-counter market on which the Common Stock, any security distributed in a Spin-Off or any common stock constituting part of an Exchange Property Unit, as the case may be, is then traded;

*provided, however*, that no day on which the Common Stock, any security distributed in a Spin-Off or any common stock constituting part of an Exchange Property Unit, as the case may be, experiences any of the following, however, will count as a Trading Day:

- (1) any suspension of or limitation imposed on trading of the Common Stock, any security distributed in a Spin-Off or any common stock constituting part of an Exchange Property Unit, as the case may be, on the principal U.S. national or regional securities exchange or automated inter-dealer quotation system or over-the-counter market on which it is listed or traded;
- (2) any event (other than an event listed clause (3) below) that disrupts or impairs the ability of market participants in general to effect transactions in or obtain market values for the Common Stock, any security distributed in a Spin-Off or any common stock constituting part of an Exchange Property Unit, as the case may be, on the principal U.S. national or regional securities exchange or automated inter-dealer quotation system or over-the-counter market on which it is listed or traded; or
- (3) the principal U.S. national or regional securities exchange or automated inter-dealer quotation system or over-the-counter market on which the Common Stock, any security distributed in a Spin-Off or any common stock constituting part of an Exchange Property Unit, as the case may be, is listed or traded closes on any exchange business day prior to its scheduled closing time unless, in the case of an exchange or automated inter-dealer quotation system, such earlier closing time is announced by the exchange or system at least one hour prior to the earlier of (i) the actual closing time for the regular trading session on that exchange and (ii) the submission deadline for orders to be entered into the exchange for execution on that exchange business day.

The “**Anti-Dilution Factor**” shall initially be equal to one and shall be subject to adjustment as set forth in Section 5.04.

(b) Each Holder of a Corporate HiMEDS Unit or a Treasury HiMEDS Unit, by its acceptance of such HiMEDS Unit:

(i) irrevocably authorizes the Purchase Contract Agent to enter into and perform the related Purchase Contract on its behalf as its attorney-in-fact (including, without limitation, the execution of Certificates on behalf of such Holder);

(ii) agrees to be bound by the terms and provisions thereof;

(iii) covenants and agrees to perform its obligations under such Purchase Contract for so long as such Holder remains a Holder of a Corporate HiMEDS Unit or a Treasury HiMEDS Unit;

(iv) consents to the provisions hereof;

(v) irrevocably authorizes the Purchase Contract Agent to enter into and perform this Agreement on its behalf and in its name as its attorney-in-fact; and

(vi) consents to, and agrees to be bound by, the Pledge of such Holder's right, title and interest in and to the Collateral Account, including the Senior Notes or the Treasury Securities pursuant to this Agreement,

provided that upon a Termination Event, the rights of the Holder of such HiMEDS Units under the Purchase Contract may be enforced without regard to any other rights or obligations.

(c) Each Holder of a Corporate HiMEDS Unit or a Treasury HiMEDS Unit, by its acceptance thereof, further covenants and agrees that to the extent and in the manner provided in Section 5.02, but subject to the terms thereof, Proceeds of the Pledged Senior Notes or the Pledged Treasury Securities on the Purchase Contract Settlement Date, shall be paid by the Collateral Agent to the Company in satisfaction of such Holder's obligations under such Purchase Contract and such Holder shall acquire no right, title or interest in such Proceeds.

(d) Upon registration of transfer of a Certificate, the transferee shall be bound (without the necessity of any other action on the part of such transferee) by the terms of this Agreement and the Purchase Contracts underlying such Certificate and the transferor shall be released from the obligations under this Agreement and the Purchase Contracts underlying the Certificate so transferred. The Company covenants and agrees, and each Holder of a Certificate, by its acceptance thereof, likewise covenants and agrees, to be bound by the provisions of this Section 5.01(d).

Section 5.02. *Payment of Purchase Price; Remarketing.* (a) (i) Unless a Termination Event has occurred, or a Holder of a Corporate HiMEDS Unit has settled the underlying Purchase Contract through an Early Settlement pursuant to Section 5.07 or a Merger Early Settlement pursuant to Section 5.04(b)(ii), each Holder of a Corporate HiMEDS Unit may pay in cash ("**Cash Settlement**") the Purchase Price for the Common Stock to be purchased pursuant to a Purchase Contract if such Holder notifies the Purchase Contract Agent by surrender of the Corporate HiMEDS Unit Certificate, if in certificated form, and delivery of a notice in substantially the form of Exhibit E hereto of its intention to make a Cash Settlement. Such notice shall be made at any time following the Company's issuance of the Remarketing Notice on or prior to 4:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date. The Purchase Contract Agent shall promptly notify the Collateral Agent of the receipt of such a notice from a Holder intending to make a Cash Settlement.

A Holder of Corporate HiMEDS Units may cash settle the related Purchase Contracts pursuant to this Section 5.02(a) only in integral multiples of 20 Corporate HiMEDS Units.

(ii) After the Company or the Purchase Contract Agent has issued the Remarketing Notice, a Holder of a Corporate HiMEDS Unit who has so notified the Purchase Contract Agent of its intention to make a Cash Settlement is required to pay the requisite amount of cash in lawful money of the United States by certified or cashier's check or wire transfer, in

each case, in immediately available funds, equal to the Purchase Price per Purchase Contract (the “**Cash Consideration**”) to the Securities Intermediary for deposit in the Collateral Account on or prior to 4:00 p.m. New York City time on the second Business Day immediately preceding the Remarketing Date as set forth in the Remarketing Notice and following the procedures to exchange its Corporate HiMEDS Units for Treasury HiMEDS Units (substituting references to Treasury Securities with references to Cash Consideration) as described in Section 3.13. In such event, all references to the Treasury Securities or Pledged Treasury Securities herein, including for purposes of Sections 3.15 and 5.06, shall be deemed to include such Cash Consideration in addition to the Treasury Securities. The Collateral Agent will hold the Cash Consideration for the benefit of the Company and apply such Cash Consideration to secure such Holder’s obligations under the Purchase Contracts. On the Business Day immediately preceding the first day of the Remarketing Period, the Collateral Agent will deliver the Pledged Senior Notes of such Holder to the Purchase Contract Agent and within three Business Days thereof, the Purchase Contract Agent shall distribute such Senior Notes to the Holders entitled thereto. Any Cash Consideration received by the Collateral Agent will be paid to the Company on the Purchase Contract Settlement Date in settlement of the Purchase Contract in accordance with the terms of this Agreement, and any funds received by the Collateral Agent in excess of the Purchase Price for the Common Stock to be purchased by such Holder shall be distributed to the Purchase Contract Agent when received for payment to the Holder.

(iii) If a Holder of a Corporate HiMEDS Unit fails to notify the Purchase Contract Agent of its intention to make a Cash Settlement in accordance with Section 5.02(a)(i), the Holder shall be deemed to have consented to the disposition of the Pledged Senior Notes pursuant to the remarketing as described in Section 5.02(c). If a Holder of a Corporate HiMEDS Unit does notify the Purchase Contract Agent as provided in Section 5.02(a)(i) of its intention to pay the Purchase Price in cash, but fails to make such payment as required by Section 5.02(a)(ii), the Holder shall be deemed to have consented to the disposition of the Pledged Senior Notes pursuant to the remarketing as described in Section 5.02(c). By 6:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date, the Collateral Agent shall notify the Purchase Contract Agent and the Remarketing Agent of the aggregate principal amount of the Pledged Senior Notes to be remarketed by delivering a notice in the form of Exhibit K hereto and by noon, New York City time, on the Business Day immediately preceding the Remarketing Date, shall deliver to the Remarketing Agent for remarketing all Pledged Senior Notes.

(b) On or prior to 4:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date but no earlier than 35 Business Days prior to the Remarketing Date, holders of Separate Senior Notes may elect to have their Separate Senior Notes remarketed under the Remarketing Agreement by delivering their Separate Senior Notes, along with a notice of such election, substantially in the form of Exhibit L hereto, to the Custodial Agent. The Custodial Agent shall hold the Separate Senior Notes in an account separate from the Collateral Account in which the Pledged Senior Notes shall be held. Holders of Separate Senior Notes electing to have their Separate Senior Notes remarketed will also have the right to withdraw that election by written notice to the Custodial Agent, substantially in the form of Exhibit M hereto, on or prior to 4:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date, upon which notice the Custodial Agent shall return such Separate Senior Notes to such holder. After such time, such election to remarket shall

become an irrevocable election to have such Separate Senior Notes remarketed in such remarketing. By 6:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date, the Custodial Agent shall notify the Purchase Contract Agent and the Remarketing Agent of the aggregate principal amount of the Separate Senior Notes to be remarketed by delivering a notice in the form of Exhibit K hereto and by noon, New York City time, on the Business Day immediately preceding the Remarketing Date, shall deliver to the Remarketing Agent for remarketing all Separate Senior Notes delivered to the Custodial Agent pursuant to this Section 5.02(b) and not withdrawn pursuant to the terms hereof prior to such date.

(c) (i) The Company shall engage, no later than 35 days prior to the Remarketing Date, a nationally recognized investment banking firm (the “**Remarketing Agent**”) pursuant to a Remarketing Agreement to be entered into among the Company, the Remarketing Agent and the Purchase Contract Agent, providing for remarketing procedures substantially as set forth below to sell the Senior Notes of Holders of Corporate HiMEDS Units, other than Holders that have elected not to participate in the remarketing pursuant to the procedures set forth in Section 5.02(a), and to sell the Senior Notes of holders of Separate Senior Notes that have elected to participate in the remarketing pursuant to the procedures set forth herein and Section 5.02 of the Supplemental Indenture.

The Company or the Purchase Contract Agent, at the Company’s request, shall notify (the “**Remarketing Notice**”), not later than 12:00 noon, New York City time, on the twenty-third Business Day immediately preceding the Purchase Contract Settlement Date, Holders of Corporate HiMEDS Units, and holders of Separate Senior Notes, of the remarketing to take place on the Remarketing Date, and if necessary, on the eighth Business Day immediately preceding the Purchase Contract Settlement Date, and if necessary, on the seventh Business Day immediately preceding the Purchase Contract Settlement Date, and if necessary, on the sixth Business Day immediately preceding the Purchase Contract Settlement Date, and if necessary, on the fifth Business Day immediately preceding the Purchase Contract Settlement Date, and if necessary, on the fourth Business Day immediately preceding the Purchase Contract Settlement Date, and if necessary, on the third Business Day immediately preceding the Purchase Contract Settlement Date (each such date other than the Remarketing Date, a “**Subsequent Remarketing Date**”); *provided, however*, that, in the event any such date falls on a date following the third scheduled Trading Day immediately preceding the Purchase Contract Settlement Date, such date shall not be a Subsequent Remarketing Date (and if such Corporate HiMEDS Units or Separate Senior Notes are held in global form, the Company, or the Purchase Contract Agent, at the Company’s request, will cause the Depository to notify the Depository Participants of such remarketing by no later than the twenty-third Business Day immediately preceding the Purchase Contract Settlement Date). The Remarketing Notice will include the amount of cash that must be delivered by the Holders of Corporate HiMEDS Units that elect not to participate in the remarketing and the deadline for such delivery, as well as information with respect to the exercise of the Put Right.

The Purchase Contract Agent shall notify, by 6:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date, the Remarketing Agent and the Collateral Agent of the aggregate principal amount of Senior Notes of Corporate HiMEDS Unit Holders to be remarketed. On the second Business Day immediately preceding



the Remarketing Date, no later than by 6:00 p.m., New York City time, pursuant to the terms of this Agreement, the Custodial Agent will notify the Remarketing Agent of the aggregate principal amount of Separate Senior Notes to be remarketed. No later than noon, New York City time, on the Business Day immediately preceding the Remarketing Date, the Collateral Agent and the Custodial Agent, pursuant to the terms of this Agreement, will deliver for remarketing to the Remarketing Agent all Senior Notes to be remarketed. Upon receipt of such notice from the Purchase Contract Agent, the Collateral Agent and the Custodial Agent and such Senior Notes from the Collateral Agent and the Custodial Agent, the Remarketing Agent will, on the Remarketing Date, and if necessary, on each Subsequent Remarketing Date, use its reasonable best efforts to sell such Senior Notes on such date(s) at a price per Senior Note equal to 100.25% of the Remarketing Value.

In the event of a successful remarketing pursuant to this Section 5.02, the Remarketing Agent will deduct and will retain for itself as a remarketing fee from the proceeds of the remarketing an amount not exceeding 25 basis points (0.25%) of the Remarketing Value of such Notes (the “**Remarketing Fee**”).

The Remarketing Agent will then remit:

- (1) to the Custodial Agent, for the benefit of the holders of Separate Senior Notes that were remarketed, proceeds from the remarketing equal to the principal amount of the Separate Senior Notes included in the remarketing;
- (2) to the Collateral Agent, for the benefit of the Company, proceeds from the remarketing equal to the principal amount of the Senior Notes included in the remarketing that were not Separate Senior Notes, such proceeds to be used to pay the Company in direct settlement of the Holders’ obligations under the Purchase Contracts; and
- (3) any excess amount to the Custodial Agent and the Purchase Contract Agent for distribution to holders of the Separate Senior Notes and Holders of Corporate HiMEDS Units, in each case, on or prior to the Purchase Contract Settlement Date.

Holders whose Senior Notes are so remarketed will not otherwise be responsible for the payment of any Remarketing Fee in connection therewith.

On the Purchase Contract Settlement Date, the Collateral Agent will release the proceeds from the remarketing of the Senior Notes that were not Separate Senior Notes to the Purchase Contract Agent which shall pay the Company in full satisfaction of the obligations of the Holders of Corporate HiMEDS Units under their related Purchase Contracts.

(ii) If, in spite of using its reasonable best efforts, the Remarketing Agent cannot remarket the Senior Notes included in the remarketing at a price per Senior Note equal to 100.25% of the Remarketing Value of the Senior Notes included in the remarketing on the Remarketing Date, the Remarketing Agent will attempt to establish a Reset Rate meeting these requirements on each of the Subsequent Remarketing Dates. If, in spite of using its reasonable best efforts, the Remarketing Agent fails to remarket the Senior Notes included in the remarketing at a price per Senior Note equal to 100.25% of the Remarketing Value of the Senior Notes included in the remarketing on or prior to 4:00 p.m., New York City time, on the third

scheduled Business Day immediately preceding the Purchase Contract Settlement Date, the remarketing will be deemed to have failed (the “**Last Failed Remarketing**”), and in this case, the Remarketing Agent will agree to advise the Collateral Agent in writing that it cannot remarket the Senior Notes.

Within three Business Days following the date of the Last Failed Remarketing, the Remarketing Agent shall return any Senior Notes delivered to it to the Collateral Agent and the Custodial Agent, as applicable. The Collateral Agent, for the benefit of the Company will exercise its rights as a secured party with respect to such Senior Notes, including those actions specified in Section 5.02(c)(iii); *provided* that, if upon the Last Failed Remarketing, the Collateral Agent exercises such rights for the benefit of the Company with respect to such Pledged Senior Notes, any accrued and unpaid interest on such Pledged Senior Notes will become payable by the Company to the Purchase Contract Agent for payment to the Holders of the Corporate HiMEDS Units to which such Pledged Senior Notes relate. Such payment will be made by the Company on or prior to 2:00 p.m., New York City time, on the Purchase Contract Settlement Date in lawful money of the United States by certified or cashier’s check or wire transfer in immediately available funds payable to or upon the order of the Purchase Contract Agent.

In the event of any failed remarketing and/or of the Last Failed Remarketing, the Company shall issue a press release announcing such failed remarketing or the Last Failed Remarketing by 9:00 a.m., New York City time, on the Business Day following such failed remarketing or the Last Failed Remarketing, as the case may be. The Company shall also release this information available on the Company’s website or through another published medium as may be used at that time and will also release this information by means of Bloomberg and Reuters (or successor or equivalent) newswire.

(iii) With respect to any Senior Notes which constitute part of Corporate HiMEDS Units which are subject to the Last Failed Remarketing, the Collateral Agent for the benefit of the Company reserves all of its rights as a secured party with respect thereto and, subject to applicable law and Section 5.04(f), upon instructions from the Company, shall (A) retain and cancel such Senior Notes or (B) cause the Senior Notes to be sold, in either case, in full satisfaction of the Holders’ obligations under the Purchase Contracts.

(d) Following the maturity of the Pledged Treasury Securities underlying the Treasury HiMEDS Units, on the Purchase Contract Settlement Date the Collateral Agent shall remit to the Company an amount equal to the aggregate Purchase Price applicable to such Treasury HiMEDS Units, as payment for the Common Stock issuable upon settlement thereof without needing to receive any instructions from the Holders of such Treasury HiMEDS Units. In the event the payments in respect of the Pledged Treasury Securities underlying a Treasury HiMEDS Unit are in excess of the Purchase Price of the Purchase Contract being settled thereby, the Collateral Agent will distribute such excess to the Purchase Contract Agent for the benefit of the Holder of such Treasury HiMEDS Unit when received.

(e) Any distribution to Holders of excess funds and interest described in Section 5.02(c) and Section 5.02(d) shall be payable at the office of the Purchase Contract Agent, or, if the HiMEDS Units do not remain in book-entry only form, at the option of the Company, by

check mailed to the address of the Person entitled thereto at such Person's address as it appears on the Register or by wire transfer to the account maintained in the United States designated by written notice given ten Business Days prior to the applicable payment date by such Person.

(f) Notwithstanding anything to the contrary herein, the obligations of each Holder to pay the Purchase Price are non-recourse obligations and are payable solely out of the proceeds of any Collateral pledged to secure the obligations of the Holders (except to the extent paid by Cash Settlement, Early Settlement or Merger Early Settlement), and in no event will Holders be liable for any deficiency between such payments and the Purchase Price.

(g) Notwithstanding anything to the contrary herein, the Company shall not be obligated to issue any Common Stock in respect of a Purchase Contract or deliver any certificates therefor to the Holder of the related HiMEDS Unit unless the Company shall have:

(i) received payment in full of the aggregate Purchase Price for the Common Stock to be purchased thereunder by such Holder in the manner herein set forth; or

(ii) become entitled to exercise its rights as a secured party under Section 5.02(c)(iii).

(h) The Company agrees to use its commercially reasonable efforts to ensure that, if required by applicable law, a registration statement with regard to the full amount of the Senior Notes to be remarketed shall be effective with the Securities and Exchange Commission in a form that will enable the Remarketing Agent to rely on it in connection with such remarketing.

Section 5.03. *Issuance of Shares of Common Stock.* (a) Unless a Termination Event, an Early Settlement or a Merger Early Settlement shall have occurred, subject to Section 5.04(b), on the Purchase Contract Settlement Date upon receipt of the aggregate Purchase Price payable on all Outstanding HiMEDS Units or, following the Last Failed Remarketing, upon the Collateral Agent retaining and cancelling the Pledged Senior Notes or selling them as directed by the Company, the Company shall issue and deposit with the Purchase Contract Agent, for the benefit of the Holders of the Outstanding HiMEDS Units, one or more certificates representing newly issued shares of Common Stock registered in the name of the Purchase Contract Agent (or its nominee) as custodian for the Holders (such certificates for shares of Common Stock, together with any dividends or distributions for which a record date and payment date for such dividend or distribution has occurred after the Purchase Contract Settlement Date, being hereinafter referred to as the "**Purchase Contract Settlement Fund**") to which the Holders are entitled hereunder.

(b) Subject to the foregoing, upon surrender of a Certificate to the Purchase Contract Agent on or after the Purchase Contract Settlement Date, together with settlement instructions thereon duly completed and executed, the Holder of such Certificate shall be entitled to receive forthwith in exchange therefor a certificate representing that number of newly issued whole shares of Common Stock which such Holder is entitled to receive pursuant to the provisions of this Article 5 (after taking into account all HiMEDS Units then held by such Holder), together with cash in lieu of fractional shares as provided in Section 5.08 and any dividends or distributions with respect to such shares constituting part of the Purchase Contract Settlement

Fund, but without any interest thereon, and the Certificate so surrendered shall forthwith be cancelled. Such shares shall be registered in the name of the Holder or the Holder's designee as specified in the settlement instructions provided by the Holder to the Purchase Contract Agent. If any shares of Common Stock issued in respect of a Purchase Contract are to be registered to a Person other than the Person in whose name the Certificate evidencing such Purchase Contract is registered (but excluding any Depository or nominee thereof), no such registration shall be made unless the Person requesting such registration has paid any transfer and other taxes required by reason of such registration in a name other than that of the registered Holder of the Certificate evidencing such Purchase Contract or has established to the satisfaction of the Company that such tax either has been paid or is not payable.

Section 5.04. *Adjustment of Low Settlement Rate, Minimum Settlement Rate and Anti-Dilution Factor.* (a) The Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor shall be subject to the following adjustments:

(i) Stock Dividends. In case the Company shall issue to all or substantially all holders of its Common Stock, as a dividend or other distribution, each of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor, as in effect at 5:00 p.m., New York City time, on the day following the record date fixed for the determination of stockholders of the Company entitled to receive such dividend or other distribution shall be increased by dividing each of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor by a fraction of which (a) the numerator shall be the number of shares of Common Stock outstanding at 5:00 p.m., New York City time, on the record date for such dividend or other distribution, and (b) the denominator shall be the sum of such number of outstanding shares and the total number of shares constituting such dividend or other distribution.

Any adjustment made pursuant to this Section 5.04(a)(i) shall become effective immediately after 5:00 p.m., New York City time, on the record date for such dividend or other distribution. If any dividend or distribution described in this Section 5.04(a)(i) is declared but not so paid or made, each of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor shall be readjusted, effective as of the date the Board of Directors publicly announces its decision not to make such dividend or distribution, to the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor that would then be in effect if such dividend or distribution had not been declared.

(ii) Stock Purchase Rights. In case the Company shall issue to all or substantially all holders of its Common Stock rights, options, warrants or other securities, entitling them to subscribe for or purchase shares of Common Stock for a period expiring within 45 days from the date of issuance of such rights, options, warrants or other securities at a price per share of Common Stock less than the Current Market Price of the Common Stock (other than pursuant to a dividend reinvestment, share purchase or similar plan), each of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor in effect at 5:00 p.m., New York City time, on the record date fixed for the determination of stockholders of the Company entitled to receive such distribution shall be increased by dividing each of the Low Settlement Rate, the Minimum Settlement

Rate and the Anti-Dilution Factor by a fraction of which (a) the numerator shall be the sum of the number of shares of Common Stock outstanding at 5:00 p.m., New York City time, on the record date for such distribution and the number of shares of Common Stock which the aggregate consideration expected to be received by the Company upon the exercise, conversion or exchange of such rights, options, warrants or securities would purchase at the Current Market Price of the Common Stock, and (b) the denominator shall be the sum of the number of shares of Common Stock outstanding at the 5:00 p.m., New York City time, on the record date for such distribution and the number of shares of Common Stock so offered for subscription or purchase, either directly or indirectly.

Any adjustment made pursuant to this Section 5.04(a)(ii) shall become effective immediately after 5:00 p.m., New York City time, on the record date for such distribution. In the event that such rights, options, warrants or other securities described in this Section 5.04(a)(ii) are not so distributed, the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor shall be readjusted, effective as of the date the Board of Directors publicly announces its decision not to issue such rights, options, warrants or other securities, to the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor that would then be in effect if the record date for such distribution had not occurred. To the extent that such rights, options, warrants or other securities are not exercised prior to their expiration or shares of Common Stock are otherwise not delivered pursuant to such rights, options, warrants or other securities upon the exercise of such rights, options, warrants or other securities, the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor shall be readjusted to the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor that would then be in effect had the adjustments made upon the issuance of such rights, options, warrants or other securities been made on the basis of delivery of only the numbers of shares of Common Stock actually delivered. In determining the aggregate consideration expected to be received by the Company for such shares of Common Stock, there shall be taken into account any consideration received for such rights, options, warrants or other securities and the value of such consideration if other than cash to be determined, in good faith, by the Board of Directors, whose determination shall be conclusive and described in a Board Resolution.

(iii) Stock Splits; Reverse Splits; and Reclassifications. In case outstanding shares of Common Stock shall be split or reclassified into a greater number of shares of Common Stock, each of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor in effect at 5:00 p.m., New York City time, on the day upon which such split or reclassification becomes effective shall be proportionately increased. Conversely, in case outstanding shares of Common Stock shall each be split or reclassified into a smaller number of shares of Common Stock, each of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor in effect at 5:00 p.m., New York City time, on the day upon which such combination or reclassification becomes effective shall be proportionately reduced.

Any adjustment made pursuant to this Section 5.04(a)(iii) shall become effective immediately after 5:00 p.m., New York City time, on the effective date of such stock split, reverse split or reclassification.

(iv) Debt, Asset or Security Distributions. (1) In case the Company shall distribute to all or substantially all holders of its Common Stock, by dividend or otherwise, evidences of its indebtedness, assets (including cash) or securities, but excluding any dividend or distribution referred to in Section 5.04(a)(i), any rights, options, warrants or other securities referred to in Section 5.04(a)(ii), any dividend or distribution paid exclusively in cash referred to in Section 5.04(a)(v), or any Spin-Off to which the provisions in this Section 5.04(a)(iv) shall apply, each of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor in effect at 5:00 p.m., New York City time, on the record date fixed for the determination of stockholders of the Company entitled to receive such distribution shall be increased by dividing each of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor by a fraction of which (a) the numerator shall be the Current Market Price of the Common Stock minus the Fair Market Value, on the record date for such distribution, of the portion of the evidences of its indebtedness, assets (including cash) or securities so distributed applicable to one share of Common Stock, and (b) the denominator shall be such Current Market Price of the Common Stock.

(2) In the case of a Spin-Off, that is, or, when issued, will be, traded or quoted on the New York Stock Exchange or any other U.S. national or regional securities exchange or market, each of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor in effect at 5:00 p.m., New York City time, on the record date fixed for the determination of stockholders of the Company entitled to receive such distribution will be increased by dividing each of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor by a fraction of which (a) the numerator is the Current Market Price of Common Stock, and (b) the denominator is the sum of the Current Market Price of Common Stock and the Fair Market Value, as determined by the Board of Directors, of the portion of those shares of capital stock or similar equity interests so distributed applicable to one share of Common Stock.

Any adjustment made pursuant to this Section 5.04(a)(iv) shall become effective immediately after 5:00 p.m., New York City time, on the record date for such dividend or distribution. In the event that such dividend or distribution described in this Section(a)(iv) is not so made, the Low Settlement Rate, the Minimum Rate and the Anti-Dilution Factor shall be readjusted, effective as of the date the Board of Directors publicly announces its decision not to pay such distribution, to the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor that would then be in effect if such distribution had not been declared. If an adjustment to the Low Settlement rate, the Minimum Settlement Rate and the Anti-Dilution Factor is required under this Section 5.04(a)(iv) during any settlement period in respect of the Purchase Contracts that have been tendered for settlement, delivery of the related settlement consideration will be delayed to the extent necessary in order to complete the calculations provided for in this Section 5.04(a)(iv).

(v) Cash Distributions. In case the Company shall make any distribution to all or substantially all holders of Common Stock, by dividend or otherwise, exclusively in cash during any quarterly period in an amount that exceeds \$0.41 per share of Common Stock (such per share amount being referred to as the “**Reference Dividend**”) (but

excluding any cash that is distributed in a Reorganization Event to which Section 5.04(b) applies), each of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor in effect at 5:00 p.m., New York City time, on the record date fixed for the determination of stockholders entitled to receive such distribution shall be increased by dividing each of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor by a fraction of which (a) the numerator shall be equal to the Current Market Price of the Common Stock minus the per share amount of the cash distribution, and (b) the denominator shall be equal to the Current Market Price of Common Stock minus the Reference Dividend.

Any adjustment made pursuant to this Section 5.04(a)(v) shall become effective immediately after 5:00 p.m., New York City time, on the record date for such dividend or distribution. In the event that any dividend or distribution described in this Section 5.04(a)(v) is not so made, the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor shall be readjusted, effective as of the date the Board of Directors publicly announces its decision not to pay such dividend or distribution, to the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor which would then be in effect if such dividend or distribution had not been declared.

(vi) Tender Offers and Exchange Offers. In the case that a tender or exchange offer made by the Company or any subsidiary of the Company for all or any portion of the Common Stock shall expire and such tender or exchange offer (as amended through the expiration thereof) shall require the payment to stockholders of the Company (based on the acceptance (up to any maximum specified in the terms of the tender or exchange offer) of Purchased Shares) of an aggregate consideration having a Fair Market Value per share of the Common Stock that exceeds the Closing Price of the Common Stock on the Trading Day next succeeding the last date (the “**Tender Expiration Date**”) on which tenders or exchanges may be made pursuant to such tender or exchange offer, then each of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor in effect at 5:00 p.m., New York City time, on the Tender Expiration Date shall be increased by dividing each of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor by a fraction of which (a) the numerator shall be equal to the product of the Current Market Price of the Common Stock and the number of shares of Common Stock outstanding immediately prior to the last time tenders or exchanges may be made pursuant to such tender or exchange offer (the “**Tender Expiration Time**”) on the Tender Expiration Date, and (b) the denominator shall be equal to the sum of (x) the aggregate amount of cash and the Fair Market Value on the Tender Expiration Date of the other consideration payable for shares validly tendered or exchanged and not withdrawn as of the Tender Expiration Date (such validly tendered shares being referred to as the “**Purchased Shares**”) and (y) the product of (i) the Current Market Price of the Common Stock and (ii) the number of shares of Common Stock outstanding immediately after the Tender Expiration Time on the Tender Expiration Date.

Any adjustment made pursuant to this Section 5.04(a)(vi) shall become effective immediately after 5:00 p.m., New York City time, on the Tender Expiration Date. In the event that the Company, or one its subsidiaries, is obligated to purchase shares of Common Stock pursuant to any such tender offer or exchange offer, but the Company, or

such subsidiary, is permanently prevented by applicable law from effecting any such purchases, or all such purchases are rescinded, then each of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution factor shall be readjusted to be the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor that would then be in effect if such tender offer or exchange offer had not been made. Except as set forth in the preceding sentence, if the application of this Section 5.04(a)(vi) to any tender offer or exchange offer would result in a decrease in each of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor, no adjustment shall be made for such tender offer or exchange offer under this Section 5.04(a)(vi). If an adjustment to each of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor is required pursuant to this Section 5.04(a)(vi) during any settlement period in respect of Purchase Contracts that have been tendered for settlement, delivery of the related settlement consideration will be delayed to the extent necessary in order to complete the calculations provided for in this Section 5.04(a)(vi).

(vii) Except with respect to a Spin-Off, in cases where the Fair Market Value (or the amount of cash) of assets (including cash), debt securities or certain rights, warrants or options to purchase the securities as to which Section 5.04(a)(iv) and Section 5.04(a)(v) apply, applicable to one share of Common Stock, distributed to stockholders of the Company equals or exceeds the average of the Closing Prices of the Common Stock over the 20 consecutive Trading Day period ending on the Trading Day before the Ex-Date for such distribution, rather than being entitled to an adjustment in each of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor, Holders will be entitled to receive upon settlement, in addition to a number of shares of Common Stock equal to the applicable Settlement Rate in effect on the applicable Settlement Date, the kind and amount of assets (including cash), debt securities or rights, warrants or options comprising the distribution that such holder would have received if such holder had settled its Purchase Contracts immediately prior to the record date for determining the holders of Common Stock entitled to receive the distribution calculated by multiplying the kind and amount of assets (including cash), debt securities or rights, warrants or options comprising the distribution by the number of shares of the Common Stock equal to the Settlement Rate in effect on the applicable Settlement Date. For this purpose only, the Settlement Rate will be calculated based on an Adjusted Applicable Market Value equal to the average of the Closing Prices of the Common Stock over the 20 consecutive Trading Day period ending on the third Trading Day immediately preceding the record date fixed for the determination of stockholders of the Company entitled to receive such distribution. For the avoidance of doubt, such calculated Settlement Rate shall be applied for this purpose only and shall not be applicable in connection with the calculation of the Settlement Rate for purposes of determining the number of shares of Common Stock issuable in connection with the settlement of the Purchase Contracts.

(viii) Calculation of Adjustments. All adjustments to the Low Settlement Rate, the Minimum Settlement rate and the Anti-Dilution Factor shall be calculated to the nearest 1/10,000th of a share of Common Stock. No adjustment in the Low Settlement Rate, the Minimum Settlement Rate or the Anti-Dilution Factor shall be required unless such adjustment would require an increase or decrease of at least one percent therein;



*provided*, that any adjustments which by reason of this Section 5.04(a)(viii) are not required to be made shall be carried forward and taken into account in any subsequent adjustment; and *provided, further*, that effect shall be given to anti-dilution adjustments not later than (i) the first Trading Day of the 20 consecutive Trading Day period used to calculate the Adjusted Applicable Market Value for purposes of calculating the Settlement Rate in connection with the earlier of a Merger Early Settlement Date or the Purchase Contract Settlement Date, or (ii) upon Early Settlement.

(ix) Increase of Settlement Rate. The Company may make such increases in the Settlement Rate, in addition to those required by this Section 5.04(a), as the Board of Directors considers advisable in order to avoid or diminish any income tax to any holders of shares of Common Stock resulting from any dividend or distribution of shares of Common Stock or issuance of rights or warrants to purchase or subscribe for shares of Common Stock or from any event treated as a dividend or distribution for income tax purposes or for any other reasons.

(x) Rights. If the Company hereafter adopts any stockholder rights plan involving the issuance of preference share purchase rights or other similar rights (the “**Rights**”) to all holders of the Common Stock, a Holder shall be entitled to receive upon settlement of any Purchase Contract, in addition to the shares of Common Stock issuable upon settlement of such Purchase Contract, the related Rights for the Common Stock, unless, prior to such Settlement Date, such Rights under the future stockholder rights plan have separated from the Common Stock at the time of conversion, in which case the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor shall be adjusted as provided in Section 5.04(a)(iv) on the date such Rights separate from the Common Stock, subject to readjustment in the event of the expiration, termination or redemption of such Rights.

(b) Adjustment for Consolidation, Merger or Other Reorganization Event. (i) Upon a Reorganization Event, each HiMEDS Unit shall thereafter, in lieu of a variable number of shares of Common Stock, be settled by delivery of Exchange Property Units. An “**Exchange Property Unit**” represents the right to receive the kind and amount of securities, cash and other property receivable in such Reorganization Event (without any interest thereon, and without any right to dividends or distributions thereon which have a record date that is prior to the applicable Settlement Date) per share of Common Stock by a holder of Common Stock that is not a Person with which the Company consolidated or into which the Company merged or which merged into the Company or to which such sale or transfer was made, as the case may be (any such Person, a “**Constituent Person**”), or an Affiliate of a Constituent Person to the extent such Reorganization Event provides for different treatment of Common Stock held by Affiliates of the Company and non-Affiliates. In the event holders of Common Stock have the opportunity to elect the form of consideration to be received in such transaction, the Exchange Property Unit that Holders of the Corporate HiMEDS Units or Treasury HiMEDS Units would have been entitled to receive will be deemed to be the weighted average of the types and amounts of consideration received by the holders of Common Stock that affirmatively make an election. If an Exchange Property Unit includes property other than common stock, upon settlement, the Company may elect to deliver additional shares of common stock in lieu of such other property; the number of such additional shares of common stock will be equal to the Applicable Market Value of such other property

divided by the Applicable Market Value per share of such common stock. The Company may only deliver additional shares of common stock in lieu of such other property if the Company provides notice to the Holders of the Company's election to do so at least three Business Days prior to the first Trading Day that will be included in the calculation of Applicable Market Value used for purposes of determining the Settlement Rate applicable to such settlement. The Company hereby covenants and agrees to use its reasonable best efforts to cause any such shares of common stock delivered in lieu of such other property on the applicable Settlement Date to be freely transferable under the U.S. Federal securities laws by the recipients thereof upon delivery thereto, including, if necessary, causing one or more registration statements in respect of such shares of common stock to be filed with and declared effective by the Securities and Exchange Commission.

In the event of such a Reorganization Event, the Person formed by such consolidation or merger or the Person which acquires the assets and property of the Company shall execute and deliver to the Purchase Contract Agent an agreement supplemental hereto providing that the Holder of each HiMEDS Unit that remains outstanding after the Reorganization Event (if any) shall have the rights provided by this Section 5.04(b)(i). Such supplemental agreement shall provide for adjustments to the amount of any securities constituting all or a portion of an Exchange Property Unit which, for events subsequent to the effective date of such Reorganization Event, shall be as nearly equivalent as may be practicable to the adjustments provided for in this Section 5.04. The above provisions of this Section 5.04(b)(i) shall similarly apply to successive Reorganization Events.

(ii) Prior to the Purchase Contract Settlement Date, if the Company enters into a consolidation, acquisition or merger in which 10% or more of the total consideration paid for the Common Stock consists of cash or cash equivalents (a "**Cash Merger**"), then following such Cash Merger a Holder will have the right to accelerate and settle ("**Merger Early Settlement**") its Purchase Contract, upon the conditions set forth below, at the Settlement Rate in effect immediately prior to the closing of the Cash Merger, *provided, however*, for purposes of calculating this Settlement Rate, the Applicable Market Value shall mean the average of the Closing Prices of the Common Stock over the 20 consecutive Trading Day period ending on the Trading Day immediately preceding the date on which the Cash Merger becomes effective (the "**Effective Date**"), and the Company will increase the applicable Settlement Rate by a number of an additional shares (such additional number of shares being referred to as the "**Make-Whole Shares**"); *provided* that no Merger Early Settlement will be permitted pursuant to this Section 5.04(b)(ii) unless, at the time such Merger Early Settlement is effected, there is an effective Registration Statement with respect to any securities to be issued and delivered in connection with such Merger Early Settlement, if such a Registration Statement is required (in the view of counsel, which need not be in the form of a written opinion, for the Company) under the Securities Act. If such a Registration Statement is so required, the Company covenants and agrees to use its commercially reasonable efforts to (x) have in effect a Registration Statement covering any securities to be delivered in respect of the Purchase Contracts being settled and (y) provide a Prospectus in connection therewith, in each case in a form that may be used in connection with such Merger Early Settlement. In the event that a Holder seeks to exercise its Merger Early Settlement right and a Registration Statement is required to be effective in connection with the exercise of such right but no such Registration Statement is then effective, the Holder's exercise of such right shall be void unless and until such a Registration Statement

shall be effective and the Company shall have no further obligation with respect to any such Registration Statement if, notwithstanding using its commercially reasonable efforts, no Registration Statement is then effective.

If a Holder elects a Merger Early Settlement of some or all of its Purchase Contracts, such Holder shall be entitled to receive, on the Merger Early Settlement Date, the aggregate amount of any accrued and unpaid Contract Adjustment Payments including and any Deferred Contract Adjustment Payments, in each case, to but not including the Merger Early Settlement Date (unless the Merger Early Settlement occurs after the Record Date for such Contract Adjustment Payments or Deferred Contract Adjustment Payments), with respect to such Purchase Contracts. The Company shall pay such amount as a credit against the amount otherwise payable by such Holder to effect such Merger Early Settlement.

Within five Business Days of the Effective Date, the Company shall provide written notice to Holders of HiMEDS Units of such completion of a Cash Merger, which shall specify:

(1) the deadline for submitting the notice to settle early in cash pursuant to this Section 5.04(b)(ii) and how and where such notice to settle early should be delivered;

(2) the date on which such Merger Early Settlement shall occur (which date shall be no later than the earlier of 21 Business Days after the date of such notice or two Business Days prior to the Remarketing Date) (the “**Merger Early Settlement Date**”);

(3) the amount of cash payable in respect of the exercise of such Merger Early Settlement (giving effect to the credit for any accrued and unpaid Contract Adjustment Payments including and any Deferred Contract Adjustment Payments as provided in the preceding paragraph);

(4) the applicable Settlement Rate;

(5) the number of Make-Whole Shares by which the applicable settlement rate will be increased; and

(6) the amount (per share of Common Stock) of cash, securities and other consideration receivable by the Holder upon settlement, including any amount of Contract Adjustment Payments and Deferred Contract Adjustment Payments, in each case, to but not including the Merger Early Settlement Date (to the extent that such Contract Adjustment Payments and Deferred Contract Adjustment Payments are not credited as provided in the preceding paragraph).

Corporate HiMEDS Units Holders and Treasury HiMEDS Units Holders may only effect Merger Early Settlement pursuant to this Section 5.04(b)(ii) in integral multiples of 20 Corporate HiMEDS Units or Treasury HiMEDS Units, as the case may be. Other than the provisions relating to timing of notice and settlement, which shall be as set forth above, the provisions of Section 5.01 shall apply with respect to a Merger Early Settlement pursuant to this Section 5.04(b)(ii).

In order to exercise the right to effect Merger Early Settlement with respect to any Purchase Contracts, the Holder of the Certificate evidencing HiMEDS Units shall deliver, no later than 4:00 p.m., New York City time, on the Business Day immediately preceding the Merger Early Settlement Date, such Certificate, if in certificated form, to the Purchase Contract Agent at the Corporate Trust Office duly endorsed for transfer to the Company or in blank with the form of Election to Settle Early/Merger Early Settlement on the reverse thereof duly completed and accompanied by payment (payable to the Company in immediately available funds) in an amount equal to the sum of:

(i) product of (A) the Stated Amount and (B) the number of Purchase Contracts with respect to which the Holder has elected to effect Merger Early Settlement, *less*

(ii) the amount of any accrued and unpaid Contract Adjustment Payments and any Deferred Contract Adjustment Payments, in each case, to but not including the Merger Early Settlement Date (excluding, if the Merger Early Settlement occurs after the Record Date for such Contract Adjustment Payments or Deferred Contract Adjustment Payments, the amount of such payments to be made on the Payment Date immediately succeeding such Record Date).

In the event that HiMEDS Units are held by or through DTC or another Depository, the exercise of the right to effect Merger Early Settlement shall occur in conformity with the procedures established by DTC or such Depository.

Upon receipt of any such Certificate and payment of such funds, the Purchase Contract Agent shall pay the Company from such funds the related Purchase Price pursuant to the terms of the related Purchase Contracts, and notify the Collateral Agent that all the conditions necessary for a Merger Early Settlement by a Holder of HiMEDS Units have been satisfied pursuant to which the Purchase Contract Agent has received from such Holder, and paid to the Company as confirmed in writing by the Company, the related Purchase Price.

Upon receipt by the Collateral Agent of the notice from the Purchase Contract Agent set forth in the preceding paragraph, the Collateral Agent shall release from the Pledge, (1) the Pledged Senior Notes, in the case of a Holder of Corporate HiMEDS Units, or (2) Pledged Treasury Securities, in the case of a Holder of Treasury HiMEDS Units, in each case with a Value equal to the product of (x) the Stated Amount and (y) the number of Purchase Contracts as to which such Holder has elected to effect Merger Early Settlement, and shall instruct the Securities Intermediary to Transfer all such Pledged Senior Notes or Pledged Treasury Securities, as the case may be, to the Purchase Contract Agent for distribution to such Holder, in each case free and clear of the Pledge created hereby.

If a Holder properly effects an effective Merger Early Settlement in accordance with the provisions of this Section 5.04(b)(ii), the Company will deliver (or will cause the Collateral Agent to deliver) to the Holder on the Merger Early Settlement Date:

(A) the kind and amount of securities, cash and other property receivable upon such Cash Merger by a Holder of the number of shares of Common Stock issuable on account of each Purchase Contract if the Purchase Contract Settlement Date had occurred immediately prior to such Cash Merger (based on the Settlement Rate in effect at such time plus the Make-Whole Shares), assuming such Holder of Common Stock is not a Constituent Person or an Affiliate of a Constituent Person to the extent such Cash Merger provides for different treatment of Common Stock held by Affiliates of the Company and non-Affiliates. In the event holders of Common Stock have the opportunity to elect the form of consideration to be received in the Cash Merger, the kind and amount of securities, cash and other property receivable by Holders of the Corporate HiMEDS Units or Treasury HiMEDS Units exercising their Merger Early Settlement right will be deemed to be the weighted average of the types and amounts of consideration received by the holders of Common Stock that affirmatively make an election. For the avoidance of doubt, for the purposes of determining the Applicable Market Value (in connection with determining the appropriate Settlement Rate to be applied in the foregoing sentence), the Effective Date of the Cash Merger shall be deemed to be the Purchase Contract Settlement Date;

(B) the Senior Notes or Treasury Securities, as the case may be, related to the Purchase Contracts with respect to which the Holder is effecting a Merger Early Settlement;

(C) any accrued and unpaid Contract Adjustment Payments and any deferred Contract Adjustment Payments, in each case, to but not including the cash merger settlement date (to the extent such payments are not offset to settle the Purchase Contracts); and

(D) if so required under the Securities Act, a Prospectus as contemplated by this Section 5.04(b)(ii).

The Corporate HiMEDS Units or the Treasury HiMEDS Units of the Holders who do not elect Merger Early Settlement in accordance Section 5.04(b)(ii) will continue to remain outstanding and be subject to settlement on the Purchase Contract Settlement Date in accordance with the terms hereof.

(iii) The number of Make-Whole Shares by which the applicable Settlement Rate will be increased with respect to a Merger Early Settlement will be determined by reference to the table below, based on the Effective Date and the price (the "**Stock Price**") paid per share for Common Stock in such Cash Merger. If holders of Common Stock receive only cash in such transaction, the Stock Price paid per share will be the cash amount paid per share. Otherwise, the Stock Price paid per share will be the average of the Closing Prices of the Common Stock over the 20 consecutive Trading Day period ending on the Trading Day immediately preceding the Effective Date of such Cash Merger.

	Stock Price on Effective Date											
	\$ 10.25	\$ 20.50	\$30.75	\$ 41.00	\$ 51.25	\$ 61.50	\$ 65.09	\$ 76.88	\$102.50	\$153.75	\$205.00	\$256.25
<b>Effective Date</b>												
November 20, 2007	0.6074	0.2994	0.1725	0.0783	0.0000	0.1321	0.1682	0.1216	0.0785	0.0509	0.0383	0.0306
November 15, 2008	0.4159	0.2070	0.1236	0.0481	0.0000	0.0970	0.1326	0.0877	0.0536	0.0349	0.0262	0.0209
November 15, 2009	0.2139	0.1069	0.0687	0.0255	0.0000	0.0589	0.0916	0.0477	0.0271	0.0179	0.0134	0.0108
November 15, 2010	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

In the event that the Stock Price and/or Effective Date applicable to a Cash Merger is not expressly set forth on the table, then the Make-Whole Shares will be determined as follows:

(1) if the Stock Price is between two Stock Prices on the table or the Effective Date is between two Effective Dates on the table, the Make-Whole Shares will be determined by straight-line interpolation between the Make-Whole Shares set forth for the higher and lower Stock Prices and the two Effective Dates, as applicable, based on a 365-day year;

(2) if the Stock Price is in excess of \$256.25 per share (subject to adjustment as described above), then the Make-Whole Shares will be zero; and

(3) if the Stock Price is less than \$10.25 per share (subject to adjustment) (the “**Minimum Stock Price**”), then the Make-Whole Shares will be determined as if the Stock Price equaled the Minimum Stock Price, using straight-line interpolation, as described herein, if the Effective Date is between two Effective Dates on the above table.

The Stock Prices set forth in the first row of the table (*i.e.*, the column headers) will be adjusted upon the occurrence of certain events requiring anti-dilution adjustments to the Low Settlement Rate, Minimum Settlement Rate and Anti-Dilution Factor pursuant to Section 5.04(a). The adjusted Stock Prices will equal the Stock Prices divided by the Anti-Dilution Factor. The Make-Whole Shares set forth in the table will also be subject to adjustment upon the occurrence of the anti-dilution adjustment events and in the same manner as the Minimum Settlement Rate as set forth in Section 5.04(a).

Notwithstanding the foregoing, in no circumstances will the total shares deliverable (*i.e.*, the sum of the applicable Settlement Rate in effect immediately prior to the Effective Date plus the Make-Whole Shares) exceed 1.5830 (subject to adjustment).

(c) No adjustment to the Low Settlement Rate, the Minimum Settlement Rate or the Anti-Dilution Factor need be made if Holders may participate in the transaction that would otherwise give rise to an adjustment. For the avoidance of doubt, in order for Holders to have been deemed to have participated in such transaction, Holders must receive the same kind and

amount of property as holders of Common Stock on the same date as holders of Common Stock. For purposes of determining the amount of such property Holders are entitled to receive as a result of such transaction only, a Settlement Rate will be calculated based on an Adjusted Applicable Market Value equal to the average of the Closing Prices per share of Common Stock over the 20 consecutive Trading Day period ending on the third Trading Day immediately preceding the record date fixed for the determination of stockholders of the Company entitled to receive such distribution. For the avoidance of doubt, such calculated Settlement Rate shall be applied for this purpose only and shall not be applicable in connection with the calculation of the Settlement Rate for purposes of determining the number of shares of Common Stock issuable in connection with the settlement of the Purchase Contracts.

(d) If:

(i) the record date for a dividend or distribution on Common Stock occurs after the end of the 20 consecutive Trading Day period used for calculating the Adjusted Applicable Market Value and before the Purchase Contract Settlement Date; and

(ii) such dividend or distribution would have resulted in an adjustment of the number of shares of Common Stock issuable to the Holders had such record date occurred on or before the last Trading Day of such 20-Trading Day period,

then the Company shall deem the Holders to be holders of record of Common Stock for purposes of that dividend or distribution. In this case, the Holders would receive the dividend or distribution on Common Stock together with the number of shares of Common Stock issuable upon the Purchase Contract Settlement Date.

(e) The Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor shall not be adjusted:

- (1) upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in shares of Common Stock under any plan;
- (2) upon the issuance of any shares of Common Stock or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by the Company or any of its subsidiaries;
- (3) upon the issuance of any shares of Common Stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security outstanding as of the date the HiMEDS Units were first issued; or
- (4) for a change in the par value or no par value of the Common Stock.

(f) Promptly after the calculation of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor the Company shall give the Purchase Contract Agent notice thereof accompanied by an Officers' Certificate setting forth the bases for the

calculation in reasonable detail. All calculations and determinations of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor shall be made by the Company or its agent based on their good faith calculations and the Purchase Contract Agent shall bear no responsibility with respect thereto.

Section 5.05. *Notice of Adjustments and Certain Other Events.* (a) Whenever the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor are adjusted as herein provided, the Company shall within 10 Business Days following the occurrence of an event that requires such adjustment pursuant to Section 5.04 (or if the Company is not aware of such occurrence, as soon as practicable after becoming so aware):

(i) compute each adjusted Low Settlement Rate, Minimum Settlement Rate and Anti-Dilution Factor in accordance with Section 5.04 and prepare and transmit to the Purchase Contract Agent an Officers' Certificate setting forth such adjusted Low Settlement Rate, Minimum Settlement Rate and Anti-Dilution Factor, the method of calculation thereof in reasonable detail, and the facts requiring such adjustment and upon which such adjustment is based; and

(ii) provide a written notice to the Holders of the HiMEDS Units of the occurrence of such event and a statement in reasonable detail setting forth the method by which the adjustment to the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor was determined and setting forth each adjusted Low Settlement Rate, Minimum Settlement Rate and Anti-Dilution Factor.

(b) The Purchase Contract Agent shall not at any time be under any duty or responsibility to any Holder of HiMEDS Units to determine whether any facts exist which may require any adjustment of the Low Settlement Rate, the Minimum Settlement Rate and the Anti-Dilution Factor, or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed in making the same. The Purchase Contract Agent shall be fully authorized and protected in relying on any Officers' Certificate delivered pursuant to Section 5.05(a)(i) and any adjustment contained therein and the Purchase Contract Agent shall not be deemed to have knowledge of any adjustment unless and until it has received such certificate. The Purchase Contract Agent shall not be accountable with respect to the validity or value (or the kind or amount) of any shares of Common Stock, or of any securities or property, which may at the time be issued or delivered with respect to any Purchase Contract; and the Purchase Contract Agent makes no representation with respect thereto. The Purchase Contract Agent shall not be responsible for any failure of the Company to issue, transfer or deliver any shares of Common Stock pursuant to a Purchase Contract or to comply with any of the duties, responsibilities or covenants of the Company contained in this Article.

Section 5.06. *Termination Event; Notice.* The Purchase Contracts and all obligations and rights of the Company and the Holders thereunder, including, without limitation, the rights of the Holders to receive and the obligation of the Company to pay any Contract Adjustment Payments (including any accrued and unpaid Contract Adjustment Payments and any Deferred Contract Adjustment Payments), and the rights and obligations of Holders to purchase Common Stock, shall immediately and automatically terminate, without the necessity of any notice or action by any Holder, the Purchase Contract Agent or the Company, if, prior to or on the Purchase Contract Settlement Date, a Termination Event shall have occurred.



Upon and after the occurrence of a Termination Event, the HiMEDS Units shall thereafter represent the right to receive the Senior Notes or the Treasury Securities, as the case may be, forming part of such Units, in accordance with the provisions of Section 3.15. Upon the occurrence of a Termination Event, the Company shall promptly but in no event later than two Business Days thereafter give written notice to the Purchase Contract Agent, the Collateral Agent and the Holders, at their addresses as they appear in the Security Register.

Section 5.07. *Early Settlement.* (a) Subject to and upon compliance with the provisions of this Section 5.07 and the last sentence of this Section 5.07(a), at the option of the Holder thereof, Purchase Contracts underlying HiMEDS Units may be settled early ("**Early Settlement**") at any time on or prior to 4:00 p.m., New York City time, on the Business Day immediately preceding the first scheduled Trading Day of the Observation Period; *provided* that no Early Settlement will be permitted pursuant to this Section 5.07 unless, at the time such Early Settlement is effected, there is an effective Registration Statement with respect to any securities to be issued and delivered in connection with such Early Settlement, if such a Registration Statement is required (in the view of counsel, which need not be in the form of a written opinion, for the Company) under the Securities Act. In the event that a Holder seeks to exercise its right to early settle Purchase Contracts and a Registration Statement is required to be effective in connection with the exercise of such right but no such Registration Statement is then effective, the Holder's exercise of such right shall be void unless and until such a Registration Statement shall be effective. If such a Registration Statement is so required, the Company covenants and agrees to use commercially reasonable efforts to (i) have in effect a Registration Statement covering any securities to be delivered in respect of the Purchase Contracts being settled and (ii) provide a Prospectus in connection therewith, in each case in a form that may be used in connection with such Early Settlement. The Company shall have no further obligation with respect to any such Registration Statement if, notwithstanding using its commercially reasonable efforts, no Registration Statement is then effective.

