

**KAUPTHING BANK HF.**  
**Issuer**

**and**

**DEUTSCHE BANK TRUST COMPANY AMERICAS**  
**Trustee**

**SENIOR INDENTURE**

**Dated as of April 12, 2006**

**Senior Notes**

|      |   |    |
|------|---|----|
| 1.   | DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION .....         | 1  |
| 1.1  | Definitions.....  | 1  |
| 1.2  | Compliance Certificates and Opinions .....                            | 13 |
| 1.3  | Form of Documents Delivered to Trustee or Principal Paying Agent..... | 13 |
| 1.4  | Acts of Holders .....   | 14 |
| 1.5  | Notices, Etc., to Trustee, Principal Paying Agent and Company .....   | 15 |
| 1.6  | Notice to Holders; Waiver .....                                       | 16 |
| 1.7  | Effect of Headings and Table of Contents .....                        | 17 |
| 1.8  | Successors and Assigns.....   | 17 |
| 1.9  | Separability Clause .....   | 17 |
| 1.10 | Benefits of Indenture.....  | 17 |
| 1.11 | Governing Law .....   | 17 |
| 1.12 | Immunity of Incorporators, Stockholders, Officers and Directors ..... | 17 |
| 1.13 | Certain Matters Relating to Currencies.....                           | 18 |
| 1.14 | Language of Notices, Etc. ....  | 18 |
| 1.15 | Appointment of Agent for Service.....                                 | 18 |
| 2.   | NOTE FORMS .....  | 19 |
| 2.1  | Forms of Notes.....   | 19 |
| 2.2  | Form of Certificate of Authentication.....                            | 20 |
| 2.3  | Notes in Global Form.....   | 20 |
| 3.   | THE NOTES .....   | 21 |
| 3.1  | Title: Payment and Terms .....  | 21 |
| 3.2  | Denominations and Currencies .....                                    | 26 |
| 3.3  | Execution, Authentication, Delivery and Dating .....                  | 26 |
| 3.4  | Temporary Notes and Exchange of Notes .....                           | 27 |
| 3.5  | Registration, Registration of Transfer and Exchange .....             | 28 |
| 3.6  | Mutilated, Destroyed, Lost and Stolen Notes .....                     | 30 |
| 3.7  | Defaulted Interest; Interest Rights Preserved .....                   | 31 |
| 3.8  | Persons Deemed Owners .....   | 32 |
| 3.9  | Cancellation .....  | 33 |
| 3.10 | Payment of Principal, Premium and Interest .....                      | 33 |
| 3.11 | Currency Determination Agent.....                                     | 37 |
| 3.12 | CUSIP, ISIN or Common Code Numbers .....                              | 38 |
| 3.13 | Authenticating Agents .....   | 38 |
| 3.14 | Calculation Agent .....   | 39 |
| 4.   | SATISFACTION AND DISCHARGE.....                                       | 40 |
| 4.1  | Satisfaction and Discharge of Notes of any Series .....               | 40 |
| 4.2  | Application of Trust Money.....                                       | 42 |
| 4.3  | Satisfaction and Discharge of Indenture. ....                         | 43 |
| 4.4  | Reinstatement.....  | 43 |
| 5.   | REMEDIES.....   | 43 |
| 5.1  | Events of Default .....   | 43 |

|      |   |    |
|------|---|----|
| 5.2  | Acceleration of Maturity; Rescission and Annulment.....   | 45 |
| 5.3  | Collection of Indebtedness and Suits for Enforcement by Trustee.....                                    | 46 |
| 5.4  | Trustee May File Proofs of Claim .....  | 47 |
| 5.5  | Trustee May Enforce Claims Without Possession of Notes .....  | 48 |
| 5.6  | Application of Money Collected.....   | 48 |
| 5.7  | Limitation on Suits.....  | 49 |
| 5.8  | Unconditional Right of Holders to Receive Principal (and Premium, if any) and<br>Interest, if any ..... | 49 |
| 5.9  | Restoration of Rights and Remedies.....   | 50 |
| 5.10 | Rights and Remedies Cumulative.....   | 50 |
| 5.11 | Delay or Omission Not Waiver.....   | 50 |
| 5.12 | Control by Holders.....   | 50 |
| 5.13 | Waiver of Past Defaults .....   | 51 |
| 5.14 | Undertaking for Costs .....   | 51 |
| 5.15 | Judgment Currency .....   | 51 |
| 6.   | THE TRUSTEE .....   | 52 |
| 6.1  | Certain Duties and Responsibilities.....  | 52 |
| 6.2  | Notice of Default.....  | 53 |
| 6.3  | Certain Rights of Trustee .....   | 53 |
| 6.4  | Not Responsible for Recitals or Issuance of Notes.....  | 55 |
| 6.5  | May Hold Notes.....   | 55 |
| 6.6  | Money Held in Trust.....  | 55 |
| 6.7  | Compensation and Reimbursement .....  | 55 |
| 6.8  | Corporate Trustee Required; Different Trustees for Different Series; Eligibility .....                  | 56 |
| 6.9  | Resignation and Removal; Appointment of Successor.....  | 57 |
| 6.10 | Acceptance of Appointment by Successor .....  | 58 |
| 6.11 | Merger, Conversion, Consolidation or Succession to Business .....                                       | 59 |
| 6.12 | Trustee not Charged with Knowledge .....  | 60 |
| 6.13 | Rights of Paying Agent or Notes Registrar.....  | 60 |
| 7.   | CONSOLIDATION, MERGER AND SALE OR LEASE OF ASSETS .....   | 60 |
| 7.1  | Company May Consolidate, Etc., Only on Certain Terms .....  | 60 |
| 7.2  | Successor Corporation Substituted .....   | 61 |
| 8.   | SUPPLEMENTAL INDENTURES .....   | 61 |
| 8.1  | Supplemental Indentures Without Consent of Holders .....  | 61 |
| 8.2  | Supplemental Indentures With Consent of Holders.....  | 63 |
| 8.3  | Execution of Supplemental Indentures .....  | 64 |
| 8.4  | Effect of Supplemental Indentures.....  | 64 |
| 8.5  | Reference in Notes to Supplemental Indentures.....  | 64 |
| 9.   | COVENANTS .....   | 64 |
| 9.1  | Payments .....  | 64 |

|   |  |    |
|---|--|----|
| 9.2   | Maintenance of Office or Agency .....                  | 65 |
| 9.3   | Money for Notes Payments to Be Held in Trust .....     | 66 |
| 9.4   | Statements as to Compliance .....                      | 67 |
| 9.5   | Corporate Existence .....                              | 67 |
| 9.6   | Negative Pledge .....                                  | 68 |
| 9.7   | Waiver of Certain Covenants .....                      | 68 |
| 9.8   | Payment of Additional Amounts .....                    | 68 |
| 10.   | REDEMPTION OF NOTES .....                              | 70 |
| 10.1  | Applicability of this Article .....                    | 70 |
| 10.2  | Election to Redeem; Notice to Trustee .....            | 70 |
| 10.3  | Selection of Notes to be Redeemed .....                | 70 |
| 10.4  | Notice of Redemption .....                             | 71 |
| 10.5  | Deposit of Redemption Price .....                      | 71 |
| 10.6  | Notes Payable on Redemption Date .....                 | 72 |
| 10.7  | Notes Redeemed in Part .....                           | 72 |
| 10.8  | Tax Redemption .....                                   | 73 |
| 10.9  | Repurchase .....                                       | 73 |
| 10.10   | Redemption at the Option of Holders .....              | 73 |
| 11.   | SINKING FUNDS .....                                    | 74 |
| 11.1  | Applicability of This Article .....                    | 74 |
| 11.2  | Satisfaction of Sinking Fund Payments With Notes ..... | 74 |
| 11.3  | Redemption of Notes for Sinking Fund .....             | 74 |
| EXHIBIT I Form of US Global Senior Note             |  |    |
| EXHIBIT II Form of International Global Senior Note |  |    |

This is a **SENIOR INDENTURE** dated as of April 12, 2006 (hereinafter called the “**Indenture**”) between Kaupthing Bank HF., a bank duly constituted under the laws of Iceland, and having its principal office at Borgartún 19, IS 105, Reykjavík, Iceland (hereinafter called the “**Company**” or the “**Issuer**”); and Deutsche Bank Trust Company Americas, a New York banking corporation having its principal office at 60 Wall Street, 27<sup>th</sup> Floor, MS: NYC60-2710, New York, NY 10005, United States of America, Attn: Trust and Securities Services, as Trustee (hereinafter called the “**Trustee**”).

## **RECITALS OF THE COMPANY**

The Company deems it necessary to issue from time to time for its lawful purposes medium-term notes in registered form (hereinafter called the “**Notes**”) evidencing its unsecured (subject to the provisions set forth under Section 9.6 herein) indebtedness and has duly authorized the execution and delivery of this Indenture to provide for the issuance from time to time of the Notes, unlimited as to principal amount, to have such titles, to bear such rates of interest, to mature at such time or times and to have such other provisions as shall be fixed as hereinafter provided.

It is anticipated that, from and after the date hereof, Notes issued under the Company’s medium-term note program (the “**Program**”) will be listed on the unregulated Euro MTF market of the Luxembourg Stock Exchange. The Company has appointed Deutsche Bank Trust Company Americas, a New York banking corporation, as Principal Paying Agent. The Company will appoint Fortis Banque Luxembourg S.A. as Luxembourg paying agent (the “**Luxembourg Paying Agent**”, which expression includes any additional or successor Luxembourg paying and transfer agents) pursuant to a Luxembourg Paying Agency Agreement (“**Luxembourg Paying Agency Agreement**”), between the Company and Fortis Banque Luxembourg S.A.

All things necessary to make this Indenture a valid agreement of the Company, in accordance with its terms, have been done, and the Company proposes to do all things necessary to make the Notes, when executed by the Company and authenticated and delivered by the Principal Paying Agent hereunder and duly issued by the Company, the valid obligations of the Company as hereinafter provided.

## **NOW THEREFORE, THIS INDENTURE WITNESSETH:**

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

### **1. DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION**

#### **1.1 Definitions**

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

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

- (b) certain terms which are defined in other Articles have the meanings assigned to them in such Article and include the plural as well as the singular;
- (c) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles in Iceland or under International Financial Reporting Standards, and the term “**IFRS**” with respect to any computation required or permitted hereunder shall mean such accounting principles as are in effect under International Financial Reporting Standards at the date or time of such computation; and
- (d) the words “herein”, “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

“**Act**”, when used with respect to any Holder, has the meaning specified in Section 1.4.

“**Additional Notes**” means additional Notes of a Series issued by the Company having identical terms to those of a prior tranche of Notes but for the original issue date and the public offering price thereof.

“**Adjusted Tangible Net Worth**” means the aggregate of (1) the nominal amount of the share capital of the Company for the time being issued and paid up or credited as paid up, (2) the amounts standing to the credit of the reserves (including any share premium account and profit and loss account) of the Company and its subsidiaries and (3) any amount attributable to minority interests in subsidiaries, all as shown in the latest audited consolidated balance sheet of the Company and its subsidiaries prepared in accordance with IFRS less (4) any amounts, determined in accordance with IFRS, representing distribution of cash or tangible assets declared, recommended or made by the Company or any of its subsidiaries (other than any distribution attributable to the Company or another subsidiary) out of profits accrued prior to the date of, and not provided for in, the latest audited consolidated balance sheet of the Company and its subsidiaries and less (5) any amounts shown in such latest audited consolidated balance sheet attributable to intangible assets and of any debit on the profit and loss account.

“**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.

“**Amortized Face Amount**” has the meaning specified in Section 3.10(i).

“**Amortizing Note**” means any Note in which the amount of principal thereof and interest thereon is payable in installments over the term of such Note.

**“Authenticating Agent”** means any Person authorized to authenticate and deliver Notes in the name of, and as the agent of, the Trustee for the Notes of any Series pursuant to Section 3.13.

**“Bankruptcy Law”** means any bankruptcy, insolvency, reorganization or other similar law of the United States or any State thereof, the Republic of Iceland or any other country or jurisdiction.

**“Board of Directors”** means the board of directors of the Company or any duly authorized committee of that board or any director or directors and/or officer or officers of the Company to whom that board or committee shall have duly delegated its authority.

**“Board Resolution”** means (1) a copy of a resolution certified by the Managing Director of Legal Services or, if unavailable, the Chief Financial Officer, to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, or (2) a certificate signed by the director or directors and/or officer or officers to whom the Board of Directors shall have duly delegated its authority, and, in each case, delivered to the Trustee and/or the Principal Paying Agent, as the case may be, for the Notes of any Series.

**“Borrowed Money”** means (1) borrowed money and any fixed or minimum premiums payable on final redemption thereof and accrued interest in respect thereof, (2) liabilities under or in respect of any acceptance or acceptance credit and (3) the principal and such premium as aforesaid (if any) and accrued interest in respect of any notes, bonds, debentures, loan stock or other Notes whether issued in whole or in part for cash or other consideration.

**“Business Day”** means a day which is both:

- (a) a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in London and any additional Principal Financial Center specified in an applicable supplemental indenture; and
- (b) either (1) in relation to any sum payable in a Specified Currency other than euro, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the Principal Financial Center of the country of the relevant Specified Currency (if other than London and any additional Principal Financial Center and which if the Specified Currency is Australian dollars or New Zealand dollars shall be Sydney or Auckland, respectively) or (2) in relation to any sum payable in euro, a day on which the TARGET System is open.

**“Calculation Agent”** means any Person appointed by the Company pursuant to Section 3.14 with respect to any Series of Notes.

**“Capital Indenture”** means that certain Capital Indenture between the Company and the Trustee, in connection with the issuance by the Company of Capital Notes under the Program.

**“Capital Notes”** means any series of capital notes issued by the Company pursuant to the Capital Indenture.

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

**“Company Request”** and **“Company Order”** mean a written request or order signed in the name of the Company by (1) any two of its Chairman of the Board, Chief Executive Officer, Chief Financial Officer or Group Treasurer, (2) any one of the foregoing Persons together with the Managing Director of Legal Services or (3) any two Persons designated by the Company in a Company Order previously delivered to the Trustee for Notes of any Series, and in each case delivered to the Trustee and/or Principal Paying Agent, as the case may be, for Notes of any Series in accordance with the provisions of this Indenture.

**“Corporate Trust Office”** means the office of the Trustee for Notes of any Series at which at any particular time its corporate trust business shall be principally administered, which office of Deutsche Bank Trust Company Americas, at the date of the execution of this Indenture, is located at Trust & Securities Services, 60 Wall Street, 27<sup>th</sup> Floor, MS: NYC60-2710, New York, NY 10005, United States of America or at any other time at such other address as the Trustee may designate from time to time by notice to the Holders.

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

**“Currency Determination Agent”**, with respect to the Notes of any Series, means, unless otherwise specified in the Notes of a Series, a New York Clearing House bank designated pursuant to Section 3.1 and Section 3.11.

**“Currency Determination Agent Agreement”** means any agreement between the Company and any Person engaged as a Currency Determination Agent for the purposes specified in Section 3.11.

**“Currency Determination Agent’s Certificate”** means a certificate or facsimile thereof setting forth (1) the applicable Market Exchange Rate and (2) the Dollar or Specified Currency amounts of principal (and premium, if any) and interest, if any (on an aggregate basis and on the basis of a Note having the lowest denomination principal amount determined in accordance with Section 3.2 in the relevant currency), payable with respect to a Note of any Series on the basis of such Market Exchange Rate, signed by the Currency Determination Agent.

**“Defaulted Interest”** has the meaning specified in Section 3.7.



**“Depository”** means, with respect to the Notes of any Series issuable or issued as Global Notes, the Person designated as Depository by the Company pursuant to Section 3.1 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 Notes of any such Series shall mean the Depository with respect to the Notes of that Series.

**“Discount Note”** means any Note which provides for an amount (excluding any amounts attributable to accrued but unpaid interest thereon) less than the principal amount thereof to be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.2.

**“Dollars”** and the sign “\$” mean the currency of the United States that as at the time of payment is legal tender for the payment of public and private debts.

**“DTC”** has the meaning specified in Section 2.3.

**“Events of Default”** has the meaning specified in Section 5.1.

**“Exchange Act”** means the United States Securities Exchange Act of 1934, as amended, as in force at the date as of which this Indenture was executed; *provided, however*, that in the event the United States Securities Exchange Act of 1934 is amended after such date, “Exchange Act” means, to the extent required by any such amendment, the United States Securities Exchange Act of 1934 as so amended.

**“Exchange Rate Officers’ Certificate”** means a certificate or facsimile thereof setting forth (1) the applicable Market Exchange Rate and (2) the Dollar or Specified Currency amounts of principal (and premium, if any) and interest, if any (on an aggregate basis and on the basis of a Note having the lowest denomination principal amount determined in accordance with Section 3.2 in the relevant currency), payable with respect to a Note of any Series on the basis of such Market Exchange Rate, signed by the Group Treasurer or any other senior manager of the Company.

**“Excluded Indebtedness”** means any Relevant Indebtedness in respect of which the person or persons to whom any such Relevant Indebtedness is or may be owed by the relevant borrower has or have no recourse whatsoever to the Company or any Subsidiary (whether or not also the relevant borrower) for the repayment thereof other than:

- (i) recourse to such borrower for amounts limited to the cash flow or net cash flow (other than historic cash flow or historic net cash flow) from a Specified Asset; and/or
- (ii) recourse to such borrower for the purpose only of enabling amounts to be claimed in respect of such Relevant Indebtedness in an enforcement of any encumbrance given by such borrower over a Specified Asset or the income, cash flow or other proceeds deriving therefrom (or given by a shareholder or the like in the borrower over its shares or the like in the

capital of the borrower) to secure such Relevant Indebtedness, provided that (a) the extent of such recourse to such borrower is limited solely to the amount of any recoveries made on any such enforcement, and (b) such person or persons is/are not entitled, by virtue of any right or claim arising out of or in connection with such Relevant Indebtedness, to commence proceedings for the winding up or dissolution of the borrower or to appoint or procure the appointment of any receiver, trustee or similar person or officer in respect of the borrower or any of its assets (save for the assets the subject of such encumbrance); and/or

- (iii) recourse of such borrower generally, or directly or indirectly to the Company or any Subsidiary, under any form of assurance, undertaking or support, which recourse is limited to a claim for damages (other than liquidated damages and damages required to be calculated in a specified way) for breach of an obligation (not being a payment obligation or an obligation to procure payment by another or an indemnity in respect thereof or any obligation to comply or to procure compliance by another with any financial ratios or other tests of financial condition) by the person against which such recourse is available.