(b) In order to exercise the right to effect Early Settlement with respect to any Purchase Contracts, the Holder of the Certificate evidencing HiMEDS Units shall deliver, at any time on or prior to 4:00 p.m., New York City time, on the Business Day immediately preceding the first scheduled Trading Day of the Observation Period, such Certificate, if in certificated form, to the Purchase Contract Agent at the Corporate Trust Office duly endorsed for transfer to the Company or in blank with the form of Election to Settle Early/Merger Early Settlement on the reverse thereof duly completed and accompanied by payment (payable to the Company in immediately available funds) in an amount (the "**Early Settlement Amount**") equal to:

(i) the product of (A) the Stated Amount and (B) the number of Purchase Contracts with respect to which the Holder has elected to effect Early Settlement, plus

(ii) if such delivery is made with respect to any Purchase Contracts during the period from 5:00 p.m., New York City time, on any Record Date next preceding any Payment Date to 9:00 a.m., New York City time, on such Payment Date, an amount equal to the Contract Adjustment Payments payable on such Payment Date with respect to such Purchase Contracts, minus

(iii) the amount of any Deferred Contract Adjustment Payments accrued and unpaid to but not including the Payment Date immediately preceding the Early Settlement Date.

Except as provided in the immediately preceding sentence, no payment shall be made upon Early Settlement of any Purchase Contract on account of any Contract Adjustment Payments accrued on such Purchase Contract or on account of any dividends on the Common Stock issued upon such Early Settlement. If the foregoing requirements are first satisfied with respect to Purchase Contracts underlying any HiMEDS Units on or prior to 4:00 p.m., New York City time, on a Business Day, such day shall be the “**Early Settlement Date**” with respect to such HiMEDS Units and if such requirements are first satisfied after 4:00 p.m., New York City time, on a Business Day or on a day that is not a Business Day, the “**Early Settlement Date**” with respect to such HiMEDS Units shall be the next succeeding Business Day.

Upon the receipt of such Certificate and Early Settlement Amount from the Holder, the Purchase Contract Agent shall pay to the Company such Early Settlement Amount, the receipt of which payment the Company shall confirm in writing. The Purchase Contract Agent shall then notify the Collateral Agent that:

(A) such Holder has elected to effect an Early Settlement, which notice shall set forth the number of such Purchase Contracts as to which such Holder has elected to effect Early Settlement;

(B) the Purchase Contract Agent has received from such Holder, and paid to the Company as confirmed in writing by the Company, the related Early Settlement Amount; and

(C) all conditions to such Early Settlement have been satisfied.

Upon receipt by the Collateral Agent of the notice from the Purchase Contract Agent set forth in the preceding paragraph, the Collateral Agent shall release from the Pledge, (1) the Pledged Senior Notes, in the case of a Holder of Corporate HiMEDS Units or (2) Pledged Treasury Securities, in the case of a Holder of Treasury HiMEDS Units, in each case with a Value equal to the product of (x) the Stated Amount and (y) the number of Purchase Contracts as to which such Holder has elected to effect Early Settlement, and shall instruct the Securities Intermediary to Transfer all such Pledged Senior Notes or Pledged Treasury Securities, as the case may be, to the Purchase Contract Agent for distribution to such Holder, in each case free and clear of the Pledge created hereby.

Holders of HiMEDS Units may only effect Early Settlement pursuant to this Section 5.07 in integral multiples of 20 HiMEDS Units.

Upon Early Settlement of the Purchase Contracts, the rights of the Holders to receive and the obligation of the Company to pay any Contract Adjustment Payments (including any accrued and unpaid Contract Adjustment Payments) with respect to such Purchase Contracts shall immediately and automatically terminate.

(c) Upon Early Settlement of Purchase Contracts by a Holder of the related HiMEDS Units, the Company shall issue, and the Holder shall be entitled to receive, a number of shares of Common Stock (or in the case of an Early Settlement following a Reorganization Event, a number of units of Exchange Property) equal to the Minimum Settlement Rate for each Purchase Contract as to which Early Settlement is effected.

(d) No later than the third Business Day after the applicable Early Settlement Date, the Company shall cause the shares of Common Stock issuable upon Early Settlement of Purchase Contracts to be issued and delivered, together with payment in lieu of any fraction of a share, as provided in Section 5.08.

(e) Upon Early Settlement of any Purchase Contracts, and subject to receipt of shares of Common Stock from the Company and the Senior Notes or Treasury Securities, as the case may be, from the Securities Intermediary, as applicable, the Purchase Contract Agent shall, in accordance with the instructions provided by the Holder thereof on the applicable form of Election to Settle Early/Merger Early Settlement on the reverse of the Certificate evidencing the related HiMEDS Units:

(i) transfer to the Holder the Senior Notes or Treasury Securities, as the case may be, forming a part of such HiMEDS Units free and clear of the security interest, and

(ii) deliver to the Holder a certificate or certificates for the full number of shares of Common Stock issuable upon such Early Settlement, together with payment in lieu of any fraction of a share, as provided in Section 5.08.

(f) The Company shall, if so required under the Securities Act, deliver a Prospectus for the shares of Common Stock issuable upon such Early Settlement as contemplated by Section 5.07(a).

(g) In the event that Early Settlement is effected with respect to Purchase Contracts underlying less than all the HiMEDS Units evidenced by a Certificate, upon such Early Settlement the Company shall execute and the Purchase Contract Agent shall execute on behalf of the Holder, authenticate and deliver to the Holder thereof, at the expense of the Company, a Certificate evidencing the HiMEDS Units as to which Early Settlement was not effected.

(h) A Holder of a HiMEDS Unit who effects Early Settlement may elect to have the Senior Notes no longer a part of a Corporate HiMEDS Unit remarketed in accordance with the provisions of Section 5.02.

Section 5.08. *No Fractional Shares.* No fractional shares or scrip representing fractional shares of Common Stock shall be issued or delivered upon settlement on the Purchase Contract Settlement Date, or upon Early Settlement or Merger Early Settlement of any Purchase Contracts. If Certificates evidencing more than one Purchase Contract shall be surrendered for settlement at one time by the same Holder, the number of full shares of Common Stock which shall be delivered upon settlement shall be computed on the basis of the aggregate number of Purchase Contracts evidenced by the Certificates so surrendered. Instead of any fractional share of Common Stock which would otherwise be deliverable upon settlement of any Purchase Contracts on the Purchase Contract Settlement Date, or upon Early Settlement or Merger Early

Settlement, the Company, through the Purchase Contract Agent, shall make a cash payment in respect of such fractional interest in an amount equal to the percentage of such fractional share times the Applicable Market Value (calculated in accordance with Section 5.01(a) in connection with a settlement on the Purchase Contract Settlement Date, as the average of the Closing Prices of the Common Stock over the 20 consecutive Trading Day period ending on the third Trading Day immediately preceding the Early Settlement Date, and in accordance with Section 5.04(b)(ii) in connection with an Merger Early Settlement, respectively). The Company shall provide the Purchase Contract Agent from time to time with sufficient funds to permit the Purchase Contract Agent to make all cash payments required by this Section 5.08 in a timely manner.

Section 5.09. *Charges and Taxes.* The Company will pay all stock transfer and similar taxes attributable to the initial issuance and delivery of the shares of Common Stock pursuant to the Purchase Contracts; *provided, however,* that the Company shall not be required to pay any such tax or taxes which may be payable in respect of any exchange of or substitution for a Certificate evidencing a HiMEDS Unit or any issuance of a share of Common Stock in a name other than that of the registered Holder of a Certificate surrendered in respect of the HiMEDS Units evidenced thereby, other than in the name of the Purchase Contract Agent, as custodian for such Holder, and the Company shall not be required to issue or deliver such share certificates or Certificates unless or until the Person or Persons requesting the transfer or issuance thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid.

Section 5.10. *Contract Adjustment Payments.* (a) Subject to Section 5.10(d) and 5.11, the Company shall pay, on each Payment Date, the Contract Adjustment Payments payable in respect of each Purchase Contract to the Person in whose name a Certificate is registered at 5:00 p.m., New York City time, on the Record Date relating to such Payment Date. The Contract Adjustment Payments will be payable at the office of the Purchase Contract Agent maintained for that purpose. If the book-entry system for the HiMEDS Units has been terminated, the Contract Adjustment Payments will be payable, at the option of the Company, by check mailed to the address of the Person entitled thereto at such Person's address as it appears on the Security Register, or by wire transfer to the account designated by such Person by a prior written notice to the Purchase Contract Agent. Contract Adjustment Payments payable for any period will be computed (1) for any full quarterly period on the basis of a 360-day year of twelve 30-day months and (2) for any period other than a full quarterly period on the basis of the actual number of days elapsed and a 360-day year. Contract Adjustment Payments will accrue from November 20, 2007.

(b) Upon the occurrence of a Termination Event, the Company's obligation to pay future Contract Adjustment Payments (including any accrued Contract Adjustment Payments) and any Deferred Contract Adjustment Payments shall cease.

(c) Each Certificate delivered under this Agreement upon registration of transfer of or in exchange for or in lieu of (including as a result of a Collateral Substitution or the recreation of Corporate HiMEDS Units) any other Certificate shall carry the right to accrued and unpaid Contract Adjustment Payments and Deferred Contract Adjustment Payments, which right was carried by the Purchase Contracts underlying such other Certificates.

(d) In the case of any HiMEDS Unit with respect to which Early Settlement or Merger Early Settlement of the underlying Purchase Contract is effected on a date that is after any Record Date and prior to or on the next succeeding Payment Date, Contract Adjustment Payments and Deferred Contract Adjustment Payments otherwise payable on such Payment Date shall be payable on such Payment Date notwithstanding such Early Settlement or Merger Early Settlement, and such Contract Adjustment Payments and Deferred Contract Adjustment Payments shall be paid to the Person in whose name the Certificate evidencing such HiMEDS Unit is registered at 5:00 p.m., New York City time, on such Record Date. Except as otherwise expressly provided in the immediately preceding sentence, and the right to receive accrued and unpaid Contract Adjustment Payments as set forth in Section 5.04(b)(ii), in the case of any HiMEDS Unit with respect to which Early Settlement or Merger Early Settlement of the underlying Purchase Contract is effected, Contract Adjustment Payments (but not, for the avoidance of doubt, Deferred Contract Adjustment Payments) that would otherwise be payable after the Early Settlement or Merger Early Settlement Date with respect to such Purchase Contract shall not be payable.

(e) The Company's obligations with respect to Contract Adjustment Payments and Deferred Contract Adjustment Payments, if any, will be subordinated and junior in right of payment to the Company's obligations under any Senior Indebtedness.

(f) In the event:

(x) of any payment by, 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 bankruptcy, insolvency, receivership or other proceedings; or

(y) subject to the provisions of Section 5.10(h), that (i) a default shall have occurred and be continuing with respect to the payment of principal, interest or any other monetary amounts due and payable on any Senior Indebtedness and such default shall have continued beyond the period of grace, if any, specified in the instrument evidencing such Senior Indebtedness (and the Purchase Contract Agent shall have received written notice thereof from the Company or one or more holders of Senior Indebtedness or their representative or representatives or the trustee or trustees under any indenture pursuant to which any such Senior Indebtedness may have been issued) or (ii) the maturity of any Senior Indebtedness shall have been accelerated because of a default in respect of such Senior Indebtedness (and the Purchase Contract Agent shall have received written notice thereof from the Company or one or more holders of Senior Indebtedness or their representative or representatives or the trustee or trustees under any indenture pursuant to which any such Senior Indebtedness may have been issued),

then:

(i) the holders of all Senior Indebtedness shall first be entitled to receive, in the case of clause (x) above, payment of all amounts due or to become due upon all Senior Indebtedness and, in the case of subclauses (i) and (ii) of clause (y) above, payment of all amounts due thereon, or provision shall be made for such payment in money or money's worth, before the Holders of any of the HiMEDS Units are entitled to receive any Contract Adjustment Payments or Deferred Contract Adjustment Payments on the Purchase Contracts underlying the HiMEDS Units;

(ii) any payment by, or distribution of assets of, the Company of any kind or character, whether in cash, property or securities, to which the Holders of any of the HiMEDS Units would be entitled except for the provisions of Section 5.10(e) through (q), including any such payment or distribution which may be payable or deliverable by reason of the payment of any other indebtedness of the Company being subordinated to the payment of such Contract Adjustment Payments or Deferred Contract Adjustment Payments on the Purchase Contracts underlying the HiMEDS Units, shall be paid or delivered by the Person making such payment or distribution, whether a trustee in bankruptcy, a receiver or liquidating trustee or otherwise, directly to the representative or representatives of the holders of Senior Indebtedness or to the trustee or trustees under any indenture under which any instruments evidencing any of such Senior Indebtedness may have been issued, ratably according to the aggregate amounts remaining unpaid on account of such Senior Indebtedness held or represented by each, to the extent necessary to make payment in full of all Senior Indebtedness remaining unpaid after giving effect to any concurrent payment or distribution (or provision therefor) to the holders of such Senior Indebtedness, before any payment or distribution is made of such Contract Adjustment Payments or Deferred Contract Adjustment Payments to the Holders of such HiMEDS Units; and

(iii) in the event that, notwithstanding the foregoing, any payment by, or distribution of assets of, the Company of any kind or character, whether in cash, property or securities, including any such payment or distribution which may be payable or deliverable by reason of the payment of any other indebtedness of the Company being subordinated to the payment of Contract Adjustment Payments or Deferred Contract Adjustment Payments on the Purchase Contracts underlying the HiMEDS Units, shall be received by the Purchase Contract Agent or the Holders of any of the HiMEDS Units when such payment or distribution is prohibited pursuant to Section 5.10(e) through (q), such payment or distribution shall be paid over to the representative or representatives of the holders of Senior Indebtedness or to the trustee or trustees under any indenture pursuant to which any instruments evidencing any such Senior Indebtedness may have been issued, ratably as aforesaid, for application to the payment of all Senior Indebtedness remaining unpaid until all such Senior Indebtedness shall have been paid in full, after giving effect to any concurrent payment or distribution (or provision therefor) to the holders of such Senior Indebtedness.

(g) For purposes of Section 5.10(e) through (q), 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 Person provided for by a plan of reorganization or readjustment, the payment of which is subordinated at least to the extent provided in Section 5.10(e) through (q) with respect to such Contract Adjustment Payments or Deferred Contract Adjustment Payments on the HiMEDS Units to the payment of all Senior Indebtedness which may at the time be outstanding; *provided* that (i) the indebtedness or guarantee of indebtedness, as the case may be, that constitutes Senior Indebtedness is assumed by the Person, if any, resulting from any such reorganization or readjustment, and (ii) the rights of the holders of the Senior Indebtedness are not, without the consent of each such holder adversely affected thereby, altered by such reorganization or readjustment;

(h) Any failure by the Company to make any payment on or perform any other obligation under Senior Indebtedness, other than any indebtedness incurred by the Company or assumed or guaranteed, directly or indirectly, by the Company for money borrowed (or any deferral, renewal, extension or refunding thereof) or any indebtedness or obligation as to which the provisions of Section 5.10(e) through (q) shall have been waived by the Company in the instrument or instruments by which the Company incurred, assumed, guaranteed or otherwise created such indebtedness or obligation, shall not be deemed a default or event of default if (i) the Company shall be disputing its obligation to make such payment or perform such obligation and (ii) either (A) no final judgment relating to such dispute shall have been issued against the Company which is in full force and effect and is not subject to further review, including a judgment that has become final by reason of the expiration of the time within which a party may seek further appeal or review, and (B) in the event a judgment that is subject to further review or appeal has been issued, the Company shall in good faith be prosecuting an appeal or other proceeding for review and a stay of execution shall have been obtained pending such appeal or review.

(i) Subject to the irrevocable payment in full of all Senior Indebtedness, the Holders of the HiMEDS Units shall be subrogated (equally and ratably with the holders of all obligations of the Company which by their express terms are subordinated to Senior Indebtedness of the Company to the same extent as payment of the Contract Adjustment Payments and Deferred Contract Adjustment Payments in respect of the Purchase Contracts underlying the HiMEDS Units is subordinated and which are 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 all such Contract Adjustment Payments and Deferred Contract Adjustment Payments owing on the HiMEDS Units shall be paid in full, and as between the Company, its creditors other than holders of such Senior Indebtedness and the Holders, no such payment or distribution made to the holders of Senior Indebtedness by virtue of Section 5.10(e) through (q) that otherwise would have been made to the Holders shall be deemed to be a payment by the Company on account of such Senior Indebtedness, it being understood that the provisions of Section 5.10(e) through (q) are and are intended solely for the purpose of defining the relative rights of the Holders, on the one hand, and the holders of Senior Indebtedness, on the other hand.

(j) Nothing contained in Section 5.10(e) through (q) or elsewhere in this Agreement or in the HiMEDS Units is intended to or shall impair, as among the Company, its creditors other than the holders of Senior Indebtedness and the Holders, the obligation of the Company, which is absolute and unconditional, to pay to the Holders such Contract Adjustment Payments and Deferred Contract Adjustment Payments on the HiMEDS Units 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 and creditors of the Company other than the holders of Senior Indebtedness, nor shall anything herein or therein prevent the Purchase Contract Agent or any Holder from exercising all remedies otherwise permitted by applicable law upon default under this Agreement, subject to the rights, if any, under Section 5.10(e) through (q), of the holders of Senior Indebtedness in respect of cash, property or securities of the Company received upon the exercise of any such remedy.

(k) Upon payment or distribution of assets of the Company referred to in Section 5.10(e) through (q), the Purchase Contract Agent and the Holders shall be entitled to rely upon any order or decree made by any court of competent jurisdiction in which any such dissolution, winding up, liquidation or reorganization proceeding affecting the affairs of the Company is pending or upon a certificate of the trustee in bankruptcy, receiver, assignee for the benefit of creditors, liquidating trustee or Purchase Contract Agent or other person making any payment or distribution, delivered to the Purchase Contract Agent or to the Holders, for the purpose of ascertaining the Persons entitled to participate in such payment or distribution, the holders of the Senior Indebtedness and other indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to these Section 5.10(e) through (q).

(l) The Purchase Contract Agent shall be entitled to rely on the delivery to it of a written notice by a Person representing himself to be a holder of Senior Indebtedness (or a trustee or representative on behalf of such holder) to establish that such notice has been given by a holder of Senior Indebtedness or a trustee or representative on behalf of any such holder or holders. In the event that the Purchase Contract Agent 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 Section 5.10(e) through (q), the Purchase Contract Agent may request such Person to furnish evidence to the reasonable satisfaction of the Purchase Contract Agent 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 Section 5.10(e) through (q), and, if such evidence is not furnished, the Purchase Contract Agent may defer payment to such Person pending judicial determination as to the right of such Person to receive such payment.

(m) Nothing contained in Section 5.10(e) through (q) shall affect the obligations of the Company to make, or prevent the Company from making, payment of the Contract Adjustment Payments and Deferred Contract Adjustment Payments, except as otherwise provided in these Section 5.10(e) through (q).

(n) Each Holder of HiMEDS Units, by its acceptance thereof, authorizes and directs the Purchase Contract Agent on its behalf to take such action as may be necessary or appropriate to effectuate the subordination provided in Section 5.10(e) through (q) and appoints the Purchase Contract Agent its attorney-in-fact, as the case may be, for any and all such purposes.

(o) The Company shall give prompt written notice to the Purchase Contract Agent of any fact known to the Company that would prohibit the making of any payment of moneys to or by the Purchase Contract Agent in respect of the HiMEDS Units pursuant to the provisions of this Section. Notwithstanding the provisions of Section 5.10(e) through (q) or any other provisions of this Agreement, the Purchase Contract Agent shall not be charged with knowledge of the existence of any facts that would prohibit the making of any payment of moneys to or by the Purchase Contract Agent, or the taking of any other action by the Purchase Contract Agent, unless and until the Purchase Contract Agent shall have received written notice thereof mailed or



delivered to the Purchase Contract Agent at its Institutional Trust Services department from the Company, any Holder, or the holder or representative of any Senior Indebtedness; *provided* that if at least two Business Days prior to the date upon which by the terms hereof any such moneys may become payable for any purpose, the Purchase Contract Agent shall not have received with respect to such moneys the notice provided for in this Section, then, anything herein contained to the contrary notwithstanding, the Purchase Contract Agent shall have full power and authority to receive such moneys and to apply the same to the purpose for which they were received and shall not be affected by any notice to the contrary that may be received by it within two Business Days prior to or on or after such date.

(p) The Purchase Contract Agent in its individual capacity shall be entitled to all the rights set forth in this Section with respect to any Senior Indebtedness at the time held by it, to the same extent as any other holder of Senior Indebtedness and nothing in this Agreement shall deprive the Purchase Contract Agent of any of its rights as such holder.

(q) No right of any present or future holder of any Senior Indebtedness to enforce the subordination herein shall at any time or in any way be prejudiced or impaired by any act or failure to act on the part of the Company or by any noncompliance by the Company with the terms, provisions and covenants of this Agreement, regardless of any knowledge thereof which any such holder may have or be otherwise charged with.

(r) Nothing in this Section 5.10 shall apply to claims of, or payments to, the Purchase Contract Agent under or pursuant to Section 7.07.

(s) With respect to the holders of Senior Indebtedness:

(i) the duties and obligations of the Purchase Contract Agent shall be determined solely by the express provisions of this Agreement;

(ii) the Purchase Contract Agent shall not be liable to any such holders if it shall, acting in good faith, mistakenly pay over or distribute to the Holders or to the Company or any other Person cash, property or securities to which any holders of Senior Indebtedness shall be entitled by virtue of this Section 5.10 or otherwise;

(iii) no implied covenants or obligations shall be read into this Agreement against the Purchase Contract Agent; and

(iv) the Purchase Contract Agent shall not be deemed to be a fiduciary as to such holders.

Section 5.11. *Deferral of Contract Adjustment Payments.* (a) The Company has the right at any time, and from time to time, to defer payment of all or part of the Contract Adjustment Payments in respect of each Purchase Contract by extending the period for payment of Contract Adjustment Payments to any subsequent Payment Date (an “**Extension Period**”), but not beyond the Purchase Contract Settlement Date (or, with respect to Purchase Contracts for which an Early Settlement or Merger Early Settlement is effected, the Early Settlement Date or Merger Early Settlement Date, as the case may be). Prior to the expiration of any Extension Period, the Company may further extend such Extension Period to any subsequent Payment Date, but not beyond the Purchase Contract Settlement Date (or any applicable Early Settlement Date or Merger Early Settlement Date).

If the Company so elects to defer Contract Adjustment Payments, the Company shall pay additional Contract Adjustment Payments on such deferred installments of Contract Adjustment Payments at a rate equal to 6.00% per annum, compounding on each succeeding Payment Date, until such deferred installments are paid in full (such deferred installments of Contract Adjustment Payments together with the accrued additional Contract Adjustment Payments thereon, being referred to herein as the “**Deferred Contract Adjustment Payments**”).

At the end of each Extension Period, including as the same may be extended as provided above, or, in the event of an Early Settlement or Merger Early Settlement is effected, on the Early Settlement Date or Merger Early Settlement Date, as the case may be, the Company shall pay all Deferred Contract Adjustment Payments then due in the manner set forth in Section 5.10(a) (in the case of the end of an Extension Period), in the manner set forth in Section 5.07(b) (in the case of an Early Settlement) or in the manner set forth in Section 5.04(b)(ii) (in the case of a Merger Early Settlement) to the extent such amounts are not deducted from the amount otherwise payable by the Holder in the case of an Early Settlement or a Merger Early Settlement. In the event of an Early Settlement, the Company shall pay all Deferred Contract Adjustment Payments due on the Purchase Contracts being settled early to but not including the Payment Date immediately preceding the applicable Early Settlement Date. In the event of a Merger Early Settlement, the Company shall pay all Deferred Contract Adjustment Payments due on the Purchase Contracts being settled on the Merger Early Settlement Date to but including such Merger Early Settlement Date.

Upon termination of any Extension Period and the payment of all Deferred Contract Adjustment Payments and all accrued and unpaid Contract Adjustment Payments then due, the Company may commence a new Extension Period, *provided* that such Extension Period, together with all extensions thereof, may not extend beyond the Purchase Contract Settlement Date (or any applicable Early Settlement Date or Merger Early Settlement Date). Except in the case of an Early Settlement or Merger Early Settlement, no Contract Adjustment Payments shall be due and payable during an Extension Period except at the end thereof, except that prior to the end of such Extension Period, the Company, at its option, may prepay on any Payment Date all or any portion of the Deferred Contract Adjustment Payments accrued during the then elapsed portion of such Extension Period.

(b) The Company shall give written notice to the Purchase Contract Agent (and the Purchase Contract Agent shall give notice thereof to Holders of Purchase Contracts) of its election to extend any period for the payment of Contract Adjustment Payments, the expected length of any such Extension Period and any extension of any Extension Period, at least five Business Days before the earlier of:

(i) the Record Date for the Payment Date on which Contract Adjustment Payments would have been payable except for the election to begin or extend the Extension Period; or

(ii) the date the Purchase Contract Agent is required to give notice to any securities exchange or to Holders of Purchase Contracts of such Record Date or such Payment Date.

(c) The Company shall give written notice to the Purchase Contract Agent (and the Purchase Contract Agent shall give notice thereof to Holders of Purchase Contracts) of the end of an Extension Period or its election to pay any portion of the Deferred Contract Adjustment Payments on a payment date prior to the end of an Extension Period, at least five Business Days before the earlier of:

(i) the Record Date for the Payment Date on which such Extension Period shall end or such payment of Deferred Contract Adjustment Payments shall be made; or

(ii) the date the Purchase Contract Agent is required to give notice to any securities exchange or to Holders of Purchase Contracts of such Record Date or such Payment Date.

In the event the Company exercises its option to defer the payment of Contract Adjustment Payments, then, until the Deferred Contract Adjustment Payments have been paid in full, the Company shall not, and shall not permit any of its subsidiaries to, declare or pay dividends on, make distributions with respect to, or redeem, purchase or acquire, or make a liquidation payment with respect to, any of its capital stock or their capital stock or make guarantee payments with respect to the foregoing; *provided* that the foregoing will not restrict:

(i) the Company from declaring or paying dividends on the outstanding shares of its capital stock in shares of its capital stock; or

(ii) the Company's subsidiaries from declaring or paying any dividends, or making any distributions, to the Company or any of the Company's other subsidiaries.

Section 5.12. *No Net Cash Settlement* . In the event the Company does not have an effective Registration Statement, there is no circumstance that would require the Company to "net cash" settle the HiMEDS units.

## ARTICLE 6 RIGHTS AND REMEDIES OF HOLDERS

Section 6.01. Unconditional Right of Holders to Receive Contract Adjustment Payments and to Purchase Shares of Common Stock. Each Holder of a HiMEDS Unit shall have the right, which is absolute and unconditional:

(i) subject to Article 5, to receive each Contract Adjustment Payment and Deferred Contract Adjustment Payment with respect to the Purchase Contract comprising part of such HiMEDS Unit on the respective Payment Date for such HiMEDS Unit; and

(ii) except upon and following a Termination Event, to purchase shares of Common Stock pursuant to such Purchase Contract; and,

in each such case, to institute suit for the enforcement of any such right to receive Contract Adjustment Payments and the right to purchase shares of Common Stock, and such rights shall not be impaired without the consent of such Holder.

Section 6.02. *Restoration of Rights and Remedies.* If any Holder has instituted any proceeding to enforce any right or remedy under this Agreement and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to such Holder, then and in every such case, subject to any determination in such proceeding, the Company and such Holder shall be restored severally and respectively to their former positions hereunder, and thereafter all rights and remedies of such Holder shall continue as though no such proceeding had been instituted.

Section 6.03. *Rights and Remedies Cumulative.* Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Certificates in the last paragraph of Section 3.10, no right or remedy herein conferred upon or reserved to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 6.04. *Delay or Omission Not Waiver.* No delay or omission of any Holder to exercise any right upon a default or remedy upon a default shall impair any such right or remedy or constitute a waiver of any such right. Every right and remedy given by this Article or by law to the Holders may be exercised from time to time, and as often as may be deemed expedient, by such Holders.

Section 6.05. *Undertaking for Costs.* All parties to this Agreement agree, and each Holder of a HiMEDS Unit, by its acceptance of such HiMEDS Unit 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 Agreement, or in any suit against the Purchase Contract Agent for any action taken, suffered or omitted by it as Purchase Contract Agent, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees and costs 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; *provided* that the provisions of this Section shall not apply to any suit instituted by the Purchase Contract Agent, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% of the Outstanding HiMEDS Units, or to any suit instituted by any Holder for the enforcement of interest on any Senior Notes or Contract Adjustment Payments on or after the respective Payment Date therefor in respect of any HiMEDS Unit held by such Holder (subject to Section 5.11), or for enforcement of the right to purchase shares of Common Stock under the Purchase Contracts constituting part of any HiMEDS Unit held by such Holder.

Section 6.06. *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 or 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 Agreement; 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 Purchase Contract Agent or the Holders, but will suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE 7  
THE PURCHASE CONTRACT AGENT

Section 7.01. *Certain Duties and Responsibilities.* (a) The Purchase Contract Agent:

(i) undertakes to perform, with respect to the HiMEDS Units, such duties and only such duties as are specifically set forth in this Agreement and the Remarketing Agreement and no implied covenants or obligations shall be read into this Agreement or the Remarketing Agreement against the Purchase Contract Agent; and

(ii) in the absence of bad faith or gross negligence on its part, may, with respect to the HiMEDS Units, conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Purchase Contract Agent and conforming on their face to the requirements of this Agreement or the Remarketing Agreement, as applicable, but in the case of any certificates or opinions which by any provision hereof are specifically required to be furnished to the Purchase Contract Agent, the Purchase Contract Agent shall be under a duty to examine the same to determine whether or not they conform on their face to the requirements of this Agreement or the Remarketing Agreement, as applicable (but need not confirm or investigate the accuracy of the mathematical calculations, facts stated therein or the substance or sufficiency thereof).

(b) No provision of this Agreement or the Remarketing Agreement shall be construed to relieve the Purchase Contract Agent from liability for its own grossly negligent action, its own grossly negligent failure to act, or its own willful misconduct, except that:

(i) this paragraph shall not be construed to limit the effect of Section 7.01(a);

(ii) the Purchase Contract Agent shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be conclusively determined by a court of competent jurisdiction that the Purchase Contract Agent was grossly negligent in ascertaining the pertinent facts; and

(iii) no provision of this Agreement or the Remarketing Agreement shall require the Purchase Contract Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers.

(c) Whether or not therein expressly so provided, every provision of this Agreement and the Remarketing Agreement relating to the conduct or affecting the liability of or affording protection to the Purchase Contract Agent shall be subject to the provisions of this Section.

(d) The Purchase Contract Agent is authorized to execute and deliver the Remarketing Agreement in its capacity as Purchase Contract Agent.

Section 7.02. *Notice of Default.* Within 30 days after the occurrence of any default by the Company hereunder of which a Responsible Officer of the Purchase Contract Agent has actual knowledge, the Purchase Contract Agent shall transmit by mail to the Company and the Holders of HiMEDS Units, as their names and addresses appear in the Security Register, notice of such default hereunder, unless such default shall have been cured or waived.

Section 7.03. *Certain Rights of Purchase Contract Agent.* Subject to the provisions of Section 7.01:

(a) the Purchase Contract Agent may, in the absence of bad faith, conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the party or parties specified therein;

(b) any request or direction of the Company mentioned herein shall be sufficiently evidenced by an Officers' Certificate or Issuer Order, and any resolution of the Board of Directors of the Company may be sufficiently evidenced by a Board Resolution;

(c) whenever in the administration of this Agreement or the Remarketing Agreement the Purchase Contract Agent shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting to take any action hereunder, the Purchase Contract Agent (unless other evidence be herein specifically prescribed in this Agreement) may, in the absence of bad faith on its part, conclusively rely upon an Officers' Certificate of the Company and any Opinion of Counsel delivered therewith;

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

(e) the Purchase Contract Agent 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, other evidence of indebtedness or other paper or document, but the Purchase Contract Agent, in its discretion, may make reasonable further inquiry or investigation into such facts or matters related to the execution, delivery and performance of the Purchase Contracts as it may see fit, and, if the Purchase Contract Agent shall determine to make such further inquiry or investigation, it shall be entitled to examine the relevant books, records and premises of the Company, personally or by agent or attorney;

(f) the Purchase Contract Agent may execute any of the powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians or nominees or an Affiliate and the Purchase Contract Agent shall not be responsible for any misconduct or negligence on the part of any agent, attorney, custodian or nominee or an Affiliate appointed with due care by it hereunder;

(g) the Purchase Contract Agent shall be under no obligation to exercise any of the rights or powers vested in it by this Agreement at the request or direction of any of the Holders pursuant to this Agreement, unless such Holders shall have offered to the Purchase Contract Agent security or indemnity satisfactory to the Purchase Contract Agent against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

(h) the Purchase Contract Agent shall not be liable for any action taken, suffered, or omitted to be taken by it in the absence of bad faith or gross negligence by it;

(i) the Purchase Contract Agent shall not be deemed to have notice of adjustment to the Settlement Rate, the occurrence of a Termination Event or any default hereunder unless a Responsible Officer of the Purchase Contract Agent has actual knowledge thereof or unless written notice of any such adjustment, occurrence or event which is in fact such a default is received by a Responsible Offer at the Corporate Trust Office of the Purchase Contract Agent, and such notice references the HiMEDS Units and this Agreement;

(j) the Purchase Contract Agent 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 Agreement, which Officers' Certificate may be signed by any person authorized to sign an Officers' Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded;

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

(l) the Purchase Contract Agent shall not be required to initiate or conduct any litigation or collection proceedings hereunder and shall have no responsibilities with respect to any default hereunder except as expressly set forth herein; and

(m) the Purchase Contract Agent shall not be responsible or liable for any failure or delay in the performance of its obligations under this Agreement arising out of or caused directly or indirectly, by acts of God; earthquake; fires; floods; wars; civil or military disturbances; terrorist acts; sabotage; epidemics; riots; interruptions, loss or malfunctions of utilities; accidents; labor disputes; and acts of civil or military authority or governmental actions; it being understood that the Purchase Contract Agent shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 7.04. *Not Responsible for Recitals or Issuance of HiMEDS Units.* The recitals contained herein, in the Remarketing Agreement and in the Certificates shall be taken as the statements of the Company, and the Purchase Contract Agent assumes no responsibility for their accuracy or validity. The Purchase Contract Agent makes no representations as to the validity or sufficiency of either this Agreement, the Remarketing Agreement or of the HiMEDS Units or the Pledge or the Collateral and shall have no responsibility for perfecting or maintaining the

perfection of any security interest in the Collateral. The Purchase Contract Agent shall not be accountable for the use or application by the Company of the proceeds in respect of the HiMEDS Units or the Purchase Contracts.

Section 7.05. *May Hold HiMEDS Units.* Any Security Registrar or any other agent of the Company, or the Purchase Contract Agent and its Affiliates, in their individual or any other capacity, may become the owner or pledgee of HiMEDS Units and may otherwise deal with the Company, the Collateral Agent or any other Person with the same rights it would have if it were not Security Registrar or such other agent, or the Purchase Contract Agent. The Company may become the owner or pledgee of HiMEDS Units.

Section 7.06. *Money Held In Custody.* Money held by the Purchase Contract Agent in custody hereunder need not be segregated from the Purchase Contract Agent's other funds except to the extent required by law or provided herein. The Purchase Contract Agent shall be under no obligation to invest or pay interest on any money received by it hereunder except as otherwise provided hereunder or agreed in writing with the Company.

Section 7.07. *Compensation and Reimbursement.* The Company agrees: (a) to pay to the Purchase Contract Agent compensation for all services rendered by it hereunder and under the Remarketing Agreement as the Company and the Purchase Contract Agent shall from time to time agree in writing;

(b) except as otherwise expressly provided for herein, to reimburse the Purchase Contract Agent upon its request for all expenses, disbursements and advances incurred or made by the Purchase Contract Agent in accordance with any provision of this Agreement and the Remarketing Agreement (including the compensation and the expenses and disbursements of its agents and counsel) in connection with the negotiation, preparation, execution and delivery and performance of this Agreement and the Remarketing Agreement and any modification, supplement or waiver of any of the terms thereof, except any such expense, disbursement or advance as may be attributable to its gross negligence, willful misconduct or bad faith; and

(c) to indemnify the Purchase Contract Agent and any predecessor Purchase Contract Agent (and each of its directors, officers, agents and employees (collectively, the "**Indemnitees**") for, and to hold each Indemnitee harmless against, any loss, claim, damage, fine, penalty, liability or expense (including fees and expenses of counsel) incurred without gross negligence, willful misconduct or bad faith on its part, arising out of or in connection with the acceptance or administration of its duties hereunder and the Remarketing Agreement, including the Indemnitees' reasonable costs and expenses of defending themselves against any claim (whether asserted by the Company, a Holder or any other person) or liability in connection with the exercise or performance of any of the Purchase Contract Agent's powers or duties hereunder or thereunder.

In addition, and without prejudice to the rights provided to the Purchase Contract Agent hereunder, when the Purchase Contract Agent incurs expenses or renders services after a Termination Event occurs, the expenses and the compensation for the services (including the fees and expenses of its counsel) are intended to constitute expenses of administration under any applicable federal or state bankruptcy law.



The provisions of this Section shall survive the resignation and removal of the Purchase Contract Agent, the satisfaction and discharge of the HiMEDS Units and the termination of this Agreement.

Section 7.08. *Corporate Purchase Contract Agent Required; Eligibility.* There shall at all times be a Purchase Contract Agent hereunder which shall be a Person organized and doing business under the laws of the United States of America, any State thereof or the District of Columbia, authorized under such laws to exercise corporate trust powers, having (or being a member of a bank holding company having) a combined capital and surplus of at least \$50,000,000, subject to supervision or examination by Federal or State authority. If such Person publishes or files reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published or filed. If at any time the Purchase Contract Agent shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.

Section 7.09. *Resignation and Removal; Appointment of Successor.* (a) No resignation or removal of the Purchase Contract Agent and no appointment of a successor Purchase Contract Agent pursuant to this Article shall become effective until the acceptance of appointment by the successor Purchase Contract Agent in accordance with the applicable requirements of Section 7.10.

(b) The Purchase Contract Agent may resign at any time by giving written notice thereof to the Company 60 days prior to the effective date of such resignation. If the instrument of acceptance by a successor Purchase Contract Agent required by Section 7.10 shall not have been delivered to the Purchase Contract Agent within 30 days after the giving of such notice of resignation, the resigning Purchase Contract Agent may petition, at the expense of the Company, any court of competent jurisdiction for the appointment of a successor Purchase Contract Agent.

(c) The Purchase Contract Agent may be removed at any time by Act of the Holders of a majority in number of the Outstanding HiMEDS Units delivered to the Purchase Contract Agent and the Company. If the instrument of acceptance by a successor Purchase Contract Agent required by Section 7.10 shall not have been delivered to the Purchase Contract Agent within 30 days after such Act, the Purchase Contract Agent being removed may petition any court of competent jurisdiction for the appointment of a successor Purchase Contract Agent.

(d) If at any time:

(i) the Purchase Contract Agent fails to comply with Section 310(b) of the TIA, as if the Purchase Contract Agent were an indenture trustee under an indenture qualified under the TIA, and shall fail to resign after written request therefor by the Company or by any Holder who has been a bona fide Holder of a HiMEDS Unit for at least six months;

(ii) the Purchase Contract Agent shall cease to be eligible under Section 7.08 and shall fail to resign after written request therefor by the Company or by any such Holder; or

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

then, in any such case, (i) the Company by a Board Resolution may remove the Purchase Contract Agent, or (ii) any Holder who has been a bona fide Holder of a HiMEDS Unit for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Purchase Contract Agent and the appointment of a successor Purchase Contract Agent.

(e) If the Purchase Contract Agent shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Purchase Contract Agent for any cause, the Company, by a Board Resolution, shall promptly appoint a successor Purchase Contract Agent and shall comply with the applicable requirements of Section 7.10. If no successor Purchase Contract Agent shall have been so appointed by the Company and accepted appointment in the manner required by Section 7.10, any Holder who has been a bona fide Holder of a HiMEDS Unit for at least six months, on behalf of itself and all others similarly situated, or the Purchase Contract Agent may petition at the expense of the Company, any court of competent jurisdiction for the appointment of a successor Purchase Contract Agent.

(f) The Company shall give, or shall cause such successor Purchase Contract Agent to give, notice of each resignation and each removal of the Purchase Contract Agent and each appointment of a successor Purchase Contract Agent by mailing written notice of such event by first-class mail, postage prepaid, to all Holders as their names and addresses appear in the Security Register. Each notice shall include the name of the successor Purchase Contract Agent and the address of its Corporate Trust Office.

Section 7.10. *Acceptance of Appointment by Successor.* (a) In case of the appointment hereunder of a successor Purchase Contract Agent, every such successor Purchase Contract Agent so appointed shall execute, acknowledge and deliver to the Company and to the retiring Purchase Contract Agent an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Purchase Contract Agent shall become effective and such successor Purchase Contract Agent, without any further act, deed or conveyance, shall become vested with all the rights, powers, agencies and duties of the retiring Purchase Contract Agent; but, on the request of the Company or the successor Purchase Contract Agent, such retiring Purchase Contract Agent shall, upon payment of amounts owed to it pursuant to Section 7.07, execute and deliver an instrument transferring to such successor Purchase Contract Agent all the rights, powers and trusts of the retiring Purchase Contract Agent and duly assign, transfer and deliver to such successor Purchase Contract Agent all property and money held by such retiring Purchase Contract Agent hereunder.

(b) Upon request of any such successor Purchase Contract Agent, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Purchase Contract Agent all such rights, powers and agencies referred to in Section 7.10(a).

(c) No successor Purchase Contract Agent shall accept its appointment unless at the time of such acceptance such successor Purchase Contract Agent shall be qualified and eligible under this Article.

Section 7.11. *Merger, Conversion, Consolidation or Succession to Business.* Any Person into which the Purchase Contract Agent may be merged or converted or with which it may be consolidated, or any Person resulting from any merger, conversion or consolidation to which the Purchase Contract Agent shall be a party, or any Person succeeding to all or substantially all the corporate trust business of the Purchase Contract Agent, shall be the successor of the Purchase Contract Agent hereunder, *provided* that such Person shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Certificates shall have been authenticated and executed on behalf of the Holders, but not delivered, by the Purchase Contract Agent then in office, any successor by merger, conversion or consolidation to such Purchase Contract Agent may adopt such authentication and execution and deliver the Certificates so authenticated and executed with the same effect as if such successor Purchase Contract Agent had itself authenticated and executed such HiMEDS Units.

Section 7.12. *Preservation of Information; Communications to Holders.* (a) The Purchase Contract Agent shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders received by the Purchase Contract Agent in its capacity as Security Registrar.

(b) If three or more Holders (herein referred to as “**Applicants**”) apply in writing to the Purchase Contract Agent, and furnish to the Purchase Contract Agent reasonable proof that each such Applicant has owned a HiMEDS Unit for a period of at least six months preceding the date of such application, and such application states that the Applicants desire to communicate with other Holders with respect to their rights under this Agreement or under the HiMEDS Units and is accompanied by a copy of the form of proxy or other communication which such Applicants propose to transmit, then the Purchase Contract Agent shall mail to all the Holders copies of the form of proxy or other communication which is specified in such request, with reasonable promptness after a tender to the Purchase Contract Agent of the materials to be mailed and of payment, or provision for the payment, of the reasonable expenses of such mailing.

Section 7.13. *No Obligations of Purchase Contract Agent.* Except to the extent otherwise expressly provided in this Agreement, the Purchase Contract Agent assumes no obligations and shall not be subject to any liability under this Agreement, the Remarketing Agreement or any Purchase Contract in respect of the obligations of the Holder of any HiMEDS Unit thereunder. The Company agrees, and each Holder of a Certificate, by its acceptance thereof, shall be deemed to have agreed, that the Purchase Contract Agent’s execution of the Certificates on behalf of the Holders shall be solely as agent and attorney-in-fact of the Holders,

and that the Purchase Contract Agent shall have no obligation to perform such Purchase Contracts on behalf of the Holders, except to the extent expressly provided in Article Five. Anything contained in this Agreement to the contrary notwithstanding, in no event shall the Purchase Contract Agent or its officers, directors, employees or agents be liable under this Agreement or the Remarketing Agreement for indirect, incidental, special, punitive, or consequential loss or damage of any kind whatsoever, including lost profits, whether or not the likelihood of such loss or damage was known to the Purchase Contract Agent and regardless of the form of action.

Section 7.14. *Tax Compliance.* (a) The Purchase Contract Agent, on its own behalf and on behalf of the Company, will comply with all applicable certification, information reporting and withholding (including “backup” withholding) requirements imposed by applicable tax laws, regulations or administrative practice with respect to (i) any payments made with respect to the HiMEDS Units or (ii) the issuance, delivery, holding, transfer, redemption or exercise of rights under the HiMEDS Units. Such compliance shall include, without limitation, the preparation and timely filing of required returns and the timely payment of all amounts required to be withheld to the appropriate taxing authority or its designated agent.

(b) The Purchase Contract Agent shall comply in accordance with the terms hereof with any written direction received from the Company with respect to the execution or certification of any required documentation and the application of such requirements to particular payments or Holders or in other particular circumstances, and may for purposes of this Agreement conclusively rely on any such direction in accordance with the provisions of Section 7.01.

(c) The Purchase Contract Agent shall maintain all appropriate records documenting compliance with such requirements, and shall make such records available, on written request, to the Company or its authorized representative within a reasonable period of time after receipt of such request.

## ARTICLE 8 SUPPLEMENTAL AGREEMENTS

Section 8.01. *Supplemental Agreements without Consent of Holders.* Without the consent of any Holders, the Company, when authorized by a Board Resolution, the Purchase Contract Agent, the Collateral Agent, the Custodial Agent and the Securities Intermediary at any time and from time to time, may enter into one or more agreements supplemental hereto, in form satisfactory to the Company and the Purchase Contract Agent, to:

(a) evidence the succession of another Person to the Company, and the assumption by any such successor of the covenants of the Company herein and in the Certificates;

(b) evidence and provide for the acceptance of appointment hereunder by a successor Purchase Contract Agent, Collateral Agent, Securities Intermediary or Custodial Agent;

(c) add to the covenants of the Company for the benefit of the Holders, or surrender any right or power herein conferred upon the Company, *provided* that such covenants or such surrender do not adversely affect the validity, perfection or priority of the Pledge created hereunder;

(d) make provision with respect to the rights of Holders pursuant to and consistent with the requirements of Section 5.04(b)(i);

(e) cure any ambiguity (or formal defect), or correct or supplement any provisions herein that may be inconsistent with any other provisions herein; or

(f) make any other provisions with respect to such matters or questions arising under this Agreement; *provided* that such action shall not adversely affect the interests of the Holders in any material respect; *provided, further*, that any amendment made solely to conform the provisions of this Agreement to the description of the HiMEDS Units and the Purchase Contracts contained in the Prospectus will not be deemed to adversely affect the interests of the Holders.

Section 8.02. *Supplemental Agreements with Consent of Holders.* With the consent of the Holders of not less than a majority of the Outstanding HiMEDS Units voting together as one class, including without limitation the consent of the Holders obtained in connection with a tender or an exchange offer, by Act of said Holders delivered to the Company, the Purchase Contract Agent, the Collateral Agent, the Securities Intermediary, the Custodial Agent and the Company, when authorized by a Board Resolution, may enter into an agreement or agreements supplemental hereto for the purpose of modifying in any manner the terms of the Purchase Contracts, or the provisions of this Agreement or the rights of the Holders in respect of the HiMEDS Units; *provided, however*, that, except as contemplated herein, no such supplemental agreement shall, without the unanimous consent of the Holders of each outstanding Purchase Contract affected thereby,

(a) change any Payment Date;

(b) change the amount of Collateral required to be Pledged to secure a Holder's obligations under the Purchase Contract (except for the rights of holders of Corporate HiMEDS Units to substitute Treasury Securities for the Pledged Senior Notes or the rights of Holders of Treasury HiMEDS Units to substitute Senior Notes for the Pledged Treasury Securities), impair the right of the Holder of any HiMEDS Units to receive distributions on the related Collateral or otherwise adversely affect the Holder's rights in or to such Collateral;

(c) impair the Holders' right to institute suit for the enforcement of any Purchase Contract or any payment of any Contract Adjustment Payments or any Deferred Contract Adjustment Payments;

(d) reduce the number of shares of Common Stock or the amount of any other property to be purchased pursuant to any Purchase Contract, increase the price to purchase shares of Common Stock or any other property upon settlement of any Purchase Contract except, in each case, to the extent expressly provided in Section 5.04 or change the Purchase Contract Settlement Date or the right to Early Settlement or Merger Early Settlement or otherwise adversely affect the Holder's rights under the Purchase Contract;

(e) reduce any Contract Adjustment Payments or any Deferred Contract Adjustment Payments or change any place where, or the coin or currency in which, any Contract Adjustment Payment is payable;

(f) reduce the percentage of the outstanding Purchase Contracts the consent of whose Holders is required for any modification or amendment to the provisions of this Agreement or the Purchase Contracts; or

(g) otherwise effect any action that would require the consent of the Holder of each Outstanding HiMEDS Unit affected thereby if such action were effected by a modification or amendment of the provisions of this Agreement;

*provided* that if any amendment or proposal referred to above would adversely affect only the Corporate HiMEDS Units or the Treasury HiMEDS Units, then only the affected class of Holders as of the record date for the Holders entitled to vote thereon will be entitled to vote on such amendment or proposal, and such amendment or proposal shall not be effective except with the consent of Holders of not less than a majority of such class; and *provided, further*, that the unanimous consent of the Holders of each outstanding Purchase Contract of such class affected thereby shall be required to approve any amendment or proposal specified in clauses (a) through (g) above.

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

Section 8.03. *Execution of Supplemental Agreements.* In executing, or accepting the additional agencies created by, any supplemental agreement permitted by this Article or the modifications thereby of the agencies created by this Agreement, the Purchase Contract Agent, the Collateral Agent, the Securities Intermediary and the Custodial Agent shall be provided, and (subject to Section 7.01 with respect to the Purchase Contract Agent) shall be fully authorized and protected in relying upon, an Officers' Certificate and an Opinion of Counsel stating that the execution of such supplemental agreement is authorized or permitted by this Agreement and that any and all conditions precedent to the execution and delivery of such supplemental agreement have been satisfied. The Purchase Contract Agent, the Collateral Agent, the Securities Intermediary and the Custodial Agent may, but shall not be obligated to, enter into any such supplemental agreement which affects their own rights, duties or immunities under this Agreement or otherwise.

Section 8.04. *Effect of Supplemental Agreements.* Upon the execution of any supplemental agreement under this Article, this Agreement shall be modified in accordance therewith, and such supplemental agreement shall form a part of this Agreement for all purposes; and every Holder of Certificates theretofore or thereafter authenticated, executed on behalf of the Holders and delivered hereunder, shall be bound thereby.

Section 8.05. *Reference to Supplemental Agreements.* Certificates authenticated, executed on behalf of the Holders and delivered after the execution of any supplemental agreement pursuant to this Article may, and shall if required by the Purchase Contract Agent,

bear a notation in form approved by the Purchase Contract Agent as to any matter provided for in such supplemental agreement. If the Company shall so determine, new Certificates so modified as to conform, in the opinion of the Purchase Contract Agent and the Company, to any such supplemental agreement may be prepared and executed by the Company and authenticated, executed on behalf of the Holders and delivered by the Purchase Contract Agent in exchange for outstanding Certificates.

ARTICLE 9  
CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE

Section 9.01. *Covenant Not to Consolidate, Merge, Convey, Transfer or Lease Property Except under Certain Conditions.* The Company covenants that it will not consolidate with, convert into, or merge with and into, any other Person or sell, assign, transfer, lease or convey all or substantially all of its properties and assets to any Person, unless:

(a) either the Company shall be the surviving Person, or the successor (if other than the Company) shall be a corporation or limited liability company organized and existing under the laws of the United States of America or a State thereof or the District of Columbia and such corporation or limited liability company shall expressly assume all the obligations of the Company under the Purchase Contracts, this Agreement (including the Pledge provided for herein), the Indenture (including any supplement thereto) and the Remarketing Agreement by one or more supplemental agreements in form reasonably satisfactory to the Purchase Contract Agent and the Collateral Agent, executed and delivered to the Purchase Contract Agent and the Collateral Agent by such corporation or limited liability company; and

(b) the Company or such successor corporation or limited liability company, as the case may be, shall not, immediately after such consolidation, conversion, merger, sale, assignment, transfer, lease or conveyance, be in default of payment obligations under the Purchase Contracts, this Agreement, the Indenture (including any supplement thereto) or the Remarketing Agreement or in material default in the performance of any other covenants under any of the foregoing agreements.

Section 9.02. *Rights and Duties of Successor Corporation.* In case of any such merger, consolidation, share exchange, sale, assignment, transfer, lease or conveyance and upon any such assumption by a successor corporation in accordance with Section 9.01, such surviving Person shall succeed to and be substituted for the Company with the same effect as if it had been named herein as the Company. Such surviving Person thereupon may cause to be signed, and may issue either in its own name or in the name of Avery Dennison Corporation any or all of the Certificates evidencing HiMEDS Units issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Purchase Contract Agent; and, upon the order of such surviving Person, instead of the Company, and subject to all the terms, conditions and limitations in this Agreement prescribed, the Purchase Contract Agent shall authenticate and execute on behalf of the Holders and deliver any Certificates which previously shall have been signed and delivered by the officers of the Company to the Purchase Contract Agent for authentication and execution, and any Certificate evidencing HiMEDS Units which such surviving Person thereafter shall cause to be signed and delivered to the Purchase Contract Agent for that purpose. All the Certificates issued shall in all respects have the same legal rank and

benefit under this Agreement as the Certificates theretofore or thereafter issued in accordance with the terms of this Agreement as though all of such Certificates had been issued at the date of the execution hereof.

In case of any such merger, consolidation, share exchange, sale, assignment, transfer, lease or conveyance such change in phraseology and form (but not in substance) may be made in the Certificates evidencing HiMEDS Units thereafter to be issued as may be appropriate.

Section 9.03. *Officers' Certificate and Opinion of Counsel Given to Purchase Contract Agent.* The Purchase Contract Agent, subject to Section 7.01 and Section 7.03, shall receive an Officers' Certificate and an Opinion of Counsel as conclusive evidence that any such merger, consolidation, share exchange, sale, assignment, transfer, lease or conveyance, and any such assumption, complies with the provisions of this Article and that all conditions precedent to the consummation of any such merger, consolidation, share exchange, sale, assignment, transfer, lease or conveyance have been met.

## ARTICLE 10 COVENANTS

Section 10.01. *Performance under Purchase Contracts.* The Company covenants and agrees for the benefit of the Holders from time to time of the HiMEDS Units that it will duly and punctually perform its obligations under the Purchase Contracts in accordance with the terms of the Purchase Contracts and this Agreement.

Section 10.02. *Maintenance of Office or Agency.* The Company will maintain an office or agency where Certificates may be presented or surrendered for acquisition of shares of Common Stock upon settlement of the Purchase Contracts on the Purchase Contract Settlement Date or upon Early Settlement or Merger Early Settlement and for transfer of Collateral upon occurrence of a Termination Event, where Certificates may be surrendered for registration of transfer or exchange, for a Collateral Substitution or recreation of Corporate HiMEDS Units and where notices and demands to or upon the Company in respect of the HiMEDS Units and this Agreement may be served. The Company will give prompt written notice to the Purchase Contract Agent of the location, and any change in the location, of such office or agency. The Company initially designates the Corporate Trust Office of the Purchase Contract Agent as such office of the Company, and the Company hereby appoints the Purchase Contract Agent as its agent to receive all such presentations, surrenders, notices and demands. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Purchase Contract Agent with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office, and the Company hereby appoints the Purchase Contract Agent as its agent to receive all such presentations, surrenders, notices and demands.

The Company may also from time to time designate one or more other offices or agencies where Certificates may be presented or surrendered for any or all such purposes and may from time to time rescind such designations. The Company will give prompt written notice to the Purchase Contract Agent of any such designation or rescission and of any change in the location of any such other office or agency. The Company hereby designates as the place of payment for



the HiMEDS Units the Corporate Trust Office and appoints the Purchase Contract Agent at its Corporate Trust Office as paying agent in the city in which such Corporate Trust Office is located.

Section 10.03. *Company to Reserve Common Stock.* The Company shall at all times prior to the Purchase Contract Settlement Date reserve and keep available, free from preemptive rights, out of its authorized but unissued Common Stock the full number of shares of Common Stock issuable against tender of payment in respect of all Purchase Contracts constituting a part of Outstanding HiMEDS Units.

Section 10.04. *Covenants as to Common Stock; Listing.* (a) The Company covenants that all shares of Common Stock which may be issued against tender of payment in respect of any Purchase Contract constituting a part of the Outstanding HiMEDS Units will, upon issuance, be duly authorized, validly issued, fully paid and nonassessable.

The Company further covenants that, if at any time the Common Stock shall be listed on the NYSE, the NASDAQ or any other national securities exchange or automated quotation system, the Company will, if permitted by the rules of such exchange or automated quotation system, list and keep listed, or obtain and maintain approval for listing subject to notice of issuance (which notice the Company covenants to give concurrently with the issuance of Common Stock pursuant hereto), so long as the Common Stock shall be so listed on such exchange or automated quotation system, all Common Stock issuable upon Settlement of Purchase Contracts; *provided, however,* that, if the rules of such exchange or automated quotation system permit the Company to defer the listing of such Common Stock until the date on which any Purchase Contract first settles in accordance with the provisions of this Agreement, the Company covenants to list such Common stock issuable upon Settlement of the Purchase Contracts in accordance with the requirements of such exchange or automated quotation system at such time.

Section 10.05. *Statements of Officers of the Company as to Default.* The Company will deliver to the Purchase Contract Agent, within 120 days after the end of each fiscal year of the Company, commencing with the fiscal year ending December 30, 2007, an Officers' Certificate, stating whether or not to the knowledge of the signers thereof) the Company is in default in the performance and observance of any of the terms, provisions and conditions hereof, and if the Company shall be in default, specifying all such defaults and the nature and status thereof of which they may have knowledge.

Section 10.06. *ERISA.* Each Holder from time to time of the HiMEDS Units that is a Plan or who used assets of a Plan to purchase or hold HiMEDS Units (or any securities comprising or underlying such securities) hereby represents that from and including the date of its acquisition of the HiMEDS Units (or any security comprising or underlying such securities) through and including the date of the satisfaction of the obligation under the purchase contract and/or the disposition of any such HiMEDS Units (the components comprising or underlying such securities) either (i) no portion of the assets used by such Holder to acquire or hold the HiMEDS Units (or any securities comprising or underlying such securities) constitutes the assets of any Plan or (ii) the purchase or holding of the Corporate HiMEDS Units (or any securities comprising or underlying such securities) by such Holder will not constitute or result in a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code or similar violation under any applicable Similar Laws.

ARTICLE 11  
PLEDGE

Section 11.01. *Pledge.* Each Holder, acting through the Purchase Contract Agent as such Holder's attorney-in-fact, and the Purchase Contract Agent, acting solely as such attorney-in-fact, hereby pledges and grants to the Collateral Agent, as agent of and for the benefit of the Company, a continuing first priority security interest in and to, and a lien upon and right of set-off against, all of such Person's right, title and interest in and to the Collateral to secure the prompt and complete payment and performance when due (whether at stated maturity, by acceleration or otherwise) of the Obligations. The Collateral Agent shall have all of the rights, remedies and recourses with respect to the Collateral afforded a secured party by the UCC, in addition to, and not in limitation of, the other rights, remedies and recourses afforded to the Collateral Agent by this Agreement.

Section 11.02. *Termination.* As to each Holder, the Pledge created hereby shall terminate upon the satisfaction of such Holder's Obligations. Upon such termination, the Collateral Agent shall instruct the Securities Intermediary to Transfer such portion of the Collateral attributable to such Holder to the Purchase Contract Agent for distribution to such Holder, free and clear of the Pledge created hereby.

ARTICLE 12  
ADMINISTRATION OF COLLATERAL

Section 12.01. *Initial Deposit of Senior Notes.* (a) Prior to or concurrently with the execution and delivery of this Agreement, the Purchase Contract Agent, on behalf of the initial Holders of the Corporate HiMEDS Units, shall Transfer to the Securities Intermediary, for credit to the Collateral Account, the Senior Notes or security entitlements relating thereto and, with respect to any such security entitlements, the Securities Intermediary shall indicate by book-entry that a securities entitlement with respect to such Senior Notes has been credited to the Collateral Account.

(a) The Collateral Agent may, at any time or from time to time, in its sole discretion, cause any or all securities or other property underlying any financial assets credited to the Collateral Account to be registered in the name of the Securities Intermediary, the Collateral Agent or their respective nominees; *provided, however,* that unless any Event of Default (as defined in the Indenture) shall have occurred and be continuing, the Collateral Agent agrees not to cause any Senior Notes to be so re-registered.

Section 12.02. *Establishment of Collateral Account.* The Securities Intermediary hereby confirms that:

- (a) the Securities Intermediary has established the Collateral Account;
- (b) the Collateral Account is a securities account;

(c) subject to the terms of this Agreement, the Securities Intermediary shall identify in its records the Collateral Agent as the entitlement holder entitled to exercise the rights that comprise any financial asset credited to the Collateral Account;

(d) all property delivered to the Securities Intermediary pursuant to this Agreement will be credited promptly to the Collateral Account; and

(e) all securities or other property underlying any financial assets credited to the Collateral Account shall be (i) registered in the name of the Purchase Contract Agent and indorsed to the Securities Intermediary or in blank, (ii) registered in the name of the Securities Intermediary or (iii) credited to another securities account maintained in the name of the Securities Intermediary. In no case will any financial asset credited to the Collateral Account be registered in the name of the Purchase Contract Agent (in its capacity as such) or any Holder or specially indorsed to the Purchase Contract Agent (in its capacity as such) or any Holder, unless such financial asset has been further indorsed to the Securities Intermediary or in blank.

Section 12.03. *Treatment as Financial Assets.* Each item of property (whether investment property, financial asset, security, instrument or cash) credited to the Collateral Account shall be treated as a financial asset.

Section 12.04. *Sole Control by Collateral Agent.* Except as provided in Section 15.01, at all times prior to the termination of the Pledge, the Collateral Agent shall have sole control of the Collateral Account, and the Securities Intermediary shall take instructions and directions, and comply with entitlement orders, with respect to the Collateral Account or any financial asset credited thereto solely from the Collateral Agent. If at any time the Securities Intermediary shall receive an entitlement order issued by the Collateral Agent and relating to the Collateral Account, the Securities Intermediary shall comply with such entitlement order without further consent by the Purchase Contract Agent or any Holder or any other Person. Except as otherwise permitted under this Agreement, until termination of the Pledge, the Securities Intermediary will not comply with any entitlement orders issued by the Purchase Contract Agent or any Holder.

Section 12.05. *Jurisdiction.* The Collateral Account, and the rights and obligations of the Securities Intermediary, the Collateral Agent, the Purchase Contract Agent and the Holders with respect thereto, shall be governed by the laws of the State of New York. Regardless of any provision in any other agreement, the Securities Intermediary's jurisdiction is the State of New York.

Section 12.06. *No Other Claims.* Except for the claims and interest of the Collateral Agent and of the Purchase Contract Agent and the Holders in the Collateral Account, the Securities Intermediary (without having conducted any investigation) does not know of any claim to, or interest in, the Collateral Account or in any financial asset credited thereto. If any Person asserts any lien, encumbrance or adverse claim (including any writ, garnishment, judgment, warrant of attachment, execution or similar process) against the Collateral Account or in any financial asset carried therein, the Securities Intermediary will promptly notify the Collateral Agent and the Purchase Contract Agent.

Section 12.07. *Investment and Release.* All proceeds of financial assets from time to time credited to the Collateral Account shall be invested and reinvested as provided in this Agreement. At all times prior to termination of the Pledge, no property shall be released from the Collateral Account except in accordance with this Agreement or upon written instructions of the Collateral Agent.

Section 12.08. *Statements and Confirmations.* The Securities Intermediary will promptly send copies of all statements, confirmations and other correspondence concerning the Collateral Account and any financial assets credited thereto simultaneously to each of the Purchase Contract Agent and the Collateral Agent at their addresses for notices under this Agreement.

Section 12.09. *Tax Allocations.* The Purchase Contract Agent shall report all items of income, gain, expense and loss recognized in the Collateral Account, to the extent such reporting is required by law, to the Internal Revenue Service authorities in the manner required by law. Neither the Securities Intermediary nor the Collateral Agent shall have any tax reporting duties hereunder.

Section 12.10. *No Other Agreements.* The Securities Intermediary has not entered into, and prior to the termination of the Pledge will not enter into, any agreement with any other Person relating to the Collateral Account or any financial assets credited thereto, including, without limitation, any agreement to comply with entitlement orders of any Person other than the Collateral Agent.

Section 12.11. *Powers Coupled with an Interest.* The rights and powers granted in this Agreement to the Collateral Agent have been granted in order to perfect its security interests in the Collateral Account, are powers coupled with an interest and will be affected neither by the bankruptcy of the Purchase Contract Agent or any Holder nor by the lapse of time. The obligations of the Securities Intermediary under this Purchase Contract and Pledge Agreement shall continue in effect until the termination of the Pledge.

Section 12.12. *Waiver of Lien; Waiver of Set-off.* The Securities Intermediary waives any security interest, lien or right to make deductions or set-offs that it may now have or hereafter acquire in or with respect to the Collateral Account, any financial asset credited thereto or any security entitlement in respect thereof. Neither the financial assets credited to the Collateral Account nor the security entitlements in respect thereof will be subject to deduction, set-off, banker's lien, or any other right in favor of any person other than the Company.

## ARTICLE 13

### RIGHTS AND REMEDIES OF THE COLLATERAL AGENT

Section 13.01. *Rights and Remedies of the Collateral Agent.* (a) In addition to the rights and remedies set forth herein or otherwise available at law or in equity, after an event of default (as specified in Section 13.01(b)) hereunder, the Collateral Agent shall have all of the rights and remedies with respect to the Collateral of a secured party under the UCC (whether or not the UCC is in effect in the jurisdiction where the rights and remedies are asserted) and the TRADES Regulations and such additional rights and remedies to which a secured party is entitled under

the laws in effect in any jurisdiction where any rights and remedies hereunder may be asserted. Without limiting the generality of the foregoing, such remedies may include, to the extent permitted by applicable law, (1) retention of the Pledged Senior Notes or Pledged Treasury Securities in full satisfaction of the Holders' obligations under the Purchase Contracts and the Purchase Contract Agreement or (2) sale of the Pledged Senior Notes or Pledged Treasury Securities in one or more public or private sales.

(b) Without limiting any rights or powers otherwise granted by this Agreement to the Collateral Agent, in the event the Collateral Agent is unable to make payments to the Company, or on account of principal payments of any Pledged Treasury Securities as provided in this Agreement in satisfaction of the Obligations of the Holder of the HiMEDS Units of which such Pledged Treasury Securities are a part under the related Purchase Contracts, the inability to make such payments shall constitute an "**event of default**" hereunder and the Collateral Agent shall have and may exercise, with reference to such Pledged Treasury Securities any and all of the rights and remedies available to a secured party under the UCC and the TRADES Regulations after default by a debtor, and as otherwise granted herein or under any other law.

(c) Without limiting any rights or powers otherwise granted by this Agreement to the Collateral Agent, the Collateral Agent is hereby irrevocably authorized to receive, collect and apply to the satisfaction of the Obligations all payments of (i) the principal amount of the Pledged Senior Notes and (ii) the principal amount of the Pledged Treasury Securities, subject, in each case, to the provisions of this Agreement, and as otherwise provided herein.

(d) The Purchase Contract Agent and each Holder of HiMEDS Units agrees that, from time to time, upon the written request of the Collateral Agent or the Purchase Contract Agent, such Holder shall execute and deliver such further documents and do such other acts and things as the Collateral Agent may reasonably request in order to maintain the Pledge, and the perfection and priority thereof, and to confirm the rights of the Collateral Agent hereunder. The Purchase Contract Agent shall have no liability to any Holder for executing any documents or taking any such acts requested by the Collateral Agent hereunder, except for liability for its own grossly negligent acts, its own grossly negligent failure to act or its own willful misconduct.

#### ARTICLE 14

##### REPRESENTATIONS AND WARRANTIES TO COLLATERAL AGENT; HOLDER COVENANTS

Section 14.01. *Representations and Warranties.* Each Holder from time to time, acting through the Purchase Contract Agent as attorney-in-fact (it being understood that the Purchase Contract Agent shall not be liable for any representation or warranty made by or on behalf of a Holder), hereby represents and warrants to the Collateral Agent (with respect to such Holder's interest in the Collateral), which representations and warranties shall be deemed repeated on each day a Holder Transfers Collateral, that:

(a) such Holder has the power to grant a security interest in and lien on the Collateral;

(b) such Holder is the sole beneficial owner of the Collateral and, in the case of Collateral delivered in physical form, is the sole holder of such Collateral and is the sole beneficial owner of, or has the right to Transfer, the Collateral it Transfers to the Collateral Agent for credit to the Collateral Account, free and clear of any security interest, lien, encumbrance, call, liability to pay money or other restriction other than the security interest and lien granted under Article 11;

(c) upon the Transfer of the Collateral to the Securities Intermediary for credit to the Collateral Account, the Collateral Agent, for the benefit of the Company, will have a valid and perfected first priority security interest therein (assuming that any central clearing operation or any securities intermediary or other entity not within the control of the Holder involved in the Transfer of the Collateral, including the Collateral Agent and the Securities Intermediary, gives the notices and takes the action required of it hereunder and under applicable law for perfection of that interest and assuming the establishment and exercise of control pursuant to Article 12); and

(d) the execution and performance by the Holder of its obligations under this Agreement will not result in the creation of any security interest, lien or other encumbrance on the Collateral other than the security interest and lien granted under Article 11 or violate any provision of any existing law or regulation applicable to it or of any mortgage, charge, pledge, indenture, contract or undertaking to which it is a party or which is binding on it or any of its assets.

Section 14.02. *Covenants.* The Purchase Contract Agent and the Holders from time to time, acting through the Purchase Contract Agent as their attorney-in-fact (it being understood that the Purchase Contract Agent shall not be liable for any covenant made by or on behalf of a Holder), hereby covenant to the Collateral Agent that for so long as the Collateral remains subject to the Pledge:

(a) neither the Purchase Contract Agent nor such Holders will create or purport to create or allow to subsist any mortgage, charge, lien, pledge or any other security interest whatsoever over the Collateral or any part of it other than pursuant to this Agreement; and

(b) neither the Purchase Contract Agent nor such Holders will sell or otherwise dispose (or attempt to dispose) of the Collateral or any part of it except for the beneficial interest therein, subject to the Pledge hereunder, transferred in connection with a Transfer of the HiMEDS Units.

#### ARTICLE 15

#### THE COLLATERAL AGENT, THE CUSTODIAL AGENT AND THE SECURITIES INTERMEDIARY

It is hereby agreed as follows:

Section 15.01. *Appointment, Powers and Immunities.* The Collateral Agent, the Custodial Agent and the Securities Intermediary shall act as agent for the Company hereunder with such powers as are specifically vested in the Collateral Agent, the Custodial Agent and the Securities Intermediary, as the case may be, by the terms of this Agreement. The Collateral Agent, the Custodial Agent and Securities Intermediary shall:

(a) have no duties or responsibilities except those expressly set forth in this Agreement and no implied covenants or obligations shall be inferred from this Agreement against the Collateral Agent, the Custodial Agent or the Securities Intermediary, nor shall the Collateral Agent, the Custodial Agent or the Securities Intermediary be bound by the provisions of any agreement by any party hereto beyond the specific terms hereof;

(b) not be responsible for any recitals contained in this Agreement, or in any certificate or other document referred to or provided for in, or received by it under, this Agreement, the HiMEDS Units or the Purchase Contract Agreement, or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement (other than as against the Collateral Agent, the Custodial Agent or the Securities Intermediary, as the case may be), the HiMEDS Units, any Collateral or the Purchase Contract Agreement or any other document referred to or provided for herein or therein or for any failure by the Company or any other Person (except the Collateral Agent, the Custodial Agent or Securities Intermediary, as the case may be) to perform any of its obligations hereunder or thereunder or for the perfection, priority or, except as expressly required hereby, maintenance of any security interest created hereunder;

(c) not be required to initiate or conduct any litigation or collection proceedings hereunder (except pursuant to directions furnished under Section 15.02, subject to Section 15.08);

(d) not be responsible for any action taken or omitted to be taken by it hereunder or under any other document or instrument referred to or provided for herein or in connection herewith or therewith, except for its own gross negligence or willful misconduct; and

(e) not be required to advise any party as to selling or retaining, or taking or refraining from taking any action with respect to, any securities or other property deposited hereunder.

Subject to the foregoing, during the term of this Agreement, the Collateral Agent, the Custodial Agent and the Securities Intermediary shall take all reasonable action in connection with the safekeeping and preservation of the Collateral hereunder as determined by industry standards.

No provision of this Agreement shall require the Collateral Agent, the Custodial Agent or the Securities Intermediary to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder. In no event shall the Collateral Agent, the Custodial Agent or the Securities Intermediary be liable for any amount in excess of the Value of the Collateral.

Section 15.02. *Instructions of the Company.* The Company shall have the right, by one or more written instruments executed and delivered to the Collateral Agent, to direct the time, method and place of conducting any proceeding for the realization of any right or remedy available to the Collateral Agent, or of exercising any power conferred on the Collateral Agent, or to direct the taking or refraining from taking of any action authorized by this Agreement;

provided, however, that (i) such direction shall not conflict with the provisions of any law or of this Agreement or involve the Collateral Agent in personal liability and (ii) the Collateral Agent shall be indemnified to its satisfaction as provided herein. Nothing contained in this Section 15.02 shall impair the right of the Collateral Agent in its discretion to take any action or omit to take any action which it deems proper and which is not inconsistent with such direction. None of the Collateral Agent, the Custodial Agent or the Securities Intermediary has any obligation or responsibility to file UCC financing statements.

Section 15.03. *Reliance by Collateral Agent, Custodial Agent and Securities Intermediary.* Each of the Securities Intermediary, the Custodial Agent and the Collateral Agent shall be entitled to rely conclusively upon any certification, order, judgment, opinion, notice or other written communication (including, without limitation, any thereof by telecopy) believed by it to be genuine and correct and to have been signed or sent by or on behalf of the Person or Persons specified therein (without being required to determine the correctness of any fact stated therein, or the substance or sufficiency thereof) and consult with and conclusively rely upon advice, opinions and statements of legal counsel and other experts selected by the Collateral Agent, the Custodial Agent or the Securities Intermediary, as the case may be, as well as on any Officers' Certificates and any Opinions of Counsel delivered therewith. As to any matters not expressly provided for by this Agreement, the Collateral Agent, the Custodial Agent and the Securities Intermediary shall in all cases be fully protected in acting, or in refraining from acting, hereunder in accordance with instructions given by the Company in accordance with this Agreement.

Section 15.04. *Certain Rights.* (a) Whenever in the administration of the provisions of this Agreement the Collateral Agent, the Custodial Agent or the Securities Intermediary shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action to be taken hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of gross negligence or bad faith on the part of the Collateral Agent, the Custodial Agent or the Securities Intermediary, be deemed to be conclusively proved and established by a certificate signed by one of the Company's officers, and delivered to the Collateral Agent, the Custodial Agent or the Securities Intermediary and such certificate, in the absence of gross negligence or bad faith on the part of the Collateral Agent, the Custodial Agent or the Securities Intermediary, shall be full warrant to the Collateral Agent, the Custodial Agent or the Securities Intermediary for any action taken, suffered or omitted by it under the provisions of this Agreement upon the faith thereof.

(a) The Collateral Agent, the Custodial Agent or the Securities Intermediary shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, entitlement order, approval or other paper or document.

Section 15.05. *Merger, Conversion, Consolidation or Succession to Business.* Any corporation into which the Collateral Agent, the Custodial Agent or the Securities Intermediary may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Collateral Agent, the Custodial Agent or the Securities Intermediary shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Collateral Agent, the Custodial Agent or



the Securities Intermediary shall be the successor of the Collateral Agent, the Custodial Agent or the Securities Intermediary hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding.

Section 15.06. *Rights in Other Capacities.* The Collateral Agent, the Custodial Agent and the Securities Intermediary and their affiliates may (without having to account therefor to the Company) accept deposits from, lend money to, make their investments in and generally engage in any kind of banking, trust or other business with the Purchase Contract Agent, any other Person interested herein and any Holder of HiMEDS Units (and any of their respective subsidiaries or affiliates) as if it were not acting as the Collateral Agent, the Custodial Agent or the Securities Intermediary, as the case may be, and the Collateral Agent, the Custodial Agent, the Securities Intermediary and their affiliates may accept fees and other consideration from the Purchase Contract Agent and any Holder of HiMEDS Units without having to account for the same to the Company; *provided* that each of the Securities Intermediary, the Custodial Agent and the Collateral Agent covenants and agrees with the Company that it shall not accept, receive or permit there to be created in favor of itself and shall take no affirmative action to permit there to be created in favor of any other Person, any security interest, lien or other encumbrance of any kind in or upon the Collateral other than the lien created by the Pledge.

Section 15.07. *Non-reliance on Collateral Agent, the Custodial Agent and Securities Intermediary.* None of the Securities Intermediary, the Custodial Agent or the Collateral Agent shall be required to keep itself informed as to the performance or observance by the Purchase Contract Agent or any Holder of HiMEDS Units of this Agreement, the HiMEDS Units or any other document referred to or provided for herein or therein or to inspect the properties or books of the Purchase Contract Agent or any Holder of HiMEDS Units. None of the Collateral Agent, the Custodial Agent or the Securities Intermediary shall have any duty or responsibility to provide the Company with any credit or other information concerning the affairs, financial condition or business of the Purchase Contract Agent or any Holder of HiMEDS Units (or any of their respective affiliates) that may come into the possession of the Collateral Agent, the Custodial Agent or the Securities Intermediary or any of their respective affiliates.

Section 15.08. *Compensation and Indemnity.* The Company agrees to:

(a) pay the Collateral Agent, the Custodial Agent and the Securities Intermediary from time to time such compensation as shall be agreed in writing between the Company and the Collateral Agent, the Custodial Agent or the Securities Intermediary, as the case may be, for all services rendered by them hereunder;

(b) indemnify and hold harmless the Collateral Agent, the Custodial Agent, the Securities Intermediary and each of their respective directors, officers, agents and employees (collectively, the “**Indemnified Parties**”), from and against any and all claims, liabilities, losses, damages, fines, penalties and expenses (including reasonable fees and expenses of counsel) (collectively, “**Losses**” and individually, a “**Loss**”) that may be imposed on, incurred by, or asserted against, the Indemnified Parties or any of them for following any instructions or other directions upon which any of the Collateral Agent, the Custodial Agent or the Securities

Intermediary is entitled to rely pursuant to the terms of this Agreement, *provided* that the Collateral Agent, the Custodial Agent or the Securities Intermediary has not acted with gross negligence or engaged in willful misconduct or bad faith with respect to the specific Loss against which indemnification is sought; and

(c) in addition to and not in limitation of Section 15.08(b), indemnify and hold the Indemnified Parties and each of them harmless from and against any and all Losses that may be imposed on, incurred by or asserted against, the Indemnified Parties or any of them in connection with or arising out of the Collateral Agent's, the Custodial Agent's or the Securities Intermediary's acceptance or performance of its powers and duties under this Agreement, *provided* the Collateral Agent, the Custodial Agent or the Securities Intermediary has not acted with gross negligence or engaged in willful misconduct or bad faith with respect to the specific Loss against which indemnification is sought.

The provisions of this Section and Section 15.14 shall survive the resignation or removal of the Collateral Agent, the Custodial Agent or the Securities Intermediary and the termination of this Agreement.

Section 15.09. *Failure to Act.* In the event of any ambiguity in the provisions of this Agreement or any dispute between or conflicting claims by or among the parties hereto or any other Person with respect to any funds or property deposited hereunder, then at its sole option, each of the Collateral Agent, the Custodial Agent and the Securities Intermediary shall be entitled, after prompt notice to the Company and the Purchase Contract Agent, to refuse to comply with any and all claims, demands or instructions with respect to such property or funds so long as such dispute or conflict shall continue, and the Collateral Agent, the Custodial Agent and the Securities Intermediary shall not be or become liable in any way to any of the parties hereto for its failure or refusal to comply with such conflicting claims, demands or instructions. The Collateral Agent, the Custodial Agent and the Securities Intermediary shall be entitled to refuse to act until either:

(a) such conflicting or adverse claims or demands shall have been finally determined by a court of competent jurisdiction or settled by agreement between the conflicting parties as evidenced in a writing satisfactory to the Collateral Agent, the Custodial Agent or the Securities Intermediary; or

(b) the Collateral Agent, the Custodial Agent or the Securities Intermediary shall have received security or an indemnity satisfactory to it sufficient to save it harmless from and against any and all loss, liability or reasonable out-of-pocket expense which it may incur by reason of its acting.

The Collateral Agent, the Custodial Agent and the Securities Intermediary may in addition elect to commence an interpleader action or seek other judicial relief or orders as the Collateral Agent, the Custodial Agent or the Securities Intermediary may deem necessary. Notwithstanding anything contained herein to the contrary, none of the Collateral Agent, the Custodial Agent or the Securities Intermediary shall be required to take any action that is in its opinion contrary to law or to the terms of this Agreement, or which would in its opinion subject it or any of its officers, employees or directors to liability.

Section 15.10. *Resignation and Removal of Collateral Agent, the Custodial Agent and the Securities Intermediary.* (a) Subject to the appointment and acceptance of a successor Collateral Agent, Custodial Agent or Securities Intermediary as provided below:

(i) the Collateral Agent, the Custodial Agent or the Securities Intermediary may resign at any time by giving notice thereof to the Company and the Purchase Contract Agent as attorney-in-fact for the Holders of HiMEDS Units;

(ii) the Collateral Agent, the Custodial Agent or the Securities Intermediary may be removed at any time by the Company; and

(iii) if the Collateral Agent, the Custodial Agent or the Securities Intermediary fails to perform any of its material obligations hereunder in any material respect for a period of not less than 20 days after receiving written notice of such failure by the Purchase Contract Agent and such failure shall be continuing, the Collateral Agent, the Custodial Agent and the Securities Intermediary may be removed by the Purchase Contract Agent, acting at the direction of the Holders of HiMEDS Units.

The Purchase Contract Agent shall promptly notify the Company of any removal of the Collateral Agent, the Custodial Agent or the Securities Intermediary pursuant to clause (iii) of this Section 15.10. Upon any such resignation or removal, the Company shall have the right to appoint a successor Collateral Agent, Custodial Agent or Securities Intermediary, as the case may be, which shall not be an Affiliate of the Purchase Contract Agent. If no successor Collateral Agent, Custodial Agent or Securities Intermediary shall have been so appointed and shall have accepted such appointment within 30 days after the retiring Collateral Agent's, Custodial Agent's or Securities Intermediary's giving of notice of resignation or the Company's or the Purchase Contract Agent's giving notice of such removal, then the retiring or removed Collateral Agent, Custodial Agent or Securities Intermediary may petition any court of competent jurisdiction, at the expense of the Company, for the appointment of a successor Collateral Agent, Custodial Agent or Securities Intermediary. The Collateral Agent, the Custodial Agent and the Securities Intermediary shall each be a bank or a national banking association with a combined capital and surplus of at least \$50,000,000. Upon the acceptance of any appointment as Collateral Agent, Custodial Agent or Securities Intermediary hereunder by a successor Collateral Agent, Custodial Agent or Securities Intermediary, as the case may be, such successor Collateral Agent, Custodial Agent or Securities Intermediary, as the case may be, shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Collateral Agent, Custodial Agent or Securities Intermediary, as the case may be, and the retiring Collateral Agent, Custodial Agent or Securities Intermediary, as the case may be, shall take all appropriate action, subject to payment of any amounts then due and payable to it hereunder, to transfer any money and property held by it hereunder (including the Collateral) to such successor. The retiring Collateral Agent, Custodial Agent or Securities Intermediary shall, upon such succession, be discharged from its duties and obligations as Collateral Agent, Custodial Agent or Securities Intermediary hereunder. After any retiring Collateral Agent's, Custodial Agent's or Securities Intermediary's resignation hereunder as Collateral Agent, Custodial Agent or Securities Intermediary, the provisions of this Article 15 shall continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as the Collateral Agent, the Custodial Agent or the Securities Intermediary. Any

resignation or removal of the Collateral Agent, the Custodial Agent or the Securities Intermediary hereunder, at a time when such Person is acting as the Collateral Agent, the Custodial Agent or the Securities Intermediary, shall be deemed for all purposes of this Agreement as the simultaneous resignation or removal of the Collateral Agent, the Securities Intermediary or the Custodial Agent, as the case may be.

(b) Because The Bank of New York Trust Company, N.A. is serving as the Collateral Agent hereunder and as the Purchase Contract Agent hereunder, if an event of default occurs hereunder The Bank of New York Trust Company, N.A. will resign as the Collateral Agent, Custodial Agent and the Securities Intermediary, but continue to act as the Purchase Contract Agent. A successor Collateral Agent, Custodial Agent and Securities Intermediary will be appointed in accordance with the terms hereof.

Section 15.11. *Right to Appoint Agent or Advisor.* The Collateral Agent shall have the right to appoint agents or advisors in connection with any of its duties hereunder, and the Collateral Agent shall not be liable for any action taken or omitted by, or in reliance upon the advice of, such agents or advisors selected in good faith. The appointment of agents pursuant to this Section 15.11 shall be subject to prior written consent of the Company, which consent shall not be unreasonably withheld.

Section 15.12. *Survival.* The provisions of this Article 15 shall survive termination of this Agreement and the resignation or removal of the Collateral Agent, the Custodial Agent or the Securities Intermediary.

Section 15.13. *Exculpation.* Anything contained in this Agreement to the contrary notwithstanding, in no event shall the Collateral Agent, the Custodial Agent or the Securities Intermediary or their officers, directors, employees or agents be liable under this Agreement for indirect, special, punitive, or consequential loss or damage of any kind whatsoever, including, but not limited to, lost profits, whether or not the likelihood of such loss or damage was known to the Collateral Agent, the Custodial Agent or the Securities Intermediary, or any of them and regardless of the form of action. Section 7.03(m) is hereby made applicable to the Collateral Agent, the Custodial Agent and the Securities Intermediary as if they and each of them were named therein in place of the Purchase Contract Agent.

Section 15.14. *Expenses, Etc.* The Company agrees to reimburse the Collateral Agent, the Custodial Agent and the Securities Intermediary for:

(a) all reasonable costs and expenses of the Collateral Agent, the Custodial Agent and the Securities Intermediary (including, without limitation, the reasonable fees and expenses of counsel to the Collateral Agent, the Custodial Agent and the Securities Intermediary), in connection with (i) the negotiation, preparation, execution and delivery or performance of this Agreement and (ii) any modification, supplement or waiver of any of the terms of this Agreement;

(b) all reasonable costs and expenses of the Collateral Agent, the Custodial Agent and the Securities Intermediary (including, without limitation, reasonable fees and expenses of counsel) in connection with (i) any enforcement or proceedings resulting or incurred in

connection with causing any Holder of HiMEDS Units to satisfy its obligations under the Purchase Contracts forming a part of the HiMEDS Units and (ii) the enforcement of this Section 15.14;

(c) all transfer, stamp, documentary or other similar taxes, assessments or charges levied by any governmental or revenue authority in respect of this Agreement or any other document referred to herein and all costs, expenses, taxes, assessments and other charges incurred in connection with any filing, registration, recording or perfection of any security interest contemplated hereby;

(d) all reasonable fees and expenses of any agent or advisor appointed by the Collateral Agent and consented to by the Company under Section 15.11; and

(e) any other out-of-pocket costs and expenses reasonably incurred by the Collateral Agent, the Custodial Agent and the Securities Intermediary in connection with the performance of their duties hereunder.

ARTICLE 16  
MISCELLANEOUS

Section 16.01. *Security Interest Absolute.* All rights of the Collateral Agent and security interests hereunder, and all obligations of the Holders from time to time hereunder, shall be absolute and unconditional irrespective of:

(a) any lack of validity or enforceability of any provision of the Purchase Contracts or the HiMEDS Units or any other agreement or instrument relating thereto;

(b) any change in the time, manner or place of payment of, or any other term of, or any increase in the amount of, all or any of the obligations of Holders of the HiMEDS Units under the related Purchase Contracts, or any other amendment or waiver of any term of, or any consent to any departure from any requirement of, the Purchase Contract Agreement or any Purchase Contract or any other agreement or instrument relating thereto; or

(c) any other circumstance which might otherwise constitute a defense available to, or discharge of, a borrower, a guarantor or a pledgor.

Section 16.02. *Notice of Termination Event.* Upon the occurrence of a Termination Event, the Company shall deliver written notice to the Purchase Contract Agent, the Collateral Agent and the Securities Intermediary. Upon the written request of the Collateral Agent or the Securities Intermediary, the Company shall inform such party whether or not a Termination Event has occurred.

[SIGNATURES ON THE FOLLOWING PAGE]

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

AVERY DENNISON CORPORATION

THE BANK OF NEW YORK TRUST COMPANY, N.A., as  
Purchase Contract Agent and as attorney-in-fact of the  
Holders from time to time of the HiMEDS Units

By: /s/ Karyn E. Rodriguez

Name: Karyn E. Rodriguez  
Title: Vice President and Treasurer

By: /s/ Brian R. Echausse

Name: Brian R. Echausse  
Title: Trust Officer

Address for Notices:

Avery Dennison Corporation  
150 North Orange Grove Boulevard  
Pasadena, California 91103  
Telecopier No.: (626) 304-2251  
Attention: Richard P. Randall

Address for Notices:

The Bank of New York Trust Company,  
N.A.  
601 Travis Street  
18th Floor  
Houston, Texas 77002  
Telecopier No.: 713-483-7038  
Attention: Corporate Trust Administration

THE BANK OF NEW YORK TRUST COMPANY, N.A.  
as Collateral Agent, Custodial Agent and Securities  
Intermediary

By: /s/ Brian R. Echausse

Name: Brian R. Echausse  
Title: Trust Officer

Address for Notices:

The Bank of New York Trust Company, N.A.  
601 Travis Street  
18th Floor  
Houston, Texas 77002  
Telecopier No.: 713-483-7038  
Attention: Corporate Trust Administration

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**(FORM OF FACE OF CORPORATE HiMEDS UNIT CERTIFICATE)**

[For inclusion in Global Certificates only — THIS CERTIFICATE IS A GLOBAL CERTIFICATE WITHIN THE MEANING OF THE PURCHASE CONTRACT AND PLEDGE AGREEMENT HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF CEDE & CO., AS THE NOMINEE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (THE “DEPOSITORY”), THE DEPOSITORY OR ANOTHER NOMINEE OF THE DEPOSITORY. THIS CERTIFICATE IS EXCHANGEABLE FOR CERTIFICATES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITORY OR ITS NOMINEE ONLY IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE PURCHASE CONTRACT AND PLEDGE AGREEMENT AND NO TRANSFER OF THIS CERTIFICATE (OTHER THAN A TRANSFER OF THIS CERTIFICATE AS A WHOLE BY THE DEPOSITORY TO A NOMINEE OF THE DEPOSITORY OR BY A NOMINEE OF THE DEPOSITORY TO THE DEPOSITORY OR ANOTHER NOMINEE OF THE DEPOSITORY) MAY BE REGISTERED EXCEPT IN LIMITED CIRCUMSTANCES.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY), 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.]

No.  
Number of Corporate HiMEDS Units:

CUSIP No. 053611307  
ISIN: US0536113071

EVERY DENNISON CORPORATION

Corporate HiMEDS Units

This Corporate HiMEDS Units Certificate certifies that \_\_\_\_\_ is the registered Holder of the number of Corporate HiMEDS Units set forth above [For inclusion in Global Certificates only — or such other number of Corporate HiMEDS Units reflected in the Schedule of Increases or Decreases in Global Certificate attached hereto]. Each Corporate HiMEDS Unit consists of:

(i) beneficial ownership by the Holder of a 1/20, or 5.00%, undivided beneficial ownership interest in \$1,000 principal amount of Senior Note, subject to the Pledge of such Senior Note by the Holder pursuant to the Purchase Contract and Pledge Agreement; and

(ii) the rights and obligations of the Company and the Holder under one Purchase Contract.

All capitalized terms used herein which are defined in the Purchase Contract and Pledge Agreement (as defined on the reverse hereof) have the meaning set forth therein.

Pursuant to the Purchase Contract and Pledge Agreement, the Senior Note constituting part of each Corporate HiMEDS Unit evidenced hereby have been pledged to the Collateral Agent, for the benefit of the Company, to secure the obligations of the Holder under the Purchase Contract comprising part of such Corporate HiMEDS Unit.

The Purchase Contract and Pledge Agreement provides that all payments of the principal amount with respect to any of the Pledged Senior Notes (as defined in the Purchase Contract and Pledge Agreement) or interest or distributions on any Pledged Senior Notes constituting part of the Corporate HiMEDS Units received by the Securities Intermediary shall be paid by wire transfer in same day funds:

(i) in the case of (A) interest on Pledged Senior Notes and (B) any payments of the principal amount of any Senior Notes that have been released from the Pledge pursuant to the Purchase Contract and Pledge Agreement, to the Purchase Contract Agent to the account designated by the Purchase Contract Agent, on the Business Day such payment is received by the Securities Intermediary (*provided* that in the event such payment is received by the Securities Intermediary on a day that is not a Business Day or after 11:00 a.m., New York City time, on a Business Day, then such payment shall be made no later than 10:30 a.m., New York City time, on the next succeeding Business Day); and

(ii) in the case of payments received in connection with a remarketing, the principal amount of the Pledged Senior Notes following a successful remarketing to the Company on the Purchase Contract Settlement Date (as described herein) in accordance with the terms of the Purchase Contract and Pledge Agreement, in full satisfaction of the respective obligations of the Holders of the Corporate HiMEDS Units of which such Pledged Senior Notes are a part under the Purchase Contracts forming a part of such Corporate HiMEDS Units.

Interest on the Senior Notes forming part of a Corporate HiMEDS Units evidenced hereby, which are payable quarterly in arrears on February 15, May 15, August 15, and November 15 of each year, commencing February 15, 2008 (each, a "**Payment Date**"), shall, subject to receipt thereof by the Purchase Contract Agent from the Securities Intermediary, be paid to the Person in whose name this Corporate HiMEDS Units Certificate (or a Predecessor Corporate HiMEDS Units Certificate) is registered at 5:00 p.m., New York City time, on the Record Date for such Payment Date.

Each Purchase Contract evidenced hereby obligates the Holder of this Corporate HiMEDS Units Certificate to purchase, and the Company to sell, on the Purchase Contract Settlement Date, at a price equal to \$50.00 (the "**Stated Amount**"), a number of newly issued shares of common stock, par value \$1.00 per share ("**Common Stock**"), of the Company, equal to the Settlement Rate, unless on or prior to the Purchase Contract Settlement Date there shall have occurred a Termination Event, an Early Settlement or a Merger Early Settlement with



respect to such Purchase Contract, all as provided in the Purchase Contract and Pledge Agreement and more fully described on the reverse hereof. The Purchase Price for the shares of Common Stock purchased pursuant to each Purchase Contract evidenced hereby, if not paid earlier, shall be paid on the Purchase Contract Settlement Date by application of payment received in respect of the principal amount with respect to any Pledged Senior Notes pursuant to the remarketing pledged to secure the obligations under such Purchase Contract of the Holder of the Corporate HiMEDS Units of which such Purchase Contract is a part or by the Company exercising its rights as a secured party with respect to such Pledged Senior Notes.

The Company shall pay, on each Payment Date, in respect of each Purchase Contract forming part of a Corporate HiMEDS Unit evidenced hereby, an amount (the “**Contract Adjustment Payments**”) equal to 2.525% per year of the Stated Amount, computed (i) for any full quarterly period on the basis of a 360-day year consisting of twelve 30-day months and (ii) for any period other than a full quarterly period on the basis of the actual number of days elapsed and a 360-day year. The Company may, at its option, defer such Contract Adjustment Payments as described in the Purchase Contract and Pledge Agreement.

Contract Adjustment Payments shall be payable to the Person in whose name this Corporate HiMEDS Units Certificate evidencing such Purchase Contract is registered at 5:00 p.m., New York City time, on the Record Date for such Payment Date. If the book-entry system for the Corporate HiMEDS Units has been terminated, the Contract Adjustment Payments will be payable, at the option of the Company, by check mailed to the address of the Person entitled thereto at such Person’s address as it appears on the Security Register, or by wire transfer to the account designated by such Person by a prior written notice to the Purchase Contract Agent.

Each Corporate HiMEDS Unit evidenced hereby obligates the beneficial owner thereof to agree, for tax purposes, to treat:

(i) each Corporate HiMEDS Unit as an investment unit consisting of an interest in a Senior Note and a Purchase Contract;

(ii) the initial fair market value of each Senior Note as \$50 and the initial fair market value of each Purchase Contract as \$0 and to allocate the purchase price for each Corporate HiMEDS Unit accordingly;

(iii) itself as the owner of the applicable interests in the Collateral Account, including the Senior Notes; and

(iv) the Senior Notes as indebtedness for tax purposes.

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

Unless the certificate of authentication hereon has been executed by the Purchase Contract Agent by manual signature, this Corporate HiMEDS Units Certificate shall not be entitled to any benefit under the Purchase Contract and Pledge Agreement or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Company and the Holder specified above have caused this instrument to be duly executed.

AVERY DENNISON CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

ATTEST:

By: \_\_\_\_\_  
Name:  
Title:  
of Avery Dennison Corporation

HOLDER SPECIFIED ABOVE (as to obligations of such  
Holder under the Purchase Contracts)

By: THE BANK OF NEW YORK TRUST COMPANY, N.A.,  
not individually but solely as attorney in-fact of such Holder

By: \_\_\_\_\_  
Name:  
Title:

CERTIFICATE OF AUTHENTICATION  
OF PURCHASE CONTRACT AGENT

This is one of the Corporate HiMEDS Units Certificates referred to in the within mentioned Purchase Contract and Pledge Agreement.

THE BANK OF NEW YORK TRUST COMPANY, N.A.,  
as Purchase Contract Agent

By: \_\_\_\_\_  
Authorized Officer

Dated:

(FORM OF REVERSE OF CORPORATE HiMEDS UNIT CERTIFICATE)

Each Purchase Contract evidenced hereby is governed by a Purchase Contract and Pledge Agreement, dated as of November 20, 2007 (as may be supplemented from time to time, the “**Purchase Contract and Pledge Agreement**”), among the Company, The Bank of New York Trust Company, N.A., as Purchase Contract Agent (including its successors hereunder, the “**Purchase Contract Agent**”) and attorney-in-fact of the Holders from time to time, and The Bank of New York Trust Company, N.A., as Collateral Agent, Custodial Agent and Securities Intermediary, to which Purchase Contract and Pledge Agreement and supplemental agreements thereto reference is hereby made for a description of the respective rights, limitations of rights, obligations, duties and immunities thereunder of the Purchase Contract Agent, the Company, and the Holders and of the terms upon which the Corporate HiMEDS Units Certificates are, and are to be, executed and delivered.

Each Purchase Contract evidenced hereby obligates the Holder of this Corporate HiMEDS Units Certificate to purchase, and the Company to sell, on the Purchase Contract Settlement Date at a price equal to the Stated Amount (the “**Purchase Price**”), a number of shares of Common Stock equal to the Settlement Rate (as defined in the Purchase Contract and Pledge Agreement), unless a Termination Event or an Early Settlement or a Merger Early Settlement with respect to the Corporate HiMEDS Unit of which such Purchase Contract is a part shall have occurred.

In accordance with the terms of the Purchase Contract and Pledge Agreement, the Holder of this Corporate HiMEDS Units Certificate may pay the Purchase Price for the shares of Common Stock purchased pursuant to each Purchase Contract evidenced hereby by effecting a Cash Settlement, an Early Settlement or, if applicable, a Merger Early Settlement or from the proceeds of a remarketing of the related Pledged Senior Notes. A Holder of Corporate HiMEDS Units who has not effected an Early Settlement or, if applicable, a Merger Early Settlement and who does not, on or prior to 4:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date, notify the Purchase Contract Agent of its intention to effect a Cash Settlement, or who does so notify the Purchase Contract Agent but fails to make an effective Cash Settlement on or prior to 4:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date, shall pay the Purchase Price, less the amount of any Deferred Contract Adjustment Payments payable to such Holder, for the shares of Common Stock to be delivered under the related Purchase Contract from the proceeds of the sale of the related Pledged Senior Notes held by the Collateral Agent in the remarketing. In the event of a Last Failed Remarketing, the Purchase Price shall be satisfied by (A) the Pledged Senior Notes being retained and cancelled or (B) the Pledged Senior Notes being sold, in either case, in full satisfaction of the Holders’ obligations under the Purchase Contracts. As provided in the Purchase Contract and Pledge Agreement, upon the occurrence of a Last Failed Remarketing, the Collateral Agent, for the benefit of the Company, shall exercise its rights as secured creditor in full satisfaction of a Holder’s Obligation under the Purchase Agreement to pay the Purchase Price.

The Company shall not be obligated to issue any shares of Common Stock in respect of a Purchase Contract or deliver any certificates therefor to the Holder unless it shall have received payment of the aggregate Purchase Price, less any Deferred Contract Adjustment Payments, for

the shares of Common Stock to be purchased thereunder in the manner set forth in the Purchase Contract and Pledge Agreement or become entitled to exercise its rights as a secured party in the manner set forth in the Purchase Contract Agreement. If, as provided in the Purchase Contract Agreement, upon the occurrence of a Last Failed Remarketing the Collateral Agent, for the benefit of the Company, exercises its rights as a secured creditor with respect to the Pledged Senior Notes related to this Corporate HiMEDS Units Certificate, any accrued and unpaid interest on such Pledged Senior Notes will become payable by the Company to the Holder of this Corporate HiMEDS Units Certificate in the manner provided for in the Purchase Contract Agreement.

The Corporate HiMEDS Units Certificates are issuable only in registered form and only in denominations of a single Corporate HiMEDS Units and any integral multiple thereof. The transfer of any Corporate HiMEDS Units Certificate will be registered, and Corporate HiMEDS Units Certificates may be exchanged, as provided in the Purchase Contract and Pledge Agreement.

Subject to the conditions set forth in the Purchase Contract and Pledge Agreement, the Holder of Corporate HiMEDS Units may substitute, at any time on or prior to 4:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date, for the Pledged Senior Notes securing such Holder's obligations under the related Purchase Contracts, Treasury Securities in an aggregate principal amount at maturity equal to the aggregate principal amount of the Pledged Senior Notes in accordance with the terms of the Purchase Contract and Pledge Agreement. From and after such Collateral Substitution, each HiMEDS Unit for which such Pledged Treasury Securities secures the Holder's obligation under the Purchase Contract shall be referred to as a "**Treasury HiMEDS Unit**". A Holder may make such Collateral Substitution only in integral multiples of 20 Corporate HiMEDS Units. A Holder who elects to substitute a Treasury Security for a Senior Note, thereby creating Treasury HiMEDS Units, shall be responsible for any fees or expenses payable in connection therewith.

Each Purchase Contract evidenced hereby and all obligations and rights of the Company and the Holder thereunder, including, without limitation, the rights of the Holder to receive and the obligation of the Company to pay any Contract Adjustment Payments, shall immediately and automatically terminate, without the necessity of any notice or action by any Holder, the Purchase Contract Agent or the Company, if, on or prior to the Purchase Contract Settlement Date, a Termination Event shall occur. Upon the occurrence of a Termination Event, the Company shall, no later than two Business Days thereafter, give written notice to the Purchase Contract Agent, the Collateral Agent and the Holders, at their addresses as they appear in the Security Register. Upon and after the occurrence of a Termination Event, the Collateral Agent shall release the Pledged Senior Notes forming a part of each Corporate HiMEDS Unit from the Pledge in accordance with the provisions of the Purchase Contract and Pledge Agreement. A Corporate HiMEDS Unit shall thereafter represent the right to receive the Senior Note forming a part of such Corporate HiMEDS Units, in accordance with the terms of the Purchase Contract and Pledge Agreement.

Subject to and upon compliance with the provisions of the Purchase Contract and Pledge Agreement, at the option of the Holder thereof, Purchase Contracts underlying HiMEDS Units may be settled early at any time on or prior to 4:00 p.m., New York City time, on the Business

Day immediately preceding the first scheduled Trading Day of the Observation Period (“**Early Settlement**”) as provided in the Purchase Contract and Pledge Agreement. Upon Early Settlement of Purchase Contracts by a Holder of the related Corporate HiMEDS Units, the Pledged Senior Notes underlying such Corporate HiMEDS Units shall be released from the Pledge as provided in the Purchase Contract and Pledge Agreement and the Holder shall be entitled to receive a number of shares of Common Stock on account of each Purchase Contract forming part of a Corporate HiMEDS Unit as to which Early Settlement is effected equal to the Minimum Settlement Rate.

Upon the occurrence of a Cash Merger, a Holder of Corporate HiMEDS Units may effect Merger Early Settlement of the Purchase Contract underlying such Corporate HiMEDS Units pursuant to the terms of Section 5.04(b)(ii) of the Purchase Contract and Pledge Agreement. Upon Merger Early Settlement of Purchase Contracts by a Holder of the related Corporate HiMEDS Units, the Pledged Senior Notes underlying such Corporate HiMEDS Units shall be released from the Pledge as provided in the Purchase Contract and Pledge Agreement.

Under the terms of the Purchase Contract and Pledge Agreement, the Purchase Contract Agent will be entitled to exercise the voting and any other consensual rights pertaining to the Pledged Senior Notes, but only to the extent instructed in writing by the Holders. Upon receipt of notice of any meeting at which holders of Senior Notes are entitled to vote or upon any solicitation of consents, waivers or proxies of holders of Senior Notes, the Purchase Contract Agent shall, as soon as practicable thereafter, mail, first class, postage pre-paid, to the Corporate HiMEDS Units Holders the notice required by the Purchase Contract and Pledge Agreement:

(i) containing such information as is contained in the notice or solicitation;

(ii) stating that each Holder on the record date set by the Purchase Contract Agent therefor (which, to the extent possible, shall be the same date as the record date for determining the holders of Senior Notes, as the case may be, entitled to vote) shall be entitled to instruct the Purchase Contract Agent as to the exercise of the voting rights pertaining to the Senior Notes underlying such Holder’s Corporate HiMEDS Units; and

(iii) stating the manner in which such instructions may be given.

The Holder of this Corporate HiMEDS Units Certificate, by its acceptance hereof, irrevocably authorizes the Purchase Contract Agent to enter into and perform the related Purchase Contracts forming part of the Corporate HiMEDS Units evidenced hereby on its behalf as its attorney-in-fact, agrees to be bound by the terms and provisions thereof, covenants and agrees to perform its obligations under such Purchase Contracts, consents to the provisions of the Purchase Contract and Pledge Agreement, irrevocably authorizes the Purchase Contract Agent to enter into and perform the Purchase Contract and Pledge Agreement on its behalf as its attorney-in-fact, consents to the Pledge of the Senior Notes underlying this Corporate HiMEDS Units Certificate pursuant to the Purchase Contract and Pledge Agreement and expressly withholds any consent to the assumption (i.e., affirmation) of the Purchase Contracts by the Company or its trustee in the event that the Company becomes the subject of a case under the Bankruptcy Code. The Holder further covenants and agrees that, to the extent and in the manner provided in the Purchase Contract and Pledge Agreement, but subject to the terms thereof, payments with

respect to the aggregate principal amount of the Pledged Senior Notes on the Purchase Contract Settlement Date less any Deferred Contract Adjustment Payments shall be paid by the Collateral Agent to the Company in satisfaction of such Holder's obligations under such Purchase Contract and such Holder shall acquire no right, title or interest in such payments.

Upon registration of transfer of this Corporate HiMEDS Units Certificate, the transferee shall be bound (without the necessity of any other action on the part of such transferee, except as may be required by the Purchase Contract Agent pursuant to the Purchase Contract and Pledge Agreement), under the terms of the Purchase Contract and Pledge Agreement and the Purchase Contracts evidenced hereby and the transferor shall be released from the obligations under the Purchase Contracts evidenced by this Corporate HiMEDS Units Certificate. The Company covenants and agrees, and the Holder, by its acceptance hereof, likewise covenants and agrees, to be bound by the provisions of this paragraph.

Prior to due presentment of this Certificate for registration of transfer, the Company, the Purchase Contract Agent and its Affiliates and any agent of the Company or the Purchase Contract Agent may treat the Person in whose name this Corporate HiMEDS Units Certificate is registered as the owner of the Corporate HiMEDS Units evidenced hereby for the purpose of receiving payments of interest payable on the Senior Notes, receiving payments of Contract Adjustment Payments (subject to any applicable record date), performance of the Purchase Contracts and for all other purposes whatsoever, whether or not any payments in respect thereof be overdue and notwithstanding any notice to the contrary, and neither the Company, the Purchase Contract Agent nor any such agent shall be affected by notice to the contrary.

The Purchase Contracts shall not, prior to the settlement thereof, entitle the Holder to any of the rights of a holder of shares of Common Stock.

Subject to certain exceptions, the provisions of the Purchase Contract and Pledge Agreement may be amended with the consent of the Holders of a majority of the Outstanding HiMEDS Units.

The Purchase Contracts shall be governed by, and construed in accordance with, the laws of the State of New York.

A copy of the Purchase Contract and Pledge Agreement is available for inspection at the offices of the Purchase Contract Agent.