**“Global Notes”** means Notes in global form.

**“Government Entities”** means any body, agency, ministry, department, authority, statutory corporation or other entity of or pertaining to a member state of the European Economic Area or the government thereof or any political subdivision, municipality or local government thereof (whether autonomous or not).

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

**“Indenture”** means this instrument as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof and, unless the context otherwise requires, shall include the terms of a particular Series of Notes established as contemplated by Section 3.1.

**“Indexed Note”** means any Note in which the amount of principal, premium and/or interest payable in respect thereof is determined with reference to the price or prices of specified commodities or stocks, the exchange rate of one or more designated currencies relative to an indexed currency or other items, as specified in the Note.

**“interest”**, when used with respect to a Discount Note which by its terms bears interest only after Maturity, means interest payable after Maturity.

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

**“Kaupthing Securities”** has the meaning specified in Section 1.15.

**“Luxembourg Paying Agency Agreement”** refers to such agreement as defined in the Recitals of the Company contained in this instrument, as supplemented or amended from time to time.

**“Luxembourg Paying Agent”** means the Person named as “Luxembourg Paying Agent” in the Recitals of the Company contained in this instrument, including any additional or successor Luxembourg paying and transfer agents.

**“mandatory sinking fund payment”** has the meaning specified in Section 11.1.

**“Market Exchange Rate”** means the noon Dollar buying rate in New York City by the Federal Reserve Bank of New York.

**“Material Subsidiary”** means at any relevant time, any Subsidiary that meets any of the following conditions:

- (a) the Company’s and its other Subsidiaries’ investments in and advances to the Subsidiary exceed 10 percent of the total assets of the Company and its Subsidiaries consolidated as of the end of the most recently completed fiscal year; or
- (b) the Company’s and its other Subsidiaries’ proportionate share of the total assets (after intercompany eliminations) of the Subsidiary exceeds 10 percent of the total assets of the Company and its Subsidiaries consolidated as of the end of the most recently completed fiscal year; or
- (c) the Company and its other Subsidiaries’ equity in the income from continuing operations before income taxes, extraordinary items and cumulative effect of a change in accounting principle of the Subsidiary exceeds 10 percent of such income of the Company and its Subsidiaries consolidated for the most recently completed fiscal year.

**“Maturity”**, when used with respect to any Note, means the date, if any, on which the principal of that Note becomes due and payable as therein or herein provided, whether at the Stated Maturity or earlier by declaration of acceleration, call for redemption, request for redemption, repayment at the option of the Holder, pursuant to any sinking fund provisions or otherwise.

**“Notes”** means medium-term notes in registered form evidencing unsecured (subject to the provisions set forth under Section 9.6 herein) and unsubordinated indebtedness of the Company authenticated and delivered under this Indenture and registered in the Note Register.

**“Note Register”** and **“Note Registrar”** have the respective meanings specified in Section 3.5.

**“Officers’ Certificate”** means a certificate of the Company signed by (1) any two of its Chairman of the Board, Chief Executive Officer, Chief Financial Officer or Group

Treasurer or (2) any one of the foregoing Persons together with the Managing Director of Legal Services and delivered to the Trustee and/or Principal Paying Agent, as the case may be, for the Notes of any Series in accordance with the provisions of this Indenture.

**“Opinion of Counsel”** means a written opinion of counsel who are reasonably acceptable to the Trustee for the Notes of any Series and who may be regular outside counsel to the Company.

**“optional sinking fund payment”** has the meaning specified in Section 11.1.

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

- (a) Notes which have been cancelled by the Principal Paying Agent for such Notes or delivered to such Principal Paying Agent for cancellation;
- (b) Notes or portions thereof for whose payment or redemption money in the necessary amount and in the required currency has been deposited with the Trustee for such Notes or any Paying Agent (other than the Company or any other obligor upon the Notes) in trust or set aside and segregated in trust by the Company or any other obligor upon the Notes (if the Company or any other obligor upon the Notes shall act as its own Paying Agent) for the Holders of such Notes; *provided, however*, that, if such Notes 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
- (c) Notes which have been paid pursuant to Section 3.9 or in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Indenture, other than any such Notes in respect of which there shall have been presented proof reasonably satisfactory to the Principal Paying Agent for such Notes that any such Notes are held by *bona fide* holders in due course;

*provided, however*, that in determining whether the Holders of the requisite aggregate principal amount of Outstanding Notes have given any request, demand, authorization, direction, notice, consent or waiver or taken any other action hereunder, (a) Notes owned by the Company or any other obligor upon the Notes or any Affiliate of the Company or such other obligor shall be disregarded and deemed not to be Outstanding, except that, (i) in determining whether the Trustee for such Notes shall be protected in relying upon any such request, demand, authorization, direction, notice, consent, waiver or action, only Notes which the Trustee knows to be so owned shall be so disregarded and (ii) Notes so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee’s right so to act with respect to such Notes and that the pledgee is not the Company or any other obligor upon the Notes or any Affiliate of the Company or of such other obligor and (b) the principal amount of a Discount Note that shall be deemed to be Outstanding for such purposes shall be equal to the amount of the principal thereof that would be due and payable as of the date of such determination upon a declaration of acceleration pursuant to Section 5.2.

**“Paying Agent”** means Deutsche Bank Trust Company Americas or any Person authorized by the Company to pay the principal of (and premium, if any, on) or interest, if any, on, or any additional amounts in respect of, any Notes on behalf of the Company and shall include any Principal Paying Agent.

**“Payment Day”** means any day which is a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in (i) the relevant place of presentation, (ii) London, (iii) New York, (iv) any additional Principal Financial Center specified in the applicable Pricing Supplement, and either (X) in relation to any sum payable in a Specified Currency other than euro, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the principal financial center of the country of the relevant Specified Currency (if other than the place of presentation, London and any additional Principal Financial Center and which if the Specified Currency is Australian dollars or New Zealand dollars shall be Sydney or Auckland, respectively) or (Y) in relation to any sum payable in euro, a day on which the TARGET System is open.

**“Permitted Security Interest”** means any security interest created by the Company or its Subsidiaries over the whole or any part of their present or future assets or revenues where such assets or revenues are comprised of the following (or are otherwise qualifying collateral for issues of covered bonds pursuant to any relevant contractual arrangements and/or specific provisions of laws of Iceland relating to covered bonds): (i) mortgage receivables; or (ii) receivables against Government Entities; or (iii) asset-backed securities backed by any of the assets under paragraph (i) or (ii); or (iv) any other assets permitted by Icelandic law to collateralize the covered bonds, in each case provided that the creation of such security interest is pursuant to the relevant contractual arrangements or, as the case may be, specific provisions of the laws of Iceland relating to covered bonds applicable at the time of creation of such security interest.

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

**“Place of Payment”** when used with respect to the Notes of any Series, means the place or places where the principal of (and premium, if any, on) and interest on, and additional amounts in respect of, the Notes of that Series are payable, as contemplated by Section 3.1.

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

**“Principal Financial Center”** means, unless otherwise defined in any Note issued hereunder, (i) the capital city of the country issuing the Specified Currency or (ii) the capital city of the country to which the Designated LIBOR Currency relates, as applicable, except, in the case of (i) or (ii) above, that with respect to Dollars, Australian dollars, British pounds sterling, Canadian dollars, South African rand and Swiss francs, the “Principal Financial Center” shall be New York City, Sydney and (solely in the case of the Specified Currency) Melbourne, London (solely in the case of the Designated LIBOR Currency), Toronto, Johannesburg and Zurich, respectively.

**“Principal Office”** means a specified office of any Paying Agent for Notes of any Series at which at any particular time its corporate trust business shall be administered, which office of Deutsche Bank Trust Company Americas, at the date of the execution of this Indenture, is located at Trust & Securities Services, 60 Wall Street, 27<sup>th</sup> Floor, MS: NYC60-2710, New York, NY 10005, United States of America.

**“Principal Paying Agent”** means, unless otherwise specified in the Notes of a Series, Deutsche Bank Trust Company Americas as appointed as the agent of the Company and shall also include its successors and assigns; *provided*, that any Principal Paying Agent or any successor thereto shall have at all times a combined capital and surplus of at least \$50,000,000.

**“Program”** means the Company’s \$10,000,000,000 Senior/Subordinated Medium-Term Note Program, as described in an offering circular dated March 27, 2006, as may be amended and supplemented from time to time.

**“Quoting Source”** has the meaning specified in Section 3.10(f).

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

**“Redemption Price”**, when used with respect to any Note to be redeemed, means, unless otherwise specified in the Notes of a Series, an amount equal to the sum of (i) the initial redemption percentage specified in such Note (as adjusted by the annual redemption percentage reduction, if applicable (as specified in such Note)) multiplied by the unpaid principal amount or the portion to be redeemed plus (ii) accrued interest, if any, to the date of redemption. Unless otherwise specified in such Note, the initial redemption percentage, if any, applicable to such Note shall decline at each anniversary of the initial redemption date by an amount equal to the applicable annual redemption percentage reduction, if any, until the Redemption Price is equal to 100% of the unpaid principal amount thereof or the portion thereof to be redeemed.

**“Regular Record Date”** for the interest payable on any Interest Payment Date on the Notes of any Series, means the date, if any, specified for that purpose as contemplated by Section 3.1.

**“Relevant Date”** means the date on which such payment first becomes due, except that, if the full amount of the moneys payable has not been duly received by the Paying Agent on or prior to such due date, it means the date on which, the full amount of such moneys

having been so received, notice to that effect is duly given to the Holders of Notes in accordance with the requirements of Section 1.6.

**“Relevant Indebtedness”** means any present or future indebtedness (which term shall be construed so as to include any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent) in the form of, or represented or evidenced by, bonds, debentures, notes or other securities which are, or are intended to be, with the agreement of the issuer thereof, quoted, listed, dealt in or traded on any stock exchange or over-the-counter or other securities market other than such indebtedness which by its terms will mature within a period of one year from its date of issue and other than Excluded Indebtedness.

**“Responsible Officer”**, when used with respect to the Trustee for any Series of Notes, means any officer within the Corporate Trust Office including any Vice President, Managing Director, Assistant Vice President, Secretary, Assistant Secretary, Treasurer or Assistant Treasurer or any other officer 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 his knowledge of and familiarity with the particular subject.

**“Security Interest”** has the meaning specified in Section 9.6.

A **“Series”** of Notes means all Notes denoted as part of the same series authorized by or pursuant to a particular Board Resolution or a particular indenture supplemental hereto.

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

**“Specified Amount”** means the greater of (a) \$10,000,000 or its equivalent in any other currency or currencies and (b) such amount in Dollars as is equal to 1% of the Adjusted Tangible Net Worth.

**“Specified Asset”** means an asset of the Company or any Subsidiary over which security is given in connection with any limited recourse securitization or other asset-backed financing.

**“Specified Currency”** means a currency issued and actively maintained as a country’s or countries’ recognized unit of domestic exchange by the government of any country and such term shall also include the euro.

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

**“Stock Exchange”**, unless specified otherwise with respect to any particular Series of Notes, means the unregulated EuroMTF market of the Luxembourg Stock Exchange, or

any stock exchange outside the United States upon which any Notes of that Series are duly listed.

**“Subordinated Indenture”** means the certain Subordinated Indenture between the Company and the Trustee, in connection with the issuance by the Company of Subordinated Notes under the Program.

**“Subordinated Notes”** means any series of subordinated notes issued by the Company pursuant to the Subordinated Indenture.

**“Subsidiary”** means any entity whose affairs are required by law or in accordance with generally accepted accounting principles applicable to Iceland to be consolidated in the consolidated accounts of the Company.

**“TARGET System”** means the Trans-European Automated Real Time Gross Settlement Express Transfer System.

**“Tax Jurisdiction”** means Iceland or any political subdivision or any authority thereof or therein having power to tax or any other jurisdiction or any political subdivision or any authority thereof or therein having power to tax to which the Company becomes subject in respect of payments made by it of principal and interest on the Notes.

**“Total Issuable Amount”** has the meaning specified in Section 3.1.

**“Trustee”** means the Person named as the “Trustee” in the first paragraph of this instrument and, subject to the provisions of Article Six hereof, shall also include its successors and assigns as Trustee hereunder. If there shall be at one time more than one Trustee hereunder, “Trustee” shall mean each such Trustee and shall apply to each such Trustee only with respect to those Series of Notes with respect to which it is serving as Trustee.

**“United States”** means, unless otherwise specified with respect to the Notes of a Series pursuant to Section 3.1, the United States of America (including the States and the District of Columbia), its territories, its possessions (which include, at the date of this Indenture Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands) and other areas subject to its jurisdiction.

**“U.S. Government Obligations”** means non-callable (i) direct obligations (or certificates representing an ownership interest in such obligations) of the United States for which its full faith and credit are pledged or (ii) obligations of a Person controlled or supervised by, and acting as an agency or instrumentality of, the United States, the timely payment of which is unconditionally guaranteed as a full faith and credit obligation of the United States.

**“Yield to Maturity”**, when used with respect to any Discount Note, means the yield to maturity, if any, set forth in such Discount Note.



## **1.2 Compliance Certificates and Opinions**

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

Every certificate (other than certificates provided pursuant to Section 9.4) or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include the following (or such other statements or information as the Trustee may reasonably request):

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

## **1.3 Form of Documents Delivered to Trustee or Principal Paying 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 matters upon which his certificate or opinion is based are erroneous.

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

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

#### **1.4 Acts of Holders**

- (a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing. Except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee for the appropriate Series of Notes and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the “Act” of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent, or of the holding by any Person of a Note, shall be sufficient for any purpose of this Indenture and (subject to Section 6.1) conclusive in favor of the Trustee for the appropriate Series of Notes, the Company and any agent of the Trustee or the Company, if made in the manner provided in this Section.

The Company may set at its discretion a record date for purposes of determining the identity of Holders of Notes entitled to vote or consent to any action by vote or consent authorized or permitted under this Indenture, but the Company shall have no obligation to do so. If not set by the Company prior to the first solicitation of Holders of Notes of such Series made by any Person in respect of any such action, or, in the case of any such vote, prior to such vote, the record date for any such action or vote shall be 30 days prior to the first solicitation of such vote or consent. Upon the fixing of such a record date, those persons who were Holders of Notes at such record date (or their duly designated proxies), and only those persons, shall be entitled with respect to such Notes to take such action by vote or consent or to revoke any vote or consent previously given, whether or not such persons continue to be Holders after such record date.

- (b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public, commissioner for oaths or other officer authorized by law to take acknowledgements of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where

such execution is by an officer of a corporation or association or a member of a partnership, or an official of a public or governmental body, on behalf of such corporation, association, partnership or public or governmental body or by a fiduciary, such certificate or affidavit shall also constitute sufficient proof of this authority.

- (c) The fact and date of the execution by any Person of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee for the appropriate Series of Notes deems sufficient.
- (d) The principal amount and serial numbers of Notes held by any Person, and the date of holding the same, shall be proved by the Note Register.
- (e) In determining whether the Holders of the requisite aggregate principal amount of Outstanding Notes have given any request, demand, authorization, direction, notice, consent or waiver under this Indenture, the principal amount of a Discount Note that may be counted in making such determination and that shall be deemed to be Outstanding for such purposes shall be equal to the amount of the principal thereof that would be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.2 at the time the taking of such action by the Holders of such requisite aggregate principal amount is evidenced to the Trustee for such Notes.
- (f) Any request, demand, authorization, direction, notice, consent, waiver or other action by the Holder of any Note shall bind every future Holder of the same Note and the Holder of every Note issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee for such Notes, the Note Registrar, any Paying Agent or the Company in reliance thereon, whether or not notation of such action is made upon such Note.

#### **1.5 Notices, Etc., to Trustee, Principal Paying Agent and Company**

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

- (a) the Trustee shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing, or if sent by facsimile transmission to facsimile number +1 732 578 4635, to or with the Trustee at Deutsche Bank National Trust Company for Deutsche Bank Trust Company Americas, 25 DeForest Avenue, Second Floor, MS: SUM01-0105, Summit, New Jersey 07901, Attn: Trust and Securities Services; or
- (b) the Principal Paying Agent for a Series of Notes by any Holder, the Company or the Trustee for such Series shall be sufficient for every purpose hereunder if

made, given, furnished or filed in writing to or with such Principal Paying Agent at its Principal Office; or

- (c) the Company by any Trustee, Principal Paying Agent or any Holder shall be sufficient for every purpose hereunder (except as provided in paragraph (d) of Section 5.1) if (a) addressed to “Attention: Legal Department” in the case of the Company and (b) in writing and mailed, first class postage prepaid, or hand delivered, to the Company addressed to it at the address of its principal office specified in the first paragraph of this instrument or at any other address previously furnished in writing to the Trustee by the Company or if sent by facsimile transmission addressed to the Company at facsimile number +354 444 6119 or at any other facsimile number previously furnished in writing to the Trustee by the Company with a copy to the Company addressed to it as provided in clauses (a) and (b) above.

#### **1.6 Notice to Holders; Waiver**

Where this Indenture provides for notice to Holders of Notes of any event, such notice shall be given (unless otherwise expressly provided herein or in the Notes of a Series) to Holders of Notes in writing and mailed, first class postage prepaid, to each Holder affected by such event, at such Holder’s address as it appears in the Note 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 of Notes is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder of a Note shall affect the sufficiency of such notice with respect to other Holders. Any notice mailed in the manner prescribed by this Indenture shall be deemed to have been given whether or not received by any particular Holder. 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 to Holders of Notes by mail, then such notification as shall be made with the approval of the Trustee for such Notes shall constitute a sufficient notification for every purpose hereunder.

Notwithstanding the first paragraph of this Section 1.6, if the entire principal amount of the Notes of a Series or a portion thereof is represented by one or more Global Notes held by a Depositary, all notices with respect to such principal amount or portion thereof, as the case may be, shall be sent only to such Depositary or its nominee, as the Holder, and such Depositary will communicate such notices to its participants in accordance with its standard procedures.

For so long as the Notes are listed on the Luxembourg Stock Exchange and the rules of the Luxembourg Stock Exchange so require, the Company shall, or shall direct the Luxembourg Paying Agent to, publish notices in a leading newspaper of general circulation in Luxembourg (which is expected to be the *d’Wort*); *provided that* for so long as the Notes are held in registered global form and if the rules of the Luxembourg Stock Exchange would so permit, notifications may be made either through a Depositary

or by mail to the address of such Holders as they appear in the Note Register with a copy to the Luxembourg Stock Exchange in place of publication in a newspaper as described above.

For so long as the Notes are listed on the Luxembourg Stock Exchange and the rules of the Luxembourg Stock Exchange so require, the Company shall maintain a Luxembourg Paying Agent.

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 for such Notes, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

#### **1.7 Effect of Headings and Table of Contents**

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

#### **1.8 Successors and Assigns**

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

#### **1.9 Separability Clause**

In any case any provision in this Indenture or in the Notes 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.

#### **1.10 Benefits of Indenture**

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

#### **1.11 Governing Law**

THIS INDENTURE AND THE NOTES SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

#### **1.12 Immunity of Incorporators, Stockholders, Officers and Directors**

No recourse shall be had for the payment of the principal of (or premium, if any, on), or interest, if any, on any Note of any Series or for any claim based thereon, or upon any obligation, covenant or agreement of this Indenture or any indenture supplemental hereto,

or any Note, or because of any indebtedness evidenced thereby, against any incorporator, stockholder, officer or director, as such, past, present or future, of the Company or of any predecessor or successor corporation thereto, either directly or indirectly through the Company or any such predecessor or successor corporation, whether by virtue of any constitution, 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 all the Notes of each Series are solely corporate obligations, and that no personal liability whatsoever shall attach to, or is incurred by, any incorporator, stockholder, officer or director, past, present or future, of the Company or of any predecessor or successor corporation thereto, either directly or indirectly through the Company or any such predecessor or successor corporation, because of the incurring of the indebtedness hereby authorized or under or by reason of any of the obligations, covenants or agreements contained in this Indenture or in any of the Notes of any Series or to be implied herefrom or therefrom; and that all such personal liability is hereby expressly released and waived as a condition of, and as part of the consideration for, the execution of this Indenture and the issuance of the Notes of each Series.

#### **1.13 Certain Matters Relating to Currencies**

Whenever any action or Act is to be taken hereunder by the Holders of Notes denominated in different currencies, then for purposes of determining the principal amount of Notes held by such Holders, the aggregate principal amount of the Notes denominated in a Specified Currency shall be deemed to be that amount of Dollars that could be obtained for such principal amount on the basis of a spot rate of exchange specified to the Trustee for such Series in an Exchange Rate Officers' Certificate or a Currency Determination Agent's Certificate for such Specified Currency into Dollars as of the date the taking of such action or Act by the Holders of the requisite percentage in aggregate principal amount of the Notes is evidenced to the Trustee.

#### **1.14 Language of Notices, Etc.**

Any request, demand, authorization, direction, notice, consent, waiver or other action required or permitted under this Indenture shall be in the English language, and any published notice may also be in an official language of the country or province of publication.

#### **1.15 Appointment of Agent for Service**

By the execution and delivery of this Indenture, the Company designates and appoints Kaupthing Securities Inc. at 230 Park Avenue, Suite 1528, in the Borough of Manhattan, City and State of New York, 10169 ("**Kaupthing Securities**"), and Kaupthing Securities hereby accepts such appointment, as its authorized agent upon which process may be served in any suit or proceeding arising out of or relating to the Notes or this Indenture which may be instituted in any Federal or New York State Court located in the Borough of Manhattan, City and State of New York, but for that purpose only, and agrees that service of process upon said Kaupthing Securities, directed to the attention of "Legal Department", and written notice of said service given by the Person serving the same to

it, addressed as provided in Section 1.5, shall be deemed in every respect effective service of process upon it in any such suit or proceeding in any Federal or State court in such Borough, City and State. The Company hereby submits (for the purposes of any such suit or proceeding) to the jurisdiction of any such court in which any such suit or proceeding is so instituted, and irrevocably waives, to the fullest extent it may lawfully do so, any objection it may have now or hereafter to the laying of the venue of any such suit, action or proceeding in any such court and irrevocably waives, to the fullest extent it may lawfully do so, any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Such submission and waiver shall be irrevocable so long as any of the Notes remain Outstanding and such appointment shall be irrevocable until the appointment of a successor by the Company with the consent of the Trustee and such successor's acceptance of such appointment. Upon such acceptance, the Company shall notify the Trustee of the name and address of such successor. The Company further agrees to take any and all action, including the execution and filing of any and all such documents and instruments, as may be necessary to continue such designation and appointment of said Kaupthing Securities or its successor in full force and effect so long as any of the Notes shall be Outstanding. The Trustee shall not be obligated and shall have no responsibility with respect to any failure by the Company to take any such action.

The Company agrees, to the fullest extent that it lawfully may do so, that final judgment in any such suit, action or proceeding brought in such a court shall be conclusive and binding upon the Company and may be enforced in any other courts to whose jurisdiction the Company is subject by a suit upon such judgment, provided that service of process is effected upon the Company in the manner specified in the foregoing paragraph or as otherwise permitted by law; *provided, however*, that the Company does not waive, and the foregoing provisions of this sentence shall not constitute or be deemed to constitute a waiver of, (1) any right to appeal any such judgment, to seek any stay or otherwise to seek reconsideration or review of any such judgment, (2) any stay of execution or levy pending an appeal from, or a suit, action or proceeding for reconsideration of, any such judgment, or (3) any other right or remedy of the Company to the extent not expressly waived in accordance with this Section 1.15.

Nothing in this Section shall affect the right of the Trustee or any Holder of any Note to serve process in any manner permitted by applicable law or limit the right of the Trustee or any Holder of any Note to bring proceedings against the Company in the courts of any other jurisdiction or jurisdictions.

## **2. NOTE FORMS**

### **2.1 Forms of Notes**

The Notes of each Series shall be in such form or forms (including global form) as shall be established by or pursuant to a Board Resolution or in an indenture supplemental hereto, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture or any indenture supplemental hereto and may have such letters, numbers or other marks of identification and such

legends or endorsements placed thereon as may be required to comply with any law, with any rule or regulation made pursuant thereto, with any rules of any securities exchange or any automated quotation system or to conform to usage, as may, consistently herewith, be determined by the officers executing such Notes. Such execution of such Notes shall be conclusive evidence as regards the Company as to any such determination made by the Company.

The certificated Notes shall be printed, lithographed or engraved or produced by any combination of these methods on a steel engraved border or steel engraved borders or may be typed, photocopied or produced in any other manner, all as determined by the officers executing such Notes. Such execution of such certificated Notes shall be conclusive evidence as regards the Company as to any such determination made by the Company.

The Notes will be issued only in fully registered form.

## **2.2 Form of Certificate of Authentication**

Unless otherwise specified as contemplated by Section 3.1, the Certificate of Authentication on all Notes shall be in substantially the following form:

“This is one of the Notes of the Series designated in, and issued under, the Indenture described herein.

Deutsche Bank Trust Company Americas  
as Principal Paying Agent

By: \_\_\_\_\_  
Authorized Signatory

By: \_\_\_\_\_  
Authorized Signatory”

## **2.3 Notes in Global Form**

If any Note of a Series is issuable in global form, such Note may provide that it shall represent the aggregate amount of Outstanding Notes from time to time endorsed thereon and may also provide that the aggregate amount of Outstanding Notes represented thereby may from time to time be increased or reduced to reflect exchanges. Any endorsement of a Global Note to reflect the amount, or any increase or decrease in the amount, of Outstanding Notes represented thereby shall be made by the Principal Paying Agent or Note Registrar and in such manner as shall be specified in such Note. Any instructions by the Company with respect to a Global Note, after its initial issuance, shall be in writing but need not comply with Section 1.2.



Unless otherwise specified in the Notes of a Series, every Global Note authenticated and delivered hereunder shall bear a legend in substantially the following form:

THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITARY OR A NOMINEE THEREOF. TRANSFERS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF THE DEPOSITARY OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE OR TO THE DEPOSITARY BY A NOMINEE OF THE DEPOSITARY AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH HEREIN.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND THIS CERTIFICATE IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER ENTITY AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY, ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

The Notes of each Series shall also bear such legend or legends as may appear in the form of Notes established pursuant to Section 2.1 hereof or in the applicable Company Order.

Global Notes representing Notes of a Series will be deposited with the Trustee, which shall act as a custodian for the Depositary Trust Company ("DTC") and held by or on behalf of DTC for the benefit of participants in DTC.

### 3. **THE NOTES**

#### 3.1 **Title: Payment and Terms**

The aggregate principal amount of Notes which may be authenticated and delivered and Outstanding under this Indenture, together with:

- (i) the aggregate principal amount of Subordinated Notes which may be authenticated and delivered and Outstanding under the Subordinated Indenture, and
- (ii) the aggregate principal amount of Capital Notes which may be authenticated and delivered and Outstanding under the Capital Indenture,

shall not exceed \$10,000,000,000 (the “**Total Issuable Amount**”). The Notes may be issued from time to time, as authorized by or pursuant to a Board Resolution of the Company, up to the Total Issuable Amount. The Company may, from time to time and without the consent of any Holder of any Note, increase the Total Issuable Amount by notice thereof to the Trustee.

The Notes will constitute direct, unconditional, unsubordinated and (subject to the provisions set forth under Section 9.6 herein) unsecured obligations of the Company without any preference among themselves and will rank at least equally with deposits and all other unsecured and unsubordinated obligations of the Company, subject, in the event of insolvency, to laws of general applicability relating to or affecting creditors’ rights, provided that such other unsecured and unsubordinated indebtedness may contain covenants, events of default and other provisions which are different from or which are not contained in the Notes.

The Notes may be issued in one or more Series and may be issued in the forms attached hereto as Exhibit I and Exhibit II, as applicable, with such changes as the Company and the Trustee may agree from time to time. There shall be established in one or more Board Resolutions or pursuant to authority granted by one or more Board Resolutions and, subject to Section 3.3, set forth in, or determined in the manner provided in, an Officers’ Certificate, or established in one or more indentures supplemental hereto, prior to the issuance of Notes of any Series any or all of the following, as applicable (each of which, if so provided, may be determined from time to time by the Company with respect to unissued Notes of the Series and set forth in such Notes of the Series when issued from time to time):

- (a) the title of the Notes of that Series (which shall distinguish the Notes of that Series from all other Series of Notes);
- (b) any limit upon the aggregate principal amount of the Notes of that Series which may be authenticated and delivered under this Indenture (except for Notes authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Notes of that Series pursuant to Section 3.4, 3.5, 3.6, 8.5 or 10.7 and except for any Notes which, pursuant to Section 3.3, are deemed never to have been authenticated and delivered hereunder);
- (c) the original issue date or dates or periods during which the Notes of that Series may be issued and the date or dates (or manner of determining the same) on which, or the range of dates within which, the principal of (and premium, if any, on) the Notes of that Series is payable and the record dates, if any, for the determination of Holders of Notes of such Series to whom such principal (and premium, if any) is payable;
- (d) the rate or rates (or the manner of calculation thereof, including any provisions for the increase or decrease of such rate or rates upon the occurrence of specific events) at which the Notes of that Series shall bear interest (if any), or the discount, if any, at which any Discount Notes may be issued, the date or dates

from which such interest shall accrue, the Interest Payment Dates on which such interest shall be payable (or manner of determining the same) and the Regular Record Date for the interest payable on any Notes on any Interest Payment Date;

- (e) the place or places where, subject to the provisions of Section 9.2, the principal of (and premium, if any, on) and interest, if any, on Notes of that Series shall be payable, any Notes of that Series may be surrendered for registration of transfer, any Notes of that Series may be surrendered for exchange, and notices and demands to or upon the Company in respect of the Notes of that Series and this Indenture may be served;
- (f) the period or periods within which or manner of determining the same, the price or prices at which or manner of determining the same, the Specified Currency in which, and the terms and conditions upon which, Notes of that Series may be redeemed, in whole or in part, at the option of the Company or otherwise;
- (g) the obligation (which may be fixed or contingent upon events), if any, of the Company to redeem, purchase or repay Notes of that Series pursuant to any sinking fund or analogous provisions or at the option of a Holder thereof, and the period or periods within which or manner of determining the same, the price or prices at which or manner of determining the same, the Specified Currency in which, and the terms and conditions upon which, Notes of that Series shall be redeemed, purchased or repaid, in whole or in part, pursuant to such obligation;
- (h) if the currency in which the Notes of that Series shall be issuable is Dollars, the denominations in which any Notes of that Series shall be issuable, if other than the denominations of \$100,000 and any integral multiples of \$1,000 in excess thereof;
- (i) if other than the principal amount thereof, the portion of the principal amount of Notes of that Series which shall be payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.2;
- (j) all Events of Default (including the Events of Default described in Section 5.1) and any covenants or agreements of the Company with respect to the Notes of that Series, whether or not such Events of Default or covenants or agreements are consistent with the Events of Default or covenants or agreements set forth herein;
- (k) if a Person other than Deutsche Bank Trust Company Americas is to act as Trustee for the Notes of that Series, the name and location of the Corporate Trust Office of such Trustee;
- (l) if a Person other than Deutsche Bank Trust Company Americas is to act as Principal Paying Agent for the Notes of that Series, the name and location of the Principal Office of such Principal Paying Agent and, if other than such Principal Paying Agent, the identity of each Note Registrar for the Notes of that Series;

- (m) if other than Dollars, the Specified Currency in which payment of the principal of (and premium, if any, on) and interest, if any, on the Notes of that Series shall be made or in which the Notes of that Series shall be denominated and the particular provisions applicable thereto in accordance with, in addition to or in lieu of the provisions of Section 3.10;
- (n) if the principal of (and premium, if any, on) and interest, if any, on the Notes of that Series are to be payable, at the election of the Company or a Holder thereof, in a currency other than that in which such Notes are denominated or stated to be payable, in accordance with provisions in addition to, in lieu of or in accordance with the provisions of Section 3.10, the period or periods within which, and the terms and conditions upon which, such election may be made, and the time and manner of determining the exchange rate between the currency in which such Notes are denominated or stated to be payable and the currency in which such Notes are to be so payable;
- (o) the designation of the original Currency Determination Agent, if any, and in what circumstances a Currency Determination Agent's Certificate or an Exchange Rate Officers' Certificate shall be delivered for Notes of that Series;
- (p) the index, if any, used to determine the amount of payments of principal of (and premium, if any, on) and interest, if any, on the Notes of that Series;
- (q) if the amount of payments of principal of (and premium, if any, on) and interest, if any, on the Notes of that Series may be determined, at the election of the Company or a Holder thereof, with reference to an index based on a currency other than that in which such Notes are denominated or stated to be payable or any other index, the manner in which such amounts shall be determined;
- (r) if other than as set forth in Section 4.1, provisions for the satisfaction and discharge of this Indenture with respect to the Notes of that Series;
- (s) the date as of which any Global Note representing Outstanding Notes of that Series shall be dated if other than the date of original issuance of the first Note of that Series to be issued;
- (t) the application, if any, of Sections 9.8 and 10.8 to the Notes of that Series;
- (u) whether the Notes of the Series shall be issued in whole or in part in the form of a Global Note or Notes and, in such case, the Depositary for such Global Note or Notes;
- (v) whether any legends shall be stamped or imprinted on all or a portion of the Notes of such Series, and the terms and conditions upon which any such legends may be removed;
- (w) the form of the Notes of that Series (including the terms and conditions of such Notes);

- (x) whether the Notes are redeemable at the option of the Company or repayable at the option of the Holder; and
- (y) any other terms of that Series (which terms shall not be inconsistent with the provisions of this Indenture).

All Notes of any particular Series shall be substantially identical except as to denomination, rate of interest, Stated Maturity and the date from which interest, if any, shall accrue, and except as may otherwise be provided in or pursuant to such Board Resolutions and set forth in such Officers' Certificates relating thereto or provided in or pursuant to any supplemental indenture hereto. The terms of such Notes, as set forth above, may be determined by the Company from time to time if so provided in or established pursuant to the authority granted in the Board Resolutions. All Notes of any one Series need not be issued at the same time, and unless otherwise provided, a Series may be reopened for issuance of Additional Notes of such Series.

If any of the terms of the Notes of a Series are established by action taken pursuant to one or more Board Resolutions, a copy of an appropriate record of such action shall be certified by an appropriate officer of the Company and delivered to the Principal Paying Agent and the Trustee at or prior to the delivery of the Officers' Certificate setting forth the terms of such Notes.

Prior to the delivery of a Note of any Series in any such form to the Principal Paying Agent for the Notes of such Series for authentication, the Company shall deliver to the Principal Paying Agent and the Trustee the following:

- (a) a copy of the Board Resolution of the Company and, if applicable, the supplemental indenture by or pursuant to which such form of Note has been approved;
- (b) an Officers' Certificate of the Company dated the date such certificate is delivered to the Principal Paying Agent and the Trustee stating that all conditions precedent provided for in this Indenture relating to the authentication and delivery of such Notes in such form have been complied with; and
- (c) an Opinion of Counsel stating that the Notes in such forms, when (a) completed by appropriate insertions and executed and delivered by the Company to the Principal Paying Agent for authentication (if appropriate) in accordance with this Indenture, (b) authenticated (if appropriate) and delivered by the Principal Paying Agent in accordance with this Indenture within the authorization as to aggregate principal amount established from time to time by the Board of Directors of the Company and (c) sold in the manner specified in such Opinion of Counsel, will be the legal, valid and binding obligations of the Company, subject to applicable bankruptcy, reorganization, insolvency, moratorium and other laws relating to or affecting creditors' rights generally, to general equitable principles, to an implied covenant of good faith and fair dealing and to such other qualifications as such

counsel shall conclude do not materially affect the rights of Holders of such Notes.

### **3.2 Denominations and Currencies**

Unless otherwise provided with respect to any Series of Notes as contemplated by Section 3.1, any Notes of a Series shall be issuable in denominations of \$100,000 and any integral multiples of \$1,000 in excess thereof or the equivalent amounts thereof in the case of Notes denominated in a Specified Currency other than Dollars.

### **3.3 Execution, Authentication, Delivery and Dating**

The Notes shall be executed on behalf of the Company by any of its Chief Executive Officer or any other director or officer of the Company authorized pursuant to a Board Resolution. The Notes shall be so executed and attested to by its Managing Director of Legal Services or, if unavailable, its Chief Financial Officer. The signature of any of these officers on the Notes may be manual or facsimile.