ABBREVIATIONS

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

TEN COM as tenants in common  
UNIF GIFT MIN ACT: \_\_\_\_\_ Custodian \_\_\_\_\_  
(cust) (minor)  
Under Uniform Gifts to Minors Act of \_\_\_\_\_

TENANT: as tenants by the entireties  
JT TEN: as joint tenants with right of survivorship and not as tenants  
in common

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

FOR VALUE RECEIVED, the undersigned hereby sell(s), assign(s) and transfer(s) unto \_\_\_\_\_

\_\_\_\_\_  
(Please insert Social Security or Taxpayer I.D. or other Identifying Number of Assignee)

\_\_\_\_\_  
(Please Print or Type Name and Address Including Postal Zip Code of Assignee)

the within Corporate HiMEDS Units Certificates and all rights thereunder, hereby irrevocably constituting and appointing attorney \_\_\_\_\_, to transfer said Corporate HiMEDS Units Certificates on the books of Avery Dennison Corporation, with full power of substitution in the premises.

Dated: \_\_\_\_\_ Signature: \_\_\_\_\_

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Corporate HiMEDS Units Certificates in every particular, without alteration or enlargement or any change whatsoever.

Signature  
Guarantee: \_\_\_\_\_



Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Security Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Security Registrar in addition to, or in substitution for, STAMP, all in accordance with Securities Exchange Act of 1934, as amended.

SETTLEMENT INSTRUCTIONS

The undersigned Holder directs that a certificate for shares of Common Stock deliverable upon settlement of the Purchase Contracts underlying the number of Corporate HiMEDS Units evidenced by this Corporate HiMEDS Units Certificate be registered in the name of, and delivered, together with a check in payment for any fractional share, to the undersigned at the address indicated below unless a different name and address have been indicated below. If shares are to be registered in the name of a Person other than the undersigned, the undersigned will pay any transfer tax payable incident thereto.

Dated: \_\_\_\_\_

Signature

Signature

Guarantee: \_\_\_\_\_

(if assigned to another person)

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Security Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Security Registrar in addition to, or in substitution for, STAMP, all in accordance with Securities Exchange Act of 1934, as amended.

If shares are to be registered in the name of and delivered to a Person other than the Holder, please (i) print such Person's name and address and (ii) provide a guarantee of your signature:

\_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_

\_\_\_\_\_

Social Security or other Taxpayer Identification Number, if any

\_\_\_\_\_

REGISTERED HOLDER

Please print name and address of Registered Holder:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

DTC Participant #: \_\_\_\_\_

ELECTION TO SETTLE EARLY/ MERGER EARLY SETTLEMENT

The undersigned Holder of this Corporate HiMEDS Units Certificate hereby irrevocably exercises the option to effect [Early Settlement] [Merger Early Settlement] in accordance with the terms of the Purchase Contract and Pledge Agreement with respect to the Purchase Contracts underlying the number of Corporate HiMEDS Units evidenced by this Corporate HiMEDS Units Certificate specified below. The option to effect [Early Settlement] [Merger Early Settlement] may be exercised only with respect to Purchase Contracts underlying Corporate HiMEDS Units in integral multiples of 20 Corporate HiMEDS Units. The undersigned Holder directs that a certificate for shares of Common Stock or other securities deliverable upon such [Early Settlement] [Merger Early Settlement] be registered in the name of, and delivered, together with a check in payment for any fractional share and any Corporate HiMEDS Units Certificate representing any Corporate HiMEDS Units evidenced hereby as to which [Early Settlement] [Merger Early Settlement] of the related Purchase Contracts is not effected, to the undersigned at the address indicated below unless a different name and address have been indicated below. Pledged Senior Notes deliverable upon such [Early Settlement] [Merger Early Settlement] will be transferred in accordance with the transfer instructions set forth below. If shares are to be registered in the name of a Person other than the undersigned, the undersigned will pay any transfer tax payable incident thereto.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature:  
Signature  
Guarantee: \_\_\_\_\_

Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Security Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Security Registrar in addition to, or in substitution for, STAMP, all in accordance with Securities Exchange Act of 1934, as amended.

DTC  
Participant No.: \_\_\_\_\_

Number of HiMEDS Units evidenced hereby as to which [Early Settlement] [Merger Early Settlement] of the related Purchase Contracts is being elected:

If shares of Common Stock or Corporate HiMEDS Units  
Certificates are to be registered in the name of and delivered to  
and Pledged Senior Notes are to be transferred to a Person  
other than the Holder, please print such Person's name and  
address:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Social Security or other  
Taxpayer Identification  
Number, if any

\_\_\_\_\_

REGISTERED HOLDER

Please print name and address of Registered Holder:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

DTC Participant #: \_\_\_\_\_

Transfer Instructions for Pledged Senior Notes transferable upon [Early Settlement] [Merger Early Settlement]:

[TO BE ATTACHED TO GLOBAL CERTIFICATES]

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL CERTIFICATE

The initial number of Corporate HiMEDS Units evidenced by this Global Certificate is 8,000,000. The following increases or decreases in this Global Certificate have been made:

Date	Amount of increase in Number of Corporate HiMEDS Units evidenced by the Global Certificate	Amount of decrease in Number of Corporate HiMEDS Units evidenced by the Global Certificate	Number of Corporate HiMEDS Units evidenced by this Global Certificate following such decrease or increase	Signature of authorized signatory of Purchase Contract Agent
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**(FORM OF FACE OF TREASURY HiMEDS UNIT CERTIFICATE)**

[For inclusion in Global Certificate only — THIS CERTIFICATE IS A GLOBAL CERTIFICATE WITHIN THE MEANING OF THE PURCHASE CONTRACT AND PLEDGE AGREEMENT HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF CEDE & CO., AS NOMINEE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (THE “DEPOSITORY”), THE DEPOSITORY OR ANOTHER NOMINEE OF THE DEPOSITORY. THIS CERTIFICATE IS EXCHANGEABLE FOR CERTIFICATES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITORY OR ITS NOMINEE ONLY IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE PURCHASE CONTRACT AND PLEDGE AGREEMENT AND NO TRANSFER OF THIS CERTIFICATE (OTHER THAN A TRANSFER OF THIS CERTIFICATE AS A WHOLE BY THE DEPOSITORY TO A NOMINEE OF THE DEPOSITORY OR BY A NOMINEE OF THE DEPOSITORY TO THE DEPOSITORY OR ANOTHER NOMINEE OF THE DEPOSITORY) MAY BE REGISTERED EXCEPT IN LIMITED CIRCUMSTANCES.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY), 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.]

No.  
Number of Treasury HiMEDS Units:

CUSIP No. 053611406  
ISIN: US0536114061

AVERY DENNISON CORPORATION

Treasury HiMEDS Units

This Treasury HiMEDS Units Certificate certifies that \_\_\_\_\_ is the registered Holder of the number of Treasury HiMEDS Units set forth above [For inclusion in Global Certificates only — or such other number of Treasury HiMEDS Units reflected in the Schedule of Increases or Decreases in Global Certificate attached hereto]. Each Treasury HiMEDS Unit consists of:

(i) a 1/20, or 5.00%, undivided beneficial ownership interest of a Treasury Security having a principal amount at maturity equal to \$1,000, subject to the Pledge of such Treasury Security by such Holder pursuant to the Purchase Contract and Pledge Agreement; and

(ii) the rights and obligations of the Holder under one Purchase Contract with Avery Dennison Corporation, a Delaware corporation (the “**Company**”).

All capitalized terms used herein which are defined in the Purchase Contract and Pledge Agreement (as defined on the reverse hereof) have the meaning set forth therein.

Pursuant to the Purchase Contract and Pledge Agreement, the Treasury Securities constituting part of each Treasury HiMEDS Unit evidenced hereby have been pledged to the Collateral Agent, for the benefit of the Company, to secure the obligations of the Holder under the Purchase Contract comprising part of such Treasury HiMEDS Unit.

Each Purchase Contract evidenced hereby obligates the Holder of this Treasury HiMEDS Units Certificate to purchase, and the Company to sell, on the Purchase Contract Settlement Date, at a price equal to \$50 (the “**Stated Amount**”), a number of newly issued shares of common stock, par value \$1.00 per share (“**Common Stock**”), of the Company, equal to the Settlement Rate, unless on or prior to the Purchase Contract Settlement Date there shall have occurred a Termination Event, an Early Settlement or a Merger Early Settlement with respect to such Purchase Contract, all as provided in the Purchase Contract and Pledge Agreement and more fully described on the reverse hereof. The Purchase Price for the shares of Common Stock purchased pursuant to each Purchase Contract evidenced hereby, if not paid earlier, shall be paid on the Purchase Contract Settlement Date by application of the proceeds from the Treasury Securities at maturity pledged to secure the obligations under such Purchase Contract of the Holder of the Treasury HiMEDS Units of which such Purchase Contract is a part.

The Company shall pay, on each Payment Date, in respect of each Purchase Contract forming part of a Treasury HiMEDS Unit evidenced hereby, an amount (the “**Contract Adjustment Payments**”) equal to 2.525% per year of the Stated Amount, computed (i) for any full quarterly period on the basis of a 360-day year of twelve 30-day months and (ii) for any period other than a full quarterly period on the basis of the actual number of days elapsed and a 360-day year. The Company may, at its option, defer such Contract Adjustment Payments, as described in the Purchase Contract and Pledge Agreement.

Contract Adjustment Payments shall be payable to the Person in whose name this Treasury HiMEDS Units Certificate evidencing such Purchase Contracts is registered at 5:00 p.m., New York City time, on the Record Date for such Payment Date. If the book-entry system for the Treasury HiMEDS Units has been terminated, the Contract Adjustment Payments will be payable, at the option of the Company, by check mailed to the address of the Person entitled thereto at such Person’s address as it appears on the Security Register, or by wire transfer to the account designated by such Person by a prior written notice to the Purchase Contract Agent.

Each Treasury HiMEDS Unit evidenced hereby obligates the beneficial owner thereof to agree, for tax purposes, to treat:

- (i) each Treasury HiMEDS Unit as an investment unit consisting of Treasury Securities and a Purchase Contract; and
- (ii) itself as the owner of the applicable interests in the Collateral Account, including the Treasury Securities.



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

Unless the certificate of authentication hereon has been executed by the Purchase Contract Agent by manual signature, this Treasury HiMEDS Units Certificate shall not be entitled to any benefit under the Purchase Contract and Pledge Agreement or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Company and the Holder specified above have caused this instrument to be duly executed.

AVERY DENNISON CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

ATTEST:

By: \_\_\_\_\_  
Name:  
Title:  
of Avery Dennison Corporation

HOLDER SPECIFIED ABOVE (as to obligations of such  
Holder under the Purchase Contracts)

By: THE BANK OF NEW YORK TRUST COMPANY, N.A.,  
not individually but solely as attorney  
in-fact of such Holder

By: \_\_\_\_\_  
Name:  
Title:

CERTIFICATE OF AUTHENTICATION OF  
PURCHASE CONTRACT AGENT

This is one of the Treasury HiMEDS Units referred to in the within-mentioned Purchase Contract and Pledge Agreement.

THE BANK OF NEW YORK TRUST COMPANY, N.A.,  
as Purchase Contract Agent

By: \_\_\_\_\_  
Authorized Officer

Dated: \_\_\_\_\_

(REVERSE OF TREASURY HiMEDS UNIT CERTIFICATE)

Each Purchase Contract evidenced hereby is governed by a Purchase Contract and Pledge Agreement, dated as of November 20, 2007 (as may be supplemented from time to time, the “**Purchase Contract and Pledge Agreement**”), among the Company, The Bank of New York Trust Company, N.A., as Purchase Contract Agent (including its successors hereunder, the “**Purchase Contract Agent**”) and attorney-in-fact of the Holders from time to time, and The Bank of New York Trust Company, N.A., as Collateral Agent, Custodial Agent and Securities Intermediary, to which Purchase Contract and Pledge Agreement and supplemental agreements thereto reference is hereby made for a description of the respective rights, limitations of rights, obligations, duties and immunities thereunder of the Purchase Contract Agent, the Company, and the Holders and of the terms upon which the Treasury HiMEDS Units Certificates are, and are to be, executed and delivered.

Each Purchase Contract evidenced hereby obligates the Holder of this Treasury HiMEDS Units Certificate to purchase, and the Company to sell, on the Purchase Contract Settlement Date at a price equal to the Stated Amount (the “**Purchase Price**”) a number of newly issued shares of Common Stock equal to the Settlement Rate, unless a Termination Event or an Early Settlement or a Merger Early Settlement with respect to the Treasury HiMEDS Unit of which such Purchase Contract is a part shall have occurred.

In accordance with the terms of the Purchase Contract and Pledge Agreement, the Holder of this Treasury HiMEDS Unit Certificate shall pay the Purchase Price for the shares of the Common Stock purchased pursuant to each Purchase Contract evidenced hereby either by effecting an Early Settlement or, if applicable, a Merger Early Settlement of each such Purchase Contract or by applying the principal amount of the Pledged Treasury Securities underlying such Holder’s Treasury HiMEDS Unit equal to the Stated Amount of such Purchase Contract to the purchase of the Common Stock. A Holder of Treasury HiMEDS Units who has not effected an Early Settlement or, if applicable, a Merger Early Settlement shall pay the Purchase Price, less the amount of any Deferred Contract Adjustment Payments payable to such Holder, for the shares of Common Stock to be issued under the related Purchase Contract from the proceeds of the Pledged Treasury Securities.

The Company shall not be obligated to issue any shares of Common Stock in respect of a Purchase Contract or deliver any certificates therefor to the Holder unless it shall have received payment of the aggregate Purchase Price, less any Deferred Contract Payments for the shares of Common Stock to be purchased thereunder in the manner set forth in the Purchase Contract and Pledge Agreement.

The Treasury HiMEDS Units Certificates are issuable only in registered form and only in denominations of single Treasury HiMEDS Unit and any integral multiple thereof. The transfer of any Treasury HiMEDS Units Certificate will be registered and Treasury HiMEDS Units Certificates may be exchanged as provided in the Purchase Contract and Pledge Agreement.

Subject to the conditions set forth in the Purchase Contract and Pledge Agreement, a Holder of Treasury HiMEDS Units may recreate, at any time on or prior to 4:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date, Corporate

HiMEDS Units by delivering to the Securities Intermediary Senior Notes with an aggregate principal amount, equal to the aggregate principal amount at maturity of the Pledged Treasury Securities in exchange for the release of such Pledged Treasury Securities in accordance with the terms of the Purchase Contract and Pledge Agreement. From and after such substitution, the Holder's HiMEDS Units shall be referred to as a "**Corporate HiMEDS Unit.**" Any such recreation of Corporate HiMEDS Units may be effected only in multiples of 20 Treasury HiMEDS Units. A Holder who elects to substitute a Senior Note, for Treasury Securities, thereby recreating Corporate HiMEDS Units, shall be responsible for any fees or expenses associated therewith.

Each Purchase Contract evidenced hereby and all obligations and rights of the Company and the Holder thereunder, including, without limitation, the rights of the Holder to receive and the obligation of the Company to pay any Contract Adjustment Payments, shall immediately and automatically terminate, without the necessity of any notice or action by any Holder, the Purchase Contract Agent or the Company, if, on or prior to the Purchase Contract Settlement Date, a Termination Event shall occur. Upon the occurrence of a Termination Event, the Company shall, no later than two Business Days thereafter, give written notice to the Purchase Contract Agent, the Collateral Agent and the Holders, at their addresses as they appear in the Security Register. Upon and after the occurrence of a Termination Event, the Collateral Agent shall release the Pledged Treasury Securities forming a part of each Treasury HiMEDS Unit from the Pledge in accordance with the provisions of the Purchase Contract and Pledge Agreement. A Treasury HiMEDS Unit shall thereafter represent the right to receive the Proceeds of the Treasury Security forming a part of such Treasury HiMEDS Unit, in accordance with the terms of the Purchase Contract and Pledge Agreement.

Subject to and upon compliance with the provisions of the Purchase Contract and Pledge Agreement, at the option of the Holder thereof, Purchase Contracts underlying HiMEDS Units may be settled early at any time on or prior to 4:00 p.m., New York City time, on the Business Day immediately preceding the first scheduled Trading Day of the Observation Period ("**Early Settlement**") as provided in the Purchase Contract and Pledge Agreement. Upon Early Settlement of Purchase Contracts by a Holder of the related Treasury HiMEDS Units, the Pledged Treasury Securities underlying such Treasury HiMEDS Units shall be released from the Pledge as provided in the Purchase Contract and Pledge Agreement and the Holder shall be entitled to receive a number of shares of Common Stock on account of each Purchase Contract forming part of a Treasury HiMEDS Unit as to which Early Settlement is effected equal to the Minimum Settlement Rate.

Upon the occurrence of a Cash Merger, a Holder of Treasury HiMEDS Units may effect Merger Early Settlement of the Purchase Contract underlying such Treasury HiMEDS Units pursuant to the terms of Section 5.04(b)(ii) of the Purchase Contract and Pledge Agreement. Upon Merger Early Settlement of Purchase Contracts by a Holder of the related Treasury HiMEDS Units, the Pledged Treasury Securities underlying such Treasury HiMEDS Units shall be released from the Pledge as provided in the Purchase Contract and Pledge Agreement.

The Holder of this Treasury HiMEDS Units Certificate, by its acceptance hereof, irrevocably authorizes the Purchase Contract Agent to enter into and perform the related Purchase Contracts forming part of the Treasury HiMEDS Units evidenced hereby on its behalf

as its attorney-in-fact, agrees to be bound by the terms and provisions thereof, covenants and agrees to perform its obligations under such Purchase Contracts, consents to the provisions of the Purchase Contract and Pledge Agreement, authorizes the Purchase Contract Agent to enter into and perform the Purchase Contract and Pledge Agreement on its behalf as its attorney-in-fact, consents to the Pledge of the Treasury Securities underlying this Treasury HiMEDS Units Certificate pursuant to the Purchase Contract and Pledge Agreement and expressly withholds any consent to the assumption (i.e., affirmation) of the Purchase Contracts by the Company or its trustee in the event that the Company becomes the subject of a case under the Bankruptcy Code. The Holder further covenants and agrees, that, to the extent and in the manner provided in the Purchase Contract and Pledge Agreement, but subject to the terms thereof, payments in respect to the aggregate principal amount of the Pledged Treasury Securities on the Purchase Contract Settlement Date less any Deferred Contract Adjustment Payments shall be paid by the Collateral Agent to the Company in satisfaction of such Holder's obligations under such Purchase Contract and such Holder shall acquire no right, title or interest in such payments.

Upon registration of transfer of this Treasury HiMEDS Units Certificate, the transferee shall be bound (without the necessity of any other action on the part of such transferee, except as may be required by the Purchase Contract Agent pursuant to the Purchase Contract and Pledge Agreement), under the terms of the Purchase Contract and Pledge Agreement and the Purchase Contracts evidenced hereby and the transferor shall be released from the obligations under the Purchase Contracts evidenced by this Treasury HiMEDS Units Certificate. The Company covenants and agrees, and the Holder, by its acceptance hereof, likewise covenants and agrees, to be bound by the provisions of this paragraph.

Prior to due presentment of this Certificate for registration or transfer, the Company, the Purchase Contract Agent and its Affiliates and any agent of the Company or the Purchase Contract Agent may treat the Person in whose name this Treasury HiMEDS Units Certificate is registered as the owner of the Treasury HiMEDS Units evidenced hereby for the purpose of receiving payments of Contract Adjustment Payments (subject to any applicable record date), performance of the Purchase Contracts and for all other purposes whatsoever, whether or not any payments in respect thereof be overdue and notwithstanding any notice to the contrary, and neither the Company, the Purchase Contract Agent nor any such agent shall be affected by notice to the contrary.

The Purchase Contracts shall not, prior to the settlement thereof, entitle the Holder to any of the rights of a holder of shares of Common Stock.

Subject to certain exceptions, the provisions of the Purchase Contract and Pledge Agreement may be amended with the consent of the Holders of a majority of the Outstanding HiMEDS Units.

The Purchase Contracts shall be governed by, and construed in accordance with, the laws of the State of New York.

A copy of the Purchase Contract and Pledge Agreement is available for inspection at the offices of the Purchase Contract Agent.

ABBREVIATIONS

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

TEN COM: as tenants in common

UNIF GIFT MIN ACT: \_\_\_\_\_ Custodian \_\_\_\_\_  
(cust) (minor)  
Under Uniform Gifts to Minors Act of \_\_\_\_\_

TENANT: as tenants by the entireties

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

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

FOR VALUE RECEIVED, the undersigned hereby sell(s), assign(s) and transfer(s) unto \_\_\_\_\_

\_\_\_\_\_  
(Please insert Social Security or Taxpayer I.D. or other Identifying Number of Assignee)

\_\_\_\_\_  
(Please Print or Type Name and Address Including Postal Zip Code of Assignee)

the within Treasury HiMEDS Units Certificates and all rights thereunder, hereby irrevocably constituting and appointing attorney \_\_\_\_\_, to transfer said Treasury HiMEDS Units Certificates on the books of Avery Dennison Corporation, with full power of substitution in the premises.

Dated: \_\_\_\_\_ Signature \_\_\_\_\_

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Treasury HiMEDS Units Certificates in every particular, without alteration or enlargement or any change whatsoever.

Signature  
Guarantee: \_\_\_\_\_

Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Security Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Security Registrar in addition to, or in substitution for, STAMP, all in accordance with Securities Exchange Act of 1934, as amended.



SETTLEMENT INSTRUCTIONS

The undersigned Holder directs that a certificate for shares of Common Stock deliverable upon settlement of the Purchase Contracts underlying the number of Treasury HiMEDS Units evidenced by this Treasury HiMEDS Units Certificate be registered in the name of, and delivered, together with a check in payment for any fractional share, to the undersigned at the address indicated below unless a different name and address have been indicated below. If shares are to be registered in the name of a Person other than the undersigned, the undersigned will pay any transfer tax payable incident thereto.

Dated: \_\_\_\_\_

Signature

Signature

Guarantee: \_\_\_\_\_

(if assigned to another person)

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Security Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Security Registrar in addition to, or in substitution for, STAMP, all in accordance with Securities Exchange Act of 1934, as amended.

If shares are to be registered in the name of and delivered to a Person other than the Holder, please (i) print such Person's name and address and (ii) provide a guarantee of your signature

\_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Social Security or other Taxpayer Identification Number, if any

REGISTERED HOLDER

Please print name and address of Registered Holder:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

DTC Participant #: \_\_\_\_\_

ELECTION TO SETTLE EARLY/ MERGER EARLY SETTLEMENT

The undersigned Holder of this Treasury HiMEDS Units Certificate hereby irrevocably exercises the option to effect [Early Settlement] [Merger Early Settlement] in accordance with the terms of the Purchase Contract and Pledge Agreement with respect to the Purchase Contracts underlying the number of Treasury HiMEDS Units evidenced by this Treasury HiMEDS Units Certificate specified below. The option to effect [Early Settlement] [Merger Early Settlement] may be exercised only with respect to Purchase Contracts underlying Treasury HiMEDS Units in integral multiples of 20 Treasury HiMEDS Units. The undersigned Holder directs that a certificate for shares of Common Stock or other securities deliverable upon such [Early Settlement] [Merger Early Settlement] be registered in the name of, and delivered, together with a check in payment for any fractional share and any Treasury HiMEDS Units Certificate representing any Treasury HiMEDS Units evidenced hereby as to which [Early Settlement] [Merger Early Settlement] of the related Purchase Contracts is not effected, to the undersigned at the address indicated below unless a different name and address have been indicated below. Pledged Treasury Securities deliverable upon such [Early Settlement] [Merger Early Settlement] will be transferred in accordance with the transfer instructions set forth below. If shares are to be registered in the name of a Person other than the undersigned, the undersigned will pay any transfer tax payable incident thereto.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature:

Signature

Guarantee: \_\_\_\_\_

Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Security Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Security Registrar in addition to, or in substitution for, STAMP, all in accordance with Securities Exchange Act of 1934, as amended.

DTC

Participant #: \_\_\_\_\_

Number of Treasury HiMEDS Units evidenced hereby as to which [Early Settlement] [Merger Early Settlement] of the related Purchase Contracts is being elected:

If shares of Common Stock or Treasury Units Certificates are to be registered in the name of and delivered to and Treasury Securities, as the case may be, are to be transferred to a Person other than the Holder, please print such Person's name and address:

REGISTERED HOLDER

Please print name and address of Registered Holder:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Social Security or other  
Taxpayer Identification  
Number, if any

DTC Participant #: \_\_\_\_\_

\_\_\_\_\_

Transfer Instructions for Pledged Treasury Securities Transferable upon [Early Settlement] [Merger Early Settlement] or a Termination Event:

[TO BE ATTACHED TO GLOBAL CERTIFICATES]

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL CERTIFICATE

The initial number of Treasury HiMEDS Units evidenced by this Global Certificate is 0. The following increases or decreases in this Global Certificate have been made:

<b>Date</b>	<b>Amount of increase in Number of Treasury HiMEDS Units evidenced by the Global Certificate</b>	<b>Amount of decrease in Number of Treasury HiMEDS Units evidenced by the Global Certificate</b>	<b>Number of Treasury HiMEDS Units evidenced by this Global Certificate following such decrease or increase</b>	<b>Signature of authorized signatory of Purchase Contract Agent</b>
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**INSTRUCTION TO PURCHASE CONTRACT AGENT FROM HOLDER  
TO CREATE TREASURY HiMEDS UNITS OR CORPORATE HiMEDS UNITS**

The Bank of New York Trust Company, N.A.,  
as Purchase Contract Agent  
601 Travis Street  
18<sup>th</sup> Floor  
Houston, Texas 77002  
Telecopier No.: 713-483-7038  
Attention: Corporate Trust Administration

Re: [ Corporate HiMEDS Units] [ Treasury HiMEDS Units] of Avery Dennison Corporation, a Delaware corporation (the  
"Company").

The undersigned Holder hereby notifies you that it has delivered to \_\_\_\_\_, as Securities Intermediary, for credit to the Collateral Account, \$\_\_\_\_\_ aggregate principal amount of [Senior Notes] [Treasury Securities] in exchange for the [Pledged Senior Notes] [Pledged Treasury Securities] held in the Collateral Account, in accordance with the Purchase Contract and Pledge Agreement, dated as of November 20, 2007 (the "**Agreement**"; unless otherwise defined herein, terms defined in the Agreement are used herein as defined therein), among you, as Purchase Contract Agent and attorney-in-fact of the Holders from time to time, the Company, and you, as the Collateral Agent, the Custodial Agent and the Securities Intermediary. The undersigned Holder has paid all applicable fees and expenses relating to such exchange. The undersigned Holder hereby instructs you to instruct the Collateral Agent to release to you on behalf of the undersigned Holder the [Pledged Senior Notes] [Pledged Treasury Securities] related to such [Corporate HiMEDS Units] [Treasury HiMEDS Units].

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature  
Guarantee: \_\_\_\_\_

DTC Participant  
No. \_\_\_\_\_

Please print name and address of Registered Holder:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Social Security or other Taxpayer Identification Number, if any

\_\_\_\_\_  
Address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**NOTICE FROM PURCHASE CONTRACT AGENT  
TO HOLDERS UPON TERMINATION EVENT**

(Transfer of Collateral upon Occurrence of a Termination Event)

[HOLDER]

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Attention:

Telecopy:

Re: [ Corporate HiMEDS Units] [ Treasury HiMEDS Units] of Avery Dennison Corporation, a Delaware corporation (the "Company")

Please refer to the Purchase Contract and Pledge Agreement, dated as of November 20, 2007 (the "**Agreement**"; unless otherwise defined herein, terms defined in the Agreement are used herein as defined therein), among the Company, the undersigned, as Purchase Contract Agent and attorney-in-fact of the Holders from time to time, and the undersigned, as Collateral Agent, Custodial Agent and Securities Intermediary.

We hereby notify you that a Termination Event has occurred and that [the Senior Notes] [the Treasury Securities] compromising a portion of your ownership interest in \_\_\_\_\_ [Corporate HiMEDS Units] [Treasury HiMEDS Units] have been released and are being held by us for your account pending receipt of transfer instructions with respect to such [Pledged Senior Notes] [Pledged Treasury Securities] (the "**Released Securities**").

Pursuant to Section 3.15 of the Agreement, we hereby request written transfer instructions with respect to the Released Securities. Upon receipt of your instructions and upon transfer to us of your [Corporate HiMEDS Units] [Treasury HiMEDS Units] effected through book-entry or by delivery to us of your [Corporate HiMEDS Units Certificate] [Treasury HiMEDS Units Certificate], we shall transfer the Released Securities by book-entry transfer or other appropriate procedures, in accordance with your instructions. In the event you fail to effect such transfer or delivery, the Released Securities and any distributions thereon, shall be held in our name, or a nominee in trust for your benefit, until such time as such [Corporate HiMEDS Units] [Treasury HiMEDS Units] are transferred or your [Corporate HiMEDS Units Certificate] [Treasury HiMEDS Units Certificate] is surrendered or satisfactory evidence is provided that such [Corporate HiMEDS Units Certificate] [Treasury HiMEDS Units Certificate] has been destroyed, lost or stolen, together with any indemnification that we or the Company may require.



Date:

By: THE BANK OF NEW YORK TRUST COMPANY,  
N.A., as the Purchase Contract Agent

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Name:

Title: Authorized Signatory

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**NOTICE TO SETTLE BY SEPARATE CASH  
FROM HOLDER TO PURCHASE CONTRACT AGENT**

The Bank of New York Trust Company, N.A.,  
as Purchase Contract Agent  
601 Travis Street  
18th Floor  
Houston, Texas 77002  
Telecopier No.: 713-483-7038

Attention: Corporate Trust Administration

Re: Corporate HiMEDS Units of Avery Dennison Corporation, a Delaware corporation (the “**Company**”)

The undersigned Holder hereby irrevocably notifies you in accordance with Section 5.02(a) of the Purchase Contract and Pledge Agreement, dated as of November 20, 2007 (the “**Agreement**”; unless otherwise defined herein, terms defined in the Agreement are used herein as defined therein), among you, as Purchase Contract Agent and attorney-in-fact of the Holders from time to time, the Company, and you, as Collateral Agent, Custodial Agent and Securities Intermediary, that such Holder has elected to pay to the Securities Intermediary for deposit in the Collateral Account, on or prior to 4:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date (in lawful money of the United States by certified or cashiers’ check or wire transfer, in immediately available funds), \$\_\_\_\_\_ as the Purchase Price for the shares of Common Stock issuable to such Holder by the Company with respect to \_\_\_\_\_ Purchase Contracts on the Purchase Contract Settlement Date. The undersigned Holder hereby instructs you to notify promptly the Collateral Agent of the undersigned Holders’ election to make such Cash Settlement with respect to the Purchase Contracts related to such Holder’s Corporate HiMEDS Units.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature:

Signature  
Guarantee: \_\_\_\_\_

Please print name and address of Registered Holder:

\_\_\_\_\_  
\_\_\_\_\_

DTC Participant  
No. \_\_\_\_\_

RESERVED

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**INSTRUCTION  
FROM PURCHASE CONTRACT AGENT  
TO COLLATERAL AGENT  
REGARDING CREATION OF TREASURY HIMEDS UNITS**

The Bank of New York Trust Company, N.A.,  
as Purchase Contract Agent  
601 Travis Street  
18<sup>th</sup> Floor  
Houston, Texas 77002  
Telecopier No.: 713-483-7038  
Attention: Corporate Trust Administration

Re: Corporate HiMEDS Units of Avery Dennison Corporation (the “**Company**”)

Please refer to the Purchase Contract and Pledge Agreement, dated as of November 20, 2007 (the “**Agreement**”), among you, as Purchase Contract Agent and attorney-in-fact of the Holders from time to time, the Company, and you, as Collateral Agent, Custodial Agent and Securities Intermediary. Capitalized terms used herein but not defined shall have the meaning set forth in the Agreement.

We hereby notify you in accordance with Section 3.13 of the Agreement that the holder of securities named below (the “**Holder**”) has elected to substitute \$ \_\_\_\_\_ Value of Treasury Securities or security entitlements with respect thereto in exchange for an equal Value of Pledged Senior Notes relating to \_\_\_\_\_ Corporate HiMEDS Units and has delivered to the undersigned a notice stating that the Holder has Transferred such Treasury Securities or security entitlements with respect thereto to the Securities Intermediary, for credit to the Collateral Account.

We hereby request that you instruct the Securities Intermediary, upon confirmation that such Treasury Securities or security entitlements thereto have been credited to the Collateral Account, to release to the undersigned an equal Value of Pledged Senior Notes in accordance with Section 3.13 of the Agreement.

Date:

THE BANK OF NEW YORK TRUST  
COMPANY, N.A., as  
Purchase Contract Agent

By: \_\_\_\_\_  
Name:  
Title: Authorized Signatory

Please print name and address of Holder electing to substitute Treasury Securities or security entitlements with respect thereto for the Pledged Senior Notes:

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Name:

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Social Security or other Taxpayer  
Identification Number, if any

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Address

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**INSTRUCTION  
FROM COLLATERAL AGENT  
TO SECURITIES INTERMEDIARY  
REGARDING CREATION OF TREASURY HiMEDS UNITS**

The Bank of New York Trust Company, N.A.,  
as Securities Intermediary  
601 Travis Street  
18<sup>th</sup> Floor  
Houston, Texas 77002  
Telecopier No.: 713-483-7038  
Attention: Corporate Trust Administration

Re: HiMEDS Units of Avery Dennison Corporation (the “**Company**”)

The securities account of The Bank of New York Trust Company, N.A., as Collateral Agent, maintained by the Securities Intermediary and designated “[\_\_\_\_\_], as Collateral Agent of Avery Dennison Corporation, as pledgee of The Bank of New York Trust Company, N.A., as the Purchase Contract Agent on behalf of and as attorney-in-fact for the Holders” (the “**Collateral Account**”)

Please refer to the Purchase Contract and Pledge Agreement, dated as of November 20, 2007 (the “**Agreement**”), among you, the Company, you, as Collateral Agent and Custodial Agent, and you, as Purchase Contract Agent and attorney-in-fact for the Holders from time to time. Capitalized terms used herein but not defined shall have the meaning set forth in the Agreement.

When you have confirmed that \$\_\_\_\_\_ Value of Treasury Securities or security entitlements thereto has been credited to the Collateral Account by or for the benefit of \_\_\_\_\_, as Holder of Corporate HiMEDS Units (the “**Holder**”), you are hereby instructed to release from the Collateral Account an equal Value of Pledged Senior Notes or security entitlements with respect thereto relating to \_\_\_\_\_ Corporate HiMEDS Units of the Holder by Transfer to the Purchase Contract Agent.

Dated:

THE BANK OF NEW YORK TRUST  
COMPANY, N.A., as  
Collateral Agent

By: \_\_\_\_\_  
Name:  
Title: Authorized Signatory

**INSTRUCTION  
FROM PURCHASE CONTRACT AGENT  
TO COLLATERAL AGENT  
REGARDING RECREATION OF CORPORATE HiMEDS UNITS**

The Bank of New York Trust Company, N.A.,  
as Collateral Agent  
601 Travis Street  
18th Floor  
Houston, Texas 77002  
Telecopier No.: 713-483-7038  
Attention: Corporate Trust Administration

Re: Treasury HiMEDS Units of Avery Dennison Corporation (the “**Company**”)

Please refer to the Purchase Contract and Pledge Agreement dated as of November 20, 2007 (the “**Agreement**”), among you, the Company, you, as Custodial Agent and Securities Intermediary, and you, as Purchase Contract Agent and attorney-in-fact of the Holders from time to time. Capitalized terms used herein but not defined shall have the meaning set forth in the Agreement.

We hereby notify you in accordance with Section 3.13 of the Agreement that the holder of securities named below (the “**Holder**”) has elected to substitute \$\_\_\_\_\_ Value of Senior Notes or security entitlements with respect thereto in exchange for \$\_\_\_\_\_ Value of Pledged Treasury Securities relating to \_\_\_\_\_ Treasury HiMEDS Units and has delivered to the undersigned a notice stating that the Holder has Transferred such Senior Notes or security entitlements with respect thereto to the Securities Intermediary, for credit to the Collateral Account.

We hereby request that you instruct the Securities Intermediary, upon confirmation that such Senior Notes or security entitlements with respect thereto have been credited to the Collateral Account, to release to the undersigned an equal Value of Pledged Treasury Securities or security entitlements with respect thereto in accordance with Section 3.13 of the Agreement.

THE BANK OF NEW YORK TRUST  
COMPANY, N.A., as  
Purchase Contract Agent

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Title: Authorized Signatory

Please print name and address of Holder electing to substitute Senior Notes or security entitlements with respect thereto for Pledged Treasury Securities:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Social Security or other Taxpayer  
Identification Number, if any

\_\_\_\_\_  
Address

\_\_\_\_\_  
\_\_\_\_\_  
DTC Participant  
No. \_\_\_\_\_



**INSTRUCTION  
FROM COLLATERAL AGENT  
TO SECURITIES INTERMEDIARY  
REGARDING RECREATION OF CORPORATE HiMEDS UNITS**

The Bank of New York Trust Company, N.A.,  
as Securities Intermediary  
601 Travis Street  
18<sup>th</sup> Floor  
Houston, Texas 77002  
Telecopier No.: 713-483-7038  
Attention: Corporate Trust Administration

Re: Treasury HiMEDS Units of Avery Dennison Corporation (the “**Company**”)

The securities account of The Bank of New York Trust Company, N.A., as Collateral Agent, maintained by the Securities Intermediary and designated “[\_\_\_\_\_], as Collateral Agent of Avery Dennison Corporation, as pledgee of The Bank of New York Trust Company, N.A., as the Purchase Contract Agent on behalf of and as attorney-in-fact for the Holders” (the “**Collateral Account**”)

Please refer to the Purchase Contract and Pledge Agreement dated as of November 20, 2007 (the “**Agreement**”), among you, the Company, you, as Collateral Agent and Custodial Agent and you, as Purchase Contract Agent and attorney-in-fact of the Holders from time to time. Capitalized terms used herein but not defined shall have the meaning set forth in the Agreement.

When you have confirmed that \$\_\_\_\_\_ Value of Senior Notes or security entitlements with respect thereto has been credited to the Collateral Account by or for the benefit of \_\_\_\_\_, as Holder of Treasury HiMEDS Units (the “**Holder**”), you are hereby instructed to release from the Collateral Account \$\_\_\_\_\_ Value of Treasury Securities or security entitlements thereto by Transfer to the Purchase Contract Agent.

THE BANK OF NEW YORK TRUST  
COMPANY, N.A., as  
Collateral Agent

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Title: Authorized Signatory

**NOTICE OF SENIOR NOTES TO BE REMARKETED  
FROM [COLLATERAL] [CUSTODIAL] AGENT TO  
PURCHASE CONTRACT AGENT AND REMARKETING AGENT**

The Bank of New York Trust Company, N.A.,  
as Purchase Contract Agent  
601 Travis Street  
18th Floor  
Houston, Texas 77002  
Telecopier No.: 713-483-7038

Attention: Corporate Trust Administration

[Remarketing Agent]

Re: Corporate HiMEDS Units of Avery Dennison Corporation (the “**Company**”)

Please refer to the Purchase Contract and Pledge Agreement dated as of November 20, 2007 (the “**Agreement**”), among you, as Purchase Contract Agent and attorney-in-fact of the Holders from time to time, the Company, and you, as Collateral Agent, Custodial Agent and Securities Intermediary. Unless otherwise defined herein, terms defined in the Agreement are used herein as defined therein.

[In accordance with Section 5.02(a)(iii) of the Agreement, we hereby notify you that as of 4:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date, we have received (i) \$\_\_\_\_\_ in immediately available funds paid in an aggregate amount equal to the Purchase Price due to the Company on the Purchase Contract Settlement Date with respect to \_\_\_\_\_ Corporate HiMEDS Units and (ii) based on the funds received set forth in clause (i) above, an aggregate principal amount of \$\_\_\_\_\_ of Pledged Senior Notes are to be tendered for purchase in the remarketing.]

[In accordance with Section 5.02(b) of the Agreement, we hereby notify you that as of 4:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date, we have received an aggregate principal amount of \$\_\_\_\_\_ of Separate Senior Notes tendered for resale in the remarketing.]

THE BANK OF NEW YORK TRUST  
COMPANY, N.A., as  
[Collateral Agent] [Custodial Agent]

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Title: Authorized Signatory

**INSTRUCTION  
FROM HOLDER OF SEPARATE SENIOR NOTES  
TO CUSTODIAL AGENT  
REGARDING REMARKETING**

The Bank of New York Trust Company, N.A.,  
as Custodial Agent  
601 Travis Street  
18<sup>th</sup> Floor  
Houston, Texas 77002  
Telecopier No.: 713-483-7038  
Attention: Corporate Trust Administration

Re: Senior Notes Due 2020 of Avery Dennison Corporation (the “**Company**”)

The undersigned hereby notifies you in accordance with of the Purchase Contract and Pledge Agreement, dated as of November 20, 2007 (the “**Agreement**”), among you, the Company, you, as Collateral Agent and Securities Intermediary, and you, as Purchase Contract Agent and attorney-in-fact of the Holders from time to time, that the undersigned elects to deliver \$\_\_\_\_\_ aggregate principal amount of Separate Senior Notes for delivery to the Remarketing Agent on or prior to 4:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date for remarketing pursuant to Section 5.02(b) of the Agreement. The undersigned will, upon request of the Remarketing Agent, execute and deliver any additional documents deemed by the Remarketing Agent or by the Company to be necessary or desirable to complete the sale, assignment and transfer of the Separate Senior Notes tendered hereby. Capitalized terms used herein but not defined shall have the meaning set forth in the Agreement.

The undersigned hereby instructs you, upon receipt of the Proceeds of such remarketing from the Remarketing Agent, to deliver such Proceeds to the undersigned in accordance with the instructions indicated herein under “A. Payment Instructions.” The undersigned hereby instructs you, in the event of a Last Failed Remarketing, upon receipt of the Separate Senior Notes tendered herewith from the Remarketing Agent, to deliver such Separate Senior Notes to the person(s) and the address(es) indicated herein under “B. Delivery Instructions.”

With this notice, the undersigned hereby:

(i) represents and warrants that the undersigned has full power and authority to tender, sell, assign and transfer the Separate Senior Notes tendered hereby and that the undersigned is the record owner of any Senior Notes tendered herewith in physical form or a participant in The Depository Trust Company (“**DTC**”) and the beneficial owner of any Senior Notes tendered herewith by book-entry transfer to your account at DTC;

(ii) agrees to be bound by the terms and conditions of Section 5.02(a)(ii) of the Agreement, if applicable, and

(iii) acknowledges and agrees that after 4:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date, such election shall become an irrevocable election to have such Separate Senior Notes remarketed in the remarketing, and that the Separate Senior Notes tendered herewith will only be returned in the event of a Last Failed Remarketing.

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

Signature

Guarantee:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Social Security or other Taxpayer  
Identification  
Number, if any

\_\_\_\_\_  
Address

DTC Participant  
No.

A. PAYMENT INSTRUCTIONS

Proceeds of the remarketing should be paid by check in the name of the person(s) set forth below and mailed to the address set forth below.

Name(s) \_\_\_\_\_  
(Please Print)

Address \_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Zip Code)

\_\_\_\_\_  
(Tax Identification or Social Security Number)

**B. DELIVERY INSTRUCTIONS**

In the event of a Last Failed Remarketing, Senior Notes which are in physical form should be delivered to the person(s) set forth below and mailed to the address set forth below.

Name(s) \_\_\_\_\_  
(Please Print)

Address \_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Zip Code)

\_\_\_\_\_  
(Tax Identification or Social Security Number)

In the event of a Last Failed Remarketing, Senior Notes which are in book-entry form should be credited to the account at The Depository Trust Company set forth below.

\_\_\_\_\_  
DTC Account Number

Name of Account

Party: \_\_\_\_\_

**INSTRUCTION  
FROM HOLDER OF SEPARATE SENIOR NOTES  
TO CUSTODIAL AGENT  
REGARDING WITHDRAWAL FROM REMARKETING**

The Bank of New York Trust Company, N.A.,  
as Custodial Agent  
601 Travis Street  
18<sup>th</sup> Floor  
Houston, Texas 77002  
Telecopier No.: 713-483-7038  
Attention: Corporate Trust Administration

Re: Senior Notes Due 2020 of Avery Dennison Corporation (the "Company")

The undersigned hereby notifies you in accordance with Section 5.02(b) of the Purchase Contract and Pledge Agreement, dated as of November 20, 2007 (the "Agreement"), among you, the Company, you, as Collateral Agent and Securities Intermediary, and you, as Purchase Contract Agent and attorney-in-fact of the Holders from time to time, that the undersigned elects to withdraw the \$\_\_\_\_\_ aggregate principal amount of Separate Senior Notes delivered to the Collateral Agent for remarketing pursuant to Section 5.02(a)(ii) of the Agreement. The undersigned hereby instructs you to return such Separate Senior Notes to the undersigned in accordance with the undersigned's instructions. With this notice, the Undersigned hereby agrees to be bound by the terms and conditions of Section 5.02(a)(ii) of the Agreement. Capitalized terms used herein but not defined shall have the meaning set forth in the Agreement.

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Signature \_\_\_\_\_  
Guarantee: \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Social Security or other Taxpayer  
Identification Number, if any

DTC  
Participant No. \_\_\_\_\_

**AVERY DENNISON CORPORATION**

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**INDENTURE**

**Dated as of  
November 20, 2007**

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**THE BANK OF NEW YORK TRUST COMPANY, N.A.**

**Trustee**

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**AVERY DENNISON CORPORATION**  
Reconciliation and tie between Trust Indenture Act  
of 1939 and the Indenture, dated as of November 20, 2007\*

<b>Trust Indenture Act Section</b>		<b>Indenture Section</b>
Sec. 310	(a)(1)	11.04
	(a)(2)	11.04
	(a)(3)	N.A.
	(a)(4)	N.A.
	(a)(5)	11.04
	(b)	11.04
	(c)	N.A.
Sec. 311	(a)	11.11
	(b)	11.11
	(c)	N.A.
Sec. 312	(a)	10.03
	(b)	11.10
	(c)	N.A.
Sec. 313	(a)	10.01
	(b)(1)	N.A.
	(b)(2)	10.01, 11.01
	(c)	10.01
	(d)	10.01
Sec. 314	(a)	10.02, 16.05
	(b)	N.A.
	(c)(1)	16.01
	(c)(2)	16.01
	(c)(3)	N.A.
	(d)	N.A.
	(e)	16.01
	(f)	N.A.
Sec. 315	(a)	11.02
	(b)	11.03, 16.05
	(c)	11.02
	(d)	11.02
	(e)	7.07
Sec. 316	(a)(last sentence)	1.01
	(a)(1)(A)	7.06
	(a)(1)(B)	7.06
	(b)	7.07
	(c)	3.08
Sec. 317	(a)(1)	7.04

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8 Note: This reconciliation and tie shall not be deemed to be part of the Indenture for any purpose.

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**Trust Indenture Act Section**

(a)(2)

(b)

Sec. 318

(a)

(b)

(c)

**Indenture Section**

7.04

6.03

16.02

N.A.

16.02

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INDENTURE dated as of November 20, 2007, among Avery Dennison Corporation, a Delaware corporation, and The Bank of New York Trust Company, N.A., as trustee.

WITNESSETH:

WHEREAS, the Company has duly authorized the execution and delivery of this Indenture to provide for the issuance of unsecured debentures, notes, bonds or other evidences of indebtedness (the “**Securities**”) in an unlimited aggregate principal amount to be issued from time to time in one or more series as provided in this Indenture; and

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

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

That, in consideration of the premises and the purchase of the Securities by the holders thereof for the equal and proportionate benefit of all of the present and future holders of the Securities, each party agrees and covenants as follows:

## **ARTICLE I DEFINITIONS**

### Section 1.01 Definitions.

(a) Unless otherwise defined in this Indenture or the context otherwise requires, all terms used herein shall have the meanings assigned to them in the Trust Indenture Act.

(b) Unless the context otherwise requires, the terms defined in this Section 1.01(b) shall for all purposes of this Indenture have the meanings hereinafter set forth, the following definitions to be equally applicable to both the singular and the plural forms of any of the terms herein defined:

“**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.

“**Authenticating Agent**” has the meaning assigned to it in Section 11.09.

“**Board of Directors**” means either the board of directors of the Company or any duly authorized committee of that board.

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

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

“**Code**” means the Internal Revenue Code of 1986 as in effect on the date hereof.

“**Company**” means Avery Dennison Corporation, a Delaware corporation, and shall also include its successors and assigns.

“**Company Order**” or “**Company Request**” means, respectively, a written order or request signed in the name of the Company by the Chairman, President, Executive Vice President, Senior Vice President, Treasurer, Assistant Treasurer, Controller, Assistant Controller, Secretary or Assistant Secretary of the Company, and delivered to the Trustee.

“**Corporate Trust Office**” means the principal office of the Trustee at which at any particular time its corporate trust business shall be administered, which office at the date hereof is located at The Bank of New York Trust Company, N.A., 700 South Flower Street, Suite 500, Los Angeles, CA 90017, Attention: Corporate Trust Administration, or such other address as the Trustee may designate from time to time by notice to the holders and the Company, or the principal corporate trust officer of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the holders and the Company).

“**Currency**” means U.S. Dollars or Foreign Currency.

“**Default**” has the meaning assigned to it in Section 11.03.

“**Defaulted Interest**” has the meaning assigned to it in Section 3.08(b).

“**Depository**” means, with respect to the Securities of any series issuable in whole or in part in the form of one or more Global Securities, the Person designated as Depository by the Company pursuant to Section 3.01 until a successor Depository shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “**Depository**” shall mean or include each Person who is then a Depository hereunder, and if at any time there is more than one such Person, “**Depository**” as used with respect to the Securities of any such series shall mean the Depository with respect to the Securities of that series.

“**Designated Currency**” has the meaning assigned to it in Section 3.12.

“**Discharged**” has the meaning assigned to it in Section 12.03.

“**Event of Default**” has the meaning specified in Section 7.01.

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

**“Floating Rate Security”** means a Security that provides for the payment of interest at a variable rate determined periodically by reference to an interest rate index specified pursuant to Section 3.01.

**“Foreign Currency”** means a currency issued by the government of any country other than the United States or a composite currency, the value of which is determined by reference to the values of the currencies of any group of countries.

**“GAAP”** means, with respect to any computation required or permitted hereunder, generally accepted accounting principles in effect in the United States of America which are applicable at the date of such computation and which are consistently applied for all applicable periods.

**“Global Security”** means any Registered Security evidencing all or part of a series of Securities, issued in fully-registered certificated form to the Depository for such series in accordance with Section 3.03 and bearing the legend prescribed in Section 3.03(g).

**“Indebtedness”** means any and all obligations of a Person for money borrowed which, in accordance with GAAP, would be reflected on the balance sheet of such Person as a liability on the date as of which Indebtedness is to be determined.

**“Indenture”** means this instrument and all indentures supplemental thereto.

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

**“Mandatory Sinking Fund Payment”** has the meaning assigned to it in Section 5.01(b).

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

**“Members”** has the meaning assigned to it in Section 3.03(i).

**“Officer’s Certificate”** means a certificate signed by the Chairman of the Board, the Chief Executive Officer, the Controller, the Chief Operating Officer, any Vice President, the Treasurer, the Assistant Treasurer, the Chief Financial Officer, the Chief Accounting Officer, the General Counsel, the Secretary or the Assistant Secretary of the Company and delivered to the Trustee.

**“Opinion of Counsel”** means a written opinion from legal counsel to the Company. The counsel may be an employee of the Company.

**“Optional Sinking Fund Payment”** has the meaning assigned to it in Section 5.01(b).

**“Original Issue Discount Security”** means any Security that is issued with “original issue discount” within the meaning of Section 1273(a) of the Code and the regulations



thereunder and any other Security designated by the Company as issued with original issue discount for United States federal income tax purposes.

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

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

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

(iii) Securities that have been paid pursuant to Section 3.07(b) or in exchange for or in lieu of which other Securities have been authenticated and delivered pursuant to this Indenture, other than any such Securities in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Securities are held by a protected 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 Securities Outstanding have performed any action hereunder, Securities owned by the Company or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such action, only Securities that a Responsible Officer of the Trustee knows to be so owned shall be so disregarded. Securities so owned that have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee’s right to act with respect to such Securities and that the pledgee is not the Company or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor. In determining whether the holders of the requisite principal amount of Outstanding Securities have performed any action hereunder, the principal amount of an Original Issue Discount Security that shall be deemed to be Outstanding for such purpose shall be the amount of the principal thereof that would be due and payable as of the date of such determination upon a declaration of acceleration of the Maturity thereof pursuant to Section 7.02 and the principal amount of a Security denominated in a Foreign Currency that shall be deemed to be Outstanding for such purpose shall be the amount calculated pursuant to Section 3.11(b).

“**Paying Agent**” has the meaning assigned to it in Section 6.02(a).

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

“**Place of Payment**” means, when used with respect to the Securities of any series, the place or places where the principal of and premium, if any, and interest on the Securities of that series are payable as specified pursuant to Section 3.01.

“**Predecessor Security**” means, with respect to any Security, every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security, and, for the purposes of this definition, any Security authenticated and delivered under Section 3.07 in lieu of a lost, destroyed or stolen Security shall be deemed to evidence the same debt as the lost, destroyed or stolen Security.

“**Record Date**” means, with respect to any interest payable on any Registered Security on any Interest Payment Date, the close of business on the date specified in such Registered Security for the payment of interest pursuant to Section 3.01.

“**Redemption Date**” shall mean, when used with respect to any Security to be redeemed, in whole or in part, the date fixed for such redemption by or pursuant to this Indenture and the terms of such Security, which, in the case of a Floating Rate Security, unless otherwise specified pursuant to Section 3.01, shall be an Interest Payment Date only.

“**Redemption Price**” shall mean, in the case of an Original Issue Discount Security, the amount of the principal and interest that would be due and payable as of the Redemption Date upon a declaration of acceleration of the Maturity thereof pursuant to Section 7.02 and, in the case of any other Security, the principal amount thereof, plus, in each case, premium, if any, and accrued and unpaid interest, if any, to the Redemption Date.

“**Register**” shall have the meaning assigned to it in Section 3.05(a).

“**Registrar**” shall have the meaning assigned to it in Section 3.05(a).

“**Registered Security**” shall mean any Security registered as to principal and interest in the Register.

“**Responsible Officers**” of the Trustee hereunder shall mean any vice president, any assistant vice president, any assistant secretary, any assistant treasurer, any trust officer, any assistant trust officer or any other officer associated with the corporate trust department of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of such person’s knowledge of and familiarity with the particular subject and, in the case of any such officer, who shall have direct responsibility for the administration of this Indenture.

“**SEC**” shall mean the U.S. Securities and Exchange Commission.

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

“**Security**” or “**Securities**” have the meaning stated in the recitals and more particularly mean one or more of the Securities duly authenticated by the Trustee and delivered pursuant to the provisions of this Indenture.