Notes 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 Notes or did not hold such offices at the date of such Notes.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Notes of any Series as executed by the Company to the Principal Paying Agent for the Notes of such Series for authentication, together with a Company Order for the authentication and delivery of such Notes, and such Principal Paying Agent, in accordance with the Company Order, shall authenticate and deliver such Notes. If any Note shall be represented by a Global Note, then, for purposes of this Section and Section 3.4, the notation of a beneficial owner's interest therein upon original issuance of such Note shall be deemed to be delivery in connection with the original issuance of such beneficial owner's interest in such Global Note. If all the Notes of any one Series are not to be issued at one time and if a Board Resolution or indenture supplemental hereto relating to such Notes shall so permit, such Company Order may set forth procedures acceptable to the Trustee for the issuance of such Notes, including without limitation, procedures with respect to interest rate, Stated Maturity, date of issuance and date from which interest, if any, shall accrue. Such procedures may authorize authentication and delivery pursuant to oral or electronic instruction from the Company or its duly authorized agent, which instructions, if given orally, shall be promptly confirmed by the Company to the Principal Paying Agent in writing.

Notwithstanding any contrary provision herein, if all Notes of a Series are not to be originally issued at one time, it shall not be necessary to deliver the Board Resolution and/or indenture supplemental hereto, Officers' Certificate and Opinion of Counsel otherwise required pursuant to Sections 1.2 and 3.1 at or prior to the time of authentication of each Note of such Series if such documents are delivered at or prior to the authentication upon original issuance of the first Note of such Series to be issued.

Each Note shall be dated the date of its authentication.

No Note shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Note a certificate of authentication substantially in the form provided for herein executed by manual or facsimile signature by the Principal Paying Agent for such Note or in the name of such Principal Paying Agent pursuant to Section 3.13, and such certificate upon any Note shall be conclusive evidence, and the only evidence, that such Note has been duly authenticated and delivered hereunder. Notwithstanding the foregoing, if any Note shall have been authenticated and delivered hereunder but never issued and sold by the Company, and the Company shall deliver such Note to the Principal Paying Agent for cancellation as provided in Section 3.9, for all purposes of this Indenture such Note shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

In case any Notes shall have been authenticated, but not delivered, by the Principal Paying Agent or the Authenticating Agent for such Series then in office, any successor by merger, conversion or consolidation to such Principal Paying Agent, or any successor Authenticating Agent, as the case may be, may adopt such authentication and deliver the Notes so authenticated with the same effect as if such successor Principal Paying Agent or successor Authenticating Agent had itself authenticated such Notes.

Each Depositary designated pursuant to Section 3.1 for a Global Note must at the time of its designation and at all times while it serves as such Depositary be a clearing agency registered under the Exchange Act and any other applicable statute or regulation.

At the request of the Trustee in writing delivered to the Principal Paying Agent, with respect to the Notes of a Series, the Principal Paying Agent shall notify the Trustee in writing of the total aggregate principal amount of Notes of a Series Outstanding as of the date specified in the Trustee's request.

### **3.4 Temporary Notes and Exchange of Notes**

Pending the preparation of certificated Notes of any particular Series, the Company may execute, and upon Company Order the Principal Paying Agent for the Notes of such Series shall authenticate and deliver, in the manner specified in Section 3.3, temporary Notes which are printed, lithographed, typewritten, photocopied or otherwise produced in any authorized denomination, with like terms and conditions as the certificated Notes of the Series 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 Notes may determine. Such execution of such Notes shall be conclusive evidence as regards the Company as to any such determination made by the Company.

If temporary Notes of any particular Series are issued, the Company will cause certificated Notes of that Series to be prepared without unreasonable delay. After the preparation of such certificated Notes, the temporary Notes of such Series shall be exchangeable for such certificated Notes and of a like Stated Maturity and with like terms

and provisions upon surrender of the temporary Notes of such Series at the office or agency of the Company in a Place of Payment for that Series, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Notes of any particular Series, the Company shall execute and (in accordance with a Company Order delivered at or prior to the authentication of the first certificated Note of such Series) the Principal Paying Agent for the Notes of such Series shall authenticate and deliver in exchange therefor a like principal amount of certificated Notes of authorized denominations of the same Series and of a like Stated Maturity and with like terms and provisions. Until exchanged as hereinabove provided, the temporary Notes of any Series shall in all respects be entitled to the same benefits under this Indenture as certificated Notes of the same Series with like terms and conditions, except as to payment of interest, if any, authenticated and delivered hereunder.

Any Global Note shall, unless otherwise provided therein, be delivered to a Depository designated pursuant to Section 3.1.

### 3.5 **Registration, Registration of Transfer and Exchange**

The Company shall cause to be kept at the Principal Office of the Principal Paying Agent for the Notes of each Series a security register (the security register for the Notes of each Series 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 with respect to the Notes of each Series as the “**Note Register**”) in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Notes and of transfers of Notes. Unless and until otherwise determined by the Company and notified in writing to the Trustee for the Notes of such Series, the Principal Paying Agent for the Notes of a Series shall act as Note Registrar (the “**Note Registrar**”) for such Notes and the Note Register shall be kept at the Principal Office of the Principal Paying Agent. The Company may appoint co-Note Registrars. At all reasonable times the Note Register shall be open for inspection by the Company and the Trustee and their duly authorized agents.

Upon surrender for registration of transfer of any Note of any particular Series at the office or agency of the Company in a Place of Payment for that Series, the Company shall execute, and the Principal Paying Agent for the Notes of each Series shall authenticate and deliver, in the name of the designated transferee or transferees, without service charge, one or more new Notes of any authorized denominations, and of a like Stated Maturity and of a like Series and aggregate principal amount and with like terms and conditions.

Except as set forth below, at the option of the Holder, Notes of any particular Series may only be exchanged for other Notes of any authorized denominations and of a like Stated Maturity and of a like Series and aggregate principal amount and with like terms and conditions, upon surrender of the Notes to be exchanged at such office or agency. Whenever any Notes are so surrendered for exchange, the Company shall execute, and the Principal Paying Agent for such Notes shall authenticate and deliver, without service charge, the Notes which the Holder making the exchange is entitled to receive.



Notwithstanding any other provision of this Section or Section 3.4, unless and until it is exchanged in whole or in part for Notes in certificated form, a Global Note representing all or a portion of the Notes 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 Depositary or by such Depositary or any such nominee to a successor Depositary for such Series or a nominee of such successor Depositary.

If at any time the Depositary for Notes of a Series notifies the Company that it is unwilling or unable to continue as Depositary for the Notes of such Series or if at any time the Depositary for the Notes for such Series shall no longer be eligible under Section 3.3, the Company shall appoint a successor Depositary with respect to the Notes for such Series. If a successor Depositary for the Notes of such Series is not appointed by the Company within 90 days after the Company receives such notice or becomes aware of such ineligibility, the Company's election pursuant to Section 3.1 shall no longer be effective with respect to the Notes for such Series and the Company will execute, and the Principal Paying Agent, upon receipt of a Company Order for the authentication and delivery of certificated Notes of such Series, will authenticate and deliver, without service charge, Notes of such Series in certificated form in an aggregate principal amount equal to the principal amount of the Global Note or Notes representing such Series in exchange for such Global Note or Notes.

The Company may at any time and in its sole discretion determine that the Notes of any Series issued in the form of one or more Global Notes shall no longer be represented by such Global Note or Notes. In such event the Company will execute, and the Principal Paying Agent, upon receipt of a Company Order for the authentication and delivery of certificated Notes of such Series, will authenticate and deliver, without service charge, Notes of such Series in certificated form and in an aggregate principal amount equal to the principal amount of the Global Note or Notes representing such Series in exchange for such Global Note or Notes.

If specified by the Company pursuant to Section 3.1 with respect to a Series of Notes, the Depositary for such Series of Notes may surrender a Global Note for such Series of Notes in exchange in whole or in part for Notes of such Series of like tenor and terms and in certificated form on such terms as are acceptable to the Company and such Depositary. Thereupon the Company shall execute, and the Principal Paying Agent shall authenticate and deliver, without service charge, (i) to each Person specified by such Depositary a new Note or Notes of the same Series, of like tenor and terms, and 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 Note; and (ii) to such Depositary a new Global Note of like tenor and terms and in a denomination equal to the difference, if any, between the principal amount of the surrendered Global Note and the aggregate principal amount of Notes delivered to Holders thereof.

Upon the exchange of a Global Note for Notes in certificated form, such Global Note if so exchanged in its entirety shall be cancelled by the Principal Paying Agent. Notes issued in exchange for a Global Note pursuant to this Section 3.5 shall be registered in

such names and in such authorized denominations as the Depositary for such Global Note, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Principal Paying Agent in writing. The Principal Paying Agent shall deliver such Notes to the persons in whose names such Notes are so requested.

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

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

If so specified in the applicable Board Resolution, Company Order or in any legend appearing on the form of Notes of a Series, the transfer of some or all of the Notes of such Series may be subject to such restrictions as are set forth therein. If any such restrictions are so specified, the Note Registrar for such Notes shall not register the transfer of any such Notes absent compliance with such restrictions.

No service charge shall be made for any registration of transfer or exchange of Notes, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Notes, other than exchanges pursuant to Section 3.4, 8.5 or 10.7 not involving any transfer.

The Company shall not be required (i) to issue, register the transfer of or exchange Notes of any Series during a period beginning at the opening of business 15 calendar days before the day of the mailing of a notice of redemption of Notes (pursuant to Section 10.4) of that Series selected for redemption under Section 10.3 and ending at the close of business on the day of mailing of the relevant notice of redemption or (ii) to register the transfer of or exchange any Note so selected for redemption as a whole or in part, except the unredeemed portion of any Note being redeemed in part.

### **3.6 Mutilated, Destroyed, Lost and Stolen Notes**

If (i) any mutilated Note is surrendered to the Principal Paying Agent for such Note, or the Company and the Principal Paying Agent for a Note receive evidence to their satisfaction of the destruction, loss or theft of any Note and (ii) there is delivered to the Company and such Principal Paying Agent such security or indemnity as may be required by them to save each of them and any agent of either of them harmless, then, in the absence of notice to the Company or such Principal Paying Agent that such Note has been acquired by a *bona fide* purchaser, the Company shall execute and upon its request such Principal Paying Agent shall authenticate and deliver, in lieu of any such destroyed, lost or stolen Note or in exchange for such mutilated Note, a new Note of the same Series

and in a like principal amount and of a like Stated Maturity and with like terms and conditions and bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or stolen Note has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Note, pay such Note (without surrender thereof except in the case of a mutilated Note) if the applicant for such payment shall furnish to the Company and the Principal Paying Agent for such Note such security or indemnity as may be required by them to save each of them harmless, and in case of destruction, loss or theft, evidence satisfactory to the Company and such Principal Paying Agent and any agent of any of them of the destruction, loss or theft of such Note and the ownership thereof.

Upon the issuance of any new Note under this Section, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including all fees and expenses of the Principal Paying Agent for such Note) connected therewith.

Every new Note of any Series issued pursuant to this Section in lieu of any destroyed, lost or stolen Note or in exchange for any mutilated Note, shall constitute an original additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Note 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 Notes of the same Series duly issued hereunder.

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

### 3.7 **Defaulted Interest; Interest Rights Preserved**

Any interest on any Note of any particular Series which is due and payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called “**Defaulted Interest**”) shall forthwith cease to be payable to the registered Holder on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Interest may be paid by the Company, at its election in each case, as provided in subsections (a) or (b) below:

- (a) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Notes of that Series (or their respective Predecessor Notes) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest. The Company shall notify the Trustee for the Notes of such Series in writing at least 30 days prior to the date of the proposed payment of the amount of Defaulted Interest proposed to be paid on each Note of that Series and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money in the Specified Currency in which interest on the Notes of such Series are payable (except as otherwise specified pursuant to Section 3.1 for the Notes of such Series and

except as provided in Section 3.10), 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 not be more than 15 days and not less than ten days prior to the date of the proposed payment. The Trustee shall promptly notify the Company and the Principal Paying Agent of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to each Holder of Notes of that Series at such Holder's address as it appears in the Note Register no less than seven 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 the Notes of that Series (or their respective Predecessor Notes) are registered on such Special Record Date and shall no longer be payable pursuant to the following sub-section (b); or

- (b) The Company may make payment of any Defaulted Interest on Notes of any particular Series in any other lawful manner not inconsistent with the requirements of any Stock Exchange on which the Notes may be listed, and upon such notice as may be required by such Stock Exchange, if, after notice is given by the Company to the Trustee for the Notes of such Series of the proposed manner of payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

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

### **3.8 Persons Deemed Owners**

Prior to due presentment of a Note for registration of transfer, the Company, the Trustee and the Principal Paying Agent for such Note and any agent of the Company or the Trustee or Principal Paying Agent may treat the Person in whose name any such Note is registered as the owner of such Note for the purpose of receiving payment of principal of (and premium, if any, on) and (subject to Section 3.7) interest, if any, on such Note and for all other purposes whatsoever, whether or not such Note be overdue, and none of the Company, the Trustee or Principal Paying Agent or any agent of the Company or the Trustee or the Principal Paying Agent shall be affected by notice to the contrary.

None of the Company, the Trustee, any Paying Agent or the Note Registrar 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 Note or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

### 3.9 Cancellation

Unless otherwise specified in the Notes of a Series, all Notes surrendered for payment, redemption, registration of transfer or exchange, or delivered in satisfaction of any sinking fund payment, shall, if surrendered to any Person other than the Principal Paying Agent for such Notes, be delivered to such Principal Paying Agent and shall be promptly cancelled by it. The Company may at any time deliver to the Principal Paying Agent for Notes of a Series for cancellation any Notes previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and all Notes so delivered shall be promptly cancelled by such Principal Paying Agent. Notwithstanding any other provision of this Indenture to the contrary, in the case of a Series, all the Notes of which are not to be originally issued at one time, a Note of such Series shall not be deemed to have been Outstanding at any time hereunder if and to the extent that, subsequent to the authentication and delivery thereof, such Note is delivered to the Principal Paying Agent for such Note for cancellation by the Company or any agent thereof upon the failure of the original purchaser thereof to make payment therefor against delivery thereof, and any Note so delivered to such Principal Paying Agent shall be promptly cancelled by it. No Notes shall be authenticated in lieu of or in exchange for any Notes cancelled as provided in this Section, except as expressly permitted by this Indenture.

### 3.10 Payment of Principal, Premium and Interest

- (a) In order to provide for the payment of the principal of, premium and interest on each Series of Notes as the same shall become due and payable by 10:00 am New York time on any payment date, the Company hereby agrees to pay the Principal Paying Agent to such account or at such offices as it may direct, in such currency as shall be required to make the payment due on such payment date, on each Interest Payment Date and on Maturity of such Series of Notes or any date fixed for redemption or acceleration of such Series of Notes (in each case determined in accordance with the terms of such Notes as established pursuant to Section 3.1 hereof), in immediately available funds on such Interest Payment Date, Maturity, Redemption Date or acceleration date, as the case may be, in an aggregate amount, which (together with any funds then held by the Principal Paying Agent and available for such purpose) shall be sufficient to pay the entire amount of the principal of, premium and interest on such Series of Notes, and the Principal Paying Agent shall hold such amount in trust and apply it to the payment of any such principal, premium or interest on such Interest Payment Date, Maturity, Redemption Date or acceleration date. Nothing contained herein shall be construed to require any Paying Agent to make any payment to the Holder of a Note until funds have been received from the Company pursuant to this Section.
- (b) Unless otherwise provided or contemplated by Section 3.1 with respect to any Global Note, payments of principal, premium, if any, and interest, if any, to owners of beneficial interests in such Global Note will be paid to the Depositary with respect to the portion of such Global Note held for their account by the Depositary. The Depositary will in such circumstances credit the payment

received by it in respect of such Global Note to the accounts of the beneficial owners thereof.

- (c) Unless otherwise provided pursuant to Section 3.1 with respect to any certificated Note, payments of interest of and, in the case of Amortizing Notes, principal (other than interest and, in the case of Amortizing Notes, principal, payable at Maturity) will be made by mailing a check to the Holder at the address of such Holder appearing on the Note Register for the Notes on the applicable Regular Record Date. Notwithstanding the foregoing, at the option of the Company, all payments of interest and, in the case of Amortizing Notes, principal, on the Notes, may be made by wire transfer of immediately available funds to an account at a bank located within the United States as designated by each Holder not less than 15 calendar days prior to the applicable Interest Payment Date. A Holder of \$10,000,000 (or, if the Specified Currency is other than Dollars, the equivalent thereof in such Specified Currency) or more in aggregate principal amount of Notes of like tenor and terms with the same Interest Payment Date may demand payment by wire transfer but only if appropriate payment instructions have been received in writing by any Paying Agent with respect to such Notes appointed by the Company, not less than 15 calendar days prior to the applicable Interest Payment Date. In the event that payment is so made in accordance with instructions of such a Holder, such wire transfer shall be deemed to constitute full and complete payment of such principal, premium and/or interest on the Notes. Payment of the principal of, premium, if any, and interest, if any, due with respect to any certificated Note at Maturity will be made in immediately available funds upon surrender of such Note at the Principal Office of any Paying Agent with respect to such Notes appointed by the Company accompanied by wire transfer instructions, provided that the certificated Note is presented to such Paying Agent in time for such Paying Agent to make such payments in such funds in accordance with its normal procedures.
- (d) Unless otherwise provided pursuant to Section 3.1 with respect to the Notes of any Series, payments of principal, premium, if any, and interest, if any, with respect to any Note to be made in a Specified Currency other than Dollars will be made by check mailed to the address of the person entitled thereto as such address appears in the Note Register or by wire transfer to such account with a bank located in a jurisdiction acceptable to the Company and the Trustee, as shall have been designated at least 15 calendar days prior to the Interest Payment Date or Maturity, as the case may be, by the Holder of such Note on the relevant Regular Record Date or at Maturity, provided that, in the case of payment of principal of, and premium, if any, and interest, if any, due at Maturity, the Note is presented to any Paying Agent with respect to such Note appointed by the Company in time for such Paying Agent to make such payments in such funds in accordance with its normal procedures. Such designation shall be made by filing the appropriate information with the Trustee at its Corporate Trust Office, and unless revoked, any such designation made with respect to any Note by a Holder will remain in effect with respect to any further payments with respect to such Note payable to such Holder. If a payment with respect to any such Note cannot be made by wire

transfer because the required designation has not been received by the Trustee on or before the requisite date or for any other reason, a notice will be mailed to the Holder at its registered address requesting a designation pursuant to which such wire transfer can be made and such payment will be made within 15 calendar days of the Trustee's receipt of such a designation. The Company will pay any administrative costs imposed by banks in connection with making payments by wire transfer, but any tax, assessment or governmental charge imposed upon payments will be borne by the Holders of such Notes in respect of which such payments are made.

- (e) If so specified pursuant to Section 3.1 with respect to a Series of Notes, except as provided below, payments of principal, premium, if any, and interest, if any, with respect to any Note denominated in other than Dollars will be made in Dollars, as set forth below in paragraph (f). If the Holder of such Note on the relevant Regular Record Date or at Maturity, as the case may be, requests payments in other than Dollars, the Holder shall transmit a written request for such payment to any Paying Agent with respect to such Note appointed by the Company at its Principal Office on or prior to such Regular Record Date or the date 15 calendar days prior to Maturity, as the case may be. Such request may be delivered by mail, by hand, by cable or by telex or any other form of facsimile transmission. Any such request made with respect to any Note by a Holder will remain in effect with respect to any further payments of principal, and premium, if any, and interest, if any, with respect to such Note payable to such Holder, unless such request is revoked by written notice received by such Paying Agent on or prior to the relevant Regular Record Date or the date 15 calendar days prior to Maturity, as the case may be; provided, that no such revocation may be made with respect to payments made on any such Note if an Event of Default (as defined in Section 5.1 hereof) has occurred with respect thereto or upon the giving of a notice of redemption. Holders of Notes denominated in other than Dollars whose Notes are registered in the name of a broker or nominee should contact such broker or nominee to determine whether and how an election to receive payments in other than Dollars may be made.
- (f) The Dollar amount to be received by a Holder of a Note denominated in other than Dollars who elects to receive payments in Dollars shall be the highest indicated bid quotation for the purchase of Dollars in exchange for the Specified Currency obtained by the Currency Determination Agent at approximately 11:00 a.m., New York City time, on the second Business Day next preceding the applicable payment date from the bank composite or multicontributor pages of the Quoting Source for three (or two if three are not available) major banks in New York City. The first three (or two) such banks selected by the Currency Determination Agent which are offering quotes on the Quoting Source will be used. If fewer than two such bid quotations are available at 11:00 a.m., New York City time, on the second Business Day next preceding the applicable payment date, such payment will be based on the Market Exchange Rate as of the second Business Day next preceding the applicable payment date. If the Market Exchange Rate for such date is not then available, such payment will be made in

the Specified Currency. As used herein, the “**Quoting Source**” means Reuters Monitor Foreign Exchange Service, or if the Currency Determination Agent determines that such service is not available, Telerate Monitor Foreign Exchange Service, or if the Currency Determination Agent determines that neither service is available, such comparable display or other comparable manner of obtaining quotations as shall be agreed between the Company and the Currency Determination Agent. All currency exchange costs associated with any payment in Dollars on any such Notes will be borne by the Holder thereof by deductions from such payment. The currency determination agent (“**Currency Determination Agent**”) with respect to any such Note will be specified pursuant to Section 3.1 hereof.

- (g) If the Specified Currency for a Note denominated in other than Dollars is not available for the required payment of principal, premium, if any, and/or interest, if any, in respect thereof due to the imposition of exchange controls or other circumstances beyond the control of the Company, the Company will be entitled to satisfy its obligations to the Holder of such Note by making such payment in Dollars on the basis of the Market Exchange Rate, computed by the Currency Determination Agent, on the second Business Day prior to such payment or, if such Market Exchange Rate is not then available, on the basis of the most recently available Market Exchange Rate, or as otherwise established pursuant to Section 3.1 with respect to such Notes. Any payment made in Dollars under such circumstances where the required payment was to be in a Specified Currency other than Dollars will not constitute an Event of Default hereunder.
- (h) All determinations referred to in this Section made by the Currency Determination Agent shall be at its sole discretion and in accordance with its normal operating procedures and shall, in the absence of manifest error, be conclusive for all purposes and binding on all Holders and beneficial owners of Notes.
- (i) Unless otherwise provided pursuant to Section 3.1 with respect to the Notes, if the principal of any Discount Note is declared to be immediately due and payable, the amount due and payable with respect to such Note shall be the Amortized Face Amount of such Note as of the date of such declaration and any unpaid interest accrued thereon to the date of such declaration. The “**Amortized Face Amount**” of a Discount Note that does not bear stated interest shall be an amount equal to the sum of (i) the principal amount of such Note multiplied by the price (which may be expressed as a percentage of the aggregate principal amount thereof) at which such Note is issued established pursuant to Section 3.1 with respect to such Notes plus (ii) the portion of the difference between the Dollar amount determined pursuant to the preceding clause (i) and the principal amount of such Note that has accrued at the Yield to Maturity established pursuant to Section 3.1 with respect to such Notes (and computed in accordance with generally accepted financial practices) to such date of declaration, but in no event shall the Amortized Face Amount of a Discount Note exceed its principal amount.



- (j) The Trustee and the Principal Paying Agent of the appropriate Series of Notes shall be fully justified and protected in relying and acting upon information received by it from the Company and the Currency Determination Agent and shall not otherwise have any duty or obligation to determine such information independently.
- (k) Unless otherwise specified with respect to the Notes of any Series, interest, if any, on any Note which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Note (or one or more Predecessor Notes) is registered at the close of business on the Regular Record Date for such interest payment; provided, however, that interest, if any, payable at Maturity, if any, will be payable to the Person to which principal shall be payable.

### **3.11 Currency Determination Agent**

- (a) Unless otherwise specified pursuant to Section 3.1, if and so long as the Notes of any Series (i) are denominated in a Specified Currency other than Dollars or (ii) may be payable in a Specified Currency other than Dollars, or so long as it is required under any other provision of this Indenture, then the Company will maintain with respect to each such Series of Notes, or as so required, a Currency Determination Agent, such Currency Determination Agent to be appointed pursuant to a Currency Determination Agency Agreement. The Company will cause the Currency Determination Agent to make the necessary foreign exchange determinations at the time and in the manner specified pursuant to Section 3.1 for the purpose of determining the applicable rate of exchange and for the purpose of converting the issued currency into the applicable payment currency for the payment of principal (and premium, if any) and interest, if any, pursuant to Section 3.10.
- (b) No resignation of the Currency Determination Agent and no appointment of a successor Currency Determination Agent pursuant to this Section shall become effective until the acceptance of appointment by the successor Currency Determination Agent as evidenced by a written instrument delivered to the Company and the Principal Paying Agent of the appropriate Series of Notes accepting such appointment executed by the successor Currency Determination Agent.
- (c) If the Currency Determination Agent shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of the Currency Determination Agent for any cause, with respect to the Notes of one or more Series, the Company, by a Board Resolution, shall promptly appoint a successor Currency Determination Agent or Currency Determination Agents with respect to the Notes of that or those Series (it being understood that any such successor Currency Determination Agent may be appointed with respect to the Notes of one or more or all of such Series and that at any time there shall only be one Currency Determination Agent with respect to the Notes of any particular Series).

### 3.12 CUSIP, ISIN or Common Code Numbers

The Company in issuing any Series of the Notes may use CUSIP, ISIN or Common Code numbers, if then generally in use and as applicable, and thereafter with respect to such Series, the Trustee and the Principal Paying Agent may use such numbers in any notice of redemption with respect to such Series.

### 3.13 Authenticating Agents

From time to time the Principal Paying Agent for the Notes of any Series may, subject to its sole discretion, and shall, upon Company Request and for such period as the Company shall elect, appoint one or more Authenticating Agents with respect to the Notes of such Series, which may include the Company or any Affiliate with power to act in the name of the Principal Paying Agent and subject to its discretion in the authentication and delivery of Notes of such Series in connection with transfers and exchanges under Sections 3.4, 3.5, 3.6, 8.5 and 10.7 as fully to all intents and purposes as though such Authenticating Agent had been expressly authorized by those Sections of this Indenture to authenticate and deliver Notes of such Series. For all purposes of this Indenture, the authentication and delivery of such Notes of such Series by an Authenticating Agent for such Notes pursuant to this Section shall be deemed to be authentication and delivery of such Notes “by the Principal Paying Agent” for the Notes of such Series. Any such Authenticating Agent shall at all times be a corporation organized and doing business under the laws of the United States, any State thereof or the District of Columbia, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$50,000,000 and subject to supervision or examination by Federal, State or District of Columbia authority, as the case may be. If such corporation publishes reports of condition at least annually pursuant to law or the requirements of such supervising or examining authority, then for the purposes of this Section the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent for any Series of Notes shall cease to be eligible in accordance with the provisions of this Section, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section.

Any Authenticating Agent for any Series of Notes may resign at any time by giving written notice of resignation to the Principal Paying Agent for such Series and to the Company. The Principal Paying Agent for any Series of Notes may at any time and shall, upon Company Request, terminate the appointment of any Authenticating Agent by giving written notice of termination to such Authenticating Agent and to the Company in the manner set forth in Section 1.5. Upon receiving such a notice of resignation or upon such a termination, or in case at any time any Authenticating Agent for any Series of Notes shall cease to be eligible under this Section, the Principal Paying Agent for such Series may and shall, upon Company Request, appoint a successor Authenticating Agent, shall give written notice of such appointment to the Company and shall give written notice of such appointment to all Holders of Notes of such Series in the manner set forth in Section 1.6. Any successor Authenticating Agent, upon acceptance of his appointment hereunder, shall become vested with all the rights, powers and duties of his 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.

The Principal Paying Agent for the Notes of each Series agrees to pay to any corporation of which any director or officer has been appointed as Authenticating Agent for such Series from time to time reasonable compensation for such services, and such Principal Paying Agent shall be entitled to be reimbursed by the Company for such reasonable payments.

If an appointment with respect to one or more Series of Notes is made pursuant to this Section, the Notes of such Series may have endorsed thereon, in addition to the Principal Paying Agent's certificate of authentication, an alternate certificate of authentication substantially in the following form, unless otherwise specified as contemplated by Section 3.1:

"This is one of the Notes of the Series designated therein described in the within mentioned Indenture.

Deutsche Bank Trust Company Americas  
as Principal Paying Agent

By \_\_\_\_\_  
As Authenticating Agent

By \_\_\_\_\_  
Authorized Officer"

### 3.14 Calculation Agent

- (a) From time to time the Company may appoint one or more Calculation Agents with respect to the Notes of any Series, to calculate interest payments due and payable pursuant to Section 3.10 and in accordance with the terms of Sections 3.1 and 3.7.
- (b) Any Calculation Agent may resign at any time by giving written notice of resignation to the Company in the manner set forth in Section 1.5. The Company may, at any time, terminate the appointment of any Calculation Agent by giving written notice of such termination to such Calculation Agent.

#### **4. SATISFACTION AND DISCHARGE**

##### **4.1 Satisfaction and Discharge of Notes of any Series**

(a) The Company shall be deemed to have satisfied and discharged the entire indebtedness on all the Notes of any particular Series and, so long as no Event of Default shall be continuing, the Trustee for the Notes of such Series, upon Company Request and at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of the Company's obligations under the Notes of such Series at any time prior to the Stated Maturity or redemption of such Notes, when:

(i) either:

(A) the Trustee shall have received written notice from the Principal Paying Agent for the Notes of a particular Series that all Notes of such Series theretofore authenticated and delivered (other than (i) any Notes of such Series which have been mutilated, destroyed, lost or stolen and which have been replaced or paid as provided in Section 3.6 and (ii) Notes of such Series 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 the last paragraph of Section 9.3) have been delivered to the Principal Paying Agent for the Notes of such Series for cancellation; or

(B) except as otherwise specified pursuant to Section 3.1 for the Notes of such Series, with respect to all Outstanding Notes of such Series described in (A) above not theretofore so delivered to the Principal Paying Agent for the Notes of such Series for cancellation:

(I) the Company has irrevocably deposited, or caused to be deposited, with or to the order of the Trustee for the Notes of such Series, in trust, funds in the currency, currencies, currency unit or units in which the Notes of such Series are payable (except as otherwise specified pursuant to Section 3.1 for the Notes of such Series) sufficient (without consideration of any reinvestment thereof) to pay and discharge the entire indebtedness on all such Outstanding Notes of such Series for unpaid principal of (and premium, if any, on) and interest, if any, on the Notes of such Series to the Stated Maturity or any Redemption Date as contemplated by Section 4.2, as the case may be; or

(II) the Company has irrevocably deposited, or caused to be deposited, with or to the order of the Trustee, in trust, such amount of U.S. Government Obligations as will, together

with the predetermined and certain income to accrue thereon (without consideration of any reinvestment thereof), be sufficient to pay and discharge when due the entire indebtedness on all such Outstanding Notes of such Series for unpaid principal of (and premium, if any, on) and interest, if any, on the Notes of such Series to the Stated Maturity or any Redemption Date as contemplated by Section 4.2, as the case may be; or

- (III) the Company has irrevocably deposited, or caused to be deposited, with or to the order of the Trustee, in trust, an amount equal to the amount referred to in clause (i) or (ii) in any combination of currency or currency unit or U.S. Government Obligations and such combination of funds and U.S. Government Obligations will be sufficient to pay and discharge the entire indebtedness on all Outstanding Notes of such Series for unpaid principal of (and premium, if any, on) and interest, if any, on the Notes of such Series to the Stated Maturity or any Redemption Date as contemplated by Section 4.2, as the case may be, taking into account the predetermined and certain income to accrue on such U.S. Government Obligations (but without any consideration of any reinvestment thereof) and without taking consideration of any reinvestment of any such funds;
- (ii) the Company has paid or caused to be paid all other sums payable with respect to the Notes of such Series;
- (iii) if the conditions set forth in Section 4.1(a)(i)(A) have not been satisfied, and unless otherwise specified pursuant to Section 3.1 for the Notes of such Series, the Company has delivered to the Trustee an Opinion of Counsel to the effect that (A) the Company has received from, or there has been published by, the Internal Revenue Service a ruling, or (B) since the date of this Indenture there has been a change in applicable United States federal income tax law, in either case to the effect that, and based upon which such Opinion of Counsel shall confirm that, the beneficial owners of Notes of such Series will not recognize income, gain or loss for United States federal income tax purposes as a result of such deposit, satisfaction and discharge and will be subject to United States federal income tax on the same amount and in the same manner and at the same time as would have been the case if such deposit, satisfaction and discharge had not occurred; and
- (iv) if the Notes of such Series are not to become due and payable at their Stated Maturity within one year of the date of a deposit pursuant to Section 4.1(a)(i)(B) or are not to be called for redemption within one year of the date of such deposit under arrangements satisfactory to the Trustee

as of the date of such deposit, then the Company shall have given, not later than the date of such deposit, notice of such deposit to the Holders of such Notes.

- (b) Upon the satisfaction of the conditions set forth in this Section 4.1 with respect to all the Notes of any Series, the terms and conditions of the Notes of such Series, including the terms and conditions with respect thereto set forth in this Indenture, shall no longer be binding upon, or applicable to, the Company. The Holders of the Notes of such Series shall no longer be entitled to the benefits of the terms and conditions hereof except as provided below and shall look for payment only to the funds or obligations deposited with the Trustee pursuant to Section 4.1(a)(i)(B); *provided, however*, that in no event shall the Company be discharged from (i) any payment obligations in respect of Notes of such Series which are deemed not to be Outstanding under clause (3) of the definition thereof if such obligations continue to be valid obligations of the Company under applicable law, (ii) any obligations under Sections 4.2(b), 6.7, 6.9 and 6.10 and (iii) any obligations under Sections 3.4, 3.5 and 3.6 (except that Notes of such Series issued upon registration of transfer or exchange or in lieu of mutilated, destroyed, lost or stolen Notes shall not be obligations of the Company) and Sections 3.10, 5.15 and 9.2; and *provided, further*, that in the event a petition seeking relief under any applicable Bankruptcy Law is filed and not discharged with respect to the Company within 91 days after the deposit, the entire indebtedness on all Notes of such Series shall not be discharged, and in such event the Trustee shall return such deposited funds or obligations as it is then holding to the Company upon Company Request.

#### 4.2 **Application of Trust Money**

- (a) All money and obligations deposited with the Trustee for any Series of Notes pursuant to Section 4.1 shall be held irrevocably in trust. Such money and obligations shall be applied by the Trustee, in accordance with the provisions of the Notes, this Indenture and such escrow trust agreement, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal of (and premium, if any, on) and interest, if any, on the Notes for the payment of which such money and obligations have been deposited with the Trustee. If Notes of any Series are to be redeemed prior to their Stated Maturity, whether pursuant to any optional redemption provisions or in accordance with any mandatory sinking fund requirement, the Company shall make such arrangements as are satisfactory to the Trustee for any Series of Notes for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company.
- (b) The Company shall pay and shall indemnify the Trustee for any Series of Notes against any tax, fee or other charge imposed on or assessed against U.S. Government Obligations deposited pursuant to Section 4.1 or the interest and principal received in respect of such U.S. Government Obligations other than any such tax, fee or other charge which by law is payable by or on behalf of Holders.

The obligation of the Company under this Section 4.2(b) shall be deemed to be an obligation of the Company under Section 6.7(b).

- (c) Anything in this Article Four to the contrary notwithstanding, the Trustee for any Series of Notes shall deliver or pay to the Company from time to time upon Company Request any money or U.S. Government Obligations held by it as provided in Section 4.1 which are in excess of the amount thereof which would then have been required to be deposited for the purpose for which such money or U.S. Government Obligations were deposited or received provided such delivery can be made without liquidating any U.S. Government Obligations.

#### **4.3 Satisfaction and Discharge of Indenture.**

Upon compliance by the Company with the provisions of Section 4.1 as to the satisfaction and discharge of each Series of Notes issued hereunder, and if the Company has paid or caused to be paid all other sums payable under this Indenture, this Indenture shall cease to be of any other effect (except as otherwise provided herein). Upon Company Request and receipt of an Opinion of Counsel and an Officers' Certificate complying with the provisions of Section 1.2, the Trustees for all Series of Notes (at the expense of the Company) shall execute proper instruments acknowledging satisfaction and discharge of this Indenture.