“**Security Custodian**” means the custodian with respect to any Global Security appointed by the Depository, or any successor Person thereto, and shall initially be the Paying Agent.

“**Securityholder**” or “**holder of Securities**” or “**holder**” or “**registered holder**,” with respect to a Registered Security, means the Person in whose name such Securities shall be registered in the Register kept for that purpose hereunder.

“**Senior Indebtedness**” means the principal of (and premium, if any) and unpaid interest on (x) Indebtedness of the Company, whether outstanding on the date hereof or thereafter created, incurred, assumed or guaranteed, for money borrowed other than (a) any Indebtedness of the Company which when incurred and without respect to any election under Section 1111(b) of the Federal Bankruptcy Code, was without recourse to the Company, (b) any Indebtedness of the Company to any of its Subsidiaries, (c) Indebtedness to any employee of the Company, (d) any liability for taxes and (e) Trade Payables, unless the instrument creating or evidencing the same or pursuant to which the same is outstanding provides that such Indebtedness is not senior or prior in right of payment to the Securities, and (y) renewals, extensions, modifications and refundings of any such Indebtedness. This definition may be modified or superseded by a supplemental indenture.

“**Significant Subsidiary**” means, with respect to any Person, a Subsidiary of such Person that would constitute a “significant subsidiary” as such term is defined under Rule 1-02 of Regulation S-X under the Securities Act and the Exchange Act.

“**Special Record Date**” has the meaning assigned to it in Section 3.08(b)(i).

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

“**Subsidiary**” means, when used with respect to any Person, any corporation or other entity of which a majority of (a) the voting power of the voting equity securities or (b) in the case of a partnership or any other entity other than a corporation, the outstanding equity interests of which are owned, directly or indirectly, by such Person. For the purposes of this definition, “voting equity securities” means equity securities having voting power for the election of directors, whether at all times or only so long as no senior class of securities has such voting power by reason of any contingency.

“**Successor Company**” has the meaning assigned to it in Section 3.06(i).

“**Trade Payables**” means accounts payable or any other Indebtedness or monetary obligations to trade creditors created or assumed by the Company or any Subsidiary of the

Company in the ordinary course of business in connection with the obtaining of materials or services.

“**Trust Indenture Act**” or “**TIA**” means the Trust Indenture Act of 1939, as amended, except as otherwise provided in this Indenture.

“**Trustee**” means The Bank of New York Trust Company, N.A., for the time being, and any permitted successor trustee, and if at any time there is more than one such trustee, “Trustee” as used with respect to the Securities of any series shall mean the trustee with respect to Securities of that series.

“**U.S. Dollars**” means such currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

“**U.S. Government Obligations**” has the meaning assigned to it in Section 12.03.

“**United States**” means the United States of America (including the States and the District of Columbia), its territories and its possessions and other areas subject to its jurisdiction.

“**United States Alien**” means any Person who, for United States federal income tax purposes, is a foreign corporation, a nonresident alien individual, a nonresident alien fiduciary of a foreign estate or trust, or a foreign partnership, one or more members of which is, for United States federal income tax purposes, a foreign corporation, a nonresident alien individual or a nonresident alien fiduciary of a foreign estate or trust.

## **ARTICLE II FORMS OF SECURITIES**

### Section 2.01 Terms of the Securities.

(a) The Securities of each series shall be substantially in one of the forms established by or pursuant to a Board Resolution and set forth in an Officer’s Certificate or in one or more indentures supplemental hereto, and shall have such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have such letters, numbers or other marks of identification or designation and such legends or endorsements placed thereon as the Company may deem appropriate and as are not inconsistent with the provisions of this Indenture, or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any securities exchange on which any series of the Securities may be listed or of any automated quotation system on which any such series may be quoted, or to conform to usage, all as determined by the officers executing such Securities as conclusively evidenced by their execution of such Securities. If the form of a series of Securities is established in or pursuant to a Board Resolution, a copy of such Board Resolution shall be delivered to the Trustee at or prior to the delivery of the Officer’s Certificate setting forth the form of such series.

(b) The terms and provisions of the Securities 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.

Section 2.02 Form of Trustee's Certificate of Authentication.

(a) Only such of the Securities as shall bear thereon a certificate substantially in the form of the Trustee's certificate of authentication hereinafter recited, executed by the Trustee by manual signature, shall be valid or become obligatory for any purpose or entitle the holder thereof to any right or benefit under this Indenture, and the certificate of authentication by the Trustee upon any such Security executed on behalf of the Company as aforesaid shall be conclusive evidence that the Security so authenticated has been duly authenticated and delivered hereunder and that the holder thereof is entitled to the benefits of this Indenture.

(b) Each Security shall be dated the date of its authentication, except that any Global Security shall be dated as of the date specified as contemplated in Section 3.01.

(c) The form of the Trustee's certificate of authentication to be borne by the Securities shall be substantially as follows:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Securities issued referred to in the within-mentioned Indenture.

The Bank of New York Trust Company, N.A.,  
as Trustee

By: \_\_\_\_\_  
Authorized Signatory

Section 2.03 Form of Trustee's Certificate of Authentication by an Authenticating Agent.

If at any time there shall be an Authenticating Agent appointed with respect to any series of Securities, then the Trustee's Certificate of Authentication by such Authenticating Agent to be borne by Securities of each such series shall be substantially as follows:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Securities issued referred to in the within-mentioned Indenture.

The Bank of New York Trust Company, N.A.,  
as Trustee

By \_\_\_\_\_  
As Authenticating Agent

By: \_\_\_\_\_  
Authorized Signatory

**ARTICLE III  
THE DEBT SECURITIES**

Section 3.01 Amount Unlimited; Issuable in Series.

The aggregate principal amount of Securities that may be authenticated and delivered under this Indenture is unlimited. The Securities may be issued in one or more series. There shall be established by or pursuant to a Board Resolution of the Company, and set forth in an Officer's Certificate of the Company, or established in one or more indentures supplemental hereto, prior to the issuance of Securities of any series:

(a) the title of the Securities of the series (which shall distinguish the Securities of such series from the Securities of all other series, except to the extent that additional Securities of an existing series are being issued);

(b) any limit upon the aggregate principal amount of the Securities of the series that may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon transfer of, or in exchange for, or in lieu of, other Securities of such series pursuant to Section 3.04, 3.06, 3.07, 4.06, or 14.05);

(c) the dates on which or periods during which the Securities of the series may be issued, and the dates on, or the range of dates within, which the principal of and premium, if any, on the Securities of such series are or may be payable;

(d) the rate or rates at which the Securities of the series shall bear interest, if any, or the method by which such rate or rates shall be determined, the date or dates from which such interest shall accrue, or the method by which such date or dates shall be determined, the Interest Payment Dates on which any such interest shall be payable, and, in the case of Registered Securities, the Record Dates for the determination of holders to whom interest is payable on such Interest Payment Dates;

(e) if other than U.S. Dollars, the Currency in which Securities of the series shall be denominated or in which payment of the principal of, premium, if any, or interest on the Securities of the series shall be payable and any other terms concerning such payment;

(f) if the amount of payment of principal of, premium, if any, or interest on the Securities of the series may be determined with reference to an index, formula or other method including, but not limited to, an index based on a Currency or Currencies other than that in which the Securities are stated to be payable, the manner in which such amounts shall be determined;

(g) if the principal of, premium, if any, or interest on Securities of the series are to be payable, at the election of the Company or a holder thereof, in a Currency other than that in which the Securities are denominated or stated to be payable without such election, the period or periods within which, and the terms and conditions upon which such election may be made and the time and the manner of determining the exchange rate between the Currency in which the Securities are denominated or payable without such election and the Currency in which the Securities are to be paid if such election is made;

(h) the place or places, if any, in addition to or instead of the Corporate Trust Office of the Trustee where the principal of, premium, if any, and interest on Securities of the series shall be payable, and where Securities of any series that are convertible or exchangeable may be surrendered for conversion or exchange, as applicable, if a different location;

(i) the price or prices at which, the period or periods within which, or the date or dates on which, and the terms and conditions upon which Securities of the series may be redeemed, in whole or in part, at the option of the Company, if the Company is to have that option;

(j) the obligation, if any, of the Company to redeem, purchase or repay Securities of the series pursuant to any sinking fund or analogous provisions or at the option of a holder thereof and the price or prices at which, the period or periods within which or the date or dates on which, and the terms and conditions upon which Securities of the series shall be redeemed, purchased or repaid, in whole or in part, pursuant to such obligation;

(k) if other than denominations of \$1,000 or any integral multiple thereof, the denominations in which Securities of the series shall be issuable;

(l) if other than the principal amount thereof, the portion of the principal amount of the Securities of the series which shall be payable upon declaration of acceleration of the Maturity thereof pursuant to Section 7.02;

(m) whether the Securities of the series are to be issued as Original Issue Discount Securities and the amount of discount with which such Securities may be issued;

(n) provisions, if any, for the defeasance of Securities of the series;

(o) whether the Securities of the series are to be issued in whole or in part in the form of one or more Global Securities and, in such case, the Depositary for such Global Security or Securities and the terms and conditions, if any, upon which interests in

such Global Security or Securities may be exchanged in whole or in part for the individual Securities represented thereby;

(p) the date as of which any Global Security of the series shall be dated if other than the original issuance of the first Security of the series to be issued;

(q) the form of the Securities of the series;

(r) if the Securities of the series are to be convertible into or exchangeable for any securities of any Person (including the Company), the terms and conditions upon which such Securities will be so convertible or exchangeable;

(s) whether the Securities of such series are subject to subordination and the terms of such subordination; and

(t) any other terms of the Securities of the series, including Events of Default and/or additional covenants of the Company.

Terms of any series of Securities established pursuant to this Section 3.01 shall not be inconsistent with the requirements of the Trust Indenture Act or the provisions of this Indenture. All Securities of any one series shall be substantially identical, except as to denomination and except as may otherwise be provided by or pursuant to such Board Resolution, and set forth in such Officer's Certificate, or in any such indenture supplemental hereto. If any of the terms of a series of Securities are established by action taken to a Board Resolution, a copy of such Board Resolution shall be delivered to the Trustee at or prior to the delivery of the Officer's Certificate setting forth the terms of such series.

Section 3.02 Denominations. In the absence of any specification pursuant to Section 3.01 with respect to Securities of any series, the Securities of such series shall be issuable only as Registered Securities in denominations of any integral multiple of \$1,000, and shall be payable only in U.S. Dollars.

Section 3.03 Execution, Authentication, Delivery and Dating.

(a) The Securities shall be executed in the name and on behalf of the Company by the manual or facsimile signature of its Chairman of the Board of Directors, its President or one of its Vice Presidents which shall be attested by the manual or facsimile signature of its Secretary or one of its Assistant Secretaries. If the Person whose signature is on a Security no longer holds that office at the time the Security is authenticated and delivered, the Security shall nevertheless be valid.

(b) At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities of any series executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Securities. The Trustee shall thereupon authenticate and deliver such Securities without any



further action by the Company. The Company Order shall specify the amount of the Securities to be authenticated and the date on which the original issue of Securities is to be authenticated.

(c) In authenticating the first Securities of any series and accepting the additional responsibilities under this Indenture in relation to such Securities the Trustee shall receive, and (subject to Section 11.02) shall be fully protected in relying upon:

(i) the supplemental indenture or Board Resolution relating thereto and, if applicable, an appropriate record of any action taken pursuant to such supplemental indenture or resolution, certified by the Secretary or an Assistant Secretary of the Company;

(ii) an Officer's Certificate of the Company as to the absence of any event that is, or after notice or lapse of time or both would become, an Event of Default; and

(iii) an Opinion of Counsel prepared in accordance with Section 16.01, which shall state:

(A) that the form and terms of such Securities have been established by or pursuant to one or more Board Resolutions, by a supplemental indenture as permitted by Sections 14.01 or 14.02, or by both such resolution or resolutions and such supplemental indenture, in conformity with the provisions of this Indenture;

(B) that such Securities, when authenticated and delivered by the Trustee and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and legally binding obligations of the Company, enforceable in accordance with their terms, and will be entitled to the benefits of this Indenture;

(C) that the Company has the corporate power to issue the Securities, and has duly taken all necessary action with respect to such issuance;

(D) that all requirements of the Indenture applicable to the Company in respect of the execution and delivery by the Company of the Securities and of such supplemental indenture, if any, have been complied with and, that assuming (a) all requisite corporate authorization on the part of the Trustee, (b) continued compliance by the Trustee with the terms of the Indenture specifically applicable to the Trustee, and (c) due authentication and delivery of the Securities by the Trustee, the execution and delivery of such supplemental indenture, if any, will not violate the terms of this Indenture.

(d) The Trustee shall have the right to decline to authenticate and deliver the Securities under this Section if the issue of the Securities pursuant to this Indenture will affect the Trustee's own rights, duties or immunities under the Securities and this Indenture or otherwise in a manner which is not reasonably acceptable to the Trustee.

(e) Each Security shall be dated the date of its authentication, except as otherwise provided pursuant to Section 3.01 with respect to the Securities of such series.

(f) Notwithstanding the provisions of Section 3.01 and of this Section 3.03, if all of the Securities of any series are not to be originally issued at the same time, then the documents required to be delivered pursuant to this Section 3.03 must be delivered only once prior to the authentication and delivery of the first Security of such series; *provided, however*, that any subsequent request by the Company to the Trustee to authenticate Securities of such series upon original issuance shall constitute a representation and warranty by the Company that, as of the date of such request, the statements made in any Officer's Certificate delivered pursuant to this Section 3.03 shall be true and correct as if made on such date.

(g) If the Company shall establish pursuant to Section 3.01 that the Securities of a series are to be issued in whole or in part in the form of one or more Global Securities, then the Company shall execute and the Trustee shall authenticate and deliver one or more Global Securities that (i) shall represent an aggregate amount equal to the aggregate principal amount of the Outstanding Securities of such series to be represented by such Global Securities, (ii) shall be registered, if in registered form, in the name of the Depository for such Global Security or Securities or the nominee of such Depository, (iii) shall be delivered by the Trustee to such Depository or pursuant to such Depository's instruction and (iv) shall bear a legend substantially to the following effect:

“UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR THE INDIVIDUAL SECURITIES REPRESENTED HEREBY, THIS GLOBAL SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY.”

The aggregate principal amount of each Global Security may from time to time be increased or decreased by adjustments made on the records of the Security Custodian, as provided in this Indenture.

(h) Each Depository designated pursuant to Section 3.01 for a Global Security in registered form must, at the time of its designation and at all times while it serves as such Depository, be a clearing agency registered under the Exchange Act and any other applicable statute or regulation.

(i) Members of, or participants in, the Depository (“**Members**”) shall have no rights under this Indenture with respect to any Global Security held on their behalf by the Depository or by the Security Custodian under such Global Security, and the Depository may be treated by the Company, the Trustee, the Paying Agent and the Registrar and any of their agents as the absolute owner of such Global Security for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee, the Paying Agent or the Registrar or any of their agents from giving effect to any written certification, proxy or other authorization furnished by the Depository or impair, as between the Depository and its Members, the operation

of customary practices of the Depository governing the exercise of the rights of an owner of a beneficial interest in any Global Security. The registered holder of a Global Security may grant proxies and otherwise authorize any Person, including Members and Persons that may hold interests through Members, to take any action that a holder is entitled to take under this Indenture or the Securities.

(j) 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 one of the forms provided for herein duly executed by the Trustee or by an Authenticating Agent by manual signature of one of its Responsible Officers, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder and is entitled to the benefits of this Indenture.

Section 3.04 Temporary Securities.

(a) Pending the preparation of definitive Securities of any series, the Company may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary Securities that are printed, lithographed, typewritten, mimeographed or otherwise reproduced, in any authorized denomination, substantially of the tenor of the definitive Securities in lieu of which they are issued, in registered form and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Securities may determine, as conclusively evidenced by their execution of such Securities. Any such temporary Security may be in global form, representing all or a portion of the Outstanding Securities of such series. Every such temporary Security shall be executed by the Company and shall be authenticated and delivered by the Trustee upon the same conditions and in substantially the same manner, and with the same effect, as the definitive Security or Securities in lieu of which it is issued.

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

(c) Upon any exchange of a portion of a temporary Global Security for a definitive Global Security or for the individual Securities represented thereby pursuant to this Section 3.04 or Section 3.06, the temporary Global Security shall be endorsed by the Trustee to reflect the reduction of the principal amount evidenced thereby, whereupon the principal amount of such temporary Global Security shall be reduced for all purposes by the amount so exchanged and endorsed.

Section 3.05 Registrar and Paying Agent.

(a) The Company will keep, at an office or agency to be maintained by it in a Place of Payment where Registered Securities may be presented for registration or presented and surrendered for registration of transfer or of exchange, and where Securities of any series that are convertible or exchangeable may be surrendered for conversion or exchange, as applicable (the “**Registrar**”), a security register for the registration and the registration of transfer or of exchange of the Registered Securities (the registers maintained in such office and in any other office or agency of the Company in a Place of Payment being herein sometimes collectively referred to as the “**Register**”), as in this Indenture provided, which Register shall at all reasonable times be open for inspection by the Trustee. Such Register shall be in written form or in any other form capable of being converted into written form within a reasonable time. The Company may have one or more co-Registrars; the term “Registrar” includes any co-registrar.

(b) The Company shall enter into an appropriate agency agreement with any Registrar or co-Registrar not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such agent. The Company shall notify the Trustee of the name and address of each such agent. If the Company fails to maintain a Registrar, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to Section 11.01. The Company or any Affiliate thereof may act as Registrar, co-Registrar or transfer agent.

(c) The Company hereby appoints the Trustee at its Corporate Trust Office as Registrar in connection with the Securities and this Indenture, until such time as another Person is appointed as such.

Section 3.06 Transfer and Exchange.

(a) Transfer.

(i) Upon surrender for registration of transfer of any Registered Security of any series at the Registrar the Company shall execute, and the Trustee or any Authenticating Agent shall authenticate and deliver, in the name of the designated transferee, one or more new Registered Securities of the same series for like aggregate principal amount of any authorized denomination or denominations. The transfer of any Security shall not be valid as against the Company or the Trustee unless registered at the Registrar by the registered holder, or by his, her or its attorney duly authorized in writing.

(ii) Notwithstanding any other provision of this Section, unless and until it is exchanged in whole or in part for the individual Securities represented thereby, a Global Security representing all or a portion of the Securities of a series may not be transferred except as a whole by the Depositary for such series to a nominee of such Depositary or by a nominee of such Depositary to such Depositary or another nominee of such

Depository or by such Depository or any such nominee to a successor Depository for such series or a nominee of such successor Depository.

(b) Exchange.

(i) At the option of the holder, Registered Securities of any series (other than a Global Security, except as set forth below) may be exchanged for other Registered Securities of the same series for like aggregate principal amount of any authorized denomination or denominations, upon surrender of the Registered Securities to be exchanged at the Registrar.

(ii) Whenever any Securities are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Securities that the holder making the exchange is entitled to receive.

(c) Exchange of Global Securities for Individual Securities. Except as provided below, owners of beneficial interests in Global Securities will not be entitled to receive individual Securities.

(i) Individual Securities shall be issued to all owners of beneficial interests in a Global Security in exchange for such interests if: (A) at any time the Depository for the Securities of a series notifies the Company that it is unwilling or unable to continue as Depository for the Securities of such series or if at any time the Depository for the Securities of such series shall no longer be eligible under Section 3.03(h) and, in each case, a successor Depository is not appointed by the Company within 90 days of such notice, or (B) the Company executes and delivers to the Trustee and the Registrar an Officer's Certificate stating that such Global Security shall be so exchangeable.

In connection with the exchange of an entire Global Security for individual Securities pursuant to this subsection (c), such Global Security shall be deemed to be surrendered to the Trustee for cancellation, and the Company shall execute, and the Trustee, upon receipt of a Company Order for the authentication and delivery of individual Securities of such series, will authenticate and deliver to each beneficial owner identified by the Depository in exchange for its beneficial interest in such Global Security, an equal aggregate principal amount of individual Securities of authorized denominations.

(ii) The owner of a beneficial interest in a Global Security will be entitled to receive an individual Security in exchange for such interest if an Event of Default has occurred and is continuing. Upon receipt by the Security Custodian and Registrar of instructions from the holder of a Global Security directing the Security Custodian and Registrar to (x) issue one or more individual Securities in the amounts specified to the owner of a beneficial interest in such Global Security and (y) debit or cause to be debited an equivalent amount of beneficial interest in such Global Security, subject to the rules and regulations of the Depository:

(A) the Security Custodian and Registrar shall notify the Company and the Trustee of such instructions, identifying the owner and amount of such beneficial interest in such Global Security;

(B) the Company shall promptly execute and the Trustee, upon receipt of a Company Order for the authentication and delivery of individual Securities of such series, shall authenticate and deliver to such beneficial owner individual Securities in an equivalent amount to such beneficial interest in such Global Security; and

(C) the Security Custodian and Registrar shall decrease such Global Security by such amount in accordance with the foregoing. In the event that the individual Securities are not issued to each such beneficial owner promptly after the Registrar has received a request from the holder of a Global Security to issue such individual Securities, the Company expressly acknowledges, with respect to the right of any holder to pursue a remedy pursuant to Section 7.07 hereof, the right of any beneficial holder of Securities to pursue such remedy with respect to the portion of the Global Security that represents such beneficial holder's Securities as if such individual Securities had been issued.

(iii) If specified by the Company pursuant to Section 3.01 with respect to a series of Securities, the Depositary for such series of Securities may surrender a Global Security for such series of Securities in exchange in whole or in part for individual Securities of such series on such terms as are acceptable to the Company and such Depositary. Thereupon, the Company shall execute, and the Trustee shall authenticate and deliver, without service charge,

(A) to each Person specified by such Depositary a new individual Security or Securities of the same series, of any authorized denomination as requested by such Person in aggregate principal amount equal to and in exchange for such Person's beneficial interest in the Global Security; and

(B) to such Depositary a new Global Security in a denomination equal to the difference, if any, between the principal amount of the surrendered Global Security and the aggregate principal amount of individual Securities delivered to holders thereof.

(iv) In any exchange provided for in clauses (i) through (iii), the Company will execute and the Trustee will authenticate and deliver individual Securities in registered form in authorized denominations.

(v) Upon the exchange in full of a Global Security for individual Securities, such Global Security shall be canceled by the Trustee. Individual Registered Securities issued in exchange for a Global Security pursuant to this Section shall be registered in such names and in such authorized denominations as the Depositary for such Global Security, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee. The Trustee shall deliver such Registered Securities to the Persons in whose names such Registered Securities are so registered.

(d) All Securities issued upon any registration of transfer or exchange of Securities shall be valid obligations of the Company evidencing the same debt, and entitled to the same

benefits under this Indenture, as the Securities surrendered for such registration of transfer or exchange.

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

(f) No service charge will be made for any registration of transfer or exchange of Securities. The Company may require payment of a sum sufficient to cover any tax, assessment or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Securities, other than those expressly provided in this Indenture to be made at the Company's own expense or without expense or charge to the holders.

(g) The Company shall not be required to (i) register, transfer or exchange Securities of any series during a period beginning at the opening of business 15 days before the day of the transmission of a notice of redemption of Securities of such series selected for redemption under Section 4.03 and ending at the close of business on the day of such transmission, or (ii) register, transfer or exchange any Security so selected for redemption in whole or in part, except the unredeemed portion of any Security being redeemed in part.

(h) Prior to the due presentation for registration of transfer or exchange of any Security, the Company, the Trustee, the Paying Agent, the Registrar or any co-Registrar may deem and treat the Person in whose name a Security is registered as the absolute owner of such Security (whether or not such Security shall be overdue and notwithstanding any notation of ownership or other writing thereon) for all purposes whatsoever, and none of the Company, the Trustee, the Paying Agent, the Registrar or any co-Registrar shall be affected by any notice to the contrary.

(i) In case a successor Company ("**Successor Company**") has executed an indenture supplemental hereto with the Trustee pursuant to Article XIV, any of the Securities authenticated or delivered pursuant to such transaction may, from time to time, at the request of the Successor Company, be exchanged for other Securities executed in the name of the Successor Company with such changes in phraseology and form as may be appropriate, but otherwise identical to the Securities surrendered for such exchange and of like principal amount; and the Trustee, upon Company Order of the Successor Company, shall authenticate and deliver Securities as specified in such order for the purpose of such exchange. If Securities shall at any time be authenticated and delivered in any new name of a Successor Company pursuant to this Section 3.06 in exchange or substitution for or upon registration of transfer of any Securities, such Successor Company, at the option of the holders but without expense to them, shall provide for the exchange of all Securities at the time Outstanding for Securities authenticated and delivered in such new name.

(j) Each holder of a Security agrees to indemnify the Company and the Trustee against any liability that may result from the transfer, exchange or assignment of such holder's

Security in violation of any provision of this Indenture and/or applicable United States federal or state securities laws.

(k) 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 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.

(l) Neither the Trustee nor any agent of the Trustee shall have any responsibility for any actions taken or not taken by the Depositary.

Section 3.07 Mutilated, Destroyed, Lost and Stolen Securities.

(a) If (i) any mutilated Security is surrendered to the Trustee at its Corporate Trust Office or (ii) the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Security, and there is delivered to the Company and the Trustee security or indemnity satisfactory to them to save each of them and any Paying Agent harmless, and neither the Company nor the Trustee receives notice that such Security has been acquired by a protected purchaser, then the Company shall execute and upon Company Request the Trustee shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Security, a new Security of the same series and of like tenor, form, terms and principal amount, bearing a number not contemporaneously Outstanding, that neither gain nor loss in interest shall result from such exchange or substitution.

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

(c) 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 respect thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

(d) Every new Security of any series issued pursuant to this Section shall constitute an original additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Security shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Securities of that series duly issued hereunder.

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

Section 3.08 Payment of Interest; Interest Rights Preserved.



(a) Interest on any Registered Security that is payable and is punctually paid or duly provided for on any Interest Payment Date shall be paid to the Person in whose name such Registered Security (or one or more Predecessor Securities) is registered at the close of business on the Record Date for such interest notwithstanding the cancellation of such Registered Security upon any transfer or exchange subsequent to the Record Date. Payment of interest on Registered Securities shall be made at the Corporate Trust Office (except as otherwise specified pursuant to Section 3.01) or, at the option of the Company, by check mailed to the address of the Person entitled thereto as such address shall appear in the Register or, if provided pursuant to Section 3.01 and in accordance with arrangements satisfactory to the Trustee, at the option of the Registered Holder by wire transfer to an account designated by the Registered Holder.

(b) Any interest on any Security that is payable but is not punctually paid or duly provided for on any Interest Payment Date (herein called “**Defaulted Interest**”) shall, if such Security is a Registered Security, forthwith cease to be payable to the Registered Holder on the relevant Record Date by virtue of his, her or its having been such a Registered Holder, and such Defaulted Interest may be paid by the Company, at its election in each case, as provided in clause (i) or (ii) below:

(i) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names such Registered Securities (or their respective Predecessor Securities) are registered at the close of business on a special record date for the payment of such Defaulted Interest (a “**Special Record Date**”), which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each such Registered Security and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 calendar days and not less than 10 calendar days prior to the date of the proposed payment and not less than 10 calendar days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to the holders of such Registered Securities at their addresses as they appear in the Register, not less than 10 calendar days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Persons in whose names such Registered Securities (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following clause (ii).

(ii) The Company may make payment of any Defaulted Interest on Registered Securities in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Registered Securities may be listed, and upon such

notice as may be required by such exchange, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

(c) Subject to the provisions set forth herein relating to Record Dates, each Security delivered pursuant to any provision of this Indenture in exchange or substitution for, or upon registration of transfer of, any other Security shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security.

**Section 3.09 Cancellation.** Unless otherwise specified pursuant to Section 3.01 for Securities of any series, all Securities surrendered for payment, redemption, registration of transfer or exchange or credit against any sinking fund or otherwise shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee for cancellation and shall be promptly canceled by it and, if surrendered to the Trustee, shall be promptly canceled by it. The Company may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder that the Company may have acquired in any manner whatsoever, and all Securities so delivered shall be promptly canceled by the Trustee. No Securities shall be authenticated in lieu of or in exchange for any Securities canceled as provided in this Section, except as expressly permitted by this Indenture. The Trustee shall dispose of all canceled Securities held by it in accordance with its then customary procedures and deliver a certificate of such disposal to the Company. The acquisition of any Securities by the Company shall not operate as a redemption or satisfaction of the Indebtedness represented thereby unless and until such Securities are surrendered to the Trustee for cancellation.

**Section 3.10 Computation of Interest.** Except as otherwise specified pursuant to Section 3.01 for Securities of any series, interest on the Securities of each series shall be computed on the basis of a 360-day year of twelve 30-day months.

**Section 3.11 Currency of Payments in Respect of Securities.**

(a) Except as otherwise specified pursuant to Section 3.01 for Registered Securities of any series, payment of the principal of and premium, if any, and interest on Registered Securities of such series will be made in U.S. Dollars.

(b) For purposes of any provision of the Indenture where the holders of Outstanding Securities may perform an action that requires that a specified percentage of the Outstanding Securities of all series perform such action and for purposes of any decision or determination by the Trustee of amounts due and unpaid for the principal of and premium, if any, and interest on the Securities of all series in respect of which moneys are to be disbursed ratably, the principal of and premium, if any, and interest on the Outstanding Securities denominated in a Foreign Currency will be the amount in U.S. Dollars based upon exchange rates, determined as specified pursuant to Section 3.01 for Securities of such series, as of the date for determining whether the

holders entitled to perform such action have performed it or as of the date of such decision or determination by the Trustee, as the case may be.

(c) Any decision or determination to be made regarding exchange rates shall be made by an agent appointed by the Company; *provided*, that such agent shall accept such appointment in writing and the terms of such appointment shall, in the opinion of the Company at the time of such appointment, require such agent to make such determination by a method consistent with the method provided pursuant to Section 3.01 for the making of such decision or determination. All decisions and determinations of such agent regarding exchange rates shall be in its sole discretion and shall, in the absence of manifest error, be conclusive for all purposes and irrevocably binding upon the Company, the Trustee and all holders of the Securities.

Section 3.12 Judgments. The Company may provide pursuant to Section 3.01 for Securities of any series that (a) the obligation, if any, of the Company to pay the principal of, premium, if any, and interest on the Securities of any series in a Foreign Currency or U.S. Dollars (the “**Designated Currency**”) as may be specified pursuant to Section 3.01 is of the essence and agrees that, to the fullest extent possible under applicable law, judgments in respect of such Securities shall be given in the Designated Currency; (b) the obligation of the Company to make payments in the Designated Currency of the principal of and premium, if any, and interest on such Securities shall, notwithstanding any payment in any other Currency (whether pursuant to a judgment or otherwise), be discharged only to the extent of the amount in the Designated Currency that the holder receiving such payment may, in accordance with normal banking procedures, purchase with the sum paid in such other Currency (after any premium and cost of exchange) on the business day in the country of issue of the Designated Currency or in the international banking community (in the case of a composite currency) immediately following the day on which such holder receives such payment; (c) if the amount in the Designated Currency that may be so purchased for any reason falls short of the amount originally due, the Company shall pay such additional amounts as may be necessary to compensate for such shortfall; and (d) any obligation of the Company not discharged by such payment shall be due as a separate and independent obligation and, until discharged as provided herein, shall continue in full force and effect.

Section 3.13 CUSIP Numbers. The Company in issuing any Securities may use CUSIP numbers, if then generally in use, and thereafter with respect to such series, the Trustee may use such numbers in any notice of redemption or exchange with respect to such series provided that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee in writing of any change in the CUSIP numbers.

#### ARTICLE IV REDEMPTION OF SECURITIES

Section 4.01 Applicability of Right of Redemption. Redemption of Securities (other than pursuant to a sinking fund or analogous provision) permitted by the terms of any series of Securities shall be made in accordance with such terms (except as otherwise specified pursuant to Section 3.01 for Securities of any series) in accordance with this Article; *provided, however*, that if any such terms of a series of Securities shall conflict with any provision of this Article, the terms of such series shall govern.

Section 4.02 Selection of Securities to be Redeemed.

(a) If the Company shall at any time elect to redeem all or any portion of the Securities of a series then Outstanding, it shall at least 45 days prior to the Redemption Date fixed by the Company (unless a shorter period shall be consented to by the Trustee) notify the Trustee of such Redemption Date and of the principal amount of Securities to be redeemed, and thereupon the Trustee shall select, in such manner as the Trustee shall deem appropriate and fair, the Securities (or portions thereof) of such series to be redeemed. Unless otherwise provided in the Officer's Certificate or supplemental indenture provided for in Section 3.01, no Security of a denomination of \$1,000 shall be redeemed in part and Securities may be redeemed in part only in integral multiples of \$1,000. In any case where more than one Registered Security of such series is registered in the same name, the Trustee in its discretion may treat the aggregate principal amount so registered as if it were represented by one Registered Security of such series. The Trustee shall, as soon as practicable, notify the Company in writing of the Securities and portions of Securities so selected.

(b) 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 Security redeemed or to be redeemed only in part, to the portion of the principal amount of such Security that has been or is to be redeemed.

Section 4.03 Notice of Redemption.

(a) The election of the Company to redeem any Securities of any series shall be evidenced by a Board Resolution. Notice of redemption shall be given by the Company or, at the Company's request, by the Trustee in the name and at the expense of the Company, not less than 30 nor more than 60 days prior to the Redemption Date, to the holders of Securities of any series to be redeemed in whole or in part pursuant to this Article, in the manner provided in Section 16.05. Any notice so given shall be conclusively presumed to have been duly given, whether or not the holder receives such notice. Failure to give such notice, or any defect in such notice to the holder of any Security of a series designated for redemption, in whole or in part, shall not affect the sufficiency of any notice of redemption with respect to the holder of any other Security of such series.

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

(i) such election by the Company to redeem Securities of such series pursuant to provisions contained in this Indenture or the terms of the Securities of such series or a supplemental indenture establishing such series, if such be the case;

(ii) the Redemption Date;

(iii) the Redemption Price;

(iv) if less than all Outstanding Securities of any series are to be redeemed, the identification (and, in the case of partial redemption, the principal amounts) of the particular Securities to be redeemed;

(v) that on the Redemption Date the Redemption Price will become due and payable upon each such Security to be redeemed, and that interest thereon, if any, shall cease to accrue on and after said date, subject to the satisfaction of any condition to such redemption;

(vi) the Place or Places of Payment where such Securities are to be surrendered for payment of the Redemption Price, and that the Securities designated in such notice for redemption are required to be presented on or after such Redemption Date at the designated Place of Payment;

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

(viii) if any Security of any series is to be redeemed in part, that on and after the Redemption Date, upon surrender of such Security, such Security will be canceled and a new Security or Securities of such series in aggregate principal amount equal to the unredeemed portion thereof will be issued and delivered without charge to the holder or, in the case of Securities providing appropriate space for such notation, at the option of the holders, the Trustee, in lieu of delivering a new Security or Securities as aforesaid, may make a notation on such Security of the payment of the redeemed portion thereof.

(c) A notice of redemption may be conditional in that the Company may, notwithstanding the giving of the notice of redemption, condition the redemption of the Notes specified in the notice of redemption upon the completion of other transactions, such as refinancings or acquisitions (whether of the Company or by the Company).

Section 4.04 Deposit of Redemption Price. On or prior to 10:00 a.m., New York City time, on the Redemption Date for any Registered Securities, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 6.03) an amount of money in the Currency in which such Securities are denominated (except as provided pursuant to Section 3.01) sufficient to pay the Redemption Price of such Securities or any portions thereof that are to be redeemed on that date.

Section 4.05 Securities Payable on Redemption Date.

Notice of redemption having been given as aforesaid, any Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price and from and after such date (unless the Company shall Default in the payment of the Redemption Price) such Securities shall cease to bear interest, in each case subject to the satisfaction of any conditions to such redemption. Upon surrender of any such Security for redemption in accordance with said notice, such Security shall be paid by the Company at the Redemption Price; *provided, however*, that installments of interest that have a Stated Maturity on or prior to the Redemption Date for such Securities shall be payable according to the terms of such Securities and the provisions of Section 3.08.

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

Section 4.06 Securities Redeemed in Part. Any Security that is to be redeemed only in part shall be surrendered at the Corporate Trust Office or such other office or agency of the Company as is specified pursuant to Section 3.01 with, if the Company, the Registrar or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company, the Registrar and the Trustee duly executed by the holder thereof or his, her or its 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 the same series, of like tenor and form, of any authorized denomination as requested by such holder in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Security so surrendered; except that if a Global Security is so surrendered, the Company shall execute, and the Trustee shall authenticate and deliver to the Depositary for such Global Security, without service charge, a new Global Security in a denomination equal to and in exchange for the unredeemed portion of the principal of the Global Security so surrendered. In the case of a Security providing appropriate space for such notation, at the option of the holder thereof, the Trustee, in lieu of delivering a new Security or Securities as aforesaid, may make a notation on such Security of the payment of the redeemed portion thereof.

**ARTICLE V**  
**SINKING FUNDS**

Section 5.01 Applicability of Sinking Fund.

(a) Redemption of Securities permitted or required pursuant to a sinking fund for the retirement of Securities of a series by the terms of such series of Securities shall be made in accordance with such terms of such series of Securities and this Article, except as otherwise specified pursuant to Section 3.01 for Securities of such series, *provided, however*, that if any such terms of a series of Securities shall conflict with any provision of this Article, the terms of such series shall govern.

(b) The minimum amount of any sinking fund payment provided for by the terms of Securities of any series is herein referred to as a “**Mandatory Sinking Fund Payment**,” and any payment in excess of such minimum amount provided for by the terms of Securities of any series is herein referred to as an “**Optional Sinking Fund Payment**.” If provided for by the terms of Securities of any series, the cash amount of any Mandatory Sinking Fund Payment may be subject to reduction as provided in Section 5.02.

Section 5.02 Mandatory Sinking Fund Obligation. The Company may, at its option, satisfy any Mandatory Sinking Fund Payment obligation, in whole or in part, with respect to a particular series of Securities by (1) delivering to the Trustee Securities of such series in transferable form theretofore purchased or otherwise acquired by the Company or redeemed at the election of the Company pursuant to Section 4.03 or (2) receiving credit for Securities of such series (not previously so credited) acquired by the Company and theretofore delivered to the Trustee. The Trustee shall credit such Mandatory Sinking Fund Payment obligation with an amount equal to the Redemption Price specified in such Securities for redemption through operation of the sinking fund and the amount of such Mandatory Sinking Fund Payment shall be reduced accordingly. If the Company shall elect to so satisfy any Mandatory Sinking Fund Payment obligation, it shall deliver to the Trustee not less than 45 days prior to the relevant sinking fund payment date a written notice signed on behalf of the Company by its Chairman of the Board of Directors, its President, one of its Vice Presidents, its Treasurer or one of its Assistant Treasurers, which shall designate the Securities (and portions thereof, if any) so delivered or credited and which shall be accompanied by such Securities (to the extent not theretofore delivered) in transferable form. In case of the failure of the Company, at or before the time so required, to give such notice and deliver such Securities the Mandatory Sinking Fund Payment obligation shall be paid entirely in moneys.

Section 5.03 Optional Redemption at Sinking Fund Redemption Price. In addition to the sinking fund requirements of Section 5.02, to the extent, if any, provided for by the terms of a particular series of Securities, the Company may, at its option, make an Optional Sinking Fund Payment with respect to such Securities. Unless otherwise provided by such terms, (a) to the extent that the right of the Company to make such Optional Sinking Fund Payment shall not be exercised in any year, it shall not be cumulative or carried

forward to any subsequent year, and (b) such optional payment shall operate to reduce the amount of any Mandatory Sinking Fund Payment obligation as to Securities of the same series. If the Company intends to exercise its right to make such optional payment in any year it shall deliver to the Trustee not less than 45 days prior to the relevant sinking fund payment date a certificate signed by its Chairman of the Board of Directors, its President, one of its Vice Presidents, its Treasurer or one of its Assistant Treasurers stating that the Company will exercise such optional right, and specifying the amount which the Company will pay on or before the next succeeding sinking fund payment date. Such certificate shall also state that no Event of Default has occurred and is continuing.

Section 5.04 Application of Sinking Fund Payment.

(a) If the sinking fund payment or payments made in funds pursuant to either Section 5.02 or 5.03 with respect to a particular series of Securities plus any unused balance of any preceding sinking fund payments made in funds with respect to such series shall exceed \$50,000 (or a lesser sum if the Company shall so request, or such equivalent sum for Securities denominated other than in U.S. Dollars), it shall be applied by the Trustee on the sinking fund payment date next following the date of such payment, unless the date of such payment shall be a sinking fund payment date, in which case such payment shall be applied on such sinking fund payment date, to the redemption of Securities of such series at the Redemption Price specified pursuant to Section 4.03(b). The Trustee shall select, in the manner provided in Section 4.02, for redemption on such sinking fund payment date, a sufficient principal amount of Securities of such series to absorb said funds, as nearly as may be, and shall, at the expense and in the name of the Company, thereupon cause notice of redemption of the Securities to be given in substantially the manner provided in Section 4.03(a) for the redemption of Securities in part at the option of the Company, except that the notice of redemption shall also state that the Securities are being redeemed for the sinking fund. Any sinking fund moneys not so applied by the Trustee to the redemption of Securities of such series shall be added to the next sinking fund payment received in funds by the Trustee and, together with such payment, shall be applied in accordance with the provisions of this Section 5.04. Any and all sinking fund moneys held by the Trustee on the last sinking fund payment date with respect to Securities of such series, and not held for the payment or redemption of particular Securities of such series, shall be applied by the Trustee to the payment of the principal of the Securities of such series at maturity.

(b) On or prior to each sinking fund payment date, the Company shall pay to the Trustee a sum equal to all interest accrued to the date fixed for redemption on Securities to be redeemed on such sinking fund payment date pursuant to this Section 5.04.

(c) The Trustee shall not redeem any Securities of a series with sinking fund moneys or mail any notice of redemption of Securities of such series by operation of the sinking fund during the continuance of a Default in payment of interest on any Securities of such series or of any Event of Default (other than an Event of Default occurring as a consequence of this paragraph) of which the Trustee has actual knowledge, except that if the notice of redemption of any Securities of such series shall theretofore have been mailed in accordance with the provisions hereof, the Trustee shall redeem such Securities if funds sufficient for that purpose



shall be deposited with the Trustee in accordance with the terms of this Article. Except as aforesaid, any moneys in the sinking fund at the time any such Default or Event of Default shall occur and any moneys thereafter paid into the sinking fund shall, during the continuance of such Default or Event of Default, be held as security for the payment of all the Securities of such series; *provided, however*, that in case such Default or Event of Default shall have been cured or waived as provided herein, such moneys shall thereafter be applied on the next sinking fund payment date on which such moneys are required to be applied pursuant to the provisions of this Section 5.04.

**ARTICLE VI**  
**PARTICULAR COVENANTS OF THE COMPANY**

The Company hereby covenants and agrees as follows:

Section 6.01 Payments of Securities. The Company will duly and punctually pay the principal of and premium, if any, on each series of Securities, and the interest which shall have accrued thereon, at the dates and place and in the manner provided in the Securities and in this Indenture.

Section 6.02 Paying Agent.

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

(b) The Company may also from time to time designate different or additional offices or agencies where the Securities of any series may be presented or surrendered for any or all such purposes (in or outside of such Place of Payment), and may from time to time rescind any such designations; *provided, however*, that no such designation or rescission shall in any manner relieve the Company of its obligations described in the preceding paragraph. The Company will give prompt written notice to the Trustee of any such additional designation or rescission of designation and of any change in the location of any such different or additional office or agency. The Company shall enter into an appropriate agency agreement with any Paying Agent not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such agent. The Company shall notify the Trustee of the name and address of each such agent. The Company or any Affiliate thereof may act as Paying Agent.

Section 6.03 To Hold Payment in Trust.

(a) If the Company or an Affiliate thereof shall at any time act as Paying Agent with respect to any series of Securities, then, on or before the date on which the principal of and premium, if any, or interest on any of the Securities of that series by their terms or as a result of the calling thereof for redemption shall become payable, the Company or such Affiliate will segregate and hold in trust for the benefit of the holders of such Securities or the Trustee a sum sufficient to pay such principal and premium, if any, or interest which shall have so become payable until such sums shall be paid to such holders or otherwise disposed of as herein provided, and will notify the Trustee of its action or failure to act in that regard. Upon any proceeding under any federal bankruptcy laws with respect to the Company or any Affiliate thereof, if the Company or such Affiliate is then acting as Paying Agent, the Trustee shall replace the Company or such Affiliate as Paying Agent.

(b) If the Company shall appoint, and at the time have, a Paying Agent for the payment of the principal of and premium, if any, or interest on any series of Securities, then prior to 10:00 a.m., New York City time, on the date on which the principal and premium of, if any, or interest on, any of the Securities of that series shall become payable as aforesaid, whether by their terms or as a result of the calling thereof for redemption, the Company will deposit with such Paying Agent a sum sufficient to pay such principal and premium, if any, or interest, such sum to be held in trust for the benefit of the holders of such Securities or the Trustee, and (unless such Paying Agent is the Trustee), the Company or any other obligor of such Securities will promptly notify the Trustee of its payment or failure to make such payment.

(c) If the Paying Agent shall be other than the Trustee, the Company will cause such Paying Agent 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 6.03, that such Paying Agent shall:

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

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

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

(d) Anything in this Section 6.03 to the contrary notwithstanding, the Company may at any time, for the purpose of obtaining a release, satisfaction or discharge of this Indenture or for any other reason, pay or cause to be paid to the Trustee all sums held in trust by the Company or by any Paying Agent other than the Trustee as required by this Section 6.03, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent.

(e) Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of and premium, if any, or interest on any Security of any series and remaining unclaimed for two years after such principal and premium, if any, or interest has become due and payable shall be paid to the Company upon Company Request along with any interest that has accumulated thereon as a result of such money being invested at the direction of the Company, or (if then held by the Company) shall be discharged from such trust, and the holder of such Security shall thereafter, as an unsecured general creditor, look only to the Company for payment of such amounts without interest thereon, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; *provided, however*, that the Trustee or such Paying Agent before being required to make any such repayment, may at the expense of the Company cause to be transmitted in the manner and to the extent provided by Section 16.06, notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such mailing, any unclaimed balance of such money then remaining will be repaid to the Company.

Section 6.04 Merger, Consolidation and Sale of Assets.

(a) The Company shall not consolidate with or merge with or into any other Person or convey, transfer or lease all or substantially all of its properties and assets to any Person, unless:

(i) either the Company shall be the continuing entity or the entity (if other than the Company) formed by such consolidation or into which the Company is merged or the Person which acquires by conveyance, lease or transfer all or substantially all of the assets of the Company shall be a Person organized and existing under the laws of the United States of America, any State thereof or the District of Columbia, and shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, in form reasonably satisfactory to the Trustee, the Company's obligations under any Securities and the performance of every covenant and condition of this Indenture on the part of the Company to be performed or observed;

(ii) immediately after giving effect to such transaction, no Default has occurred and is continuing under this Indenture; and

(iii) the Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, merger, conveyance, transfer or lease and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture comply with this Section 6.04 and that all conditions precedent herein provided for relating to such transaction have been complied with.

(b) Upon any consolidation of the Company with, or merger of the Company into, any other Person or any conveyance, transfer or lease of all or substantially all of the properties and assets of the Company in accordance with Section 6.04(a), the successor Person formed by such consolidation or into which the Company is merged or to which such conveyance, transfer or lease 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, and thereafter, except in the case of a lease, the predecessor Person shall be relieved of all obligations and covenants under this Indenture and any Securities.

Section 6.05 Compliance Certificate. The Company shall furnish to the Trustee annually, within 120 days after the end of each fiscal year, a brief certificate from a principal executive officer, principal financial officer or principal accounting officer as to his or her knowledge of the Company's compliance with all conditions and covenants under this Indenture (which compliance shall be determined without regard to any period of grace or requirement of notice provided under this Indenture) and, in the event of any Default, specifying each such Default and the nature and status thereof of which such person may have knowledge. Such certificates need not comply with Section 16.01 of this Indenture.

Section 6.06 Conditional Waiver by Holders of Securities. Anything in this Indenture to the contrary notwithstanding, the Company may fail or omit in any particular instance to comply with a covenant or condition set forth herein with respect to any series of Securities if the Company shall have obtained and filed with the Trustee, prior to the time of such failure or omission, evidence (as provided in Article VIII) of the consent of the holders of a majority in aggregate principal amount of the Securities of such series at the time Outstanding, either waiving such compliance in such instance or generally waiving compliance with such covenant or condition, but no such waiver shall extend to or affect such covenant or condition except to the extent so expressly waived, or impair any right consequent thereon and, until such waiver shall have become effective, the obligations of the Company and the duties of the Trustee in respect of any such covenant or condition shall remain in full force and effect.

Section 6.07 Statement by Officers as to Default. The Company shall deliver to the Trustee as soon as possible and in any event within five days after the Company becomes aware of the occurrence of any Event of Default or an event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default, an Officer's Certificate setting forth the details of such Event of Default or Default and the action which the Company proposes to take with respect thereto.

## ARTICLE VII REMEDIES OF TRUSTEE AND SECURITYHOLDERS

Section 7.01 Events of Default. Except where otherwise indicated by the context or where the term is otherwise defined for a specific purpose, the term "**Event of Default**" as used in this Indenture with respect to Securities of any series shall mean one of the following described events unless it is either inapplicable to a particular series or it is specifically deleted or modified in the manner contemplated in Section 3.01:

- (a) default in any payment of interest on any Security when due and payable and the default continues for a period of 30 days;
- (b) default in the payment of principal of (and premium, if any, on) any Security of such series, when due and payable at Maturity, upon required repurchase, upon acceleration, by call for redemption (otherwise than pursuant to a sinking fund), upon acceleration or otherwise;
- (c) the failure of the Company to pay a sinking fund installment, if any, when and as the same shall become payable by the terms of a Security of such series, which failure shall have continued unremedied for a period of 30 days;
- (d) the failure of the Company for 90 days (or 120 days in the case of a breach of the covenants contained in Section 10.02 hereof) to comply with any of its other agreements contained in the Securities of such series or this Indenture (including any indenture supplemental hereto pursuant to which the Securities of such series were issued as contemplated by Section 3.01) (other than an agreement which has been expressly included in this Indenture solely for the benefit of a series of Securities other than that series and other than an agreement in whose performance or whose breach is elsewhere in this Section 7.01 specifically provided for) after written notice of such Default from the Trustee or holders of at least 25% in principal amount of the Securities of such series then Outstanding has been received by the Company;
- (e) the entry by a court having jurisdiction in the premises of (A) a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or (B) a decree or order adjudging the Company bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company under any applicable 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, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 90 consecutive days;
- (f) the commencement by the Company of a voluntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or of any other case or proceeding to be adjudicated bankrupt or insolvent, or the consent by either the Company to the entry of a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable 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 of a petition or answer or consent seeking reorganization or relief under any applicable federal or state law, or the consent by the Company to the filing of such petition or to the appointment of or 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 of an assignment for the benefit of creditors, or the admission by the Company in writing of its inability to pay its

debts generally as they become due, or the authorization of any such action by the Board of Directors of the Company; or

(g) the occurrence of any other Event of Default with respect to Securities of such series as provided in a supplemental indenture or Officer's Certificate, if any, applicable to such series of Securities.

Section 7.02 Acceleration; Rescission and Annulment.

(a) If any one or more of the above-described Events of Default shall happen with respect to Securities of any series at the time Outstanding, then, and in each and every such case, during the continuance of any such Event of Default, the Trustee or the holders of 25% or more in principal amount of the Securities of such series then Outstanding may (and upon the written request of the holders of a majority in principal amount of such Securities then Outstanding, the Trustee shall) declare the principal (or, if the Securities of that series are Original Issue Discount Securities, such portion of the principal amount as may be specified in the terms of that series) of and all accrued but unpaid interest on all the Securities of such series then Outstanding, if not then due and payable, to be due and payable, and upon any such declaration the same shall become and be immediately due and payable, anything in this Indenture or in the Securities of such series contained to the contrary notwithstanding; provided that no Event of Default with respect to Securities of a series, except with respect to an Event of Default under subsections (e) and (f) of Section 7.01 and except to the extent otherwise provided in subsection (d) of Section 7.01, shall constitute an Event of Default with respect to Securities of any other series. Upon payment of such amounts in the Currency in which such Securities are denominated (except as otherwise provided pursuant to Section 3.01), all obligations of the Company in respect of the payment of principal of and interest on the Securities of such series shall terminate.

(b) This provision, however, is subject to the condition that, if at any time after the principal of all the Securities of such series, to which any one or more of the above-described Events of Default is applicable, shall have been so declared to be due and payable, and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter in this Article provided,

(i) the Company has paid or deposited with the Paying Agent a sum in the Currency in which such Securities are denominated (except as otherwise provided pursuant to Section 3.01) sufficient to pay

(A) all amounts owing the Trustee and any predecessor trustee hereunder under Section 11.01(a) (*provided, however*, that all sums payable under this clause (A) shall be paid in U.S. Dollars);

(B) all arrears of interest, if any, upon all the Securities of such series (with interest, to the extent that interest thereon shall be legally enforceable, on any overdue installment of interest at the rate borne by the Securities);

(C) the principal of and premium, if any, on any Securities of such series that have become due otherwise than by such declaration of acceleration and interest thereon; and

(D) all other sums payable under this Indenture (except the principal of the Securities of such series which would not be due and payable were it not for such declaration); and

(ii) every other Default and Event of Default under this Indenture shall have been resolved so that the conditions that caused such Default or Event of Default are no longer outstanding or have otherwise been remedied to the reasonable satisfaction of the Trustee or of the holders of a majority in principal amount of the Securities of such series then Outstanding, or provision deemed by the Trustee or by such holders to be adequate therefor shall have been made, then and in every such case the holders of a majority in principal amount of the Securities of such series then Outstanding may, by written notice to the Company and the Trustee, on behalf of the holders of all the Securities of such series, waive the Event of Default by reason of which the principal of the Securities of such series shall have been so declared to be due and payable and may rescind and annul such declaration and its consequences; *provided, however*, that no such waiver, rescission or annulment shall extend to or affect any subsequent Default or Event of Default or impair any right consequent thereon.

(c) Any declaration by the Trustee pursuant to this Section 7.02 shall be by written notice to the Company, and any declaration or waiver by the holders of Securities of any series pursuant to this Section 7.02 shall be by written notice to the Company and the Trustee.

(d) For all purposes under this Indenture, if a portion of the principal of any Original Issue Discount Securities shall have been accelerated and declared due and payable pursuant to the provisions hereof, then, from and after such declaration, unless such declaration has been rescinded and annulled, the principal amount of such Original Issue Discount Securities shall be deemed, for all purposes hereunder, to be such portion of the principal thereof as shall be due and payable as a result of such acceleration, and payment of such portion of the principal thereof as shall be due and payable as a result of such acceleration, together with interest, if any, thereon and all other amounts owing thereunder, shall constitute payment in full of such Original Issue Discount Securities.