Notwithstanding the satisfaction and discharge of this Indenture, any obligations of the Company under Sections 3.4, 3.5, 3.6, 4.2(b), 4.4, 5.15, 6.7, 6.10 and 9.2 and the obligations of the Trustee for any Series of Notes under Section 4.2 shall survive.

#### **4.4 Reinstatement**

If the Trustee for any Series of Notes is unable to apply any of the amounts (for purposes of this Section 4.4, "Amounts") or U.S. Government Obligations, as the case may be, described in Section 4.1(a)(i)(B)(I) or 4.1(a)(i)(B)(II)), respectively, in accordance with the provisions of Section 4.1 by reason of any legal proceeding or any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's obligations under this Indenture and the Notes of such Series shall be revived and reinstated as though no deposit had occurred pursuant to Section 4.1 until such time as the Trustee for such Series is permitted to apply all such Amounts or U.S. Governmental Obligations, as the case may be, in accordance with the provisions of Section 4.1; *provided, however*, that if, due to the reinstatement of its rights or obligations hereunder, the Company has made any payment of principal of (or premium, if any, on) or interest, if any, on such Notes, the Company shall be subrogated to the rights of the Holders of such Notes to receive payment from such Amounts or U.S. Government Obligations, as the case may be, held by the Trustee for such Series.

### **5. REMEDIES**

#### **5.1 Events of Default**

The following shall constitute "*Events of Default*" with respect to the Notes:

- (a) a failure to pay, or to duly provide for the payment of, any principal (including premium or final redemption amount, initial redemption amount or early redemption amount, if any, and in the case of Discount Notes, the Amortized Face Amount or other amount payable in respect thereof) of any Note of the Series of Notes of which such Note is a part when due (whether at Maturity, upon redemption or otherwise);
- (b) a failure to pay, or to duly provide for the payment of, any interest for a period of 30 days or more, in respect of any Note of the Series of Notes of which such Note is a part when due;
- (c) a failure to make any payment in respect of indebtedness for Borrowed Money (which indebtedness has an outstanding aggregate principal amount of at least the Specified Amount) of the Company or any Material Subsidiary on its due date (or by the expiry of any applicable grace period as originally provided) or such indebtedness becoming due and payable prior to the Stated Maturity by reason of default or the failure to honor any guarantee or indemnity of any payment in respect of indebtedness for moneys borrowed of any third party given by the Company or any Material Subsidiary when due and called upon (except where the aggregate liability under any such guarantees or indemnities does not exceed the Specified Amount);
- (d) a default by the Company in the performance or observance of any obligation, condition or provision binding on it hereunder or under the Notes (other than any obligation included herein solely for the benefit of Notes other than the Notes of any such particular Series) and, except where such default is or the effects of such default are, in the opinion of the Trustee, not capable of remedy, when no such continuation and notice as is hereinafter mentioned will be required, such default continues for 30 days (or such longer period as the Trustee may permit) after written notice thereof has been given by the Trustee to the Company requiring the same to be remedied;
- (e) an order is made by any competent court or an effective resolution is passed for the winding-up of the Company or any Material Subsidiary (except, in any such case, a winding-up or dissolution for the purpose of a reconstruction or amalgamation the terms of which have previously been approved in writing by the Trustee or by the Holders of not less than a majority in aggregate principal amount of the Outstanding Notes or a voluntary solvent winding-up or a transfer of all or a material part of the business, undertaking and assets of such Material Subsidiary to the Company or any other subsidiary of the Company);
- (f) The Company or any Material Subsidiary stops or threatens in writing to stop payment to its creditors generally or the Company or any Material Subsidiary ceases or threatens in writing to cease to carry on its business or substantially the whole of its business (except for the purpose of or in connection with a reconstruction or amalgamation the terms of which have previously been approved in writing by the Trustee or by the Holders of not less than a majority in



aggregate principal amount of the Outstanding Notes or a voluntary solvent winding-up or a transfer of all or a material part of the business, undertaking and assets of such Material Subsidiary to the Company or any other subsidiary of the Company);

- (g) an encumbrancer takes possession or a receiver, administrator, administrative receiver or other similar officer is appointed of the whole or any material part of the undertaking, property and assets of the Company or any Material Subsidiary or a distress or execution is levied or enforced upon or sued out against the whole or any material part of the chattels or property of the Company or any Material Subsidiary and, in the case of any of the foregoing events, is not discharged within 30 days (or such longer period as the Trustee may permit);
- (h) admission by the Company or any Material Subsidiary in writing that it is unable to pay its debts generally;
- (i) or any other event of default provided with respect to Notes of that Series.

## 5.2 **Acceleration of Maturity; Rescission and Annulment**

In case an Event of Default specified in clause (e), (f), (g) or (h) above shall occur, the Stated Maturity of all Notes shall automatically be accelerated and the principal amount of such Notes, together with interest accrued thereon and Additional Amounts, if any, shall be immediately due and payable. In case any other Event of Default with respect to any Series of Notes shall have occurred and be continuing, the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes of that Series may declare the principal of (including premium, if any, on), or (in the case of Discount Notes) such lesser amount as may be provided for with respect to such Notes, all the Notes of that Series to be due and payable immediately, by a notice in writing to the Company (and to the Trustee if given by Holders), and upon any such declaration of acceleration such principal or such lesser amount, as the case may be, including premium, if any, thereon, together with any accrued interest and all other amounts owing under such Notes and hereunder (with respect to such Series of Notes), shall become immediately due and payable, without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived by the Company. Upon such an acceleration, any premium and interest on the Notes shall also become due and payable.

At any time after such a declaration of acceleration but before a judgment or decree for payment of the money due has been obtained by the Trustee or the Holders of such Outstanding Notes, the Holders of a majority in aggregate principal amount of such Outstanding Notes may rescind and annul such acceleration and its consequences, by written notice to the Company and the Trustee, *provided* that:

- (a) the Company has paid or deposited with the Trustee a sum sufficient to pay:
  - (i) in the currency in which that Series of Notes is payable (except as otherwise specified pursuant to Section 3.1 for the Notes of such Series

and except as provided in Section 3.10), all overdue interest on all Notes of that Series;

- (ii) in the currency in which that Series of Notes is payable (except as otherwise specified pursuant to Section 3.1 for the Notes of such Series and except as provided in Section 3.10), the principal of (and premium, if any, on) any Notes of that Series which have become due otherwise than by such declaration of acceleration and interest thereon from the date such principal became due at a rate per annum equal to the rate borne by the Notes of such Series (or, in the case of Discount Notes, the Notes' Yield to Maturity), to the extent that the payment of such interest shall be legally enforceable;
  - (iii) in the currency in which that Series of Notes is payable (except as otherwise specified pursuant to Section 3.1 for the Notes of such Series and except as provided in Section 3.10), to the extent that payment of such interest is lawful, interest upon overdue interest at the rate or rates prescribed therefor in the Notes of such Series (or, unless otherwise specified pursuant to Section 3.1, in the case of Discount Notes, the Notes' Yield to Maturity); and
  - (iv) in Dollars, all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel and all other amounts then due to the Trustee under Section 6.7; and
- (b) all Events of Default with respect to the Notes of such Series have been cured or waived as provided in Section 5.13.

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

### **5.3 Collection of Indebtedness and Suits for Enforcement by Trustee**

The Company covenants that if:

- (a) there is a failure to pay, or to duly provide for the payment of, any interest for a period of 30 days upon any Note of a Series when such interest becomes due and payable; or
- (b) there is a failure to pay, or to duly provide for the payment of, the principal of (or premium, if any, on) any Note of a Series at its Maturity,

the Company will, upon demand of the Trustee for the Notes of such Series, pay to it, for the benefit of the Holders of such Notes, the whole amount then due and payable on such Notes for principal (and premium, if any) and interest, if any, with interest upon the overdue principal (and premium, if any) and, to the extent that payment of such interest shall be legally enforceable, upon any overdue installments of interest at a rate per annum

equal to the rate borne by such Notes (or, unless otherwise specified pursuant to Section 3.1, in the case of Discount Notes, the Notes' Yield to Maturity); and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

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

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

#### **5.4 Trustee May File Proofs of Claim**

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

- (a) to file and prove a claim for the whole amount of principal (or lesser amount in the case of Discount Notes) (and premium, if any) and interest, if any, owing and unpaid in respect of the Notes of such Series and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel and all other amounts due to the Trustee under Section 6.7) and of the Holders of the Notes of such Series allowed in such proceeding;
- (b) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same; and

- (c) unless prohibited by law or applicable regulations, to vote on behalf of the Holders of the Notes of such Series in any such proceeding;

and any receiver, assignee, trustee, liquidator, sequestrator (or other similar official) in any such judicial proceeding is hereby authorized by each Holder of Notes to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders of Notes, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel and any other amounts due the Trustee under Section 6.7.

Except when directed so to act by the Holders of Notes of not less than a majority in aggregate principal amount of the Outstanding Notes of each relevant Series of Notes then outstanding, nothing herein contained shall be deemed to authorize the Trustee for the Notes of any Series to authorize or consent to or accept or adopt on behalf of any Holder of a Note any plan of reorganization, arrangement, adjustment or composition affecting the Notes of such Series or the rights of any Holder thereof, or to authorize the Trustee for the Notes of any Series to vote in respect of the claim of any Holder in any such proceeding, except as aforesaid.

#### **5.5 Trustee May Enforce Claims Without Possession of Notes**

All rights of action and claims under this Indenture or the Notes of any Series may be prosecuted and enforced by the Trustee for the Notes of any Series without the possession of any of the Notes of such Series or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel and all other amounts due to the Trustee under Section 6.7, be for the rateable benefit of the Holders of the Notes of such Series in respect of which such judgment has been recovered.

#### **5.6 Application of Money Collected**

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

First: To the payment of all amounts due the Trustee under Section 6.7;

Second: To the payment of the amounts then due and unpaid upon the Notes of such Series for principal (or lesser amount in the case of Discount Notes) of (and premium, if any, on) and interest, if any, on such Notes in respect of which or for the benefit of which such money has been collected, rateably, without preference or priority of any kind, according to the amounts due and payable on such Notes for principal (or lesser

amount in the case of Discount Notes) (and premium, if any) and interest, if any, respectively; and

Third: The balance, if any, to the Person or Persons entitled thereto.

## **5.7 Limitation on Suits**

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

- (a) an Event of Default with respect to that Series shall have occurred and be continuing and such Holder shall have previously given written notice to the Trustee for the Notes of such Series of such Event of Default and the continuance thereof;
- (b) the Holders of not less than 25% in aggregate principal amount of the Outstanding Notes of that Series shall have made written request to the Trustee for the Notes of such Series to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;
- (c) such Holder or Holders have offered to the Trustee an indemnity reasonably satisfactory to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request;
- (d) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and
- (e) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority in aggregate principal amount of the Outstanding Notes of that Series;

it being understood and intended that no one or more Holders of Notes of that Series shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other Holders of Notes of that Series, or to enforce any right under this Indenture, except in the manner herein provided and for the equal and rateable benefit of all the Holders of Notes of that Series.

## **5.8 Unconditional Right of Holders to Receive Principal (and Premium, if any) and Interest, if any**

Notwithstanding any other provision in this Indenture, the Holder of any Note shall have the right which is absolute and unconditional to receive payment of the principal of (and premium, if any, on) and (subject to Section 3.7) interest, if any, on such Note on the respective Stated Maturities expressed in such Note (or, in the case of redemption, on the Redemption Date) and to institute suit for the enforcement of any such payment and such right shall not be impaired without the consent of such Holder.

## **5.9 Restoration of Rights and Remedies**

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

## **5.10 Rights and Remedies Cumulative**

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in the last paragraph of Section 3.6, no right or remedy herein conferred upon or reserved to the Trustee for the Notes of any Series or to the Holders of Notes 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.

## **5.11 Delay or Omission Not Waiver**

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

## **5.12 Control by Holders**

Subject to Section 6.3(e), the Holders of a majority in aggregate principal amount of the Outstanding Notes of any particular Series shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee for the Notes of such Series with respect to the Notes of that Series or exercising any trust or power conferred on the Trustee with respect to such Notes; *provided that*:

- (a) such direction shall not be in conflict with any rule of law or with this Indenture;
- (b) the Trustee need not take any action which might involve it in personal liability; and
- (c) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

### **5.13 Waiver of Past Defaults**

The Holders of not less than 66 2/3% in aggregate principal amount of the Outstanding Notes of any particular Series may waive, on behalf of the Holders of all such Notes of that Series, any past default of that Series with respect to the Notes of that Series and its consequences, except:

- (a) a default in the payment of the principal of (or premium, if any, on) or interest, if any, on any such Note of that Series; or
- (b) a default in respect of a covenant or provision hereof which under Article 9 hereof cannot be modified or amended without the consent of the Holder of each Outstanding Note of that Series affected.

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

### **5.14 Undertaking for Costs**

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

### **5.15 Judgment Currency**

Under current New York law, a state court in the State of New York rendering a judgment in respect of a Note denominated in other than U.S. dollars would be required to render such judgment in the Specified Currency, and such judgment would be converted into U.S. dollars at the Market Exchange Rate prevailing on the date of entry of such judgment. Accordingly, the Holder of such Note denominated in other than U.S. dollars would be subject to exchange rate fluctuations between the date of entry of a judgment in a currency other than U.S. dollars and the time the amount of such judgment is paid to such Holder in U.S. dollars and converted by such Holder into the Specified Currency. It is not certain, however, whether a non-New York state court would follow

the same rules and procedures with respect to conversions of judgments in currency other than U.S. dollars.

The Company will indemnify the Trustee and the Holder of any Note against any loss incurred by such Holder and/or the Trustee as a result of any judgment or order being given or made for any amount due under such Note and such judgment or order requiring payment in a currency (the “**Judgment Currency**”) other than the Specified Currency, and as a result of any variation between (i) the rate of exchange at which the Specified Currency amount is converted into the Judgment Currency for the purpose of such judgment or order, and (ii) the rate of exchange at which the Holder of such Note, on the date of payment of such judgment or order, is able to purchase the Specified Currency with the amount of the Judgment Currency actually received by such Holder, as the case may be.

## 6. **THE TRUSTEE**

### 6.1 **Certain Duties and Responsibilities.**

- (a) Except during the continuance of an Event of Default with respect to this Indenture:
  - (i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against such Trustee; and
  - (ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and correctness of the opinions expressed therein, upon certificates or opinions furnished to such Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provisions hereof are specifically required to be furnished to such Trustee, such Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture.
- (b) In case an Event of Default with respect to a Series of Notes has occurred and is continuing, the Trustee for the Notes of such Series shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of his own affairs.
- (c) No provision of this Indenture shall be construed to relieve the Trustee for Notes of any Series from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:
  - (i) this Subsection shall not be construed to limit the effect of Subsection (a) of this Section;



- (ii) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be conclusively determined by a court of competent jurisdiction that the Trustee was negligent in ascertaining the pertinent facts;
  - (iii) the Trustee shall not be liable with respect to any action taken, suffered or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority in aggregate principal amount of the Outstanding Notes of any particular Series, determined as provided in Section 5.12, relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon such Trustee, under this Indenture with respect to the Notes of that Series; and
  - (iv) no provision of this Indenture shall require the Trustee for any Series of Notes to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.
- (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 for any Series of Notes shall be subject to the provisions of this Section.

## 6.2 Notice of Default

Within 90 days after obtaining actual knowledge of the occurrence of any default hereunder with respect to Notes of any particular Series, the Trustee for the Notes of such Series shall give to Holders of Notes of that Series, in the manner set forth in Section 1.6, notice of such default, unless such default shall have been cured or waived; *provided, however,* that, except in the case of a default in the payment of the principal of (or premium, if any, on) or interest, if any, on any Note of that Series, or in the deposit of any sinking fund payment with respect to Notes of that Series, such Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee or a trust committee of directors and/or Responsible Officers of such Trustee in good faith determines that the withholding of such notice is in the interests of the Holders of Notes of that Series; and *provided, further,* that in the case of any default of the character specified in Section 5.1(d) with respect to Notes of that Series no such notice to Holders shall be given until at least 60 days after the occurrence thereof. For the purpose of this Section, the term “default” means any event which is, or after notice or lapse of time or both would become, an Event of Default with respect to Notes of that Series.

## 6.3 Certain Rights of Trustee

Except as otherwise provided in Section 6.1:

- (a) the Trustee for any Series of Notes may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, discretion, consent, order, bond, debenture, coupon or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;
- (b) any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order 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 Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, conclusively rely upon an Officers' Certificate;
- (d) the Trustee may consult with counsel 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 Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders of Notes of any Series pursuant to this Indenture for which it is acting as Trustee, unless such Holders shall have offered to the Trustee security or indemnity acceptable to the Trustee against the costs, expenses and liabilities that might be incurred by it in compliance with such request or direction;
- (f) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, coupon or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney, provided that the Trustee shall not be entitled to such information that the Company is prevented from disclosing as a matter of law or contract;
- (g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians or nominees and such Trustee shall not be responsible for any misconduct or negligence on the part of any agent, attorney, custodian or nominee appointed with due care by it hereunder; and

- (h) the Trustee shall have no duties or responsibilities with respect to and shall have no liability for the actions taken or the failures to act of any other Trustees appointed hereunder.

#### **6.4 Not Responsible for Recitals or Issuance of Notes**

The recitals contained herein (except the description of the Trustee) and in the Notes shall be taken as the statements of the Company or, with respect to any certificate of authentication, as the statements of the applicable Principal Paying Agent, as the case may be, and the Trustee for any Series of Notes assumes no responsibility for their correctness. The Trustee for any Series of Notes makes no representations as to the validity or sufficiency of this Indenture or of the Notes of any Series. The Trustee for any Series of Notes shall not be accountable for the use or application by the Company of the Notes or the proceeds thereof.

#### **6.5 May Hold Notes**

The Trustee for any Series of Notes, any Paying Agent, Note Registrar or any other agent of the Company or such Trustee, in its individual or any other capacity, may become the owner or pledgee of Notes and, subject to Sections 6.8 and 6.13, may otherwise deal with the Company with the same rights it would have if it were not such Trustee, Paying Agent, Note Registrar or such other agent.

#### **6.6 Money Held in Trust**

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

#### **6.7 Compensation and Reimbursement**

The Company agrees:

- (a) to pay to the Trustee for any Series of Notes from time to time such compensation for all services rendered by it hereunder as the Company and the Trustee shall mutually agree upon (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);
- (b) except as otherwise expressly provided herein, to reimburse the Trustee for any Series of Notes upon its request for all reasonable expenses, disbursements and advances incurred or made by such Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to its negligence, wilful default or bad faith; and
- (c) to indemnify such Trustee and its officers, directors, employees and agents for, and to hold them harmless against, any loss, liability or reasonable expense

incurred without negligence, wilful default or bad faith on its part, arising out of or in connection with the acceptance or administration of this trust, including the reasonable 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.

As security for the performance of the obligations of the Company under this Section the Trustee for any Series of Notes shall have a lien prior to the Notes upon all property and funds held or collected by such Trustee as such, except funds held in trust for the payment of principal of (or premium, if any, on) or interest, if any, on particular Notes.

The rights of the Trustee under this Section 6.7 shall survive the resignation or removal of the Trustee, the payment in full of the Notes for which it is the Trustee, the satisfaction and discharge of this Indenture, and the termination hereof.

#### **6.8 Corporate Trustee Required; Different Trustees for Different Series; Eligibility**

There shall at all times be a Trustee hereunder which shall be a corporation organized and doing business under the laws of the United States, authorized under such laws to exercise corporate trust power and subject to supervision or examination by Federal or State authority and which shall have at all times a combined capital and surplus of at least \$50,000,000 and its Corporate Trust Office in the Borough of Manhattan, City of New York, State of New York. If such corporation or other Person publishes reports of condition at least annually, pursuant to law or to requirements of the aforesaid supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. None of the Company, any other obligor upon the Notes or any Person directly or indirectly controlling, controlled by, or under common control with the Company or any other obligor upon the Notes shall serve as Trustee for any of the Notes. A different Trustee may be appointed by the Company for any Series of Notes prior to the issuance of such Notes. If the initial Trustee for any Series of Notes is to be other than Deutsche Bank Trust Company Americas, the Company and such Trustee shall, prior to the issuance of such Notes, execute and deliver an indenture supplemental hereto, which shall provide for the appointment of such Trustee as Trustee for the Notes of such Series and shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust and that each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee. If at any time the Trustee for the Notes of any Series shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereunder specified in this Article.

## 6.9 **Resignation and Removal; Appointment of Successor**

- (a) No resignation or removal of the Trustee for the Notes of any Series and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee in accordance with the applicable requirements of Section 6.10.
- (b) The Trustee for the Notes of any Series may resign at any time with respect to the Notes of such Series by giving written notice thereof to the Company. If the instrument of acceptance by a successor Trustee required by Section 6.10 shall not have been delivered to the Trustee for the Notes of such Series within 30 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Notes of such Series.
- (c) The Trustee for the Notes of any Series may be removed at any time with respect to the Notes of such Series by Act of the Holders of a majority in aggregate principal amount of the Outstanding Notes of such Series, delivered to such Trustee and to the Company.
- (d) If at any time:
  - (i) such Trustee shall cease to be eligible under Section 6.8 and shall fail to resign after written request therefor by the Company or by any such Holder; or
  - (ii) such Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of such Trustee or of its property shall be appointed or any public officer shall take charge or control of such Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation; or
  - (iii) if an administrative or other receiver or an administrator or other similar official is appointed in relation to such Trustee or in relation to the whole or a material part of the assets of such Trustee, or an encumbrancer takes possession of the whole or a material part of the assets of such Trustee, or a distress or execution or other process is levied or enforced upon or sued out against the whole or a material part of the assets of such Trustee, or if such Trustee shall commence a voluntary case or proceeding under any applicable Bankruptcy Law, or any other case or proceeding to be adjudicated as bankrupt or insolvent, or such Trustee shall consent to the appointment of or taking possession by a receiver, custodian, liquidator, assignee, trustee, sequestrator (or other similar official) of such Trustee or its property or affairs, 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, or shall take corporate action in furtherance of any such action;

then, in any such case, (i) the Company by a Board Resolution may remove such Trustee or (ii) subject to Section 5.14, any Holder who has been a *bona fide* Holder of a Note of such Series for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of such Trustee and the appointment of a successor Trustee.

- (e) If the Trustee for the Notes of any Series shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for the Notes of any Series for any cause, the Company, by a Board Resolution, shall promptly appoint a successor Trustee with respect to the Notes of such Series and shall comply with the applicable requirements of Section 6.10. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee with respect to the Notes of such Series shall be appointed by Act of the Holders of a majority in aggregate principal amount of the Outstanding Notes of such Series delivered to the Company and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment in accordance with the applicable requirements of Section 6.10, become the successor Trustee for the Notes of such Series and supersede the successor Trustee appointed by the Company. If no successor Trustee for the Notes of such Series shall have been so appointed by the Company or the Holders and shall have accepted appointment in the manner required by Section 6.10, and if such Trustee is still incapable of acting, any Holder who has been a *bona fide* Holder of a Note of such Series for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Notes of such Series.
- (f) The Company shall give notice of each resignation and each removal of the Trustee with respect to the Notes of any Series and each appointment of a successor Trustee with respect to the Notes of any Series in the manner and to the extent provided in Section 1.6. Each notice shall include the name of the successor Trustee with respect to the Notes of that Series and the address of its Corporate Trust Office.

#### **6.10 Acceptance of Appointment by Successor**

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

- (b) In case of the appointment hereunder of a successor Trustee with respect to the Notes of one or more (but not all) Series, the Company, the retiring Trustee and each successor Trustee with respect to the Notes of one or more Series shall execute and deliver an indenture supplemental hereto wherein each successor Trustee shall accept such appointment and which (1) shall contain such provisions as shall be necessary or desirable to transfer to, and to vest in, each successor Trustee all the rights, powers, trusts and duties of the retiring Trustee with respect to the Notes of that or those Series to which the appointment of such successor Trustee relates, (2) if the retiring Trustee is not retiring with respect to all Notes, shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the retiring Trustee with respect to the Notes of that or those Series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee and (3) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust and each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee; and upon the execution and delivery of such supplemental indenture the resignation or removal of the retiring Trustee shall become effective to the extent provided therein and each such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee with respect to the Notes of that or those Series to which the appointment of such successor Trustee relates; but, on request of the Company or any successor Trustee, such retiring Trustee shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder with respect to the Notes of that or those Series to which the appointment of such successor Trustee relates.
- (c) Upon request of any such successor Trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts referred to in Subsections (a) or (b) of this Section, as the case may be.
- (d) No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee for the Notes of any Series shall be qualified and eligible under this Article.

#### **6.11 Merger, Conversion, Consolidation or Succession to Business**

Any corporation into which the Trustee for the Notes of any Series 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 Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of such Trustee, shall be the successor of such Trustee hereunder, provided such corporation shall

be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto.

#### **6.12 Trustee not Charged with Knowledge**

The Trustee shall not be charged with knowledge of any Event of Default unless either (1) a Responsible Officer of the Trustee shall have actual knowledge or (2) the Trustee shall have received notice thereof from the Company or a Holder.

#### **6.13 Rights of Paying Agent or Notes Registrar**

In the event that the Trustee is also acting as Paying Agent or Notes Registrar hereunder, the rights and protections afforded to the Trustee pursuant to this Article Six shall also be afforded to such Paying Agent, any transfer agent or Notes Registrar.

### **7. CONSOLIDATION, MERGER AND SALE OR LEASE OF ASSETS**

#### **7.1 Company May Consolidate, Etc., Only on Certain Terms**

So long as any Note of a particular Series remains Outstanding, the Company will not consolidate or amalgamate with or merge into any other corporation or convey, transfer or lease its properties and assets substantially as an entirety to any Person unless:

- (a) the corporation formed by such consolidation or amalgamation or into which the Company is merged or the Person which acquired by conveyance or transfer, or which leases, the properties and assets of the Company substantially as an entirety shall be a corporation or other Person organized and validly existing under the laws of Iceland which shall expressly assume, by an amendment or indenture supplemental hereto, that is executed and delivered to the Trustee and is in form reasonably satisfactory to the Trustee, the due and punctual payment of the principal of (and premium, if any, on) and interest, if any, on all of the Notes of such Series and the performance of every covenant of this Indenture (other than a covenant included in this Indenture solely for the benefit of Notes other than such Notes) and of such Notes to be performed, and such assumption shall provide that such corporation or Person shall pay to the Holder of any such Notes such additional amounts as may be necessary in order that every net payment of the principal of (and premium, if any, on) and interest, if any, on such Notes will not be less than the amounts provided for in such Notes to be then due and payable and such obligations shall extend to any deduction or withholding for or on account of any present or future tax, assessment or governmental charge imposed upon such payment (it being understood that, except as aforesaid, no such corporation or Person shall be obligated to make any indemnification or payment in respect of any tax consequences to any Holder of a Note as a result of such assumption of rights and obligations described in this Section 7.1 if such corporation or Person would not be obligated to pay an additional amount pursuant to Section 9.8 if such corporation or Person were the Company);



- (b) immediately after giving effect to such transaction, no Event of Default with respect to Notes of such a Series, and no event which, after notice or lapse of time, or both, would become an Event of Default with respect to such Notes, shall have occurred and be continuing; and
- (c) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel each stating that such consolidation, amalgamation, merger, conveyance, transfer or lease and such amendment or supplemental indenture evidencing the assumption by such corporation or Person comply with this Indenture and that all conditions precedent provided for in this Indenture relating to such transaction have been complied with.

## **7.2 Successor Corporation Substituted**

Upon any such consolidation, amalgamation or merger, or any such conveyance, transfer or lease of the properties and assets of the Company substantially as an entirety in accordance with Section 7.1, the successor corporation or Person formed by such consolidation or amalgamation or into which the Company is merged or the Person to which such conveyance or transfer or with which such lease is made will 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 corporation or Person had been named as the Company herein, and thereafter, except in the case of a lease, the predecessor corporation shall be relieved of all obligations and covenants under this Indenture and the Notes.

## **8. SUPPLEMENTAL INDENTURES**

### **8.1 Supplemental Indentures Without Consent of Holders**

Without the consent of any Holders of Notes, the Company, when authorized by a Board Resolution, and the Trustee or Trustees for the Notes of any or all Series, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form satisfactory to each such Trustee, for any of the following purposes:

- (a) to evidence the succession of another corporation to the Company and the assumption by any such successor of the covenants of the Company herein and contained in the Notes; or
- (b) to add to the covenants of the Company, for the benefit of the Holders of all or any particular Series of Notes (and, if such covenants are to be for the benefit of fewer than all Series of Notes, stating that such covenants are being included solely for the benefit of such Series), to convey, transfer, assign, mortgage or pledge any property to or with the Trustee for the Notes of any such Series or otherwise secure any such Series of the Notes or to surrender any right or power herein conferred upon the Company; or
- (c) to add any additional Events of Default with respect to any or all Series of Notes (and, if any such Event of Default applies to fewer than all Series of Notes, stating

each Series to which such Event of Default applies); provided that any such additional Event of Default would not cause any such Series of Notes to be in default immediately upon any such addition; or

- (d) to change or eliminate any restrictions on the payment of principal of or any premium or interest on Notes, or to provide (subject to applicable laws) for the issuance of uncertificated Notes of any Series in addition to or in place of any certificated Notes and to make all appropriate changes for such purposes; *provided, however*, that any such action shall not adversely affect the interests of the Holders of Notes of any Series in any material respect; or
- (e) to change or eliminate any of the provisions of this Indenture; *provided, however*, that any such change or elimination shall become effective only when there is no Note Outstanding of any Series created prior to the execution of such supplemental indenture which is entitled to the benefit of such provision; or
- (f) to evidence and provide for the acceptance of appointment hereunder of a Trustee, other than Deutsche Bank Trust Company Americas, for a Series of Notes and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Section 6.8; or
- (g) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the Notes of one or more Series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Section 6.10(b); or
- (h) to add to the conditions, limitations and restrictions on the authorized amount, form, terms or purposes of issue, authentication and delivery of Notes, as herein set forth, with such other conditions, limitations and restrictions thereafter to be observed; or
- (i) to supplement any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the defeasance and discharge of any Series of Notes pursuant to Section 4.1; *provided, however*, that any such action shall not adversely affect the interests of the Holders of Notes of such Series or any other Series of Notes in any material respect; or
- (j) to add to or change or eliminate any provisions of this Indenture as shall be necessary or desirable in accordance with any amendments to the Trust Indenture Act or any rules and regulations of the Commission; or
- (k) to cure any ambiguity or defect, to correct or amend or supplement any provision herein which may be inconsistent with any other provision herein, or to make changes to any other provisions with respect to matters or questions arising under this Indenture; *provided*, that any such action does not have a materially adverse effect on the rights of any Holder of the Notes.

## 8.2 Supplemental Indentures With Consent of Holders

The Company, when authorized by a Board Resolution and the Trustee or Trustees for the Notes of any or all Series may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of the Indenture or of modifying in any manner the rights of the Holders of such Notes under this Indenture, but only with the consent of the Holders of not less than 66 $\frac{2}{3}$ % in aggregate principal amount of the Outstanding Notes of each Series of Notes then Outstanding affected thereby, in each case by Act of said Holders of Notes of each such Series delivered to the Company and the Trustee for Notes of each such Series; *provided, however*, that no such supplemental indenture shall, without the consent of the Holder of each Outstanding Note affected thereby:

- (a) change the Stated Maturity of the principal of, or interest on, any Note, or reduce the principal amount thereof or the rate of interest thereon, if any, or any premium or principal payable upon the redemption thereof, or change any obligation of the Company to pay additional amounts pursuant to Sections 9.8 and 10.8 (except as contemplated by Section 7.1(a) and permitted by Section 8.1(a)) or reduce the amount of the principal of a Discount Note that would be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.2, or change any Place of Payment where, or change the currency or currency unit in which, any Note or any interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date); or
- (b) reduce the percentage in aggregate principal amount of the Outstanding Notes of any particular Series, the consent of whose Holders is required for any such supplemental indenture, or the consent of whose Holders is required for any waiver (of compliance with certain provisions of this Indenture or certain defaults hereunder and their consequences) provided for in this Indenture; or
- (c) change any obligation of the Company to maintain an office or agency in the places and for the purposes specified in Section 9.2; or
- (d) modify any of the provisions of this Section or Sections 5.13 or 9.7, except to increase any specified percentage in aggregate principal amount required for any actions by Holders or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Note affected thereby; *provided, however*, that this clause shall not be deemed to require the consent of any Holder of a Note with respect to changes in the references to “the Trustee” and concomitant changes in this Section and Sections 5.13 or 9.7, or the deletion of this proviso, in accordance with the requirements of Sections 6.8, 6.10(b), 8.1(f) and 8.1(g).

A supplemental indenture which changes or eliminates any covenant or other provision of this Indenture which has expressly been included solely for the benefit of one or more particular Series of Notes, or which modifies the rights of the Holders of Notes 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 Notes of any other Series.

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

### **8.3 Execution of Supplemental Indentures**

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modifications thereby of the trusts created by this Indenture, the Trustee for any Series of Notes shall be entitled to receive, and (subject to Section 6.1) shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture. The Trustee for any Series of Notes may, but shall not (except to the extent required in the case of a supplemental indenture entered into under Section 8.1(f) or (g)) be obligated to, enter into any such supplemental indenture which affects such Trustee's own rights, liabilities, duties or immunities under this Indenture or otherwise.

### **8.4 Effect of Supplemental Indentures**

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

### **8.5 Reference in Notes to Supplemental Indentures**

Notes of any particular Series authenticated and delivered after the execution of any supplemental indenture pursuant to this Article may, and shall if required by the Trustee for the Notes of such Series, bear a notation as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Notes of any Series so modified as to conform, in the opinion of the Board of Directors of the Company, to any such supplemental indenture may be prepared and executed by the Company and such Notes may be authenticated and delivered by the Principal Paying Agent for the Notes of such Series in exchange for Outstanding Notes of such Series.

## **9. COVENANTS**

### **9.1 Payments**

The Company agrees, for the benefit of each particular Series of Notes, that it will duly and punctually pay (as provided in Section 3.10 hereof) in the currency in which the Notes of such Series are payable (except as otherwise specified pursuant to Section 3.1 for the Notes of such Series and except as provided in Section 3.10) the principal of (and premium, if any, on) and interest, if any, (including any additional amounts payable in accordance with the terms of any such Notes and this Indenture) on that Series of Notes in accordance with the terms of the Notes of such Series and this Indenture.

## 9.2 Maintenance of Office or Agency

The Company will maintain in the Borough of Manhattan, City of New York, and in each Place of Payment for the Notes of a Series an office or agency where Notes of that Series may be presented or surrendered for payment, and an office or agency where Notes of that Series may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company with respect to the Notes of that Series and this Indenture may be served. The Company will give prompt written notice to the Trustee and the Principal Paying Agent for the Notes of that Series of the location, and any change in the location, of any such office or agency. If at any time the Company shall fail to maintain any such required office or agency in respect of any Series of Notes or shall fail to furnish the Trustee and the Principal Paying Agent for the Notes of that Series with the address thereof, such presentations (to the extent permitted by law) and surrenders of Notes of that Series may be made and notices and demands may be made or served at the Corporate Trust Office of such Trustee, and the Company hereby appoints, such Trustee as its agent to receive such respective presentations, surrenders, notices and demands.

The Company may also from time to time designate one or more other offices or agencies (in or outside a Place of Payment) where the Notes of one or more Series may be presented or surrendered for any or all of the purposes specified above in this Section and may from time to time rescind such designations; *provided, however*, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in each Place of Payment for such purpose. The Company will give prompt written notice to the Trustee and the Principal Paying Agent for the Notes of each Series so affected of any such designation or rescission and of any change in the location of any such office or agency.

Unless otherwise specified pursuant to Section 3.1, if and so long as the Notes of any Series (i) are denominated in a currency other than Dollars or (ii) may be payable in a currency other than Dollars, or so long as it is required under any other provision of the Indenture, then the Company will maintain with respect to each such Series of Notes, or as so required, a Currency Determination Agent.

The Company may vary or terminate the appointment of any Paying Agent, provided that

- (i) so long as the Notes of a Series are listed, quoted and/or traded on or by the Luxembourg Stock Exchange, or any other stock exchange or competent listing authority and/or quotation system, there will at all times be a Paying Agent with a specified office in Luxembourg, if applicable, and/or each location required by the rules and regulations of the relevant stock exchange, competent listing authority and/or quotation system; and
- (ii) if European Council Directive 2003/48/EC or any other Directive implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 is brought into force, the Company will ensure that it maintains a paying agent in a European Union Member State that will not be obliged to withhold or deduct tax pursuant to such Directive.