(e) The Company and the Trustee may, to the extent provided in Section 14.01, enter into one or more indentures supplemental hereto with respect to any series of the Securities which may provide for additional or different Events of Default with respect to such series of Securities.

Section 7.03 Other Remedies. If the Company shall fail for a period of 30 days to pay any installment of interest on the Securities of any series or shall fail to pay the principal of and premium, if any, on any of the Securities of such series when and as the same shall become due and payable, whether at Maturity, or by call for redemption (other than pursuant to the sinking fund), by declaration as

authorized by this Indenture, or otherwise, or shall fail for a period of 30 days to make any sinking fund payment as to a series of Securities, then, upon demand of the Trustee, the Company will pay to the Paying Agent for the benefit of the holders of Securities of such series then Outstanding the whole amount which then shall have become due and payable on all the Securities of such series, with interest on the overdue principal and premium, if any, and (so far as the same may be legally enforceable) on the overdue installments of interest at the rate borne by the Securities of such series, and all amounts owing the Trustee and any predecessor trustee hereunder under Section 11.01(a).

In case the Company shall fail forthwith to pay such amounts upon such demand, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any action or proceeding at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such action or proceeding to judgment or final decree, and may enforce any such judgment or final decree against the Company or any other obligor upon the Securities of such series, and collect the moneys adjudged or decreed to be payable out of the property of the Company or any other obligor upon the Securities of such series, wherever situated, in the manner provided by law. Every recovery of judgment in any such action or other proceeding, subject to the payment to the Trustee of all amounts owing the Trustee and any predecessor trustee hereunder under Section 11.01(a), shall be for the ratable benefit of the holders of such series of Securities which shall be the subject of such action or proceeding. All rights of action upon or under any of the Securities or this Indenture may be enforced by the Trustee without the possession of any of the Securities and without the production of any thereof at any trial or any proceeding relative thereto.

Section 7.04 Trustee as Attorney-in-Fact. The Trustee is hereby appointed, and each and every holder of the Securities, by receiving and holding the same, shall be conclusively deemed to have appointed the Trustee, the true and lawful attorney-in-fact of such holder, with authority to make or file (whether or not the Company shall be in Default in respect of the payment of the principal of, or interest on, any of the Securities), in its own name and as trustee of an express trust or otherwise as it shall deem advisable, in any receivership, insolvency, liquidation, bankruptcy, reorganization or other judicial proceeding relative to the Company or any other obligor upon the Securities or to their respective creditors or property, any and all claims, proofs of claim, proofs of debt, petitions, consents, other papers and documents and amendments of any thereof, as may be necessary or advisable in order to have the claims of the Trustee and any predecessor trustee hereunder and of the holders of the Securities allowed in any such proceeding and to collect and receive any moneys or other property payable or deliverable on any such claim, and to execute and deliver any and all other papers and documents and to do and perform any and all other acts and things, as it may deem necessary or advisable in order to enforce in any such proceeding any of the claims of the Trustee and any predecessor trustee hereunder and of any of such holders in respect of any of the Securities; and any receiver, assignee, trustee, custodian or debtor in any such proceeding is hereby authorized, and each and every taker or holder of the Securities, by receiving and holding the same, shall be conclusively deemed to have authorized any such receiver, assignee, trustee, custodian or debtor, to make any such payment or delivery only to or on the order of the Trustee, and to pay to the Trustee any amount due it and any predecessor trustee hereunder under Section 11.01(a); *provided, however*, that nothing herein contained shall



be deemed to authorize or empower the Trustee to consent to or accept or adopt, on behalf of any holder of Securities, any plan of reorganization or readjustment affecting the Securities or the rights of any holder thereof, or to authorize or empower the Trustee to vote in respect of the claim of any holder of any Securities in any such proceeding.

Section 7.05 Priorities. Any moneys or properties collected by the Trustee with respect to a series of Securities under this Article VII shall be applied in the order following, at the date or dates fixed by the Trustee for the distribution of such moneys or properties and, in the case of the distribution of such moneys or properties on account of the Securities of any series, upon presentation of the Securities of such series, and stamping thereon the payment, if only partially paid, and upon surrender thereof, if fully paid:

First: To the payment of all amounts due to the Trustee and any predecessor trustee hereunder under Section 11.01(a).

Second: In case the principal of the Outstanding Securities of such series shall not have become due and be unpaid, to the payment of interest on the Securities of such series, in the chronological order of the Maturity of the installments of such interest, with interest (to the extent that such interest has been collected by the Trustee) upon the overdue installments of interest at the rate borne by such Securities, such payments to be made ratably to the Persons entitled thereto.

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

Any surplus then remaining shall be paid to the Company or as directed by a court of competent jurisdiction.

Section 7.06 Control by Securityholders; Waiver of Past Defaults. The holders of a majority in principal amount of the Securities of any series at the time Outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee hereunder, or of exercising any trust or power hereby conferred upon the Trustee with respect to the Securities of such series, *provided, however*, that, subject to the provisions of Sections 11.01 and 11.02, the Trustee shall have the right to decline to follow any such direction if the Trustee being advised by counsel determines that the action so directed may

not lawfully be taken or would be unduly prejudicial to holders not joining in such direction or would involve the Trustee in personal liability. Prior to any declaration accelerating the Maturity of the Securities of any series, the holders of a majority in aggregate principal amount of such series of Securities at the time Outstanding may on behalf of the holders of all of the Securities of such series waive any past Default or Event of Default hereunder and its consequences except a Default in the payment of interest or any premium on or the principal of the Securities of such series. Upon any such waiver the Company, the Trustee and the holders of the Securities of such series shall be restored to their former positions and rights hereunder, respectively; but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. Whenever any Default or Event of Default hereunder shall have been waived as permitted by this Section 7.06, said Default or Event of Default shall for all purposes of the Securities of such series and this Indenture be deemed to have been cured and to be not continuing.

Section 7.07 Limitation on Suits. No holder of any Security of any series shall have any right to institute any action, suit or proceeding at law or in equity for the execution of any trust hereunder or for the appointment of a receiver or for any other remedy hereunder, in each case with respect to an Event of Default with respect to such series of Securities, unless such holder previously shall have given to the Trustee written notice of the happening of one or more of the Events of Default herein specified with respect to such series of Securities, and unless also the holders of 25% in principal amount of the Securities of such series then Outstanding shall have requested the Trustee in writing to take action in respect of the matter complained of, and unless also there shall have been offered to the Trustee security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee, for 60 days after receipt of such notification, request and offer of indemnity, shall have neglected or refused to institute any such action, suit or proceeding; and such notification, request and offer of indemnity are hereby declared in every such case to be conditions precedent to any such action, suit or proceeding by any holder of any Security of such series; it being understood and intended that no one or more of the holders of Securities of such series shall have any right in any manner whatsoever by his, her, its or their action to enforce any right hereunder, except in the manner herein provided, and that every action, suit or proceeding at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all holders of the Outstanding Securities of such series; *provided, however*, that nothing in this Indenture or in the Securities of such series shall affect or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of, premium, if any, and interest on the Securities of such series to the respective holders of such Securities at the respective due dates in such Securities stated, or affect or impair the right, which is also absolute and unconditional, of such holders to institute suit to enforce the payment thereof.

Section 7.08 Undertaking for Costs. All parties to this Indenture 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 action, suit or proceeding for the enforcement of any right or remedy under this Indenture, or in any action, suit or proceeding against the Trustee for any action taken or omitted by it as

Trustee, the filing by any party litigant in such action, suit or proceeding of an undertaking to pay the costs of such action, suit or proceeding, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such action, suit or proceeding, having due regard to the merits and good faith of the claims or defenses made by such party litigant; *provided, however*, that the provisions of this Section 7.08 shall not apply to any action, suit or proceeding instituted by the Trustee, to any action, suit or proceeding instituted by any one or more holders of Securities holding in the aggregate more than 10% in principal amount of the Securities of any series Outstanding, or to any action, suit or proceeding instituted by any holder of Securities of any series for the enforcement of the payment of the principal of or premium, if any, or the interest on, any of the Securities of such series, on or after the respective due dates expressed in such Securities.

Section 7.09 Remedies Cumulative. No remedy herein conferred upon or reserved to the Trustee or to the holders of Securities of any series is intended to be exclusive of any other remedy or remedies, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission of the Trustee or of any holder of the Securities of any series to exercise any right or power accruing upon any Default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Default or Event of Default or an acquiescence therein; and every power and remedy given by this Article VII to the Trustee and to the holders of Securities of any series, respectively, may be exercised from time to time and as often as may be deemed expedient by the Trustee or by the holders of Securities of such series, as the case may be. In case the Trustee or any holder of Securities of any series shall have proceeded to enforce any right under this Indenture and the proceedings for the enforcement thereof shall have been discontinued or abandoned because of waiver or for any other reason or shall have been adjudicated adversely to the Trustee or to such holder of Securities, then and in every such case the Company, the Trustee and the holders of the Securities of such series shall severally and respectively be restored to their former positions and rights hereunder, and thereafter all rights, remedies and powers of the Trustee and the holders of the Securities of such series shall continue as though no such proceedings had been taken, except as to any matters so waived or adjudicated.

## **ARTICLE VIII CONCERNING THE SECURITYHOLDERS**

Section 8.01 Evidence of Action of Securityholders. Whenever in this Indenture it is provided that the holders of a specified percentage or a majority in aggregate principal amount of the Securities or of any series of Securities may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action the holders of such specified percentage or majority have joined therein may be evidenced by (a) any instrument or any number of instruments of similar tenor executed by Securityholders in person or by agent or proxy appointed in writing (such action becoming effective, except as herein otherwise expressly provided, when such instrument or instruments are delivered to the Trustee

and, where it is hereby expressly required, to the Company), or (b) by the record of the holders of Securities voting in favor thereof at any meeting of Securityholders duly called and held in accordance with the provisions of Article VII, or (c) by a combination of such instrument or instruments and any such record of such a meeting of Securityholders.

Section 8.02 Proof of Execution or Holding of Securities. Proof of the execution of any instrument by a Securityholder or his, her or its agent or proxy and proof of the holding by any Person of any of the Securities shall be sufficient if made in the following manner:

(a) The fact and date of the execution by any Person of any such instrument may be proved (i) by the certificate of any notary public or other officer in any jurisdiction who, by the laws thereof, has power to take acknowledgments or proof of deeds to be recorded within such jurisdiction, that the Person who signed such instrument did acknowledge before such notary public or other officer the execution thereof, or (ii) by the affidavit of a witness of such execution sworn to before any such notary or other officer. Where such execution is by a Person acting in other than his or her individual capacity, such certificate or affidavit shall also constitute sufficient proof of his or her authority.

(b) The ownership of Registered Securities of any series shall be proved by the Register of such Securities or by a certificate of the Registrar for such series.

(c) The record of any holders' meeting shall be proved in the manner provided in Section 9.06.

(d) The Trustee may require such additional proof of any matter referred to in this Section 8.02 as it shall deem appropriate or necessary, so long as the request is a reasonable one.

(e) If the Company shall solicit from the holders of Securities of any series any action, the Company may, at its option, by Board Resolution, fix in advance a record date for the determination of holders of Registered Securities entitled to take such action, but the Company shall have no obligation to do so. Any such record date shall be fixed at the Company's discretion. If such a record date is fixed, such action may be sought or given before or after the record date, but only the holders of Registered Securities of record at the close of business on such record date shall be deemed to be holders of Registered Securities for the purpose of determining whether holders of the requisite proportion of Outstanding Securities of such series have authorized or agreed or consented to such action, and for that purpose the Outstanding Registered Securities of such series shall be computed as of such record date.

Section 8.03 Persons Deemed Owners.

(a) The Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name any Registered Security is registered as the owner of such Registered Security for the purpose of receiving payment of principal of and premium, if any, and (subject to Section 3.08) interest, if any, on, such Registered Security and for all other purposes whatsoever, whether or not such Registered 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. All payments made to any holder, or upon his, her or its order, shall be valid, and, to the extent of the sum or sums paid, effectual to satisfy and discharge the liability for moneys payable upon such Security.

(b) None of the Company, the Trustee, any Paying Agent or the Registrar will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests in a Global Security or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

Section 8.04 Revocation of Consents. At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 8.01, of the taking of any action by the holders of the percentage in aggregate principal amount of the Securities or of any series of Securities specified in this Indenture in connection with such action, any holder of a Security which is shown by the evidence to be included in the Securities the holders of which have consented to such action may, by filing written notice with the Trustee at its principal office and upon proof of holding as provided in Section 8.02, revoke such action so far as concerns such Security. Except as aforesaid, any such action taken by the holder of any Security shall be conclusive and binding upon such holder and upon all future holders of such Security, and of any Securities issued on transfer or in lieu thereof or in exchange or substitution therefor, irrespective of whether or not any notation in regard thereto is made upon such Security or such other Securities or any Security issued in exchange or substitution therefor.

## **ARTICLE IX SECURITYHOLDERS' MEETINGS**

Section 9.01 Purposes of Meetings. A meeting of Securityholders of any or all series may be called at any time and from time to time pursuant to the provisions of this Article IX for any of the following purposes:

- (a) to give any notice to the Company or to the Trustee, or to give any directions to the Trustee, or to consent to the waiving of any Default hereunder and its consequences, or to take any other action authorized to be taken by Securityholders pursuant to any of the provisions of Article VIII;
- (b) to remove the Trustee and nominate a successor trustee pursuant to the provisions of Article XI;
- (c) to consent to the execution of an Indenture or of indentures supplemental hereto pursuant to the provisions of Section 14.02; or

(d) to take any other action authorized to be taken by or on behalf of the holders of any specified aggregate principal amount of the Securities of any one or more or all series, as the case may be, under any other provision of this Indenture or under applicable law.

Section 9.02 Call of Meetings by Trustee. The Trustee may at any time call a meeting of all Securityholders of all series that may be affected by the action proposed to be taken, to take any action specified in Section 9.01, to be held at such time and at such place as the Trustee shall determine. Notice of every meeting of the Securityholders of a series, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting, shall be mailed to holders of Securities of such series at their addresses as they shall appear on the Register of the Company. Such notice shall be mailed not less than 20 nor more than 90 days prior to the date fixed for the meeting.

Section 9.03 Call of Meetings by Company or Securityholders. In case at any time the Company, pursuant to a resolution of its Board of Directors, or the holders of at least 10% in aggregate principal amount of the Securities of a series (or of all series, as the case may be) then Outstanding that may be affected by the action proposed to be taken, shall have requested the Trustee to call a meeting of Securityholders of such series (or of all series), by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have mailed the notice of such meeting within 20 days after receipt of such request, then the Company or such Securityholders may determine the time and the place for such meeting and may call such meeting to take any action authorized in Section 9.01, by mailing notice thereof as provided in Section 9.02.

Section 9.04 Qualifications for Voting. To be entitled to vote at any meeting of Securityholders, a Person shall (a) be a holder of one or more Securities affected by the action proposed to be taken at the meeting or (b) be a Person appointed by an instrument in writing as proxy by a holder of one or more such Securities. The only Persons who shall be entitled to be present or to speak at any meeting of Securityholders shall be the Persons entitled to vote at such meeting and their counsel and any representatives of the Trustee and its counsel and any representatives of the Company and its counsel.

Section 9.05 Regulation of Meetings.

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

(b) The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by Securityholders as provided in Section 9.03, in which case the Company or the Securityholders calling the meeting, as the case may be, shall in like manner appoint a temporary chair. A permanent chairman and a permanent secretary of the meeting shall be elected by majority vote of the meeting.

(c) At any meeting of Securityholders of a series, each Securityholder of such series of such Securityholder's proxy shall be entitled to one vote for each \$1,000 principal amount of Securities of such series Outstanding held or represented by him; *provided, however*, that no vote shall be cast or counted at any meeting in respect of any Security challenged as not Outstanding and ruled by the chairman of the meeting to be not Outstanding. The chairman of the meeting shall have no right to vote other than by virtue of Securities of such series held by him or her or instruments in writing as aforesaid duly designating him or her as the Person to vote on behalf of other Securityholders. At any meeting of the Securityholders duly called pursuant to the provisions of Section 9.02 or 9.03 the presence of Persons holding or representing Securities in an aggregate principal amount sufficient to take action upon the business for the transaction of which such meeting was called shall be necessary to constitute a quorum, and any such meeting may be adjourned from time to time by a majority of those present, whether or not constituting a quorum, and the meeting may be held as so adjourned without further notice.

Section 9.06 Voting. The vote upon any resolution submitted to any meeting of Securityholders of a series shall be by written ballots on which shall be subscribed the signatures of the holders of Securities of such series or of their representatives by proxy and the principal amounts of the Securities of such series held or represented by them. The permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record in duplicate of the proceedings of each meeting of Securityholders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more Persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was mailed as provided in Section 9.02. The record shall show the principal amounts of the Securities voting in favor of or against any resolution. The record shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one of the duplicates shall be delivered to the Company and the other to the Trustee to be preserved by the Trustee.

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

Section 9.07 No Delay of Rights by Meeting. Nothing contained in this Article IX shall be deemed or construed to authorize or permit, by reason of any call of a meeting of Securityholders of any series or any rights expressly or impliedly conferred hereunder to make such call, any hindrance or delay in the exercise of any

right or rights conferred upon or reserved to the Trustee or to the Securityholders of such series under any of the provisions of this Indenture or of the Securities of such series.

**ARTICLE X**  
**REPORTS BY THE COMPANY AND THE TRUSTEE**  
**AND SECURITYHOLDERS' LISTS**

Section 10.01 Reports by Trustee.

(a) So long as any Securities are outstanding, the Trustee shall transmit to holders such reports concerning the Trustee and its actions under this Indenture as may be required pursuant to the Trust Indenture Act at the times and in the manner provided thereto. If required by Section 313(a) of the Trust Indenture Act, the Trustee shall, within 60 days after each anniversary of the date of this Indenture deliver to holders a brief report which complies with the provisions of such Section 313(a).

(b) The Trustee shall, at the time of the transmission to the holders of Securities of any report pursuant to the provisions of this Section 10.01, file a copy of such report with each stock exchange upon which the Securities are listed, if any, and also with the SEC in respect of a Security listed and registered on a national securities exchange, if any. The Company agrees to notify the Trustee when, as and if the Securities become listed on any stock exchange.

The Company will reimburse the Trustee for all expenses incurred in the preparation and transmission of any report pursuant to the provisions of this Section 10.01 and of Section 10.02.

Section 10.02 Reports by the Company.

(a) Unless available on EDGAR, the Company shall file with the Trustee, within 15 days after the Company shall be required to file the same with the SEC, copies of the annual reports and of the information, documents and other reports which the Company may be required to file with the SEC pursuant to the provisions of Section 13 or Section 15(d) of the Exchange Act (or copies of such portions of any of the foregoing as the SEC may by rules and regulations prescribe).

(b) The Company shall file with the Trustee and the SEC, in the manner and to the extent provided in Section 314(a) of the Trust Indenture Act, such additional information, documents and reports with respect to compliance by the Company with the conditions and covenants provided for in this Indenture.

(c) The Company shall transmit to the holders of Securities, within 30 days after the filing thereof with the Trustee (unless some other time shall be fixed by the SEC in respect of a Security listed and registered on a national securities exchange), in the manner and to the extent provided in Section 313(c) of the Trust Indenture Act, such summaries of any information, documents and reports required to be filed by the Company pursuant to the provisions of



subdivisions (a) and (b) of this Section 10.02 (unless available on EDGAR) as may be required by rules and regulations prescribed from time to time by the SEC.

Section 10.03 Securityholders' Lists. The Company covenants and agrees that it will furnish or cause to be furnished to the Trustee:

(a) semi-annually, within 15 days after each Record Date, but in any event not less frequently than semi-annually, a list in such form as the Trustee may reasonably require of the names and addresses of the holders of Securities to which such Record Date applies, as of such Record Date, and

(b) at such other times as the Trustee may request in writing, within 30 days after receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished;

*provided, however*, that so long as the Trustee shall be the Registrar, such lists shall not be required to be furnished.

## **ARTICLE XI CONCERNING THE TRUSTEE**

Section 11.01 Rights of Trustees; Compensation and Indemnity. The Trustee accepts the trusts created by this Indenture upon the terms and conditions hereof, including the following, to all of which the parties hereto and the holders from time to time of the Securities agree:

(a) The Trustee shall be entitled to such compensation as the Company and the Trustee shall from time to time agree for all services rendered by it hereunder (including in any agent capacity in which it acts). The compensation of the Trustee shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust. The Company shall reimburse the Trustee promptly upon its request for all reasonable out-of-pocket expenses, disbursements and advances incurred or made by the Trustee (including the reasonable expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to its negligence or willful misconduct.

The Company also agrees to indemnify each of the Trustee and any predecessor Trustee hereunder for, and to hold it harmless against, any and all loss, liability, damage, claim, or expense incurred without its own negligence or willful misconduct, arising out of or in connection with the acceptance or administration of the trust or trusts hereunder and the performance of its duties (including in any agent capacity in which it acts), as well as the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. The Company shall defend the claim and the Trustee shall cooperate in the

defense. The Trustee may have one separate counsel and the Company shall pay the reasonable fees and expenses of such counsel. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld.

As security for the performance of the obligations of the Company under this Section 11.01(a), the Trustee shall have a lien therefor on any moneys or properties held by the Trustee hereunder to the extent of such obligations, which lien shall be second in priority with respect to any moneys held in trust by the Trustee to pay principal of and interest on any particular Securities. Notwithstanding any provisions of this Indenture to the contrary, the obligations of the Company to compensate and indemnify the Trustee under this Section 11.01(a) shall survive the resignation or removal of the Trustee and any satisfaction and discharge under Article XII. When the Trustee incurs expenses or renders services after an Event of Default specified in clause (e) or (f) of Section 7.01 occurs, the expenses and compensation for the services are intended to constitute expenses of administration under any applicable federal or state bankruptcy, insolvency or similar laws.

(b) The Trustee may execute any of the trusts or powers hereof and perform any duty hereunder either directly or by its agents and attorneys and shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

(c) The Trustee shall not be responsible in any manner whatsoever for the correctness of the recitals herein or in the Securities (except its certificates of authentication thereon) contained, all of which are made solely by the Company; and the Trustee shall not be responsible or accountable in any manner whatsoever for or with respect to the validity or execution, sufficiency or priority of this Indenture or of the Securities (except its certificates of authentication thereon), and the Trustee makes no representation with respect thereto, except that the Trustee represents that it is duly authorized to execute and deliver this Indenture, authenticate the Securities and perform its obligations hereunder and that the statements made by it in a Statement of Eligibility on Form T-1 supplied to the Company are true and accurate, subject to the qualifications set forth therein. The Trustee shall not be accountable for the use or application by the Company of any Securities, or the proceeds of any Securities, authenticated and delivered by the Trustee in conformity with the provisions of this Indenture.

(d) The Trustee may consult with counsel of its selection, and, to the extent permitted by Section 11.02, any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Trustee hereunder in good faith and in accordance with such Opinion of Counsel.

(e) The Trustee, to the extent permitted by Section 11.02, may rely upon the certificate of the Secretary or one of the Assistant Secretaries of the Company as to the adoption of any resolution by the Board of Directors or stockholders of the Company, and any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by, and whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking,

offering or omitting any action hereunder, the Trustee may request and rely upon, an Officer's Certificate of the Company (unless other evidence in respect thereof be herein specifically prescribed).

(f) Subject to Section 11.04, the Trustee or any agent of the Trustee, in its individual or any other capacity, may become the owner or pledgee of Securities and, subject to Sections 310(b) and 311 of the Trust Indenture Act, may otherwise deal with the Company with the same rights it would have had if it were not the Trustee or such agent.

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

(h) Any action taken by the Trustee pursuant to any provision hereof at the request or with the consent of any Person who at the time is the holder of any Security shall be conclusive and binding in respect of such Security upon all future holders thereof or of any Security or Securities which may be issued for or in lieu thereof in whole or in part, whether or not such Security shall have noted thereon the fact that such request or consent had been made or given.

(i) Subject to the provisions of Section 11.02, the Trustee may conclusively rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, bond, debenture or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

(j) Subject to the provisions of Section 11.02, the Trustee shall not be under any obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the holders of the Securities, pursuant to any provision of this Indenture, unless one or more of the holders of the Securities shall have offered to the Trustee security or indemnity satisfactory to it against the costs, expenses and liabilities which may be incurred by it therein or thereby.

(k) Subject to the provisions of Section 11.02, the Trustee shall not be liable for any action taken or omitted by it in good faith and believed by it to be authorized or within its discretion or within the rights or powers conferred upon it by this Indenture.

(l) Subject to the provisions of Section 11.02, the Trustee shall not be deemed to have knowledge or notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless the holders of not less than 25% of the Outstanding Securities notify the Trustee thereof.

(m) Subject to the provisions of the first paragraph of Section 11.02, 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, 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.

(n) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee and its directors, officers, employees, agents, successors and assigns in each of its capacities hereunder.

(o) In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

The permissive right of the Trustee to do things enumerated herein shall not be construed as duty on the part of the Trustee.

Section 11.02 Duties of Trustee.

(a) If one or more of the Events of Default specified in Section 7.01 with respect to the Securities of any series shall have happened, then, during the continuance thereof, the Trustee shall, with respect to such Securities, exercise such of the rights and powers vested in it by this Indenture, and shall 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.

(b) None of the provisions of this Indenture shall be construed as relieving the Trustee from liability for its own negligent action, its own negligent action, negligent failure to act, or its own willful misconduct, except that, anything in this Indenture contained to the contrary notwithstanding,

(i) unless and until an Event of Default specified in Section 7.01 with respect to the Securities of any series shall have happened which at the time is continuing,

(A) the Trustee undertakes to perform such duties and only such duties with respect to the Securities of that series as are specifically set out in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee, whose duties and obligations shall be determined solely by the express provisions of this Indenture; and

(B) the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, in the absence of bad faith

on the part of the Trustee, upon certificates and opinions furnished to it pursuant to the express provisions of this Indenture; but in the case of any such certificates or opinions which, by the provisions of this Indenture, are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein);

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

(iii) the Trustee shall not be liable to any holder of Securities or to any other Person with respect to any action taken or omitted to be taken by it in good faith, in accordance with the direction of Securityholders given as provided in Section 7.06, relating to the time, method and place of conducting any proceeding for any remedy available to it or exercising any trust or power conferred upon it by this Indenture.

(c) None of the provisions of this Indenture shall be construed as requiring the Trustee to expend or risk its own funds or otherwise to incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers.

(d) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section 11.02.

Section 11.03 Notice of Defaults. Within 90 days after the occurrence thereof, and if known to the Trustee, the Trustee shall give to the holders of the Securities of a series notice of each Default or Event of Default with respect to the Securities of such series known to the Trustee, by transmitting such notice to holders at their addresses as the same shall then appear on the Register of the Company, unless such Default shall have been cured before the giving of such notice (the term “**Default**” being hereby defined to be the events specified in Section 7.01, which are, or after notice or lapse of time or both would become, Events of Default as defined in said Section). Except in the case of a Default or Event of Default in payment of the principal of, premium, if any, or interest on any of the Securities of such series when and as the same shall become payable, or to make any sinking fund payment as to Securities of the same series, the Trustee shall be protected in withholding such notice, if and so long as a Responsible Officer or Responsible Officers of the Trustee in good faith determines that the withholding of such notice is in the interests of the holders of the Securities of such series.

Section 11.04 Eligibility; Disqualification.

(a) The Trustee shall at all times satisfy the requirements of TIA Section 310(a). The Trustee shall have a combined capital and surplus of at least \$50 million as set forth in its most recent published annual report of condition, and shall have a Corporate Trust Office. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 11.04, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.

(b) The Trustee shall comply with TIA Section 310(b); *provided, however*, that there shall be excluded from the operation of TIA Section 310(b)(i) any indenture or indentures under which other securities or certificates of interest or participation in other securities of the Company are outstanding if the requirements for such exclusion set forth in TIA Section 310(b)(i) are met. If the Trustee has or shall acquire a conflicting interest within the meaning of Section 310(b) of the Trust Indenture Act, the Trustee shall either eliminate such interest or resign, to the extent and in the manner provided by, and subject to the provisions of, the Trust Indenture Act and this Indenture. If Section 310(b) of the Trust Indenture Act is amended any time after the date of this Indenture to change the circumstances under which a Trustee shall be deemed to have a conflicting interest with respect to the Securities of any series or to change any of the definitions in connection therewith, this Section 11.04 shall be automatically amended to incorporate such changes.

Section 11.05 Registration and Notice; Removal. The Trustee, or any successor to it hereafter appointed, may at any time resign and be discharged of the trusts hereby created with respect to any one or more or all series of Securities by giving to the Company notice in writing and by mailing notice thereof to the holders of Securities of such series at their addresses as the same shall then appear in the Register of the Company. Such resignation shall take effect upon the appointment of a successor Trustee and the acceptance of such appointment by such successor Trustee. Any Trustee hereunder may be removed with respect to any series of Securities at any time by the filing with such Trustee and the delivery to the Company of an instrument or instruments in writing signed by the holders of a majority in principal amount of the Securities of such series then Outstanding, specifying such removal and the date when it shall become effective.

If at any time:

(1) the Trustee shall fail to comply with the provisions of TIA Section 310(b) after written request therefor by the Company or by any holder who has been a bona fide holder of a Security for at least six months, or

(2) the Trustee shall cease to be eligible under Section 11.04 and shall fail to resign after written request therefor by the Company or by any holder who has been a bona fide holder of a Security for at least six months, or

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

then, in any such case, (i) the Company, by a Board Resolution or pursuant to an Officer's Certificate, may remove the Trustee and appoint a successor Trustee with respect to all Securities, or (ii) subject to TIA Section 315(e), any Securityholder who has been a bona fide holder of a Security for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee with respect to all Securities and the appointment of a successor Trustee or Trustees.

Upon its resignation or removal, any Trustee shall be entitled to the payment of reasonable compensation for the services rendered hereunder by such Trustee and to the payment of all reasonable expenses incurred hereunder and all moneys then due to it hereunder. The Trustee's rights to indemnification provided in Section 11.01(a) shall survive its resignation or removal.

Section 11.06 Successor Trustee by Appointment.

(a) In case at any time the Trustee shall resign, or shall be removed (unless the Trustee shall be removed as provided in Section 11.04(b), in which event the vacancy shall be filled as provided in said subdivision), or shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or if a receiver of the Trustee or of its property shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation with respect to the Securities of one or more series, a successor Trustee with respect to the Securities of that or those series (it being understood that any such successor Trustee may be appointed with respect to the Securities of one or more or all of such series and that at any time there shall be only one Trustee with respect to the Securities of any series) may be appointed by the holders of a majority in principal amount of the Securities of that or those series then Outstanding, by an instrument or instruments in writing signed in duplicate by such holders and filed, one original thereof with the Company and the other with the successor Trustee; but, until a successor Trustee shall have been so appointed by the holders of Securities of that or those series as herein authorized, the Company by a resolution of its Board of Directors, or, in case all or substantially all the assets of the Company shall be in the possession of one or more custodians or receivers lawfully appointed, or of trustees in bankruptcy or reorganization proceedings (including a trustee or trustees appointed under the provisions of the federal bankruptcy laws, as now or hereafter constituted), or of assignees for the benefit of creditors, such receivers, custodians, trustees or assignees, as the case may be, by an instrument in writing, shall appoint a successor Trustee with respect to the Securities of such series. Subject to the provisions of Sections 11.04 and 11.05, upon the appointment as aforesaid of a successor Trustee with respect to the Securities of any series, the Trustee with respect to the Securities of such series shall cease to be Trustee hereunder. After any such appointment other than by the holders of Securities of that or those series, the Person making such appointment shall forthwith cause notice thereof to be mailed to the holders of Securities of such series at their addresses as the same shall then appear on the Register of the Company but any successor Trustee with respect to the Securities of such series so appointed shall, immediately and without further act, be superseded by a successor Trustee appointed by the holders of Securities of such series in the manner above prescribed, if such appointment be

made prior to the expiration of one year from the date of the mailing of such notice by the Company, or by such receivers, trustees or assignees.

(b) If any Trustee with respect to the Securities of one or more series shall resign because of conflicting interest as provided in Section 11.04(b) and a successor Trustee shall not have been appointed by the Company or by the holders of the Securities of such series or, if any successor Trustee so appointed shall not have accepted its appointment within 30 days after such appointment shall have been made, the resigning Trustee at the expense of the Company may apply to any court of competent jurisdiction for the appointment of a successor Trustee. If in any other case a successor Trustee shall not be appointed pursuant to the foregoing provisions of this Section 11.06 within three months after such appointment might have been made hereunder, the holder of any Security of the applicable series or any retiring Trustee at the expense of the Company may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, in any such case, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

(c) Any successor Trustee appointed hereunder with respect to the Securities of one or more series shall execute, acknowledge and deliver to its predecessor Trustee and to the Company, or to the receivers, trustees, assignees or court appointing it, as the case may be, an instrument accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become vested with all the authority, rights, powers, trusts, immunities, duties and obligations with respect to such series of such predecessor Trustee with like effect as if originally named as Trustee hereunder, and such predecessor Trustee, upon payment of its charges and disbursements then unpaid, shall thereupon become obligated to pay over, and such successor Trustee shall be entitled to receive, all moneys and properties held by such predecessor Trustee as Trustee hereunder. Nevertheless, on the written request of the Company or of the successor Trustee or of the holders of at least 10% in principal amount of the Securities of such series then Outstanding, such predecessor Trustee, upon payment of its said charges and disbursements, shall execute and deliver an instrument transferring to such successor Trustee upon the trusts herein expressed all the rights, powers and trusts of such predecessor Trustee and shall assign, transfer and deliver to the successor Trustee all moneys and properties held by such predecessor Trustee; and, upon request of any such successor Trustee and the Company shall make, execute, acknowledge and deliver any and all instruments in writing for more fully and effectually vesting in and confirming to such successor Trustee all such authority, rights, powers, trusts, immunities, duties and obligations.

Section 11.07 Successor Trustee by Merger. Any corporation into which the Trustee or any successor to it in the trusts created by this Indenture shall be merged or converted, or any corporation with which it or any successor to it shall be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee or any such successor to it shall be a party, or any corporation to which the Trustee or any successor to it shall sell or otherwise transfer all or substantially all of the corporate trust business of the Trustee, shall be the successor Trustee under this Indenture without the execution or filing of any paper or any further act on the part of any of the parties hereto; *provided* that such corporation shall be otherwise qualified and eligible under this Article and Section 310(a) of the Trust Indenture Act, without the execution or filing of any paper or any



further act on the part of the parties hereto. In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture with respect to one or more series of Securities, any of such Securities shall have been authenticated but not delivered by the Trustee then in office, any successor to such Trustee may adopt the certificate of authentication of any predecessor Trustee, and deliver such Securities so authenticated; and in case at that time any of the Securities shall not have been authenticated, any successor to the Trustee may authenticate such Securities either in the name of any predecessor hereunder or in the name of the successor Trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Securities or in this Indenture provided that the certificate of the Trustee shall have; *provided, however*, that the right to adopt the certificate of authentication of any predecessor Trustee or authenticate Securities in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

Section 11.08 Right to Rely on Officer's Certificate. Subject to Section 11.02, and subject to the provisions of Section 16.01 with respect to the certificates required thereby, whenever in the administration of the provisions of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or willful misconduct on the part of the Trustee, be deemed to be conclusively proved and established by an Officer's Certificate with respect thereto delivered to the Trustee, and such Officer's Certificate, in the absence of negligence or willful misconduct on the part of the Trustee, shall be full warrant to the Trustee for any action taken, suffered or omitted by it under the provisions of this Indenture upon the faith thereof.

Section 11.09 Appointment of Authenticating Agent. The Trustee may appoint an agent (the "**Authenticating Agent**") reasonably acceptable to the Company to authenticate the Securities, and the Trustee shall give written notice of such appointment to all holders of Securities of the series with respect to which such Authenticating Agent will serve. Unless limited by the terms of such appointment, any such Authenticating Agent may authenticate Securities whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by the Authenticating Agent. Securities so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder.

Each Authenticating Agent shall at all times be a corporation organized and doing business and in good standing under the laws of the United States of America, any State thereof or the District of Columbia, authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of not less than \$50,000,000 and subject to supervision or examination by Federal or State authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Article XI, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent shall cease to be eligible in

accordance with the provisions of this Article XI, it shall resign immediately in the manner and with the effect specified in this Article XI.

Any corporation into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any corporation succeeding to the corporate agency or corporate trust business of an Authenticating Agent, shall continue to be an Authenticating Agent, provided such corporation shall be otherwise eligible under this Article XI, without the execution or filing of any paper or any further act on the part of the Trustee or the Authenticating Agent.

An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee and to the Company. The Trustee may at any time terminate the agency of an Authenticating Agent by giving written notice thereof to such Authenticating Agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time such Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section 11.09, the Trustee may appoint a successor Authenticating Agent which shall be acceptable to the Company and shall give written notice of such appointment to all holders of Securities of the series with respect to which such Authenticating Agent will serve. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section 11.09.

The Trustee agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services under this Section 11.09, and the Trustee shall be entitled to be reimbursed for such payments, subject to the provisions of Section 11.01.

Section 11.10 Communications by Securityholders with Other Securityholders. Holders of Securities may communicate pursuant to Section 312(b) of the Trust Indenture Act with other holders with respect to their rights under this Indenture or the Securities. The Company, the Trustee, the Registrar and anyone else shall have the protection of Section 312(c) of the Trust Indenture Act with respect to such communications.

Section 11.11 Preferential Collection of Claims Against the Company. If and when the Trustee shall be or become a creditor of the Company (or any other obligor upon the Notes), the Trustee shall be subject to the provisions of the Trust Indenture Act regarding the collection of claims against the Company (or any such other obligor).

## **ARTICLE XII**

### **SATISFACTION AND DISCHARGE; DEFEASANCE**

Section 12.01 Applicability of Article. If, pursuant to Section 3.01, provision is made for the defeasance of Securities of a series and if the Securities of such series are Registered Securities and denominated and payable

only in U.S. Dollars (except as provided pursuant to Section 3.01), then the provisions of this Article shall be applicable except as otherwise specified pursuant to Section 3.01 for Securities of such series. Defeasance provisions, if any, for Securities denominated in a Foreign Currency.

Section 12.02 Satisfaction and Discharge of Indenture. This Indenture, with respect to the Securities of any series (if all series issued under this Indenture are not to be affected), shall, upon Company Request, cease to be of further effect (except as to any surviving rights of registration of transfer or exchange of such Securities herein expressly provided for and rights to receive payments of principal of and premium, if any, and interest on such Securities) and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture, when,

(a) either:

(i) all Securities of such series theretofore authenticated and delivered (other than (A) Securities that have been destroyed, lost or stolen and that have been replaced or paid as provided in Section 3.07 and (B) Securities for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 6.03) have been delivered to the Trustee for cancellation; or

(ii) all Securities of such series not theretofore delivered to the Trustee for cancellation,

(A) have become due and payable, or

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

(C) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice by the Trustee in the name, and at the expense, of the Company, and the Company, in the case of (i), (ii) or (iii) above, has irrevocably deposited or caused to be deposited with the Paying Agent as trust funds in trust for the purpose an amount in the Currency in which such Securities are denominated (except as otherwise provided pursuant to Section 3.01) sufficient to pay and discharge the entire Indebtedness on such Securities for principal and premium, if any, and interest to the date of such deposit (in the case of Securities that have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be; *provided, however*, in the event a petition for relief under federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, is filed with respect to the Company within 91 days after the deposit and the Trustee is required to return the moneys then on deposit with the Trustee to the Company, the obligations of the Company under this Indenture with respect to such Securities shall not be deemed terminated or discharged;

(b) the Company has paid or caused to be paid all other sums payable hereunder by the Company; and

(c) the Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture with respect to such series have been complied with. Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustee under Section 11.01 are, if money shall have been deposited with the Trustee pursuant to subclause (B) of clause (a)(i) of this Section, the obligations of the Trustee under Section 12.07 and the last paragraph of Section 6.03(e) shall survive.

**Section 12.03 Defeasance upon Deposit of Moneys or U.S. Government Obligations.** At the Company's option, either (a) the Company shall be deemed to have been Discharged (as defined below) from its obligations with respect to Securities of any series on the first day after the applicable conditions set forth below have been satisfied or (b) the Company shall cease to be under any obligation to comply with any term, provision or condition set forth in Section 6.04 with respect to Securities of any series (and, if so specified pursuant to Section 3.01, any other restrictive covenant added for the benefit of such series pursuant to Section 3.01) at any time after the applicable conditions set forth below have been satisfied:

(a) The Company shall have deposited or caused to be deposited irrevocably with the Trustee as trust funds in trust, specifically pledged as security for, and dedicated solely to, the benefit of the holders of the Securities of such series (i) money in an amount, or (ii) U.S. Government Obligations (as defined below) that through the payment of interest and principal in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment, money in an amount or (iii) a combination of (i) and (ii), sufficient to pay and discharge each installment of principal (including any mandatory sinking fund payments) of and premium, if any, and interest on, the Outstanding Securities of such series on the dates such installments of interest or principal and premium are due;

(b) No Event of Default or event (including such deposit) that, with notice or lapse of time, or both, would become an Event of Default with respect to the Securities of such series shall have occurred and be continuing on the date of such deposit; and

(c) The Company shall have delivered to the Trustee an Opinion of Counsel to the effect that holders of the Securities of such series will not recognize income, gain or loss for U.S. federal income tax purposes as a result of the Company's exercise of its option under this Section and will be subject to federal income tax on the same amounts and in the same manner and at the same times as would have been the case if such action had not been exercised and, in the case of the Securities of such series being Discharged accompanied by a ruling to that effect received from or published by the Internal Revenue Service.

**"Discharged"** means that the Company shall be deemed to have paid and discharged the entire Indebtedness represented by, and obligations under, the Securities of such series and to

have satisfied all the obligations under this Indenture relating to the Securities of such series (and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging the same), except (A) the rights of holders of Securities of such series to receive, from the trust fund described in clause (a) above, payment of the principal of and premium, if any, and interest on such Securities when such payments are due, (B) the Company's obligations with respect to Securities of such series under Sections 3.04, 3.06, 3.07, 6.02, 12.06 and 12.07 and (C) the rights, powers, trusts, duties and immunities of the Trustee hereunder.

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

Section 12.04 Repayment to Company. The Trustee and any Paying Agent shall promptly pay to the Company (or to its designee) upon Company Request any excess moneys or U.S. Government Obligations held by them at any time, including any such moneys or obligations held by the Trustee under any escrow trust agreement entered into pursuant to Section 12.06. The provisions of the last paragraph of Section 6.03 shall apply to any money held by the Trustee or any Paying Agent under this Article that remains unclaimed for two years after the Maturity of any series of Securities for which money or U.S. Government Obligations have been deposited pursuant to Section 12.03.

Section 12.05 Indemnity for U.S. Government Obligations. The Company shall pay and shall indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the deposited U.S. Government Obligations or the principal or interest received on such U.S. Government Obligations.

Section 12.06 Deposits to Be Held in Escrow. Any deposits with the Trustee referred to in Section 12.03 above shall be irrevocable (except to the extent provided in Sections 12.04 and 12.07) and shall be made under the terms of an escrow trust agreement in form and substance satisfactory to the Trustee. If any Outstanding Securities of a series are to be redeemed prior to their Stated Maturity, whether pursuant to any optional redemption provisions or in accordance with any mandatory or optional sinking fund requirement, the applicable escrow trust agreement shall provide therefor and the Company shall

make such arrangements as are satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company. The agreement shall provide that, upon satisfaction of any Mandatory Sinking Fund Payment requirements, whether by deposit of moneys, application of proceeds of deposited U.S. Government Obligations or, if permitted, by delivery of Securities, the Trustee shall pay or deliver over to the Company as excess moneys pursuant to Section 12.04 all funds or obligations then held under the agreement and allocable to the sinking fund payment requirements so satisfied.

If Securities of a series with respect to which such deposits are made may be subject to later redemption at the option of the Company or pursuant to optional sinking fund payments, the applicable escrow trust agreement may, at the option of the Company, provide therefor. In the case of an optional redemption in whole or in part, such agreement shall require the Company to deposit with the Trustee on or before the date notice of redemption is given funds sufficient to pay the Redemption Price of the Securities to be redeemed together with all unpaid interest thereon to the Redemption Date. Upon such deposit of funds, the Trustee shall pay or deliver over to the Company as excess funds pursuant to Section 12.04 all funds or obligations then held under such agreement and allocable to the Securities to be redeemed. In the case of exercise of Optional Sinking Fund Payment rights by the Company, such agreement shall, at the option of the Company, provide that upon deposit by the Company with the Trustee of funds pursuant to such exercise the Trustee shall pay or deliver over to the Company as excess funds pursuant to Section 12.04 all funds or obligations then held under such agreement for such series and allocable to the Securities to be redeemed.

Section 12.07 Application of Trust Money.

(a) Neither the Trustee nor any other Paying Agent shall be required to pay interest on any moneys deposited pursuant to the provisions of this Indenture, except such as it shall agree with the Company to pay thereon. Any moneys so deposited for the payment of the principal of, or premium, if any, or interest on the Securities of any series and remaining unclaimed for two years after the date of the maturity of the Securities of such series or the date fixed for the redemption of all the Securities of such series at the time outstanding, as the case may be, shall be repaid by the Trustee or such other paying agent to the Company upon its written request and thereafter, anything in this Indenture to the contrary notwithstanding, any rights of the holders of Securities of such series in respect of which such moneys shall have been deposited shall be enforceable only against the Company, and all liability of the Trustee or such other paying agent with respect to such moneys shall thereafter cease.

(b) Subject to the provisions of the foregoing paragraph, any moneys which at any time shall be deposited by the Company or on its behalf with the Trustee or any other paying agent for the purpose of paying the principal of, premium, if any, and interest on any of the Securities shall be and are hereby assigned, transferred and set over to the Trustee or such other paying agent in trust for the respective holders of the Securities for the purpose for which such moneys shall have been deposited; but such moneys need not be segregated from other funds except to the extent required by law.

Section 12.08 Deposits of Non-U.S. Currencies. Notwithstanding the foregoing provisions of this Article, if the Securities of any series are payable in a Currency other than U.S. Dollars, the Currency or the nature of the government obligations to be deposited with the Trustee under the foregoing provisions of this Article shall be as set forth in the Officer's Certificate or established in the supplemental indenture under which the Securities of such series are issued.

### **ARTICLE XIII IMMUNITY OF CERTAIN PERSONS**

Section 13.01 No Personal Liability. No recourse shall be had for the payment of the principal of, or the premium, if any, or interest on, any Security or for any claim based thereon or otherwise in respect thereof or of the Indebtedness represented thereby, or upon any obligation, covenant or agreement of this Indenture, against any incorporator, stockholder, officer or director, as such, past, present or future, of the Company or of any successor corporation, either directly or through the Company or any successor corporation, whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly agreed and understood that this Indenture and the Securities are solely corporate obligations, and that no personal liability whatsoever shall attach to, or be incurred by, any incorporator, stockholder, officer or director, as such, past, present or future, of the Company or of any successor corporation, either directly or through the Company or any successor corporation, because of the incurring of the Indebtedness hereby authorized or under or by reason of any of the obligations, covenants, promises or agreements contained in this Indenture or in any of the Securities, or to be implied herefrom or therefrom, and that all liability, if any, of that character against every such incorporator, stockholder, officer and director is, by the acceptance of the Securities and as a condition of, and as part of the consideration for, the execution of this Indenture and the issue of the Securities expressly waived and released.

### **ARTICLE XIV SUPPLEMENTAL INDENTURES**

Section 14.01 Without Consent of Securityholders. The Company (when authorized by resolution of its Board of Directors) and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form satisfactory to the Trustee, for any one or more of or all the following purposes:

(a) to add to the covenants and agreements of the Company, to be observed thereafter and during the period, if any, in such supplemental indenture or indentures expressed, and to add Events of Default, in each case for the protection or benefit of the holders of all or any series of the Securities (and if such covenants, agreements and Events of Default are to be for the benefit of fewer than all series of Securities, stating that such covenants, agreements and Events of Default are expressly being included for the benefit of such series as shall be identified therein), or to surrender any right or power herein conferred upon the Company;

(b) to delete or modify any Events of Default with respect to all or any series of the Securities, the form and terms of which are being established pursuant to such supplemental indenture as permitted in Section 3.01 (and, if any such Event of Default is applicable to fewer than all such series of the Securities, specifying the series to which such Event of Default is applicable), and to specify the rights and remedies of the Trustee and the holders of such Securities in connection therewith;

(c) to add to or change any of the provisions of this Indenture to provide to change or eliminate any restrictions on the payment of principal of or premium, if any, on Registered Securities; *provided* that any such action shall not adversely affect the interests of the holders of Securities of any series in any material respect, or to permit or facilitate the issue of Securities of any series in uncertificated form;

(d) to change or eliminate any of the provisions of this Indenture; *provided* that any such change or elimination shall become effective only when there is no Outstanding Security of any series created prior to the execution of such supplemental indenture that is entitled to the benefit of such provision and as to which such supplemental indenture would apply;

(e) to evidence the succession of another corporation to the Company, or successive successions, and the assumption by such successor of the covenants and obligations of the Company contained in the Securities of one or more series and in this Indenture or any supplemental indenture;

(f) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to one or more series of Securities and to add to or change any of the provisions of this Indenture as shall be necessary for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Section 11.06(c);

(g) to secure any series of Securities;

(h) to evidence any changes to this Indenture pursuant to Sections 11.05, 11.06 or 11.07 hereof as permitted by the terms thereof;

(i) to cure any ambiguity or to correct or supplement any provision contained herein or in any indenture supplemental hereto which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture;

(j) to comply with the requirements of the Trust Indenture Act or the rules and regulations of the Commission thereunder in order to effect or maintain the qualification of this Indenture under the Trust Indenture Act, as contemplated by this Indenture or otherwise;

(k) to add guarantors or co-obligors with respect to any series of Securities;

(l) to make any change in any series of Securities that does not adversely affect in any material respect the interests of the holders of such Securities; *provided that*



no such change shall be deemed to adversely effect the holders of any series of Securities if such change is made to conform the terms of such Securities to the terms described in the offering document used in the initial distribution thereof;

(m) to prohibit the authentication and delivery of additional series of Securities; or

(n) to establish the form and terms of Securities of any series as permitted in Section 3.01, or to authorize the issuance of additional Securities of a series previously authorized or to add to the conditions, limitations or restrictions on the authorized amount, terms or purposes of issue, authentication or delivery of the Securities of any series, as herein set forth, or other conditions, limitations or restrictions thereafter to be observed.

Subject to the provisions of Section 14.03, the Trustee is authorized to join with the Company in the execution of any such supplemental indenture, to make the further agreements and stipulations which may be therein contained and to accept the conveyance, transfer, assignment, mortgage or pledge of any property or assets thereunder.

Any supplemental indenture authorized by the provisions of this Section 14.01 may be executed by the Company and the Trustee without the consent of the holders of any of the Securities at the time Outstanding, notwithstanding any of the provisions of Section 14.02.

Section 14.02 With Consent of Securityholders; Limitations.

(a) With the consent (evidenced as provided in Article VIII) of the holders of a majority in aggregate principal amount of the Outstanding Securities, the Company (when authorized by a resolution of the Board of Directors) and the Trustee may, from time to time and at any time, enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any provisions of this Indenture or of modifying in any manner the rights of the holders of the Securities of such series to be affected; *provided, however*, that no such supplemental indenture shall, without the consent of the holder of each Outstanding Security of each such series affected thereby,

(i) extend the Stated Maturity of the principal of, or any installment of interest on, any Security, or reduce the principal amount thereof or the interest thereon or any premium payable upon redemption thereof, or extend the Stated Maturity of, or change the Currency in which the principal of and premium, if any, or interest on such Security is denominated or payable, or reduce the amount of the principal of an Original Issue Discount Security that would be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 7.02, or impair the right to institute suit for the enforcement of any payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date), or materially adversely affect the economic terms of any right to convert or exchange any Security as may be provided pursuant to Section 3.01(r); or

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

(iii) modify any of the provisions of this Section, Section 6.06 or Section 7.06, except to increase any the respective percentages referred to therein or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the holder of each Outstanding Security affected thereby; *provided, however*, that this clause shall not be deemed to require the consent of any holder with respect to changes in the references to “the Trustee” and any concomitant changes or the deletion of this proviso, in accordance with the requirements of Sections 11.06 and 14.01(f); or

(iv) modify, without the written consent of the Trustee, the rights, duties or immunities of the Trustee.

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

(c) It shall not be necessary for the consent of the Securityholders under this Section 14.02 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

(d) The Company may set a record date for purposes of determining the identity of the holders of each series of Securities entitled to give a written consent or waive compliance by the Company as authorized or permitted by this Section. Such record date shall not be more than 30 days prior to the first solicitation of such consent or waiver or the date of the most recent list of holders furnished to the Trustee prior to such solicitation pursuant to Section 312 of the Trust Indenture Act.

(e) Promptly after the execution by the Company and the Trustee of any supplemental indenture pursuant to the provisions of this Section 14.02, the Company shall mail a notice, setting forth in general terms the substance of such supplemental indenture, to the holders of Securities at their addresses as the same shall then appear in the Register of the Company. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

Section 14.03 Trustee Protected. Upon the request of the Company, accompanied by the Officer’s Certificate and Opinion of Counsel required by Section 16.01 and by:

(a) a supplemental indenture duly executed on behalf of the Company;

(b) a copy of a resolution of the Board of Directors of the Company, certified by the Secretary or an Assistant Secretary of the Company and a copy of an Officer's Certificate of the Company, authorizing the execution of said supplemental indenture;

(c) an Opinion of Counsel, stating that said supplemental indenture complies with, and that the execution thereof is authorized or permitted by, the provisions of this Indenture; and

(d) if said supplemental indenture shall be executed pursuant to Section 14.02, evidence (as provided in Article VIII) of the consent thereto of the Securityholders required to consent thereto as in Section 14.02 provided, the Trustee shall join with the Company in the execution of said supplemental indenture unless said supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into said supplemental indenture.

Section 14.04 Effect of Execution of Supplemental Indenture. Upon the execution of any supplemental indenture pursuant to the provisions of this Article XIV, this Indenture shall be deemed to be modified and amended in accordance therewith and, except as herein otherwise expressly provided, the respective rights, limitations of rights, obligations, duties and immunities under this Indenture of the Trustee, the Company and the holders of all of the Securities or of the Securities of any series affected, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 14.05 Notation on or Exchange of Securities. Securities of any series authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article may bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company or the Trustee shall so determine, new Securities so modified as to conform, in the opinion of the Trustee and the Board of Directors of the Company, to any modification of this Indenture contained in any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for the Securities then Outstanding in equal aggregate principal amounts, and such exchange shall be made without cost to the holders of the Securities.

Section 14.06 Conformity with TIA. Every supplemental indenture executed pursuant to the provisions of this Article shall conform to the requirements of the Trust Indenture Act as then in effect.

## **ARTICLE XV SUBORDINATION OF SECURITIES**

Section 15.01 Agreement to Subordinate.

In the event a series of Securities is designated as subordinated pursuant to Section 3.01(s), and except as otherwise provided in Board Resolutions or a supplemental indenture, the Company, for itself, its successors and assigns, covenants and agrees, and each holder of Securities of such series by his, her or its acceptance thereof, likewise covenants and agrees, that the payment of the principal of (and premium, if any) and interest, if any, on each and all of the Securities of such series is hereby expressly subordinated, to the extent and in the manner hereinafter set forth, in right of payment to the prior payment in full of all Senior Indebtedness. In the event a series of Securities is not designated as subordinated pursuant to Section 3.01(s), this Article XV shall have no effect upon the Securities.

Section 15.02 Distribution on Dissolution, Liquidation and Reorganization; Subrogation of Securities. Subject to Section 15.01, upon any distribution of assets of the Company upon any dissolution, winding up, liquidation or reorganization of the Company, whether in bankruptcy, insolvency, reorganization or receivership proceedings or upon an assignment for the benefit of creditors or any other marshalling of the assets and liabilities of the Company or otherwise (subject to the power of a court of competent jurisdiction to make other equitable provision reflecting the rights conferred in this Indenture upon the Senior Indebtedness and the holders thereof with respect to the Securities and the holders thereof by a lawful plan of reorganization under applicable bankruptcy law):

(a) the holders of all Senior Indebtedness shall be entitled to receive payment in full of the principal thereof (and premium, if any) and interest due thereon before the holders of the Securities are entitled to receive any payment upon the principal (or premium, if any) or interest, if any, on Indebtedness evidenced by the Securities; and

(b) any payment 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 provisions of this Article XV shall be paid by the liquidation trustee or agent or other person making such payment or distribution, whether a trustee in bankruptcy, a receiver or liquidating trustee or otherwise, directly to the holders of Senior Indebtedness or their representative or representatives or to the trustee or trustees under any indenture under which any instruments evidencing any of such Senior Indebtedness may have been issued, ratably according to the aggregate amounts remaining unpaid on account of the principal of (and premium, if any) and interest on the Senior Indebtedness held or represented by each, to the extent necessary to make payment in full of all Senior Indebtedness remaining unpaid, after giving effect to any concurrent payment or distribution to the holders of such Senior Indebtedness; and

(c) in the event that, notwithstanding the foregoing, any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities, shall be received by the Trustee or the holders of the Securities before all Senior Indebtedness is paid in full, such payment or distribution shall be paid over, upon written notice to a Responsible Officer of the Trustee, to the holder of such Senior Indebtedness or his, her or its representative or representatives or to the trustee or trustees under any indenture under which any instrument evidencing any of such Senior

Indebtedness may have been issued, ratably as aforesaid, for application to payment of all Senior Indebtedness remaining unpaid until all such Senior Indebtedness shall have been paid in full, after giving effect to any concurrent payment or distribution to the holders of such Senior Indebtedness.

Subject to the payment in full of all Senior Indebtedness, the holders of the Securities shall be subrogated to the rights of the holders of Senior Indebtedness (to the extent that distributions otherwise payable to such holder have been applied to the payment of Senior Indebtedness) to receive payments or distributions of cash, property or securities of the Company applicable to Senior Indebtedness until the principal of (and premium, if any) and interest, if any, on the Securities shall be paid in full and no such payments or distributions to the holders of the Securities of cash, property or securities otherwise distributable to the holders of Senior Indebtedness shall, as between the Company, its creditors other than the 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 Securities. It is understood that the provisions of this Article XV are and are intended solely for the purpose of defining the relative rights of the holders of the Securities, on the one hand, and the holders of the Senior Indebtedness, on the other hand. Nothing contained in this Article XV or elsewhere in this Indenture or in the Securities is intended to or shall impair, as between the Company, its creditors other than the holders of Senior Indebtedness, and the holders of the Securities, the obligation of the Company, which is unconditional and absolute, to pay to the holders of the Securities the principal of (and premium, if any) and interest, if any, on the Securities as and when the same shall become due and payable in accordance with their terms, or to affect the relative rights of the holders of the Securities and creditors of the Company other than the holders of Senior Indebtedness, nor shall anything herein or in the Securities prevent the Trustee or the holder of any Security from exercising all remedies otherwise permitted by applicable law upon default under this Indenture, subject to the rights, if any, under this Article XV of the holders of Senior Indebtedness in respect of cash, property or securities of the Company received upon the exercise of any such remedy. Upon any payment or distribution of assets of the Company referred to in this Article XV, the Trustee, subject to the provisions of Section 15.05, shall be entitled to rely upon a certificate of the liquidating trustee or agent or other person making any distribution to the Trustee for the purpose of ascertaining the Persons entitled to participate in such distribution, the holders of Senior Indebtedness and other Indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereof and all other facts pertinent thereto or to this Article XV.

With respect to the holders of Senior Indebtedness, the Trustee undertakes to perform or observe only such of its covenants and objectives as are specifically set forth in this Indenture, 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, however, shall not be deemed to owe any fiduciary duty to the holders of Senior Indebtedness. The Trustee shall not be liable to any such holder if it shall pay over or distribute to or on behalf of holders of Securities or the Company, or any other Person, moneys or assets to which any holder of Senior Indebtedness shall be entitled by virtue of this Article XV.

Section 15.03 No Payment on Securities in Event of Default on Senior Indebtedness.

Subject to Section 15.01, no payment by the Company on account of principal (or premium, if any), sinking funds or interest, if any, on the Securities shall be made at anytime if: (i) a default on Senior Indebtedness exists that permits the holders of such Senior Indebtedness to accelerate its maturity and (ii) the default is the subject of judicial proceedings or the Company has received notice of such default. The Company may resume payments on the Securities when full payment of amounts then due for principal (premium, if any), sinking funds and interest on Senior Indebtedness has been made or duly provided for in money or money's worth.

Section 15.04 Payments on Securities Permitted. Subject to Section 15.01, nothing contained in this Indenture or in any of the Securities shall (a) affect the obligation of the Company to make, or prevent the Company from making, at any time except as provided in Sections 15.02 and 15.03, payments of principal of (or premium, if any) or interest, if any, on the Securities or (b) prevent the application by the Trustee of any moneys or assets deposited with it hereunder to the payment of or on account of the principal of (or premium, if any) or interest, if any, on the Securities, unless a Responsible Officer of the Trustee shall have received at its Corporate Trust Office written notice of any fact prohibiting the making of such payment from the Company or from the holder of any Senior Indebtedness or from the trustee for any such holder, together with proof satisfactory to the Trustee of such holding of Senior Indebtedness or of the authority of such trustee more than two Business Days prior to the date fixed for such payment.

Section 15.05 Authorization of Securityholders to Trustee to Effect Subordination. Subject to Section 15.01, each holder of Securities by his acceptance thereof authorizes and directs the Trustee on his, her or its behalf to take such action as may be necessary or appropriate to effectuate the subordination as provided in this Article XV and appoints the Trustee his attorney-in-fact for any and all such purposes.

Section 15.06 Notices to Trustee. Subject to Section 15.01, notwithstanding the provisions of this Article XV or any other provisions of this Indenture, neither the Trustee nor any Paying Agent (other than the Company) shall be charged with knowledge of the existence of any Senior Indebtedness or of any fact which would prohibit the making of any payment of moneys or assets to or by the Trustee or such Paying Agent, unless and until a Responsible Officer of the Trustee or such Paying Agent shall have received (in the case of a Responsible Officer of the Trustee, at the Corporate Trust Office of the Trustee) written notice thereof from the Company or from the holder of any Senior Indebtedness or from the trustee for any such holder, together with proof satisfactory to the Trustee of such holding of Senior Indebtedness or of the authority of such trustee and, prior to the receipt of any such written notice, the Trustee shall be entitled in all respects conclusively to presume that no such facts exist; *provided, however*, that if at least two Business Days prior to the date upon which by the terms hereof any such moneys or assets may become payable for any purpose (including, without limitation, the payment of either the principal (or premium, if any) or interest, if any, on any Security) a Responsible Officer of the Trustee shall not have received with respect to such moneys or assets the notice provided for in this Section 15.06, then, anything herein contained to the contrary notwithstanding, the Trustee shall have full power and

authority to receive such moneys or assets 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 within two Business Days prior to such date. The Trustee shall be entitled to rely on the delivery to it of a written notice by a Person representing himself to be a holder of Senior Indebtedness (or a trustee on behalf of such holder) to establish that such a notice has been given by a holder of Senior Indebtedness or a trustee on behalf of any such holder. In the event that the Trustee determines in good faith that further evidence is required with respect to the right of any Person as a holder of Senior Indebtedness to participate in any payment or distribution pursuant to this Article XV, 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 XV 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 15.07 Trustee as Holder of Senior Indebtedness. Subject to Section 15.01, the Trustee in its individual capacity shall be entitled to all the rights set forth in this Article XV 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 this Indenture shall be construed to deprive the Trustee of any of its rights as such holder. Nothing in this Article XV shall apply to claims of, or payments to, the Trustee under or pursuant to Sections 7.05 or 11.01.

Section 15.08 Modifications of Terms of Senior Indebtedness. Subject to Section 15.01, any renewal or extension of the time of payment of any Senior Indebtedness or the exercise by the holders of Senior Indebtedness of any of their rights under any instrument creating or evidencing Senior Indebtedness, including, without limitation, the waiver of default thereunder, may be made or done all without notice to or assent from the holders of the Securities or the Trustee. No compromise, alteration, amendment, modification, extension, renewal or other change of, or waiver, consent or other action in respect of, any liability or obligation under or in respect of, or of any of the terms, covenants or conditions of any indenture or other instrument under which any Senior Indebtedness is outstanding or of such Senior Indebtedness, whether or not such release is in accordance with the provisions of any applicable document, shall in any way alter or affect any of the provisions of this Article XV or of the Securities relating to the subordination thereof.

Section 15.09 Reliance on Judicial Order or Certificate of Liquidating Agent. Subject to Section 15.01, upon any payment or distribution of assets of the Company referred to in this Article XV, the Trustee and the holders of the Securities shall be entitled to rely upon any order or decree entered by any court of competent jurisdiction in which such insolvency, bankruptcy, receivership, liquidation, reorganization, dissolution, winding up or similar case or proceeding is pending, or a certificate of the trustee in bankruptcy, liquidating trustee, custodian, receiver, assignee for the benefit of creditors, agent or other person making such payment or distribution, delivered to the Trustee or to the holders of Securities, for the purpose of ascertaining the persons entitled to participate in such payment or distribution to

holders of Senior Indebtedness and other Indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article XV.

Section 15.10 Satisfaction and Discharge; Defeasance and Covenant Defeasance. Subject to Section 15.01, amounts and U.S. Government Obligations deposited in trust with the Trustee pursuant to and in accordance with Article XII and not, at the time of such deposit, prohibited to be deposited under Sections 15.02 or 15.03 shall not be subject to this Article XV.

## **ARTICLE XVI MISCELLANEOUS PROVISIONS**

### Section 16.01 Certificates and Opinions as to Conditions Precedent.

(a) Upon any request or application by the Company to the Trustee to take any action under any of the provisions of this Indenture, the Company shall furnish to the Trustee an Officer's 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 have been complied with, except that in the case of any such application or demand as to which the furnishing of such document is specifically required by any provision of this Indenture relating to such particular application or demand, no additional certificate or opinion need be furnished.

(b) Each certificate or opinion provided for in this Indenture and delivered to the Trustee with respect to compliance with a condition or covenant provided for in this Indenture (other than the certificates provided pursuant to Section 6.05 of this Indenture or TIA Section 314(a)(4)) must comply with TIA Section 314(a) and shall include (i) a statement that the Person making giving such certificate or opinion has read such covenant or condition; (ii) 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; (iii) a statement that, in the view or opinion of such Person, he or she has made such examination or investigation as is necessary to enable such Person to express an informed view or opinion as to whether or not such covenant or condition has been complied with; and (iv) a statement as to whether or not, in the view or opinion of such Person, such condition or covenant has been complied with.

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



counsel knows, or in the exercise of reasonable care should know, that the certificate, statement or opinion or representations with respect to such matters are erroneous.

(d) Any certificate, statement or opinion of an officer of the Company or of counsel to the Company may be based, insofar as it relates to accounting matters, upon a certificate or opinion of, or representations by, an accountant or firm of accountants, unless such officer or counsel, as the case may be, knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the accounting matters upon which his or her certificate, statement or opinion may be based are erroneous. Any certificate or opinion of any firm of independent registered public accountants filed with the Trustee shall contain a statement that such firm is independent.

(e) 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.

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

Section 16.02 Trust Indenture Act Controls. If and to the extent that any provision of this Indenture limits, qualifies or conflicts with the duties imposed by, or another provision included in this Indenture which is required to be included in this Indenture by any of the provisions of Sections 310 to 318, inclusive, of the Trust Indenture Act, such imposed duties or incorporated provision shall control.

Section 16.03 What Constitutes Action by Board of Directors. Whenever action is required by this Indenture by the Board of Directors of the Company and there is at the time constituted a committee of the Board of Directors duly authorized to take such action, or a committee of officers or other representatives of the Company so authorized by the Board of Directors, such action by such a committee shall be deemed to be the action of the Board of Directors and shall be sufficient for all purposes of this Indenture where action by the Board of Directors is specified.

Section 16.04 Notices to the Company and Trustee. Any notice or demand authorized by this Indenture to be made upon, given or furnished to, or filed with, the Company or the Trustee shall be sufficiently made, given, furnished or filed for all purposes if it shall be mailed, delivered or telefaxed to:

(a) the Company, at Avery Dennison Corporation, 150 North Orange Grove Boulevard, Pasadena, California 91103, Attention: Richard P. Randall, Vice President

and Assistant Secretary, or at such other address or facsimile number as may have been furnished in writing to the Trustee by the Company.

(b) the Trustee, at the Corporate Trust Office of the Trustee, Attention: Corporate Trust Administration.

Any such notice, demand or other document shall be in the English language.

Section 16.05 Notices to Securityholders; Waiver. Any notice or report required or permitted to be given to Securityholders shall be sufficiently given (unless otherwise herein expressly provided),

(a) if to Registered Holders, if given in writing by first class mail, postage prepaid, to such holders at their addresses as the same shall appear on the Register of the Company.

(b) In the event of suspension of regular mail service or by reason of any other cause it shall be impracticable to give notice by mail, then such notification as shall be given with the approval of the Trustee shall constitute sufficient notice for every purpose hereunder.

(c) Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance on such waiver. In any case where notice to holders is given by mail; neither the failure to mail such notice nor any defect in any notice so mailed to any particular holder shall affect the sufficiency of such notice with respect to other holders, and any notice that is mailed in the manner herein provided shall be conclusively presumed to have been duly given. In any case where notice to holders is given by publication, any defect in any notice so published as to any particular holder shall not affect the sufficiency of such notice with respect to other holders, and any notice that is published in the manner herein provided shall be conclusively presumed to have been duly given.

(d) Each such notice or report shall also be delivered pursuant to this Section 16.05 to any Person described in TIA Section 313(c) to the extent required by the TIA.

Section 16.06 Legal Holiday. Unless otherwise specified pursuant to Section 3.01, in any case where any Interest Payment Date, Redemption Date or Maturity of any Security of any series shall not be a Business Day at any Place of Payment for the Securities of that series, then payment of principal and premium, if any, or interest need not be made at such Place of Payment on such date, but may be made on the next succeeding Business Day at such Place of Payment with the same force and effect as if made on such Interest Payment Date, Redemption Date or Maturity and no interest shall accrue on such payment for the period from and after such Interest Payment Date, Redemption Date or Maturity, as the case may be, to such Business Day if such payment is made or duly provided for on such Business Day.

Section 16.07 Effects 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 16.08 Successors and Assigns. All covenants and agreements in this Indenture by the parties hereto shall bind their respective successors and assigns and inure to the benefit of their permitted successors and assigns, whether so expressed or not.

Section 16.09 Separability Clause. In case any provision in this Indenture or in the Securities shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 16.10 Benefits of Indenture. Nothing in this Indenture expressed and nothing that may be implied from any of the provisions hereof is intended, or shall be construed, to confer upon, or to give to, any Person or corporation other than the parties hereto and their successors and the holders of the Securities any benefit or any right, remedy or claim under or by reason of this Indenture or any covenant, condition, stipulation, promise or agreement hereof, and all covenants, conditions, stipulations, promises and agreements in this Indenture contained shall be for the sole and exclusive benefit of the parties hereto and their successors and of the holders of the Securities.

Section 16.11 Counterparts Originals. This Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 16.12 Governing Law. This Indenture and the Securities shall be deemed to be contracts made under the law of the State of New York, and for all purposes shall be governed by and construed in accordance with the law of said State.

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

AVERY DENNISON CORPORATION,  
as Issuer

By: /s/ Karyn E. Rodriguez  
Name: Karyn E. Rodriguez  
Title: Vice President and Treasurer of Avery Dennison  
Corporation

THE BANK OF NEW YORK TRUST  
COMPANY, N.A., as Trustee

By: /s/ Brian R. Echausse  
Name: Brian R. Echausse  
Title: Trust Officer

**FIRST SUPPLEMENTAL INDENTURE**  
**between**  
**AVERY DENNISON CORPORATION**  
**and**  
**THE BANK OF NEW YORK TRUST COMPANY, N.A.**  
**as Trustee**  
**5.350% Senior Notes due 2020**  
Dated as of November 20, 2007

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THIS FIRST SUPPLEMENTAL INDENTURE (this “**Supplemental Indenture**”), dated as of November 20, 2007, is between AVERY DENNISON CORPORATION, a Delaware corporation (the “**Company**”), and THE BANK OF NEW YORK TRUST COMPANY, N.A., a New York banking corporation, as Trustee (the “**Trustee**”).

#### RECITALS

WHEREAS, the Company has heretofore executed and delivered to the Trustee an Indenture, dated as of November 20, 2007 (the “**Base Indenture**” and, as further supplemented by this Supplemental Indenture, the “**Indenture**”), providing for the issuance from time to time of series of the Company’s Securities (as defined in the Base Indenture);

WHEREAS, Section 14.01(n) of the Base Indenture provides for the Company and the Trustee to enter into an indenture supplemental to the Base Indenture to establish the form or terms of Securities of any series as permitted by Sections 3.01 of the Base Indenture;

WHEREAS, pursuant to Section 3.01 of the Base Indenture, the Company wishes to provide for the issuance of a new series of Securities to be known as its 5.350% Senior Notes due 2020, or on such earlier maturity date not earlier than November 15, 2012 as the Company may elect in connection with a successful remarketing, as provided herein (the “**Senior Notes**”), the form and terms of such Senior Notes and the terms, provisions and conditions thereof to be set forth as provided in this Supplemental Indenture;

WHEREAS, the Company has requested that the Trustee execute and deliver this Supplemental Indenture and all requirements necessary to make this Supplemental Indenture a valid, binding and enforceable instrument in accordance with its terms, and to make the Senior Notes, when executed by the Company and authenticated and delivered by the Trustee, the valid, binding and enforceable obligations of the Company, have been done and performed, and the execution and delivery of this Supplemental Indenture has been duly authorized in all respects.

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

#### ARTICLE 1 DEFINITIONS

Section 1.01. *Relation to Base Indenture.* This Supplemental Indenture constitutes an integral part of the Base Indenture.

Section 1.02. *Definition of Terms.* For all purposes of this Supplemental Indenture:

- (a) Capitalized terms used herein without definition shall have the meanings specified in the Base Indenture;
- (b) a term defined anywhere in this Supplemental Indenture has the same meaning throughout;

(c) the singular includes the plural and vice versa;

(d) headings are for convenience of reference only and do not affect interpretation;

(e) the following terms have the meanings given to them in this Article 1:

“**Applicable Ownership Interest**” means the \$50 principal amount of the Senior Notes that is a component of each Corporate HiMEDS Unit.

“**Base Indenture**” means the agreement named as the “Base Indenture” in the first recital of this Supplemental Indenture.

“**Business Day**” means any day other than a Saturday, Sunday or any other day on which banking institutions and trust companies in New York City are permitted or required by any applicable law to remain closed or a day on which the Trustee or the Collateral Agent is closed for business; *provided* that for purposes of Section 2.05(b) only, the term “Business Day” shall also be deemed to exclude any day on which DTC is closed.

“**Cash Settlement**” shall have the meaning set forth in the Purchase Contract and Pledge Agreement.

“**Collateral Account**” shall have the meaning set forth in the Purchase Contract and Pledge Agreement.

“**Collateral Agent**” shall have the meaning set forth in the Purchase Contract and Pledge Agreement.

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

“**Corporate HiMEDS Unit**” shall have the meaning set forth in the Purchase Contract and Pledge Agreement.

“**Custodial Agent**” shall have the meaning set forth in the Purchase Contract and Pledge Agreement.

“**Depository**” means a clearing agency registered under Section 17A of the Securities Exchange Act of 1934, as amended, that is designated to act as Depository for the HiMEDS Units pursuant to the Purchase Contract and Pledge Agreement.

“**Depository Participant**” means a broker, dealer, bank, other financial institution or other Person for whom from time to time the Depository effects book entry transfers and pledges of securities deposited with the Depository.

“**DTC**” means The Depository Trust Company Corporation.



“**Early Settlement**” shall have the meaning set forth in the Purchase Contract and Pledge Agreement.

“**Global Senior Notes**” shall have the meaning set forth in Section 2.04.

“**Indenture**” means the agreement named as the “Indenture” in the first recital of this Supplemental Indenture.

“**Interest Payment Dates**” shall have the meaning set forth in Section 2.05(b).

“**Interest Rate**” shall have the meaning set forth in Section 2.05(a).

“**Last Failed Remarketing**” shall have the meaning set forth in Section 5.01(g).

“**Maturity**” shall have the meaning specified in Section 2.02.

“**Merger Early Settlement**” shall have the meaning set forth in the Purchase Contract and Pledge Agreement.

“**Pledged Senior Notes**” shall have the meaning set forth in the Purchase Contract and Pledge Agreement.

“**Purchase Contract**” shall have the meaning set forth in the Purchase Contract and Pledge Agreement.

“**Purchase Contract Agent**” shall have the meaning set forth in the Purchase Contract and Pledge Agreement.

“**Purchase Contract and Pledge Agreement**” means the Purchase Contract and Pledge Agreement, dated as of November 20, 2007, between the Company and The Bank of New York Trust Company, N.A., as Purchase Contract Agent and as attorney-in-fact of the Holders (as defined therein) from time to time, and The Bank of New York Trust Company, N.A., as Collateral Agent, Custodial Agent and Securities Intermediary, as amended from time to time.

“**Purchase Contract Settlement Date**” shall have the meaning set forth in the Purchase Contract and Pledge Agreement.

“**Put Price**” shall have the meaning set forth in Section 5.03(a).

“**Put Right**” shall have the meaning set forth in Section 5.03(a).

“**Quarterly Interest Payment Date**” shall have the meaning set forth in Section 2.05(b).

“**Record Date**” means, with respect to any Interest Payment Date for the Senior Notes, the first day of the calendar month in which such Interest Payment Date falls (whether or not a Business Day).

“**Remarketed Senior Notes**” shall have the meaning set forth in Section 5.01(e)(ii).

**“Remarketing Agent”** shall have the meaning set forth in the Purchase Contract and Pledge Agreement.

**“Remarketing Agreement”** means the Remarketing Agreement to be entered into among the Company, the Remarketing Agent, and The Bank of New York Trust Company, N.A., as Purchase Contract Agent, as amended from time to time.

**“Remarketing Date”** shall have the meaning set forth in the Purchase Contract and Pledge Agreement.

**“Remarketing Fee”** shall have the meaning set forth in the Purchase Contract and Pledge Agreement.

**“Remarketing Notice”** shall have the meaning set forth in the Purchase Contract and Pledge Agreement.

**“Remarketing Value”** shall have the meaning set forth in the Purchase Contract and Pledge Agreement.

**“Reset Effective Date”** means the Purchase Contract Settlement Date.

**“Reset Rate”** shall have the meaning set forth in Section 5.01(f)(i).

**“Senior Notes”** means the Securities named as such in the third recital of this Supplemental Indenture.

**“Separate Senior Notes”** shall have the meaning set forth in the Purchase Contract and Pledge Agreement.

**“Subsequent Interest Payment Date”** means, in connection with a successful remarketing, following the Reset Effective Date, May 15 and November 15 of each year.

**“Subsequent Remarketing Date”** shall have the meaning set forth in the Purchase Contract and Pledge Agreement.

**“Treasury HiMEDS Unit”** shall have the meaning set forth in the Purchase Contract and Pledge Agreement.

**“Trustee”** means the Person named as the “Trustee” in the first paragraph of this Supplemental Indenture until a successor Trustee shall have become such pursuant to the applicable provisions of the Base Indenture, and thereafter “Trustee” shall mean such Person or any subsequent successor who is appointed pursuant to the Base Indenture.

**“Underwriters”** shall have the meaning set forth in the Purchase Contract and Pledge Agreement.

ARTICLE 2  
GENERAL TERMS AND CONDITIONS OF THE SENIOR NOTES

Section 2.01. *Designation and Principal Amount.* There is hereby authorized a series of Securities designated as 5.350% Senior Notes due 2020, or such earlier maturity date not earlier than November 15, 2012 as we may elect in connection with a successful remarketing pursuant to Section 2.02, and are initially limited in aggregate principal amount to \$400,000,000 (up to \$440,000,000 if the Underwriters exercise their over-allotment option in full in accordance with the terms of the Underwriting Agreement). The Senior Notes may be issued from time to time upon written order of the Company for the authentication and delivery of Senior Notes pursuant to Section 3.03 of the Base Indenture.

Section 2.02. *Maturity.* The Senior Notes will mature and the principal amount thereof shall be due and payable together with all accrued and unpaid interest thereon, on the Maturity. The “**Maturity**” shall mean November 15, 2020; *provided* that the Company, in its sole discretion, may elect an earlier Maturity of November 15, 2012, November 15, 2013, November 15, 2015 or November 15, 2017 in connection with a successful remarketing. For the avoidance of doubt, in no event may the Company elect a Maturity earlier than November 15, 2012, which is the second anniversary of the Purchase Contract Settlement Date. Any such election with respect to an earlier Maturity would take effect on the Reset Effective Date.

Section 2.03. *Form, Payment and Appointment.* Except as provided in Section 2.04, the Senior Notes shall be issued in fully registered, certificated form, bearing identical terms. Principal of and interest on the Senior Notes will be payable, the transfer of such Senior Notes will be registrable, and such Senior Notes will be exchangeable for Senior Notes of a like aggregate principal amount in denominations of \$1,000 and integral multiples of \$1,000, without coupons, bearing identical terms and provisions, at the office or agency of the Company maintained for such purpose, which shall initially be the Corporate Trust Office of the Trustee; *provided, however*, that payment of interest may be made at the option of the Company by check mailed to the Holder at such address as shall appear in the Register or by wire transfer to an account appropriately designated by the Holder entitled to payment.

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

The Registrar and Paying Agent for the Senior Notes shall initially be the Trustee.

The Senior Notes shall be issuable in denominations of \$1,000 and integral multiples of \$1,000 in excess thereof. Each Applicable Ownership Interest in a Senior Note held as a component of a Corporate HiMEDS Unit represents an undivided beneficial ownership interest of 1/20, or 5%, of \$1,000 principal amount of Senior Notes.

Section 2.04 *Global Senior Notes.* Senior Notes that are no longer a component of the Corporate HiMEDS Units and released from the Collateral Account will be issued in fully registered permanent global form (a “**Global Senior Note**”), and if issued as one or more Global Senior Notes, the Depositary shall be DTC or such other depositary as any officer of the

Company may from time to time designate. Upon the creation of Treasury HiMEDS Units or the recreation of Corporate HiMEDS Units, an appropriate annotation shall be made on the Schedule of Increases and Decreases on the Global Senior Notes held by the Depositary. Unless and until such Global Senior Note is exchanged for Senior Notes in fully registered, certificated form, Global Senior Notes may be transferred, in whole but not in part, in integral multiples of \$1,000, and any payments on the Senior Notes shall be made, only to the Depositary or a nominee of the Depositary, or to a successor Depositary selected or approved by the Company or to a nominee of such successor Depositary.

Section 2.05. *Interest.* (a) The Senior Notes will bear interest initially at the rate of 5.350% per year (the “**Interest Rate**”) from the date of original issuance to, but excluding, the Reset Effective Date. If the Senior Notes are not successfully remarketed, the Interest Rate will remain 5.350% per year to but excluding the Maturity. In the event of a successful remarketing of the Senior Notes, the Interest Rate will be reset by the Remarketing Agent at the Reset Rate. If the Interest Rate is so reset, the Senior Notes will bear interest at the Reset Rate from and including the Reset Effective Date to but excluding the Maturity. To the extent permitted by law, interest will be compounded quarterly, on any overdue principal and payment of interest at the Interest Rate to but excluding the Reset Effective Date and, compounded semi-annually, at the Reset Rate thereafter.

(b) Interest on the Senior Notes shall be payable initially quarterly in arrears on February 15, May 15, August 15 and November 15 of each year (each, a “**Quarterly Interest Payment Date**”), commencing February 15, 2008, to the Person in whose name such Senior Note, or any predecessor Senior Note, is registered at 5:00 p.m., New York City time, on the Record Date for such Interest Payment Date. Following a successful remarketing of the Senior Notes, interest on the Senior Notes shall be payable semi-annually in arrears on the Subsequent Interest Payment Dates (together with Quarterly Interest Payment Dates, the “**Interest Payment Dates**”). Interest payments will include interest accrued from and including the immediately preceding Interest Payment Date or, in the case of the first Interest Payment Date, from and including November 20, 2007, to but excluding such Interest Payment Date.

(c) The amount of interest payable for any full quarterly period, or, following a successful remarketing, for any full semi-annual period, as applicable, will be computed on the basis of a 360-day year consisting of twelve 30-day months. The amount of interest payable for any period other than a full quarterly or semi-annual period, as applicable, will be computed on the basis of the actual number of days elapsed and a 360-day year. In the event that any scheduled Interest Payment Date falls on a day that is not a Business Day, then payment of interest payable on such Interest Payment Date will be made on the next succeeding day which is a Business Day (and without any interest or other payment in respect of any such delay), except that, if such Business Day is in the next calendar year, then such payment will be made on the preceding Business Day, in each case, with the same force and effect as if made on such scheduled Interest Payment Date.

Section 2.06. *No Defeasance.* The defeasance provisions of Article 12 of the Base Indenture shall not apply to the Senior Notes.

Section 2.07. *No Sinking Fund*. The Senior Notes are not entitled to the benefit of any sinking fund.

Section 2.08. *Voting Rights*. Voting rights with respect to Senior Notes held as part of Corporate HiMEDS Units shall be governed by Section 4.02 of the Purchase Contract Agreement.

ARTICLE 3  
FORM OF SENIOR NOTE

Section 3.01. *Form of Senior Note*. The Senior Notes and the Trustee's Certificate of Authentication to be endorsed thereon are to be substantially in the forms attached as Exhibit A hereto, with such changes therein as the officers of the Company executing the Senior Notes (by manual or facsimile signature) may approve, such approval to be conclusively evidenced by their execution thereof.

ARTICLE 4  
ORIGINAL ISSUE OF SENIOR NOTES

Section 4.01. *Original Issue of Senior Notes*. Senior Notes in the aggregate principal amount of \$400,000,000 (up to \$440,000,000 if the Underwriters exercise their over-allotment option in full in accordance with the terms of the Underwriting Agreement) may from time to time, upon execution of this Supplemental Indenture, be executed by the Company and delivered to the Trustee for authentication, and the Trustee shall thereupon authenticate and deliver said Senior Notes to or upon the written order of the Company pursuant to Section 3.03 of the Base Indenture without any further action by the Company (other than as required by the Base Indenture).

ARTICLE 5  
REMARKETING

Section 5.01. *Remarketing Procedures*(a) . (a) The Company shall engage, no later than 35 days prior to the Remarketing Date, the Remarketing Agent pursuant to a Remarketing Agreement to be entered into among the Company, the Remarketing Agent and the Purchase Contract Agent, but providing for remarketing procedures substantially as set forth below, to sell the Senior Notes of holders of Corporate HiMEDS Units, other than holders that have elected not to participate in the remarketing pursuant to the procedures set forth in Section 5.01(b), and Holders of Separate Senior Notes that have elected to participate in the remarketing pursuant to the procedures set forth in Section 5.02 and in Section 5.02(b) of the Purchase Contract and Pledge Agreement.

(b) The Pledged Senior Notes comprising part of Corporate HiMEDS Units and the Separate Senior Notes of Holders of Separate Senior Notes that have elected to participate in the remarketing shall be remarketed by the Remarketing Agent on the Remarketing Date, and, if necessary, on each Subsequent Remarketing Date. A holder of Corporate HiMEDS Units may elect not to participate in the remarketing and retain the Senior Notes underlying such Corporate HiMEDS Units by notifying the Purchase Contract Agent of such election and delivering the Purchase Price to the Collateral Agent on or prior to 4:00 p.m., New York City time, on the

second Business Day immediately preceding the Remarketing Date. Any such payment will be paid to the Company on the Purchase Contract Settlement Date in settlement of such holder's obligations under the Purchase Contracts. A holder of Corporate HiMEDS Units that has not settled the related Purchase Contract through a Cash Settlement, an Early Settlement or Merger Early Settlement pursuant to Sections 5.02(a), 5.07 and 5.04(b)(ii) of the Purchase Contract and Pledge Agreement or by electing not to participate in the remarketing pursuant to this Section 5.01(b) and Section 5.02(a) of the Purchase Contract and Pledge Agreement shall be deemed to have elected to participate in the remarketing.

(c) No later than 12:00 noon, New York City time, on the twenty-third Business Day immediately preceding the Purchase Contract Settlement Date, the Company, or the Purchase Contract Agent, at the Company's request, shall deliver the Remarketing Notice to holders of Corporate HiMEDS Units and Holders of Separate Senior Notes, of the remarketing to take place on the Remarketing Date, and, if necessary, on each Subsequent Remarketing Date. The Remarketing Notice will include the amount of cash that must be delivered by holders of Corporate HiMEDS Units that elect not to participate in the remarketing and the deadline for such delivery and disclosure of related procedures whereby a holder can retain the Senior Notes pledged in respect of its Corporate HiMEDS Units, as well as information with respect to the exercise of the Put Right, including disclosure of the procedures for exercising such right. If such Corporate HiMEDS Units or Separate Senior Notes are held in global form, the Company, or the Purchase Contract Agent, at the Company's request, will cause the Depository to notify the Depository Participants of the remarketing by no later than the twenty-third Business Day immediately preceding the Purchase Contract Settlement Date.

(d) On the second Business Day immediately preceding the Remarketing Date, no later than 6:00 p.m. New York City time, pursuant to the terms of the Purchase Contract and Pledge Agreement, the Custodial Agent shall notify the Purchase Contract Agent and the Remarketing Agent of the aggregate principal amount of Separate Senior Notes to be remarketed. On the second Business Day immediately preceding the Remarketing Date, no later than 6:00 p.m., New York City time, pursuant to the terms of the Purchase Contract and Pledge Agreement, the Collateral Agent shall notify the Purchase Contract Agent and the Remarketing Agent of the aggregate principal amount of Senior Notes of holders of Corporate HiMEDS Units to be remarketed. No later than noon, New York City time, on the Business Day immediately preceding the Remarketing Date, the Collateral Agent and the Custodial Agent, pursuant to the terms of the Purchase Contract and Pledge Agreement, will deliver for remarketing to the Remarketing Agent all Senior Notes to be remarketed.

(e) The right of each Holder of Senior Notes to have its Senior Notes tendered for purchase will be limited to the extent that:

(i) the Remarketing Agent conducts a remarketing pursuant to the terms of the Remarketing Agreement;

(ii) the Remarketing Agent is able to find a purchaser or purchasers for the Remarketed Senior Notes (the "**Remarketed Senior Notes**") at a Reset Rate such that the price per Remarketed Senior Notes is equal to 100.25% of the Remarketing Value; and

(iii) such purchaser or purchasers deliver the purchase price therefor to the Remarketing Agent.

(f) Upon receipt of the notice provided above in Section 5.01(d) from the Collateral Agent and the Custodial Agent and such Senior Notes from the Collateral Agent and the Custodial Agent, the Remarketing Agent will, on the Remarketing Date, and, if necessary, on each Subsequent Remarketing Date, use its reasonable best efforts to:

(i) establish a fixed rate of interest that, in the opinion of the Remarketing Agent, will, when applied to the outstanding Senior Notes, enable the then current aggregate market value of the Senior Notes to have a value equal to 100.25% of the Remarketing Value as of the Remarketing Date or as of any Subsequent Remarketing Date, as the case may be (the “**Reset Rate**”); and

(ii) sell such Senior Notes on such date at a price per Senior Note equal to 100.25% of the Remarketing Value.

(g) If, in spite of using its reasonable best efforts, the Remarketing Agent cannot establish the Reset Rate and remarket the Senior Notes included in the remarketing at a price per Senior Note equal to 100.25% of the Remarketing Value on the Remarketing Date, the Remarketing Agent will attempt to establish the Reset Rate and remarket the Senior Notes included in the remarketing at a price per Senior Note equal to 100.25% of the Remarketing Value on each Subsequent Remarketing Date, if necessary. If, in spite of using its reasonable best efforts, the Remarketing Agent fails to remarket the Senior Notes included in the remarketing at a price per Senior Note equal to 100.25% of the Remarketing Value on or prior to 4:00 p.m., New York City time, on the third scheduled Business Day immediately preceding the Purchase Contract Settlement Date, the remarketing will be deemed to have failed (the “**Last Failed Remarketing**”).

(h) On the Remarketing Date and any Subsequent Remarketing Date, the Remarketing Agent shall advise the Company, by telephone, of any successful or unsuccessful remarketing as soon as practicable after such determination as provided in the Remarketing Agreement.

(i) If a successful remarketing shall have occurred, the Remarketing Agent will, on or prior to the third Business Day following the date on which the Senior Notes were successfully remarketed, in accordance with the Purchase Contract and Pledge Agreement and the Remarketing Agreement:

(i) deduct and retain for itself the Remarketing Fee;

(ii) if any Separate Senior Notes were remarketed, remit to the Custodial Agent for payment to the Holders of such Separate Senior Notes sold in the remarketing the remaining proceeds from such successful remarketing equal to the principal amount of the Separate Senior Notes included in the remarketing;

(iii) pay the proceeds from such successful remarketing related to the Senior Notes of holders of Corporate HiMEDS Units that were remarketed to the Collateral Agent, which, for the benefit of the Company, will thereupon apply such proceeds, in accordance with the Purchase Contract and Pledge Agreement in direct settlement of the holders’ obligations under the Purchase Contracts;

(iv) if there remain any proceeds from such successful remarketing, after the application of such proceeds as set forth in clauses (i) through (iii) of this sentence, then remit such remaining proceeds to the Purchase Contract Agent and the Custodial Agent for distribution to the holders of the Corporate HiMEDS Units and the Holders of the Separate Senior Notes that were remarketed on or prior to the Purchase Contract Settlement Date.

(j) If a successful remarketing occurs, the Remarketing Agent shall, as soon as practicable on the Remarketing Date or on the Subsequent Remarketing Date, as the case may be, in the case of the Company, and by approximately 4:30 p.m., New York City time, on the Trading Day following the Remarketing Date, or the Subsequent Remarketing Date, as the case may be, advise, by telephone:

(i) the Depository and the Company of the Reset Rate determined in the remarketing and the aggregate principal amount of Senior Notes sold in the remarketing;

(ii) each purchaser (or the Depository Participant thereof) of the Reset Rate and the aggregate principal amount of Remarketed Senior Notes such purchaser is to purchase; and

(iii) each purchaser to give instructions to its Depository Participant to pay the purchase price on the date of settlement for such remarketing in same day funds against delivery of the Remarketed Senior Notes purchased through the facilities of DTC.

(k) Any distribution to Holders of excess funds and interest described in this Section 5.01 shall be payable at the office of the Purchase Contract Agent or the Custodial Agent, as the case may be, or, if the Corporate HiMEDS Units or Separate Senior Notes do not remain in book-entry only form, at the option of the Company, by check mailed to the address of the Person entitled thereto at such Person's address as it appears on the appropriate register or by wire transfer to the account maintained in the United States designated by written notice given ten Business Days prior to the applicable payment date by such Person.

(l) If a failed remarketing and/or a Last Failed Remarketing occurs, the Remarketing Agent and the Company, as applicable, shall take the following actions:

(i) the Remarketing Agent shall notify by telephone the Company and the Depository that a failed remarketing or Last Failed Remarketing, as applicable, has occurred;

(ii) the Company shall issue a press release announcing such failed remarketing or Last Failed Remarketing, as applicable, by 9:00 a.m., New York City time, on the Business Day following such failed remarketing or Last Failed Remarketing, as applicable; and



(iii) the Company shall release this information on its website or through another published medium as may be used at that time and will also release this information by means of Bloomberg and Reuters (or any successor or equivalent newswires) newswires.

(m) The Remarketing Agent shall return, within three Business Days following the Last Failed Remarketing, the Pledged Senior Notes that were to be remarketed to the Collateral Agent and the Separate Senior Notes that were to be remarketed to the Custodial Agent. The Collateral Agent, for the benefit of the Company, may exercise its rights as a secured party with respect to such Senior Notes, including those actions specified in Section 5.01(n); *provided* that, if upon the Last Failed Remarketing the Collateral Agent exercises such rights for the benefit of the Company with respect to such Senior Notes, any accrued and unpaid interest on such Senior Notes will become payable by the Company to the Purchase Contract Agent for payment to the holders of the Corporate HiMEDS Units to which such Senior Notes relate. Such payment will be made by the Company on or prior to 2:00 p.m., New York City time, on the Purchase Contract Settlement Date in lawful money of the United States by certified or cashier's check or wire transfer in immediately available funds payable to or upon the order of the Purchase Contract Agent.

(n) With respect to any Senior Notes which constitute part of Corporate HiMEDS Units which are subject to the Last Failed Remarketing, the Collateral Agent for the benefit of the Company reserves all of its rights as a secured party with respect thereto and, subject to applicable law and Section 5.02(c)(iii) of the Purchase Contract and Pledge Agreement, may, among other things permit the Company to, (A) retain and cancel such Senior Notes or (B) cause the Senior Notes to be sold, in either case, in full satisfaction of the holders' obligations under the Purchase Contracts.

(o) In the event of a Last Failed Remarketing, the Interest Rate payable on the Senior Notes will not be reset and interest will continue to be paid on the Quarterly Interest Payment Dates.

(p) In accordance with DTC's normal procedures, on the date of settlement of such remarketing, the transactions described above with respect to each Senior Note remarketed in the remarketing shall be executed through DTC, and the accounts of the respective Depository Participants shall be debited and credited and such Remarketed Senior Notes delivered by book-entry as necessary to effect purchases and sales of such Remarketed Senior Notes. DTC shall make payment in accordance with its normal procedures.

(q) The Remarketing Agent is not obligated to purchase any Senior Notes that otherwise would remain unsold in the remarketing. Neither the Company nor the Remarketing Agent shall be obligated in any case to provide funds to make payment upon tender of the Senior Notes for remarketing.

(r) Under the Remarketing Agreement, the Company, in its capacity as issuer of the Senior Notes, shall be liable for, and shall pay, any and all costs and expenses incurred in connection with the remarketing, other than the Remarketing Fee.

(s) The settlement procedures set forth herein, including provisions for payment by purchasers of the Remarketed Senior Notes in the remarketing, shall be subject to modification to the extent required by DTC or if the book-entry system is no longer available for the Remarketed Senior Notes at the time of the remarketing, to facilitate the remarketing of the Remarketed Senior Notes in certificated form, and shall provide for the authentication and delivery of Senior Notes in a principal amount equal to the unremarketed portion of such Senior Notes. In addition, the Remarketing Agent may modify the settlement procedures set forth herein in order to facilitate the settlement process.

**Section 5.02. *Optional Participation in Remarketing.*** (a) On or prior to 4:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date but no earlier than 35 Business Days prior to the Remarketing Date, Holders of Separate Senior Notes may elect to have their Separate Senior Notes remarketed by delivering their Separate Senior Notes, together with a notice of such election, substantially in the form of Exhibit L to the Purchase Contract and Pledge Agreement, to the Custodial Agent. On the second Business Day immediately prior to the Remarketing Date, by 6:00 p.m., New York City time, the Custodial Agent shall notify the Remarketing Agent of the aggregate principal amount of such Separate Senior Notes to be remarketed. The Custodial Agent will hold such Separate Senior Notes in an account separate from the Collateral Account. A Holder of Separate Senior Notes electing to have its Separate Senior Notes remarketed will also have the right to withdraw such election by written notice to the Custodial Agent, substantially in the form of Exhibit M to the Purchase Contract and Pledge Agreement, on or prior to 4:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date, upon which notice the Custodial Agent shall return such Separate Senior Notes to such Holder.

(b) No later than noon, on the Business Day immediately preceding the Remarketing Date, the Custodial Agent at the written direction of the Remarketing Agent will deliver to the Remarketing Agent for remarketing all Separate Senior Notes delivered to the Custodial Agent pursuant to Section 5.02(b) of the Purchase Contract and Pledge Agreement and not withdrawn pursuant to the terms thereof prior to such date. If the Holder of the Separate Senior Notes delivers only such notice but not the Separate Senior Notes subject to such notice, then none of such Holder's Separate Senior Notes shall be included in the remarketing. Once the Holder of Separate Senior Notes elects to participate in the remarketing, such Separate Senior Notes will be remarketed in the remarketing, unless such notice is properly withdrawn. In accordance with Section 5.02(c)(ii) of the Purchase Contract and Pledge Agreement, upon the occurrence of a Last Failed Remarketing, the Remarketing Agent shall return such Separate Senior Notes within three Business Days following the date of the Last Failed Remarketing to the Custodial Agent for redelivery to such Holders of such Separate Senior Notes.

**Section 5.03. *Put Right.*** (a) If there has not been a successful remarketing prior to the Purchase Contract Settlement Date, Holders of Separate Senior Notes will, subject to this Section 5.03, have the right (the "**Put Right**") to require the Company to purchase their Senior Notes, on the Purchase Contract Settlement Date, at a price per Senior Note equal to 100% of the principal amount thereof, plus accrued and unpaid interest to but excluding the Purchase Contract Settlement Date (the "**Put Price**").

(b) The Put Right of a Holder of a Separate Senior Note shall only be exercisable upon delivery of a notice to the Trustee by such Holder on or prior to the second Business Day prior to the Purchase Contract Settlement Date. On or prior to the Purchase Contract Settlement Date, the Company shall deposit with the Trustee immediately available funds in an amount sufficient to pay, on the Purchase Contract Settlement Date, the aggregate Put Price of all Separate Senior Notes with respect to which a Holder has exercised a Put Right. In exchange for any Separate Senior Notes surrendered pursuant to the Put Right, the Trustee shall then distribute such amount to the Holders of such Separate Senior Notes.

(c) Upon the payment by the Company of the amounts due in respect of Separate Senior Notes as to which Put Rights are exercised, the Trustee (or its agent) will reduce the principal amount of any global certificate theretofore representing such Separate Senior Notes, such reduction to equal the aggregate principal amount of such Separate Senior Notes repaid.

Section 5.04. *Additional Event of Default.* In addition to the events listed as Events of Default in Section 7.01 of the Base Indenture, it shall be an additional Event of Default with respect to the Senior Notes, if the Company shall not have satisfied its obligation to pay the Put Price when due with respect to any Separate Senior Note following exercise of the Put Right in accordance with Section 5.03.

## ARTICLE 6 TAX TREATMENT

Section 6.01. *Tax Treatment.* The Company intends, and by acceptance of an interest in a Senior Note, each Holder of a Senior Note will be deemed to have agreed to treat the Senior Note as indebtedness for tax purposes.

## ARTICLE 7 MISCELLANEOUS

Section 7.01. *Ratification of Indenture.* The Base Indenture, as supplemented by this Supplemental Indenture, is in all respects ratified and confirmed, and this Supplemental Indenture shall be deemed part of the Indenture in the manner and to the extent herein and therein provided.

Section 7.02. *Responsibility for Recitals, Etc.* The recitals herein and in the Senior Notes (except in the Trustee's certificate of authentication) shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness thereof. The Trustee makes no representations as to the validity or sufficiency of this Supplemental Indenture or of the Senior Notes. The Trustee shall not be accountable for the use or application by the Company of the Senior Notes or of the proceeds thereof.

Section 7.03. *Separability.* In case any one or more of the provisions contained in this Supplemental Indenture or in the Senior Notes shall for any reason be held to be invalid, illegal or unenforceable in any respect, then, to the extent permitted by law, such invalidity, illegality or unenforceability shall not affect any other provisions of this Supplemental Indenture or of the Senior Notes, but this Supplemental Indenture and the Senior Notes shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein or therein.

Section 7.04. *Successors and Assigns*. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the Company and the Trustee.

Section 7.05. *Governing Law; Submission to Jurisdiction; Waiver of Venue Objection*. THIS SUPPLEMENTAL INDENTURE AND THE SENIOR NOTES SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. The Company and the Trustee hereby submit to the nonexclusive jurisdiction of the United States District Court for the Southern District of New York and of any New York state court sitting in New York City for the purposes of all legal proceedings arising out of or relating to this Supplemental Indenture or the Senior Notes. The Company and the Trustee irrevocably waive to the fullest extent permitted by applicable law, any objection which they may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient forum.

Section 7.06. *Counterparts*. This Supplemental Indenture may be executed in any number of counterparts by the parties hereto on separate counterparts, each of which, when so executed and delivered, shall be deemed an original, but all such counterparts shall together constitute one and the same instrument.

Section 7.07. *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 or 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 Supplemental 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 or the Holders, but will suffer and permit the execution of every such power as though no such law had been enacted.

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

AVERY DENNISON CORPORATION

By: /s/ Karyn E. Rodriguez  
Name: Karyn E. Rodriguez  
Title: Vice President and Treasurer of Avery Dennison Corporation

THE BANK OF NEW YORK TRUST COMPANY, N.A.,  
as Trustee

By: /s/ Brian R. Echausse  
Name: Brian R. Echausse  
Title: Trust Officer

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[IF THIS SENIOR NOTE IS TO BE A GLOBAL SECURITY, INSERT:

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

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”), TO THE ISSUER 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.]

**AVERY DENNISON CORPORATION**

5.350% Senior Notes due 2020

No.

CUSIP No. 053611AE9  
ISIN No. US053611AE95

AVERY DENNISON CORPORATION, a corporation organized and existing under the laws of Delaware (hereinafter called the “**Company**,” which term includes any successor corporation under the Indenture hereinafter referred to), for value received, hereby promises to pay to \_\_\_\_\_, or its registered assigns, the principal sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), [if this Senior Note is a Global Security insert: or such revised amount as shall be set forth in the Schedule of Increases or Decreases in the Global Senior Note attached hereto], on the Maturity, and to pay interest thereon from November 20, 2007 or from the most recent Interest Payment Date to which interest has been paid or duly provided for, quarterly in arrears on February 15, May 15, August 15 and November 15 (each a “**Quarterly Interest Payment Date**”) of each year, commencing February 15, 2008, at the Interest Rate of 5.350% per annum to, but excluding, the Reset Effective Date. If the

Senior Notes are not successfully remarketed, the Interest Rate will remain 5.350% per year to, but excluding, the Maturity. In the event of a successful remarketing of the Senior Notes, the Interest Rate will be reset by the Remarketing Agent at the Reset Rate. If the Interest Rate is so reset, the Senior Notes will bear interest at the Reset Rate from the Reset Effective Date until the principal thereof and interest thereon is paid or duly made available for payment and shall bear interest, to the extent permitted by law, compounded quarterly, on any overdue principal and payment of interest at the Interest Rate through and including the day immediately preceding the Reset Effective Date and, compounded semi-annually, at the Reset Rate thereafter. (a) Interest on the Senior Notes shall be payable initially quarterly in arrears on February 15, May 15, August 15 and November 15 of each year (each, a “**Quarterly Interest Payment Date**”), commencing February 15, 2008, to the Person in whose name such Senior Note, or any predecessor Senior Note, is registered at 5:00 p.m. New York City time, on the Record Date for such Interest Payment Date. Following a successful remarketing of the Senior Notes, interest on the Senior Notes shall be payable semi-annually in arrears on the Subsequent Interest Payment Dates (together with Quarterly Interest Payment Dates, the “**Interest Payment Dates**”).

Payment of the principal of and interest on this Senior Note will be made at the office or agency of the Company maintained for that purpose, which shall initially be the Corporate Trust Office of the Trustee, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts; *provided, however*, that payment of interest may be made at the option of the Company by check mailed to the Holder at such address as shall appear in the Register or by wire transfer to an account appropriately designated by the Holder entitled to payment.

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

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

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

Dated: \_\_\_\_\_

AVERY DENNISON CORPORATION

By: \_\_\_\_\_

Name:

Title:

of Avery Dennison Corporation

ATTESTED:

By: \_\_\_\_\_

Name:

Title:

of Avery Dennison Corporation



TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Senior Notes referred to in the within mentioned Indenture.

Dated: \_\_\_\_\_

THE BANK OF NEW YORK TRUST COMPANY, N.A.,  
as Trustee

By: \_\_\_\_\_  
Authorized Officer

## FORM OF REVERSE OF SENIOR NOTE

This Senior Note is one of a duly authorized issue of securities of the Company (herein called the “**Senior Notes**”), issued and to be issued in one or more series under an Indenture dated as of November 20, 2007 between the Company and The Bank of New York Trust Company, N.A. (the “**Base Indenture**,” and as further supplemented by the First Supplemental Indenture dated as of November 20, 2007 between the Company and The Bank of New York, the “**Indenture**”), to which Indenture reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Trustee and the Holders of the Senior Notes and of the terms upon which the Senior Notes are, and are to be, authenticated and delivered. This Senior Note is one of the series designated on the face hereof, initially limited in aggregate principal amount to \$400,000,000 (up to \$440,000,000 if the Underwriters exercise their over-allotment option in full in accordance with the terms of the Underwriting Agreement).

This Senior Note shall mature and the principal amount thereof shall be due and payable together with all accrued and unpaid interest thereon on the Maturity. The “**Maturity**” shall mean November 15, 2020; *provided* that the Company, in its sole discretion, may elect an earlier Maturity of November 15, 2012, November 15, 2013, November 15, 2015 or November 15, 2017. For the avoidance of doubt, in no event may the Company elect a Maturity earlier than November 15, 2012, which is the second anniversary of the Purchase Contract Settlement Date. Any such election with respect to an earlier Maturity would take effect on the Reset Effective Date.

“**Subsequent Interest Payment Date**” means, in connection with a successful remarketing, following the Reset Effective Date, May 15 and November 15 of each year.

If this Senior Note is not a component of a Corporate HiMEDS Unit, the Holder of this Senior Note may, on or prior to 4:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date, elect to have this Senior Note remarketed in the same manner as Pledged Senior Notes, by delivering this Senior Note, along with a notice of such election to The Bank of New York Trust Company, N.A., as Custodial Agent, for remarketing in accordance with the Purchase Contract and Pledge Agreement.

If there has not been a successful remarketing prior to the Purchase Contract Settlement Date and this Senior Note is not a component of a Corporate HiMEDS Unit, the Holder of this Senior Note will have the right to require the Company to purchase this Senior Note, all as more fully described in the Indenture.

The Senior Notes are not entitled to the benefit of any sinking fund and will not be subject to defeasance.

If an Event of Default with respect to Senior Notes of this series shall occur and be continuing, the principal of the Senior Notes of this series may be declared due and payable in the manner and with the effect provided in the Indenture.

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 Senior Notes at any time by the Company and the Trustee with the consent of the Holders of a majority in principal amount of the Senior Notes at the time Outstanding. The Indenture also contains provisions permitting the Holders of specified percentages in principal amount of the Senior Notes at the time Outstanding, on behalf of the Holders of all Senior Notes, to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Senior Note shall be conclusive and binding upon such Holder and upon all future Holders of this Senior Note and of any Senior Note issued upon the registration of transfer hereof or in exchange hereof or in lieu hereof, whether or not notation of such consent or waiver is made upon this Senior Note.

No reference herein to the Indenture and no provision of this Senior Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and interest on this Senior Note at the times, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Senior Note is registrable in the Register, upon surrender of this Senior Note for registration of transfer at the office or agency of the Company in any place where the principal of and interest on this Senior Note are payable, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Registrar duly executed by the Holder hereof or his attorney duly authorized in writing, and thereupon one or more new Senior Notes of this series, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Senior Notes of this series are issuable only in registered form without coupons in denominations of \$1,000 and any integral multiple thereof except as provided for in Section 2.03 of Supplemental Indenture. As provided in the Indenture and subject to certain limitations therein set forth, Senior Notes of this series are exchangeable for a like aggregate principal amount of Senior Notes of this series of a different authorized denomination, as requested by the Holder surrendering the same.

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

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

All terms used in this Senior Note which are defined in the Indenture shall have the meanings assigned to them in the Indenture.

The Company intends to treat and each Holder, by acceptance of a beneficial interest in a Corporate HiMEDS Unit, agrees to treat the Senior Notes as indebtedness for tax purposes.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned assigns and transfers this Senior Note to:

\_\_\_\_\_

(Insert assignee's social security or tax identification number)

\_\_\_\_\_

(Insert address and zip code of assignee)

and irrevocably appoints

\_\_\_\_\_

agent to transfer this Senior Note on the books of the Company. The agent may substitute another to act for him or her.

Date: \_\_\_\_\_

Signature:

\_\_\_\_\_

Signature

Guarantee: \_\_\_\_\_

(Sign exactly as your name appears on the other side of this Senior Note)

DTC

Participant #: \_\_\_\_\_

\_\_\_\_\_

## SIGNATURE GUARANTEE

Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“**STAMP**”) or such other “signature guarantee program” as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

**OPTION TO ELECT REPAYMENT**

Put Right Exercise

5.350% Senior Notes due 2020

To: Avery Dennison Corporation  
The Bank of New York Trust Company, N.A., as Trustee

The undersigned Holder of Senior Notes due 2020 issued by Avery Dennison Corporation (the "Company") hereby exercises the Put Right (as defined in the Indenture dated as of November 20, 2007, as amended and supplemented by the First Supplemental Indenture dated as of November 20, 2007 (as amended and supplemented, the "Indenture"), between the Company and The Bank of New York Trust Company, N.A., as trustee requests and instructs the Company to repurchase this Security, or the portion hereof (which is \$1,000 principal amount or a integral multiple thereof) designated below, in accordance with the terms of the Indenture and directs that the check in payment for this Security or the portion thereof and any Securities representing any unreurchased principal amount hereof, be issued and delivered to the Holder hereof unless a different name has been indicated below. If any portion of this Security not repurchased is to be issued in the name of a Person other than the undersigned, the undersigned shall pay all transfer taxes payable with respect thereto.

Dated:

\_\_\_\_\_  
Signature(s)

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to the Securities and Exchange Commission Rule 17Ad-15.

\_\_\_\_\_  
Signature Guarantee

Fill in if a check is to be issued, or Securities are to be issued, other than to and in the name of registered holder:

\_\_\_\_\_  
(Name)

Principal amount to be purchased (if less than all):  
\$ \_\_\_\_\_,000

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City, state and zip code)

Please print name and address

\_\_\_\_\_  
Social Security or Other Taxpayer Number

[TO BE INSERTED TO GLOBAL SENIOR NOTE]

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL SENIOR NOTE

The initial aggregate principal amount of Senior Notes evidenced by this Global Senior Note is \$0. The following increases or decreases in a part of this Senior Note have been made:

Date	Amount of decrease in principal amount of this Global Senior Note	Amount of increase in principal amount of this Global Senior Note	Principal amount of this Global Senior Note following such decrease (or increase)	Signature of authorized officer of Trustee
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## AVERY DENNISON CORPORATION

## FORM OF REMARKETING AGREEMENT

REMARKETING AGREEMENT, dated as of [\_\_\_\_\_], 2010 (the “**Agreement**”) by and between Avery Dennison Corporation, a Delaware corporation (the “**Company**”), and [\_\_\_\_\_] (the “**Remarketing Agent**”), and acknowledged by The Bank of New York Trust Company, N.A., not individually but solely as Purchase Contract Agent (the “**Purchase Contract Agent**”) and as attorney-in-fact of the Holders of Purchase Contracts (as defined in the Purchase Contract and Pledge Agreement (as defined herein)).

WHEREAS, the Company issued [8,000,000] of its Corporate HiMEDS Units having an initial aggregate stated amount of \$[400,000,000] (the “**Corporate HiMEDS Units**”) under the Purchase Contract and Pledge Agreement (the “**Purchase Contract and Pledge Agreement**”), dated as of November 20, 2007, by and among the Company, the Purchase Contract Agent, and The Bank of New York Trust Company, N.A., as Collateral Agent (the “**Collateral Agent**”), Custodial Agent (the “**Custodial Agent**”) and Securities Intermediary; and

WHEREAS, the 5.350% Senior Notes due 2020 forming a part of the Corporate HiMEDS Units (the “**Senior Notes**”) have been pledged pursuant to the Purchase Contract and Pledge Agreement to the Collateral Agent to secure the obligations of Holders of Corporate HiMEDS Units under the related Purchase Contracts on the Purchase Contract Settlement Date; and

WHEREAS, the Remarketing Agent will attempt on November 1, 2010 (the “**Remarketing Date**”) to remarket all of (i) the Senior Notes of Holders of Corporate HiMEDS Units and (ii) the Separate Senior Notes of Holders who elect to participate in the Remarketing, pursuant respectively to the procedures set forth in Section 5.02 of the Purchase Contract and Pledge Agreement and Sections 5.01 and 5.02 of the First Supplemental Indenture, dated as of November 20, 2007 (the “**Supplemental Indenture**”), between the Company and The Bank of New York Trust Company, N.A., as trustee (the “**Trustee**”), to the Indenture, dated as of November 20, 2007 (the “**Base Indenture**”) and, together with the Supplemental Indenture, the “**Indenture**”), between the Company and the Trustee (each of which Sections is incorporated herein by reference); and

WHEREAS, in the event the Remarketing on the Remarketing Date is unsuccessful, the Remarketing Agent will remarket the Senior Notes to be included in the Remarketing on November 2, 2010, and, if necessary, will attempt to remarket such Senior Notes on November 3, 2010 and, if necessary, will attempt to remarket such Senior Notes on November 4, 2010, and, if necessary, will attempt to remarket such Senior Notes on November 5, 2010 and, if necessary, will attempt to remarket such Senior Notes on November 8, 2010 and, if necessary, will attempt to remarket such Senior Notes on November 9, 2010 (the “**Remarketing Period**”) (any such date after the Remarketing Date on which a subsequent Remarketing is attempted, a “**Subsequent Remarketing Date**”); *provided, however*, that in the event that any such date falls

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on a date following the third scheduled Trading Day immediately preceding the Purchase Contract Settlement Date, such date shall not be a Subsequent Remarketing Date; and

WHEREAS, in the event of a successful Remarketing on the Remarketing Date or any Subsequent Remarketing Date, as the case may be, the applicable interest rate on the Remarketed Senior Notes (as defined below) included in such successful Remarketing will be reset on the Purchase Contract Settlement Date to the fixed interest rate determined by the Remarketing Agent in good faith that will result in a price per Remarketed Senior Note equal 100.25% of the Remarketing Value of such Remarketed Senior Notes, as of such Remarketing Date or Subsequent Remarketing Date (the “**Reset Rate**”); *provided* that the Reset Rate shall be limited to the maximum rate permitted by applicable law; and

WHEREAS, in the event that there is not a successful Remarketing on the Remarketing Date or any Subsequent Remarketing Date, the applicable interest rate on the Senior Notes will remain unchanged; and

WHEREAS, the Company has requested [ \_\_\_\_\_ ] to act as the Remarketing Agent, and as such to perform the services described herein; and

WHEREAS, [ \_\_\_\_\_ ] is willing to act as the Remarketing Agent and as such to perform such duties on the terms and conditions expressly set forth herein;

NOW, THEREFORE, for and in consideration of the covenants herein made, and subject to the conditions herein set forth, the parties hereto agree as follows:

#### Section 1. Definitions.

(a) Capitalized terms used and not defined in this Agreement, in the recitals hereto or in the paragraph preceding such recitals shall have the meanings assigned to them in the Purchase Contract and Pledge Agreement or, if not therein defined, the Supplemental Indenture.

(b) As used in this Agreement, the following terms have the following meanings:

“**Preliminary Prospectus**” means any preliminary prospectus relating to the Remarketed Senior Notes included in the Registration Statement (including any preliminary prospectus supplement), including the documents incorporated by reference therein as of the date of such Preliminary Prospectus; and any reference to any amendment or supplement to such Preliminary Prospectus shall be deemed to refer to and include any documents filed after the date of such Preliminary Prospectus, under the Exchange Act, and incorporated by reference in such Preliminary Prospectus.

“**Prospectus**” means the prospectus relating to the Remarketed Senior Notes (including any prospectus supplement), in the form in which first filed, or transmitted for filing, with the Commission after the effective date of the Registration Statement pursuant to Rule 424(b), including the documents incorporated by reference therein as of the date of such Prospectus; and any reference to any amendment or supplement to such Prospectus shall be deemed to refer to and include any documents filed after the date of such Prospectus, under the Exchange Act, and incorporated by reference in such Prospectus.

**“Registration Statement”** means a registration statement under the Securities Act of 1933, as amended (the **“Securities Act”**) filed and prepared by the Company covering, inter alia, the Remarketing of the Remarketed Senior Notes pursuant to Section 5(a) hereunder, including all exhibits thereto and the documents incorporated by reference in the prospectus contained in such registration statement, and any post-effective amendments thereto.

**“Remarketing Period”** means the seven scheduled Business Day period beginning on the Remarketing Date; *provided, however*, that in no event shall the Remarketing Period extend beyond the third scheduled Trading Day immediately preceding the Purchase Contract Settlement Date.

**“Remarketed Senior Notes”** means the Pledged Senior Notes and the Separate Senior Notes, if any, subject to Remarketing as identified to the Remarketing Agent by the Collateral Agent and the Custodial Agent, respectively, on or prior to 6:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date, and shall include:

(a) the Senior Notes of the Holders of Corporate HiMEDS Units who have not notified the Purchase Contract Agent on or prior to 4:00 p.m., New York City time, on the second Business Day immediately preceding the Remarketing Date of their intention to effect a Cash Settlement of the related Purchase Contracts pursuant to the terms of the Purchase Contract and Pledge Agreement or who have so notified the Purchase Contract Agent but failed to make the required cash payment on or prior to 4:00 p.m., New York City time, on the second Business Day prior to the Remarketing Date pursuant to the terms of the Purchase Contract and Pledge Agreement, and

(b) the Separate Senior Notes of the holders of Separate Senior Notes, if any, who have elected to have their Separate Senior Notes be remarketed in such Remarketing pursuant to the terms of the Supplemental Indenture.

**“Remarketing”** means the remarketing of the Remarketed Senior Notes pursuant to this Remarketing Agreement.

**“Remarketing Agent”** means [\_\_\_\_\_] appointed as the Remarketing Agent by the Company pursuant to Section 2(a) hereof.

**“Remarketing Materials”** means the Preliminary Prospectus and the Prospectus furnished by the Company to the Remarketing Agent for distribution to investors in connection with the Remarketing.

**“Remarketing Value”** means, with respect to any Senior Note, the principal amount of such Senior Note.

“**Transaction Documents**” means this Agreement, the Purchase Contract and Pledge Agreement, the Indenture and the Supplemental Indenture, in each case as amended or supplemented from time to time.

Section 2. Appointment and Obligations of Remarketing Agent.

(a) The Company hereby appoints [\_\_\_\_\_] and [\_\_\_\_\_] hereby accepts such appointment:

(i) as the Remarketing Agent to determine, in consultation with the Company, in the manner provided for herein, in the Purchase Contract and Pledge Agreement and in the Senior Notes, the Reset Rate that, in the opinion of the Remarketing Agent, will, when applied to the Remarketed Senior Notes, enable the price per Remarketed Senior Notes to equal 100.25% of the Remarketing Value of such Remarketed Senior Notes as of the Remarketing Date or as of any Subsequent Remarketing Date, as the case may be; and

(ii) as the exclusive Remarketing Agent (subject to the right of such Remarketing Agent to appoint additional remarketing agents hereunder as described below) to remarket the Remarketed Senior Notes to be included in the Remarketing on the Remarketing Date, and, if necessary, on any Subsequent Remarketing Date.

The Remarketing Agent shall have the right, on 15 Business Days’ notice to the Company, to appoint one or more additional remarketing agents so long as any such additional remarketing agents shall be reasonably acceptable to the Company; *provided* that any such appointment shall not increase the Remarketing Fee (as defined in Section 4 hereof). Upon any such appointment, the parties shall enter into an appropriate amendment to this Agreement to reflect the addition of any such additional remarketing agent.

(b) Subject to the terms and conditions set forth herein and in the Purchase Contract and Pledge Agreement, the Remarketing Agent shall use its reasonable best efforts to:

(i) remarket on the Remarketing Date the Remarketed Senior Notes at the Reset Rate;

(ii) in the event the Remarketing Agent cannot establish such a Reset Rate on the Remarketing Date, attempt to remarket such Senior Notes on each Subsequent Remarketing Date during the Remarketing Period, as necessary, in each case at the Reset Rate; and

(iii) in the event of a Last Failed Remarketing, within three Business Days of the date of the Last Failed Remarketing return the Pledged Senior Notes, if any, included in such Last Failed Remarketing to the Collateral Agent to be held by the Collateral Agent in accordance with Sections 5.02(c)(ii) and 11.01 of the Purchase Contract and Pledge Agreement (which Section is incorporated herein by reference) and return any Separate Senior Notes included in the Remarketing to the Custodial Agent in accordance with Section 5.02(c)(ii) of the Purchase Contract and Pledge Agreement and Section 5.02(b) of the Supplemental Indenture (which Sections are incorporated herein by

reference), and promptly advise the Trustee of such event, with such notice to be given not later than two Business Days prior to the Purchase Contract Settlement Date.

After deducting the fee specified in Section 4 below, the proceeds of any such successful Remarketing shall be delivered to the Purchase Contract Agent or the Custodial Agent, as applicable, in accordance with Sections 5.02(c)(i) of the Purchase Contract and Pledge Agreement (which Section is incorporated herein by reference). The right of each Holder of Corporate HiMEDS Units or Separate Senior Notes to have Senior Notes included in any Remarketing shall be subject to the conditions that:

- (i) the Remarketing Agent conducts a Remarketing on such date pursuant to the terms of this Agreement;
- (ii) the Remarketing Agent is able to find a purchaser or purchasers for the Remarketed Senior Notes at the Reset Rate; and
- (iii) such purchaser or purchasers deliver the purchase price therefor to the Remarketing Agent as and when required.

(c) It is understood and agreed that the Remarketing Agent shall not have any obligation whatsoever to purchase any Senior Notes, whether in a Remarketing held on the Remarketing Date or on any Subsequent Remarketing Date or otherwise, and shall in no way be obligated to provide funds to make payment upon tender of Senior Notes for Remarketing or to otherwise expend or risk its own funds or incur or be exposed to financial liability in the performance of its duties under this Agreement, and, without limitation of the foregoing, the Remarketing Agent shall not be deemed an underwriter of the Remarketed Senior Notes. The Company shall not be obligated in any case to provide funds to make payment upon delivery of Senior Notes for Remarketing.

(d) The Remarketing Agent shall also, if required by the Securities Act or the rules and regulations promulgated thereunder, deliver to each purchaser a Prospectus in connection with the Remarketing.

(e) If, by 4:30 p.m., New York City time, on the Remarketing Date or any Subsequent Remarketing Date, the Remarketing Agent is unable to remarket all Remarketed Senior Notes included in the Remarketing, a failed Remarketing (the “**Failed Remarketing**”) shall be deemed to have occurred, and the Remarketing Agent shall so advise by telephone the Depository and the Company.

(f) The Remarketing Agent shall advise, by telephone, the Company of the Reset Rate determined in a Successful Remarketing (as defined in Section 4 hereof) as soon as practicable after such determination.

(g) By approximately 4:30 p.m., New York City time, on the Trading Day following a Successful Remarketing, the Remarketing Agent shall advise, by telephone:

- (i) the Depository of the Reset Rate determined in the Remarketing and the aggregate principal amount of Remarketed Senior Notes sold in the Remarketing;

(ii) each purchaser (or the Depository Participant thereof) of the Reset Rate and the aggregate principal amount of Remarketed Senior Notes such purchaser is to purchase; and

(iii) each purchaser to give instructions to its Depository Participant to pay the purchase price on the Settlement Date in same day funds against delivery of the Remarketed Senior Notes purchased through the facilities of the Depository.

### Section 3. Representations and Warranties of the Company.

The Company represents and warrants to the Remarketing Agent (i) on and as of the date any Remarketing Materials are first distributed in connection with the Remarketing (the “**Commencement Date**”), (ii) on and as of the Remarketing Date or any Subsequent Remarketing Date and (iii) on and as of the settlement date relating to such Remarketing Date or Subsequent Remarketing Date (the “**Settlement Date**”), that:

(a) Each of the representations and warranties of the Company as set forth in Sections 3(a) through 3(kk) of the Underwriting Agreement dated November 14, 2007 (the “**Underwriting Agreement**”) among the Company and the Underwriters identified in Schedule I thereto, was true and correct when made on November 14, 2007 and November 20, 2007 [Note: representations and warranties similar to those contained in the Underwriting Agreement to be included and agreed upon; *provided* that for purposes of such representations and warranties, any reference in such sections of the Underwriting Agreement to (i) the “Registration Statement,” the “Prospectus” or the “Preliminary Prospectus” shall be deemed to refer to such terms as defined herein and (ii) the “Closing Date” shall be deemed to refer to the Settlement Date.]

(b) The Registration Statement, if any, in the form heretofore delivered or to be delivered to the Remarketing Agent, has been declared effective by the Commission in such form; and no stop order suspending the effectiveness of the Registration Statement has been issued and no proceeding for that purpose has been initiated or threatened by the Commission.

(c) The documents incorporated by reference in the Prospectus, when they were filed with the Commission, conformed in all material respects to the requirements of the Exchange Act and the rules and regulations of the Commission thereunder, and none of such documents contained an untrue statement of a material fact or omitted to state a 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; and any further documents so filed and incorporated by reference in the Prospectus or any further amendment or supplement thereto, when such documents are filed with the Commission, will conform in all material respects to the requirements of the Exchange Act and the rules and regulations of the Commission thereunder, and will not 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, in light of the circumstances under which they were made, not misleading.

(d) The Registration Statement, if any, conforms (and the Prospectus, if any, and any further amendments or supplements to the Registration Statement or the Prospectus, when they become effective or are filed with the Commission, as the case may be, will conform) in all material respects to the requirements of the Securities Act, the Trust Indenture Act of 1939, as

amended, and the rules and regulations promulgated thereunder, and the Registration Statement and the Remarketing Materials (and any amendment or supplement thereto) as of their respective effective or filing dates and as of the Commencement Date, applicable Remarketing Date or Subsequent Remarketing Date and Settlement Date do not and will not contain any 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; *provided* that no representation and warranty is made as to any statement of eligibility on Form T-1 filed or incorporated by reference as part of the Registration Statement or the Remarketing Materials, or as to information relating to the Remarketing Agent or the Holders of the Remarketed Senior Notes contained in or omitted from the Registration Statement or the Remarketing Materials in reliance upon and in conformity with written information furnished to the Company by the Remarketing Agent expressly for use therein.

(e) This Agreement has been duly authorized, executed and delivered by the Company.

(f) The Remarketed Senior Notes will conform to the descriptions thereof contained in the Prospectus and in any other Remarketing Materials.

(g) No Event of Default (as defined in the Indenture, as supplemented by the Supplemental Indenture) has occurred and is continuing.

#### Section 4. Fees.

In the event of a successful Remarketing in which the Remarketed Senior Notes are sold for a price per Remarketed Senior Note equal to 100.25% of the Remarketing Value of such Remarketed Senior Note (a “**Successful Remarketing**”), the Remarketing Agent shall retain for itself as a remarketing fee (the “**Remarketing Fee**”) from the proceeds of the Remarketing an amount not exceeding 25 basis points (0.25%) of the Remarketing Value of the Remarketed Senior Notes in accordance with Section 5.02(c) of the Purchase Contract and Pledge Agreement and Section 5.01 of the Supplemental Indenture.

#### Section 5. Covenants of the Company.

(a) The Company covenants and agrees as follows:

1. If and to the extent the Remarketed Senior Notes are required (in the view of counsel, which need not be in the form of a written opinion, for either the Remarketing Agent or the Company) to be registered under the Securities Act as in effect at the time of the Remarketing,

- i. to prepare the Registration Statement and the Prospectus to file any such Prospectus pursuant to the Securities Act within the period required by the Securities Act and the rules and regulations thereunder and to use commercially reasonable efforts to cause the Registration Statement to be declared effective by the Commission prior to the second Business Day immediately preceding the Remarketing Date;

- ii. to file promptly with the Commission any amendment to the Registration Statement or the Prospectus or any supplement to the Prospectus that may, in the reasonable judgment of the Company, be required by the Securities Act or requested by the Commission;
- iii. to advise the Remarketing Agent, promptly after it receives notice thereof, of the time when any amendment to the Registration Statement has been filed or becomes effective or any supplement to the Prospectus or any amended Prospectus has been filed and to furnish the Remarketing Agent with copies thereof;
- iv. to advise the Remarketing Agent, promptly after it receives notice thereof, of the issuance by the Commission of any stop order or of any order preventing or suspending the use of the Prospectus, of the suspension of the qualification of any of the Remarketed Senior Notes for offering or sale in any jurisdiction, of the initiation or threatening of any proceeding for any such purpose, or of any request by the Commission for the amending or supplementing of the Registration Statement or the Prospectus or for additional information, and, in the event of the issuance of any stop order or of any order preventing or suspending the use of any Prospectus or suspending any such qualification, to use promptly its best efforts to obtain its withdrawal;
- v. to furnish promptly to the Remarketing Agent such copies of the following documents as the Remarketing Agent shall reasonably request: (A) conformed copies of the Registration Statement as originally filed with the Commission and each amendment thereto (in each case excluding exhibits); (B) the Preliminary Prospectus and any amended or supplemented Preliminary Prospectus, (C) the Prospectus and any amended or supplemented Prospectus; and (D) any document incorporated by reference in the Prospectus (excluding exhibits thereto); and, if at any time when delivery of a Prospectus is required in connection with the Remarketing, any event shall have occurred as a result of which the Prospectus as then amended or supplemented would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made when such Prospectus is delivered, not misleading, or if for any other reason it shall be necessary during such same period to amend or supplement the Prospectus or to file under the Exchange Act any document incorporated by reference in the Prospectus in order to comply with the Securities Act or the Exchange Act, to notify the Remarketing Agent and, upon its request, to file such document and to prepare and furnish without charge to the Remarketing Agent and to any dealer in securities as many copies as the Remarketing Agent may from time to time reasonably request of an amended or supplemented Prospectus that will correct such statement or omission or effect such compliance;



- vi. prior to filing with the Commission (A) any amendment to the Registration Statement or supplement to the Prospectus or (B) any Prospectus pursuant to Rule 424 under the Securities Act, to furnish a copy thereof to the Remarketing Agent and counsel to the Remarketing Agent;
- vii. as soon as practicable, but in any event not later than eighteen months, after the effective date of the Registration Statement, to make “generally available to its security holders” an “earnings statement” (which need not be audited) of the Company and its subsidiaries complying with Section 11(a) of the Securities Act and the rules and regulations thereunder (including, at the option of the Company, Rule 158 under the Securities Act). The terms “Generally Available to its Security Holders” and “Earnings Statement” shall have the meanings set forth in Rule 158 under the Securities Act; and
- viii. to take such action as the Remarketing Agent may reasonably request in order to qualify the Remarketed Senior Notes for offer and sale under the securities or “blue sky” laws of such jurisdictions as the Remarketing Agent may reasonably request; *provided* that in no event shall the Company be required to qualify as a foreign corporation or to file a general consent to service of process in any jurisdiction.

2. To pay: (1) the costs incident to the preparation and printing of the Registration Statement, if any, any Prospectus and any other Remarketing Materials and any amendments or supplements thereto; (2) the costs of distributing the Registration Statement, if any, any Prospectus and any other Remarketing Materials and any amendments or supplements thereto; (3) any fees and expenses of qualifying the Remarketed Senior Notes under the securities laws of the several jurisdictions as provided in Section 5(a)(1)(viii) and of preparing, printing and distributing a Blue Sky Memorandum, if any (including any related fees and expenses of counsel to the Remarketing Agent); (4) all other costs and expenses incident to the performance of the obligations of the Company hereunder and the Remarketing Agent hereunder; and (5) the reasonable fees and expenses of one counsel to the Remarketing Agent in connection with their duties hereunder.

3. To furnish the Remarketing Agent with such information and documents as the Remarketing Agent may reasonably request in connection with the transactions contemplated hereby, and to make reasonably available to the Remarketing Agent and any accountant, attorney or other advisor retained by the Remarketing Agent such information that parties would customarily require in connection with a due diligence investigation conducted in accordance with applicable securities laws.

(b) The Remarketing Agent covenants and agrees as follows:

1. that it will not disseminate any written material for or in connection with the Remarketing other than the Remarketing Materials and agrees that it will not make any written statements in connection with the Remarketing, other than statements that are set forth in the Remarketing Materials unless authorized in advance by the Company;
2. that it will not distribute the Remarketing Materials if it has been notified by the Company in writing of (i) the occurrence of any event, or the discovery of any fact, that could reasonably be expected to cause any representation or warranty contained in this Agreement to be untrue or inaccurate in any material respect, (ii) the issuance of any comment or stop order or the taking of any other action by the Commission or any other governmental or regulatory agency with respect to the Remarketing Materials, (iii) the occurrence of any event, or the discovery of any fact, that could reasonably be expected to cause the Company to amend or supplement the Remarketing Materials and (iv) the occurrence of any event, or the discovery of any fact, that would cause the Remarketing Materials to contain any untrue statement of a material fact or omit to state therein a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; and
3. that if, and for so long as the Senior Notes that are not Separate Senior Notes are in the possession of the Remarketing Agent prior to the settlement of the Purchase Contracts, (i) the Remarketing Agent will hold such Senior Notes for the sole benefit of the Company, (ii) such Senior Notes will continue to constitute Collateral (as defined in the Purchase Contract and Pledge Agreement) and (iii) the Company will retain all of the rights, privileges and benefits with respect thereto as described in the Purchase Contract and Pledge Agreement.

Section 6. Replacement and Resignation of Remarketing Agent.

- (a) The Company may replace [\_\_\_\_\_] as the Remarketing Agent by giving notice prior to 3:00 p.m., New York City time, on the fourteenth Business Day immediately preceding the Remarketing Date. Upon providing such notice, the Company shall use all reasonable best efforts to appoint such a successor and to enter into a remarketing agreement with such successor as soon as reasonably practicable.
- (b) [\_\_\_\_\_] may resign at any time and be discharged from its duties and obligations hereunder as the Remarketing Agent by giving notice prior to 3:00 p.m., New York City time, on the fourteenth Business Day immediately preceding the Remarketing Date. Upon receiving notice from the Remarketing Agent that it wishes to resign hereunder, the Company shall use all reasonable best efforts to appoint such a successor and enter into a remarketing agreement with it as soon as reasonably practicable.
- (c) The Company shall give the Purchase Contract Agent, the Collateral Agent, the Custodial Agent and the Trustee prompt written notice of any replacement of the Remarketing Agent pursuant to this section.

(d) The Remarketing Agent shall give the Purchase Contract Agent, the Collateral Agent, the Custodial Agent and the Trustee prompt written notice of its resignation pursuant to this section.

(e) Notwithstanding the above, no such resignation nor any such removal shall become effective until the Company shall have appointed (with notice to the Purchase Contract Agent, the Custodial Agent, the Collateral Agent and the Trustee) at least one nationally recognized broker-dealer as successor Remarketing Agent and such successor Remarketing Agent shall have entered into a remarketing agreement with the Company, in which it shall have agreed to conduct the Remarketing in accordance with this Agreement in all material respects.

#### Section 7. Dealing in the Securities.

The Remarketing Agent, when acting hereunder or when acting in its individual or any other capacity, may, to the extent permitted by law, buy, sell, hold or deal in any of the Senior Notes, Corporate HiMEDS Units, Treasury HiMEDS Units or any other securities of the Company; *provided, however*, that in buying, selling, holding, or dealing in any of the Senior Notes, Corporate HiMEDS Units, Treasury HiMEDS Units or any other securities of the Company, the Remarketing Agent may not violate any of its duties under this Agreement. With respect to any Senior Notes, Corporate HiMEDS Units, Treasury HiMEDS Units or any other securities of the Company owned by it, the Remarketing Agent may exercise any vote or join in any action with like effect as if it did not act in any capacity hereunder. The Remarketing Agent, in its individual capacity, either as principal or agent, may also engage in or have an interest in any financial or other transaction with the Company as freely as if it did not act in any capacity hereunder.

The Company or its affiliates may, to the extent permitted by law, purchase any Senior Notes that are remarketed by the Remarketing Agent.

#### Section 8. Conditions to the Remarketing Agent's Obligations.

The obligations of the Remarketing Agent hereunder shall be subject to the following conditions:

(a) The Prospectus, if any, shall have been timely filed with the Commission; no stop order suspending the effectiveness of the Registration Statement, if any, or any part thereof shall have been issued and no proceeding for that purpose shall have been initiated or threatened by the Commission.

(b) (1) Trading generally shall not have been suspended or materially limited on the New York Stock Exchange or the NASDAQ Global Select Market, (2) trading of any securities of the Company shall not have been materially suspended or limited on the New York Stock Exchange or the NASDAQ Global Select Market, (3) a general moratorium on commercial banking activities in New York shall not have been declared by the relevant authorities and there shall not have occurred a material disruption in commercial banking or securities settlement or clearance services in the United States or other relevant jurisdiction, or (4) there shall not have occurred a material adverse change in the financial markets, any outbreak or escalation of hostilities involving the United States or the declaration by the United States of a national

emergency or war or other calamity or crisis, if the effect of any such event specified in this clause (4) in the judgment of the Remarketing Agent makes it impracticable or inadvisable to proceed with the Remarketing or the delivery of the Remarketed Senior Notes on the terms and in the manner contemplated in the Transaction Documents.

(c) The representations and warranties of the Company contained herein shall be true and correct in all material respects on and as of the Remarketing Date, and the Company, the Purchase Contract Agent and the Collateral Agent shall have performed in all material respects all covenants and agreements contained herein or in the Purchase Contract and Pledge Agreement to be performed on their part at or prior to the Remarketing Date.

(d) The Company shall have furnished to the Remarketing Agent a certificate, dated the Remarketing Date, of the Chief Executive Officer and the Treasurer satisfactory to the Remarketing Agent stating that:

(1) no order suspending the effectiveness of the Registration Statement, if any, or prohibiting the sale of the Remarketed Senior Notes is in effect, and no proceedings for such purpose are pending before or, to the knowledge of such officers, threatened by the Commission; and

(2) the representations and warranties of the Company in Section 3 of this Agreement are true and correct on and as of the Remarketing Date and the Company has performed in all material respects all covenants and agreements contained herein to be performed on its part at or prior to such Remarketing Date.

(e) On the Remarketing Date, the Remarketing Agent shall have received a letter addressed to the Remarketing Agent and dated such date, in form and substance satisfactory to the Remarketing Agent, from the independent registered certified public accounting firm that are then the auditors of the Company's financial statements, containing statements and information of the type ordinarily included in accountants' "comfort letters" with respect to certain financial information contained in the Remarketing Materials, if any.

(f) Latham & Watkins LLP, counsel to the Company, shall have furnished to the Remarketing Agent its opinion, addressed to the Remarketing Agent and dated the Remarketing Date, in form and substance reasonably satisfactory to the Remarketing Agent.

(g) \_\_\_\_\_, counsel for the Remarketing Agent, shall have furnished to the Remarketing Agent its opinion, addressed to the Remarketing Agent and dated the applicable Remarketing Date, in form and substance satisfactory to the Remarketing Agent.

(h) There shall not have been, since the respective dates as of which information is given in the Prospectus, any material adverse change in the condition (financial or otherwise), business, properties or results of operations of the Company and its subsidiaries taken as a whole.

#### Section 9. Termination of Remarketing Agreement.

This Agreement shall automatically terminate:

(i) as to the Remarketing Agent on the effective date of the resignation or removal of the Remarketing Agent pursuant to Section 6; and

(ii) on the Purchase Contract Settlement Date.

If this Agreement is terminated pursuant to any of the other provisions hereof, except as otherwise provided herein, the Company shall not be under any liability to the Remarketing Agent and the Remarketing Agent shall not be under any liability to the Company, except that if this Agreement is terminated by the Remarketing Agent because of any failure or refusal on the part of the Company to comply with the terms or to fulfill any of the conditions of this Agreement, the Company will reimburse the Remarketing Agent for all of its out-of-pocket expenses (including the reasonable fees and disbursements of its counsel) reasonably incurred by it. Section 10, Section 11, Section 12 and Section 14 hereof shall survive the termination of this Agreement or the resignation or removal of the Remarketing Agent.

Section 10. Remarketing Agent's Performance; Duty of Care.

The duties and obligations of the Remarketing Agent shall be determined solely by the express provisions of this Agreement and the Transaction Documents. No implied covenants or obligations of or against the Remarketing Agent shall be read into this Agreement or any of the Transactions Documents. In the absence of willful misconduct, bad faith or gross negligence on the part of the Remarketing Agent, the Remarketing Agent may conclusively rely upon any document furnished to it which purports to conform to the requirements hereunder as to the truth of the statements expressed therein. The Remarketing Agent shall be protected in acting upon any document or communication reasonably believed by it to be signed, presented or made by the proper party or parties. The Remarketing Agent shall not have any obligation to determine whether there is any limitation under applicable law on the Reset Rate on the Remarketed Senior Notes or, if there is any such limitation, the maximum permissible Reset Rate on the Remarketed Senior Notes, and it shall rely solely upon timely written notice from the Company pursuant to Section 2(a) hereof as to whether or not there is any such limitation and, if so, the maximum permissible Reset Rate. The Remarketing Agent shall not incur any liability under this Agreement to any beneficial owner or holder of Remarketed Senior Notes, or other securities, either in its individual capacity or as Remarketing Agent, as the case may be, for any action or failure to act in connection with the Remarketing of the Remarketed Senior Notes or otherwise in connection with the transactions contemplated by this Agreement, except to the extent that such liability has, by final judicial determination, resulted from the willful misconduct, bad faith or gross negligence of the Remarketing Agent or from its failure to fulfill its express obligations hereunder. The provisions of this Section 10 shall survive any termination of this Agreement and shall also continue to apply to every Remarketing Agent notwithstanding its resignation or removal. The Remarketing Agent will act as the agent of the Holders.

Section 11. Indemnification.

(a) The Company will indemnify and hold harmless the Remarketing Agent, against any losses, claims, damages or liabilities to which the Remarketing Agent may become subject, under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue

statement of a material fact contained in the Registration Statement, the Prospectus, or any amendments or supplement thereto, or any related Preliminary Prospectus or preliminary prospectus supplement or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse the Remarketing Agent for any legal expenses of one counsel (in addition to any local counsel) engaged reasonably incurred by the Remarketing Agent in connection with investigating or defending any such action or claim 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 or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission from any of such documents in reliance upon and in conformity with written information furnished to the Company by the Remarketing Agent specifically for use therein.

(b) The Remarketing Agent will indemnify and hold harmless the Company, its directors and officers and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act, against any losses, claims, damages or liabilities to which the Company may become subject, under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, the Prospectus or any amendment or supplement thereto, or any related Preliminary Prospectus or Preliminary Prospectus supplement, or any other Remarketing Materials, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but 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 the Remarketing Agent specifically for use therein, and will reimburse any legal or other expenses reasonably incurred by the Company in connection with investigating or defending any such loss, claim, damage, liability or action as such expenses are incurred; *provided* that in no case will the Remarketing Agent be liable or responsible for any amount in excess of the fee paid to the Remarketing Agent pursuant to Section 4.

(c) Promptly after receipt by an indemnified party under this section of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under subsection (a) or (b) above, notify the indemnifying party in writing of the commencement thereof; but the omission so to notify the indemnifying party shall not relieve it from any liability which it may have to any indemnified party otherwise than under subsection (a) or (b) above. In the case of parties indemnified pursuant to subsection (a) above, counsel to the indemnified parties shall be selected by the Remarketing Agent. In case any such action shall be brought against the indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, to assume the defense thereof, with counsel satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party shall not be liable to such indemnified party under such subsection for any legal expenses of other counsel or any other expenses, in each case subsequently incurred by such indemnified

party, in connection with the defense thereof other than reasonable costs of investigation (as set forth below). Notwithstanding the indemnifying party's election to appoint counsel to represent the indemnified party in an action, the indemnified party shall have the right to employ separate counsel (including local counsel), and the indemnifying party shall bear the reasonable fees, costs and expenses of such separate counsel if (i) the use of counsel chosen by the indemnifying party to represent the indemnified party would present such counsel with a conflict of interest; (ii) the actual or potential defendants in, or targets of, any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that there may be legal defenses available to it and/or the indemnified party which are different from or additional to those available to the indemnifying party; (iii) the indemnifying party shall not have employed counsel satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of the institution of such action or (iv) the indemnifying party shall authorize the indemnified party to employ separate counsel at the expense of the indemnifying party. In no event shall the indemnifying parties be liable for fees and expenses of more than one counsel (in addition to any local counsel) separate from their own counsel for all indemnified parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances. No indemnifying party shall, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever in respect of which indemnification or contribution could be sought under this Section 11 (whether or not the indemnified parties are actual or potential parties thereto), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party from all liability arising out of such litigation, investigation, proceeding or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

#### Section 12. Contribution.

(a) If the indemnification provided for in Section 11 is unavailable to or insufficient to hold harmless an indemnified party under Sections 11(a) or 11(b), then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to in subsection (a) or (b) above (i) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Remarketing Agent on the other from the offering of the Remarketed Senior Notes or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportions as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company on the one hand and the Remarketing Agent on the other in connection with the statements of omissions which resulted in such losses, claims, damages or liabilities as well as any relevant equitable considerations. The relative benefits received by the Company on one hand and the Remarketing Agent on the other hand in connection with the Remarketing shall be deemed to be in the same proportions as the total net proceeds of the Remarketed Senior Notes less the fee paid to the Remarketing Agent on the one hand and the fee paid to the Remarketing Agent on the other hand bear to the total net proceeds of the Remarketed Senior Notes. The relative fault shall be determined by reference to, among other things, 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 Remarketing Agent on the other hand and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and the Remarketing Agent agree that it would not be just and equitable if contribution pursuant to this subsection (a) were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this subsection (a). The amount paid or payable by an indemnified party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above in this subsection (a) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this subsection (a), the Remarketing Agent shall not be required to contribute any amount in excess of the amount by which the fees received by it under Section 4 exceeds the amount of any damages which the Remarketing Agent has otherwise been required to pay by reason of such 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.

(b) The obligations of the Company under Section 11 and this Section 12 shall be in addition to any liability which the Company may otherwise have and shall extend, upon the same terms and conditions, to each officer and director of the Remarketing Agent and to each person, if any, who controls the Remarketing Agent within the meaning of the Securities Act; and the obligations of the Remarketing Agent under Section 11 and this Section 12 shall be in addition to any liability which the Remarketing Agent may otherwise have and shall extend, upon the same terms and conditions, to each director of the Company, to each officer of the Company who signed the Registration Statement and to each person, if any, who controls the Company within the meaning of the Securities Act.

(c) The indemnity and contribution provisions contained in Section 11 and this Section 12 and the representations, warranties and other statements of the Company contained in this Agreement shall remain in full force and effect, regardless of any investigation (or any statement as to the results thereof) made by or on behalf of the Remarketing Agent or any person controlling the Remarketing Agent, or the Company, its officers or director or any controlling person of the Company, and the completion of the Remarketing.

### Section 13. Persons Entitled to Benefit of Agreement.

This Agreement shall inure to the benefit of and be binding upon each party hereto and its respective successors. This Agreement and the terms and provisions hereof are for the sole benefit of only those persons, except that:

(x) the representations, warranties, indemnities and agreements of the Company contained in this Agreement shall also be deemed to be for the benefit of the Remarketing Agent and the person or persons, if any, who control the Remarketing Agent within the meaning of Section 15 of the Securities Act; and

(y) the indemnity agreement of the Remarketing Agent contained in Section 11(b) of this Agreement shall be deemed to be for the benefit of the Company's directors



and officers who sign the Registration Statement, if any, and any person controlling the Company within the meaning of Section 15 of the Securities Act.

Nothing contained in this Agreement is intended or shall be construed to give any person, other than the persons referred to herein, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein.

Section 14. Governing Law; Submission to Jurisdiction.

THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

The Company irrevocably:

(i) agrees that any legal suit, action or proceeding against the Company brought by the Remarketing Agent or by any person who controls the Remarketing Agent arising out of or based upon this Agreement or the transactions contemplated hereby or thereby may be instituted in the federal district court for the Southern District of New York and the New York County Court;

(ii) waives, to the fullest extent it may effectively do so, any objection which it may now or hereafter have to the laying of venue of any such proceeding; and

(iii) submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. The Company has appointed CT Corporation System, New York, New York, as its authorized agent (the “**Authorized Agent**”) upon whom process may be served in any such action arising out of or based on this Agreement or the transactions contemplated hereby or thereby which may be instituted in the federal district court for the Southern District of New York and the New York County Court by the Remarketing Agent or by any person who controls the Remarketing Agent, expressly consents to the jurisdiction of any such court in respect of any such action, and waives any other requirements of or objections to personal jurisdiction with respect thereto. Such appointment shall be irrevocable.

The Company represents and warrants that the Authorized Agent has agreed to act as such agent for service of process and agrees to take any and all action, including the filing of any and all documents and instruments, that may be necessary to continue such appointment in full force and effect as aforesaid. Service of process upon the Authorized Agent and written notice of such service to the Company shall be deemed, in every respect, effective service of process upon the Company.

Section 15. Survival.

The respective indemnities, representations, warranties and agreements of the Company and the Remarketing Agent contained in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement, shall survive any Remarketing and shall remain in full force and effect, regardless of any investigation made by or on behalf of any of them or any person controlling any of them.

Section 16. Successors and Assigns.

The rights and obligations of the Company hereunder may not be assigned or delegated to any other Person without the prior written consent of the Remarketing Agent. The rights and obligations of the Remarketing Agent hereunder may not be assigned or delegated to any other Person (other than an affiliate of the Remarketing Agent) without the prior written consent of the Company.

Section 17. Headings.

Section headings have been inserted in this Agreement as a matter of convenience of reference only, and such section headings are not a part of this Agreement and will not be used in the interpretation of any provision of this Agreement.

Section 18. Severability.

If any provision of this Agreement is invalid, inoperative or unenforceable as applied in any particular case in any or all jurisdictions because it conflicts with any provisions of any constitution, statute, rule or public policy or for any other reason, then, to the extent permitted by law, such circumstances shall not have the effect of rendering the provision in question invalid, inoperative or unenforceable in any other case, circumstances or jurisdiction, or of rendering any other provision or provisions of this Agreement, as the case may be, invalid, inoperative or unenforceable to any extent whatsoever.

Section 19. Counterparts.

This Agreement may be executed in counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

Section 20. Amendments.

This Agreement may be amended only by an instrument in writing signed by the Company and the Remarketing Agent.

Section 21. Notices.

Unless otherwise specified, any notices, requests, consents or other communications given or made hereunder shall be made in writing or transmitted by any standard form of telecommunication, including telephone or telecopy, and confirmed in writing. All written notices and confirmations of notices by telecommunication shall be deemed to have been validly given or made when delivered or mailed, registered or certified mail, return receipt requested and postage prepaid. All such notices, requests, consents or other communications shall be addressed as follows: if to the Company, to Avery Dennison Corporation, 150 North Orange Grove Boulevard, Pasadena, California 91103, fax number: (626) 304-2251, Attention: [Richard P. Randall, Esq., Vice President Corporate Governance, Associate General Counsel and Assistant Secretary]; if to the Remarketing Agent, to [\_\_\_\_], [\_\_\_\_], [\_\_\_\_], fax number [\_\_\_\_], Attention: General Counsel; if to the Collateral Agent, to The Bank of New York Trust Company, N.A., 700 South Flower, Suite 500, Los Angeles, CA 90017, fax number [\_\_\_\_], Attention: Corporate Trust Administration; and if to the Purchase Contract Agent, to The Bank of New York Trust Company, N.A., 700 South Flower, Suite 500, Los Angeles, CA 90017, fax number [\_\_\_\_], Attention: Corporate Trust Administration or to such other address as any of the above shall specify to the others in writing.

IN WITNESS WHEREOF, each of the Company, the Purchase Contract Agent and the Remarketing Agent has caused this Agreement to be executed in its name and on its behalf by one of its duly authorized signatories as of the date first above written.

**AVERY DENNISON CORPORATION**

By: \_\_\_\_\_

Name:

Title:

of Avery Dennison Corporation

[\_\_\_\_\_], as Remarketing Agent

By: \_\_\_\_\_  
Name:  
Title:

**ACKNOWLEDGED:**

The Bank of New York Trust Company, N.A.,  
not individually but solely as Purchase Contract Agent  
and as attorney-in-fact for the Holders of the Purchase Contracts

By: \_\_\_\_\_  
Name:  
Title:

633 West Fifth Street, Suite 4000  
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## LATHAM & WATKINS LLP

FIRM / AFFILIATE OFFICES

Barcelona	New Jersey
Brussels	New York
Chicago	Northern Virginia
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Hamburg	Paris
Hong Kong	San Diego
London	San Francisco
Los Angeles	Shanghai
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Milan	Singapore
Moscow	Tokyo
Munich	Washington, D.C.

November 20, 2007

Avery Dennison Corporation  
 150 North Orange Grove Boulevard  
 Pasadena, California, 91103-3596

Re: Registration Statement on Form S-3 of Avery  
 Dennison Corporation

Ladies and Gentlemen:

We have acted as special counsel to Avery Dennison Corporation, a Delaware corporation (the "Company"), in connection with the issuance of 8,000,000 of its 7.875% Corporate HiMEDS Units (the "Securities"), each with a stated amount of \$50 and consisting of a purchase contract (collectively, the "Purchase Contracts") pursuant to which the holder will purchase from the Company on or before November 15, 2010 a number of shares of common stock, \$1.00 par value, of the Company (the "Issuable Common Stock") calculated as set forth in the Purchase Contract and Pledge Agreement (as defined below) and (b) a 1/20 undivided beneficial interest in a 5.350% Senior Note due November 15, 2020 (the "Senior Notes") of the Company having a principal amount of \$1,000, pursuant to a registration statement on Form S-3 under the Securities Act of 1933, as amended (the "Act"), filed with the Securities and Exchange Commission (the "Commission") on November 14, 2007 (File No. 333-147369) (as so filed and as amended, the "Registration Statement"), the prospectus, dated November 14, 2007, contained in the Registration Statement and the prospectus supplement, dated November 14, 2007, filed pursuant to Rule 424(b) under the Act (such prospectus and prospectus supplement, collectively, the "Prospectus"). The Securities are being issued pursuant to an underwriting agreement, dated as of November 14, 2007, among the Company and the underwriters identified in the Prospectus (the "Underwriters"), in the form attached as an exhibit to a current report on Form 8-K filed by the Company on the date hereof (the "Underwriting Agreement"). The Purchase Contracts have been issued pursuant to the Purchase Contract and Pledge Agreement, dated as of November 20, 2007 (the "Purchase Contract and Pledge Agreement"), among the Company, The Bank of New York Trust Company, N.A., as purchase contract agent and attorney-in-fact of the holders from time to time, and The Bank of New York Trust Company, N.A., as collateral agent, custodial agent and securities intermediary. The Senior Notes have been issued in an aggregate principal amount of \$400,000,000 pursuant to an indenture, dated as of November 20, 2007, between the Company and The Bank of New York Trust Company, N.A., as trustee (the "Trustee"), as supplemented by a first supplemental indenture, dated as of November 20, 2007 (collectively, the "Indenture"), between the Company and the Trustee. This opinion is being furnished in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Act, and no opinion is expressed herein as to any matter pertaining to the contents of the Registration

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November 20, 2007

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Statement or the Prospectus, other than as expressly stated herein with respect to the issue of the Purchase Contracts and the Senior Notes.

As such counsel, we have examined such matters of fact and questions of law as we have considered appropriate for purposes of this letter. With your consent, we have relied upon certificates and other assurances of officers of the Company and others as to factual matters without having independently verified such factual matters. We are opining herein as to the internal laws of the State of New York and the General Corporation Law of the State of Delaware, and we express no opinion with respect to the applicability thereto, or the effect thereon, of the laws of any other jurisdiction or, in the case of Delaware, any other laws or as to any matters of municipal law or the laws of any local agency within any state.

Subject to the foregoing and the other matters set forth herein, it is our opinion that, as of the date hereof:

(1) The Purchase Contracts have been duly authorized by all necessary corporate action of the Company, and when duly executed, authenticated and issued in accordance with the terms of the Purchase Contract and Pledge Agreement, and when delivered to and paid for by the Underwriters in accordance with the terms of the Underwriting Agreement, will constitute legally valid and binding obligations of the Company, enforceable against the Company in accordance with their terms.

(2) The Senior Notes have been duly authorized by all necessary corporate action of the Company, and when duly executed, authenticated and issued in accordance with the terms of the Indenture and the Supplemental Indenture, and when delivered to and paid for by the Underwriters in accordance with the terms of the Underwriting Agreement, will constitute legally valid and binding obligations of the Company, enforceable against the Company in accordance with their terms.

Our opinions are subject to: (i) the effect of bankruptcy, insolvency, reorganization, preference, fraudulent transfer, moratorium or other similar laws relating to or affecting the rights and remedies of creditors; (ii) the effect of general principles of equity, whether considered in a proceeding in equity or at law (including the possible unavailability of specific performance or injunctive relief), concepts of materiality, reasonableness, good faith and fair dealing, and the discretion of the court before which a proceeding is brought; (iii) the invalidity under certain circumstances under law or court decisions of provisions providing for the indemnification of or contribution to a party with respect to a liability where such indemnification or contribution is contrary to public policy; and (iv) we express no opinion with respect to (a) any provision for liquidated damages, default interest, late charges, monetary penalties or other economic remedies to the extent such provisions are deemed to constitute a penalty, (b) consents to, or restrictions upon, governing law, jurisdiction, venue, arbitration, remedies, or judicial relief, (c) the waiver of rights or defenses contained in Section 7.07 of the Supplemental Indenture and Section 6.06 of the Purchase Contract and Pledge Agreement, (d) any provision requiring the payment of attorneys' fees, where such payment is contrary to law or public policy, (e) any provision permitting, upon acceleration of the Senior Notes, collection of that portion of the stated principal amount thereof which might be determined to

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November 20, 2007

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constitute unearned interest thereon, (f) the creation, validity, attachment, perfection, or priority of any lien or security interest, (g) advance waivers of claims, defenses, rights granted by law, or notice, opportunity for hearing, evidentiary requirements, statutes of limitation, trial by jury or at law, or other procedural rights, (h) waivers of broadly or vaguely stated rights, (i) provisions for exclusivity, election or cumulation of rights or remedies, (j) provisions authorizing or validating conclusive or discretionary determinations, (k) grants of setoff rights, (l) proxies, powers and trusts, (m) provisions prohibiting, restricting, or requiring consent to assignment or transfer of any right or property, and (n) the severability, if invalid, of provisions to the foregoing effect.

With your consent, we have assumed (a) that each of the Purchase Contract and Pledge Agreement, the Purchase Contracts and the Indenture (collectively, the "Documents") has been duly authorized, executed and delivered by the parties thereto other than the Company, (b) that each of the Documents and the Senior Notes constitutes a legally valid and binding obligation of the parties thereto (including, without limitation, the Holders acting through the Purchase Contract Agent) other than the Company, enforceable against each of them in accordance with their respective terms, (c) that the status of each of the Documents and the Senior Notes as a legally valid and binding obligation of the parties will not be affected by any (i) breaches of, or defaults under, agreements or instruments, (ii) violations of statutes, rules, regulations or court or governmental orders, or (iii) failures to obtain required consents, approvals or authorizations from, or to make required registrations, declarations or filings with, governmental authorities, and (d) that any make-whole amount or any premium payable in respect of the Senior Notes would be deemed to be reasonable in the circumstances applicable to the Senior Notes, the Indenture and the Supplemental Indenture.

This opinion is for your benefit in connection with the Registration Statement and may be relied upon by you and by persons entitled to rely upon it pursuant to the applicable provisions of the Act. We consent to your filing this opinion as an exhibit to the Company's Form 8-K dated November 20, 2007 and to the reference to our firm contained in the Prospectus under the heading "Validity of the securities." 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 Act or the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ LATHAM & WATKINS LLP