For so long as the Notes of any Series are listed, quoted and/or traded on or by the Luxembourg Stock Exchange and the rules and regulations of the stock exchange so require, the Company will publish, or will cause to be published, notice of any change in the appointment of any Paying Agent in a leading newspaper of general circulation in Luxembourg (which is expected to be *d'Wort*).

### 9.3 **Money for Notes Payments to Be Held in Trust**

If the Company shall at any time act as its own Paying Agent with respect to any particular Series of Notes, it will, on or before each due date of the principal of (or premium, if any, on) or interest, if any, on any of the Notes of that Series, segregate and hold in trust for the benefit of the Persons entitled thereto a sum in the currency in which the Notes of such Series are payable (except as otherwise specified pursuant to Section 3.1 for the Notes of such Series and except as provided in Section 3.10) sufficient to pay the principal (and premium, if any) and interest, if any, so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided, and will promptly notify the Trustee for the Notes of such Series of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents for any particular Series of Notes, the Company will, prior to 10:00 a.m. in the applicable Place of Payment on each due date of the principal of (or premium, if any, on) or interest, if any, on any such Notes, deposit with a Paying Agent for the Notes of such Series a sum (in the currency described in the preceding paragraph) sufficient to pay the principal (and premium, if any) and interest, if any, so becoming due, such sum to be held in trust for the benefit of the Persons entitled thereto and (unless such Paying Agent is the Trustee for the Notes of such Series) the Company will promptly notify such Trustee of its action or failure so to act.

The Company will cause each Paying Agent for any particular Series of Notes to execute and deliver to such Trustee an instrument in which such Paying Agent shall agree with such Trustee, subject to the provisions of this Section, that such Paying Agent will:

- (a) hold all sums held by it for the payment of the principal of (or premium, if any, on) or interest, if any, on Notes of that Series in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided;
- (b) give such Trustee notice of any default by the Company (or any other obligor upon the Notes) in the making of any payment of principal of (and premium, if any, on) and interest, if any, on Notes of that Series; and
- (c) at any time during the continuation of any such default, upon the written request of such Trustee, forthwith pay to such Trustee all sums so held in trust by such Paying Agent.

The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustee for the Notes of any Series all sums held in trust

by the Company or such Paying Agent, such sums to be held by such Trustee upon the same trusts as those upon which sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to such Trustee, such Paying Agent shall be released from all further liability with respect to such money.

Any money deposited with the Trustee or any Paying Agent for the Notes of any Series, or then held by the Company, in trust for the payment of the principal of (and premium, if any, on) and interest, if any, on any Notes of any particular Series and remaining unclaimed for two years after such principal (and premium, if any) and interest, if any, has become due and payable shall, unless otherwise required by mandatory provisions of applicable escheat, or abandoned or unclaimed property law, be paid to the Company on Company Request or (if then held by the Company) shall be discharged from such trusts; and the Holder of such Note shall, thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of such 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 such Trustee or such Paying Agent, before being required to make any such repayment may give notice to the Holder of such Note in the manner set forth in Section 1.6 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 notice, any unclaimed balance of such money then remaining will, unless otherwise required by mandatory provisions of applicable escheat, or abandoned or unclaimed property law, be repaid to the Company; *provided, further*, that the Trustee or such Paying Agent shall give written notice of any such unclaimed amounts to the Company within 30 days after the end of such two year period.

#### 9.4 **Statements as to Compliance**

The Company will, so long as any Notes are outstanding, deliver to the Trustee for each Series of Notes, within six months after the end of each of its fiscal years ending after the date hereof, an Officers' Certificate (one of the signers of which shall be the principal executive officer, principal financial officer or principal accounting officer of the Company) stating whether or not, to the best of the knowledge of such officers, after due investigation, the Company has complied with all conditions and covenants and fulfilled all of its obligations under this Indenture during such year and, if such officers have obtained knowledge of any default, specifying all such defaults and the nature thereof of which such officers may have knowledge and whether any such default is continuing or not.

For purposes of this Section, such compliance or fulfillment shall be determined without regard to any period of grace or requirement of notice provided under this Indenture.

#### 9.5 **Corporate Existence**

Subject to Article Eight, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence.

## 9.6 **Negative Pledge**

So long as any of the Notes remain Outstanding, the Company will not, and it will ensure that none of its Subsidiaries will, create or have outstanding any mortgage, charge, pledge, lien or other security interest (each, a “**Security Interest**”) (other than a Permitted Security Interest) upon the whole or any part of its undertaking, assets, revenues (including any uncalled capital), present or future, in order to secure any Relevant Indebtedness, or to secure any guarantee of or indemnity in respect of any Relevant Indebtedness until (a) all amounts payable by it under the Notes are equally and ratably secured therewith by such Security Interest or (b) such other Security Interest or other arrangement (whether or not it includes the giving of a Security Interest) is provided as shall be approved by a majority of the Holders of the Outstanding Notes.

## 9.7 **Waiver of Certain Covenants**

The Company may omit in any particular instance to comply with any covenant or condition set forth in Sections 9.2, 9.5 and 9.6 and any other covenant not set forth herein and specified pursuant to Section 3.1 to be applicable to the Notes of any Series, if before or after the time for such compliance the Holders of not less than 66⅔% in aggregate principal amount of the Outstanding Notes of each Series of Notes affected by the omission (which, in the case of a covenant not set forth herein and specified pursuant to Section 3.1 to be applicable to the Notes of any Series, shall include only those Series to which such covenant is so specified to be applicable) shall, in each case by Act of such Holders, either waive such compliance in such instance or generally waive 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, and, until such waiver shall become effective, the obligations of the Company and the duties of the Trustee and the Principal Paying Agent for the Notes of each Series with respect to any such covenant or condition shall remain in full force and effect.

## 9.8 **Payment of Additional Amounts**

All payments of principal and interest in respect of the Notes by the Company will be made without withholding or deduction for or on account of any present or future duties of whatever nature imposed or levied by or on behalf of any Tax Jurisdiction unless such withholding or deduction is required by law. In such event, the Company will pay such additional amounts as shall be necessary in order that the net amounts received by the holders of the Notes after such withholding or deduction shall equal the respective amounts of principal and interest which would otherwise have been receivable in respect of the Notes, in the absence of such withholding or deduction; except that no such additional amounts shall be payable with respect to any Note:

- (a) presented for payment by or on behalf of a holder who is liable for such taxes or duties in respect of such Note by reason of his having some connection with a Tax Jurisdiction other than the mere holding of such Note; or



- (b) presented for payment more than 30 days after the Relevant Date except to the extent that the holder thereof would have been entitled to an additional amount on presenting the same for payment on such thirtieth day assuming that day to have been a Payment Day; or
- (c) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to European Council Directive 2003/48/EC or any law implementing or complying with, or introduced in order to conform to, such Directive; or
- (d) presented for payment by or on behalf of a holder who would have been able to avoid such withholding or deduction by presenting the relevant Note to another Paying Agent in a member state of the European Union.

No additional amounts will be paid as provided above with respect to any payment of principal of (including premium or final redemption amount, initial redemption amount or early redemption amount, if any, and in the case of Discount Notes, the Amortized Face Amount or other amount payable in respect thereof) or interest, if any, on such Note to any Holder who is a fiduciary or partnership or other than the sole beneficial owner of any such payment to the extent that a beneficiary or settlor with respect to such fiduciary, a member of such partnership or the beneficial owner of such payment would not have been entitled to the additional amounts had such beneficiary, settlor, member or beneficial owner been the Holder of any such Note.

Whenever in this Indenture there is mentioned, in any context, the payment of the principal (or premium, if any, on) or interest, if any, on any Note, such mention shall be deemed to include mention of the payment of additional amounts provided for in the terms of such Notes and this Section to the extent that, in such context, additional amounts are, were or would be payable in respect thereof pursuant to the provisions of this Section and express mention of the payment of additional amounts (if applicable) in any provisions hereof shall not be construed as excluding additional amounts in those provisions hereof where such express mention is not made.

If the Notes of a Series provide for the payment of additional amounts as contemplated by Section 3.1(t), at least 10 days prior to the first Interest Payment Date with respect to that Series of Notes (or if the Notes of that Series will not bear interest prior to Maturity, the first day on which a payment of principal and any premium is made), and at least 10 days prior to each date of payment of principal (and premium, if any) and interest, if any, if there has been any change with respect to the payment of additional amounts as provided by this Section 9.8 with respect to the matters set forth in the below-mentioned Officers' Certificate, the Company will furnish the Trustee and Principal Paying Agent for that Series of Notes with an Officers' Certificate instructing such Trustee and such Principal Paying Agent whether such payment of principal of (and premium, if any, on) and interest, if any, on the Notes of that Series shall be made to Holders of Notes of that Series without withholding for or on account of any tax, assessment or other governmental charge in respect of which, in each case, additional amounts are payable pursuant to this Section 9.8 as referred to above or described in the Notes of that Series.

If any such withholding shall be required, then such Officers' Certificate shall specify by country the amount, if any, required to be withheld on such payments to such Holders of Notes and the Company will pay to the Trustee for such Series of Notes or such Principal Paying Agent such additional amounts as may be required pursuant to the terms applicable to such Series. The Company covenants to indemnify the Trustee for such Series of Notes and any Paying Agent for, and to hold them harmless against, any loss, liability or expense reasonably incurred without gross negligence, wilful default or bad faith on their part arising out of or in connection with actions taken or omitted by any of them in reliance on any Officers' Certificate furnished pursuant to this Section 9.8 or the failure to provide any such Officers' Certificate. The obligations contained in the immediately preceding sentence of the Company shall survive payment of all of the Notes, the satisfaction and discharge of this Indenture, and the resignation or removal of the Trustee or any Paying Agent for such Series of Notes.

## **10. REDEMPTION OF NOTES**

### **10.1 Applicability of this Article**

Redemption of Notes of any Series (whether by operation of a sinking fund or otherwise) as permitted or required by the terms of any such Notes shall be made in accordance with such terms and (except as otherwise specified pursuant to Section 3.1 with respect to Notes of such Series) this Article; *provided, however*, that if any of the terms of any such Notes shall conflict with any provision of this Article, the terms of such Notes shall govern.

### **10.2 Election to Redeem; Notice to Trustee**

The election of the Company to redeem any Notes of any Series shall be evidenced by or pursuant to a Board Resolution. In case of any redemption at the election of the Company of less than all of the Notes of any particular Series (which redemption shall be in increments of \$100,000 or the minimum denomination specified in the terms of such Notes, provided that any remaining principal amount thereof shall be at least \$100,000 or such minimum denomination), the Company shall, at least 45 days prior to the Redemption Date fixed by the Company (unless a shorter notice shall be satisfactory to the Trustee for the Notes of such Series), notify such Trustee and the Principal Paying Agent for Notes of the Series by Company Request of such Redemption Date and of the principal amount of Notes of that Series to be redeemed. In the case of any redemption of Notes of any Series prior to the expiration of any restriction on such redemption provided in the terms of such Notes or elsewhere in this Indenture, the Company shall furnish the Trustee for Notes of such Series with (i) an Officers' Certificate evidencing compliance with such restriction and (ii) an Opinion of Counsel.

### **10.3 Selection of Notes to be Redeemed**

In the case of any partial redemption of Notes, the Notes to be redeemed shall be selected by the Trustee individually by lot not more than 60 days prior to the Redemption Date

from the Outstanding Notes not previously called for redemption or in such other manner as may be agreed by the Company and the Holders.

For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Notes shall relate, in the case of any Note redeemed or to be redeemed only in part, to the portion of the principal amount of such Notes which has been or is to be redeemed.

#### **10.4 Notice of Redemption**

Unless otherwise specified in the Notes of a Series, notice of redemption shall be given in the manner provided in Section 1.6 not more than 60 days or, in the case of partial redemptions, 45 days and not less than 30 days prior to the Redemption Date, to each Holder of Notes to be redeemed.

All notices of redemption shall state:

- (a) the Redemption Date;
- (b) the Redemption Price;
- (c) if less than all Outstanding Notes of a particular Series are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the particular Notes to be redeemed;
- (d) that on the Redemption Date the Redemption Price will become due and payable upon each such Note or portion thereof, and that interest thereon, if any, shall cease to accrue on and after said date;
- (e) the place or places where such Notes are to be surrendered for payment of the Redemption Price;
- (f) that the redemption is for a sinking fund, if such is the case; and
- (g) the CUSIP number or numbers, if any, with respect to such Notes.

Notice of redemption of Notes to be redeemed at the election of the Company shall be given by the Company or, at the Company's request, by the Principal Paying Agent for such Notes in the name and at the expense of the Company.

#### **10.5 Deposit of Redemption Price**

On or prior to 10:00 am New York time on any Redemption Date, the Company shall deposit with the Principal Paying Agent for the Notes to be redeemed (or, if the Company is acting as its own Paying Agent for such Notes, segregate and hold in trust as provided in Section 9.3) an amount of money in the currency in which the Notes of such Series are payable (except as otherwise specified pursuant to Section 3.1 for the Notes of such Series and except as provided in Section 3.10) sufficient to pay the principal amount (or,

if the context so requires, lesser amount in the case of Discount Notes) of (and premium, if any, thereon), and (except if the Redemption Date shall be an Interest Payment Date) any accrued interest on, all the Notes which are to be redeemed on that date. Nothing contained herein shall be construed to require any Paying Agent to make any payment to the Holder of a Note until funds have been received from the Company pursuant to this Section.

#### **10.6 Notes Payable on Redemption Date**

Notice of redemption having been given as aforesaid, the Notes so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified in the currency in which the Notes of such Series are payable (except as otherwise provided pursuant to Section 3.1 for the Notes of such Series and except as provided in Section 3.10) and from and after such date (unless the Company shall default in the payment of the Redemption Price) such Notes shall cease to bear interest. Upon surrender of such Note for redemption in accordance with said notice, such Note or specified portions thereof shall be paid by the Company at the Redemption Price; *provided, however*, that unless otherwise specified as contemplated by Section 3.1, installments of interest on Notes whose Stated Maturity is on or prior to the Redemption Date shall be payable to the Holders of such Notes, or one or more Predecessor Notes, registered as such at the close of business on the relevant Regular Record Dates according to their terms and the provisions of Section 3.7.

If any Note called for redemption shall not be so paid upon surrender thereof for redemption, the principal (or, if the context shall so require, lesser amount in the case of Discount Notes) thereof (and premium, if any, thereon) shall, until paid, bear interest from the Redemption Date at a rate per annum equal to the rate borne by the Note (or, in the case of Discount Notes, the Note's Yield to Maturity).

#### **10.7 Notes Redeemed in Part**

Any Note which is to be redeemed only in part shall be surrendered at the Place of Payment (with, if the Company, the Principal Paying Agent or the Note Registrar for such Note so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company, the Principal Paying Agent and the Note Registrar for such Note duly executed by, the Holder therefor or his attorney duly authorized in writing), and the Company shall execute and such Principal Paying Agent shall authenticate and deliver to the Holder of such Note, without service charge, a new Note or Notes, of any authorized denomination as requested by such Holder, of the same Series and having the same terms and provisions and in an aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Note so surrendered; except that, if a Global Note is so surrendered, the Company shall execute, and the Principal Paying Agent shall authenticate and deliver to the Depositary for such Global Note, without service charge, a new Global Note of like tenor in a denomination equal to and in exchange for the unredeemed portion of the principal amount of the Global Note so surrendered.

## 10.8 Tax Redemption

The Notes of any Series may be redeemed, subject to any other terms contemplated by Section 3.1 and in such Notes, in whole but not in part, at the option of the Company, upon not more than 60 days', nor less than 30 days', prior notice given as provided herein under Section 1.6 at a Redemption Price equal to 100% of the principal amount thereof (or at the then current Amortized Face Amount if the Note is a Discount Note or, if such Note is an Indexed Note or Amortizing Note, at the Redemption Price established pursuant to Section 3.1) (and premium, if any, thereon), together with interest accrued, if any, to the Redemption Date, if on the next succeeding Interest Payment Date, the Company will become obligated to pay additional amounts as provided by Section 9.8 as a result of any change in, or amendment to, the laws or regulations of a Tax Jurisdiction or any change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the date on which the first tranche of such Series is issued and such obligation cannot be avoided by the use of reasonable measures available to the Company; *provided*, that no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which the Company would be obligated to pay such additional amounts if a payment in respect of the Notes was then due.

In the event that the Company elects to redeem the Notes of any Series pursuant to the provisions set forth in the preceding paragraph, the Company will deliver to the applicable Trustee (i) a certificate, signed by two authorized officers of the Company, evidencing compliance with such provisions and stating that the Company is entitled to redeem the Notes of any such Series pursuant to the terms hereof and of such Notes and (ii) a written Opinion of Counsel to the Company to the effect that the circumstances referred to above exist.

## 10.9 Repurchase

The Company may at any time purchase Notes at any price or prices in the open market or otherwise. Notes so purchased may be held or resold or, at the option of the Company, may be surrendered to the applicable Trustee for cancellation.

## 10.10 Redemption at the Option of Holders

In the event that the terms of the Notes of any Series permit the Holders thereof, at their option, to cause the Company to repurchase such Notes, upon the Holder of any Security giving to the Company not more than 60 nor less than 30 days' notice (or such other notice as is specified in the terms of such Notes) in accordance with Section 1.5, which notice shall be irrevocable, the Company shall, upon the expiry of such notice, repurchase such Notes, subject to, and in accordance with, the terms of such Notes on the date and at the amount specified in or determined in the manner specified in such Notes, in whole or in part, together with accrued interest and additional amounts, if any, to the date fixed for such repurchase. In accordance with the provisions hereof relating to payment on redemption at the option of the Company, the Company shall arrange with the Trustee (and each Paying Agent for such purpose, if applicable) for the provision of funds

sufficient to make payments to such Holders in respect of such repurchases from time to time.

## 11. SINKING FUNDS

### 11.1 Applicability of This Article

Redemption of Notes of any Series through operation of a sinking fund as permitted or required by the terms of any such Notes shall be made in accordance with such terms and (except as otherwise specified pursuant to Section 3.1 with respect to Notes of such Series) this Article; *provided, however*, that if any of the terms of any such Notes shall conflict with any provision of this Article, the terms of such Notes shall govern.

The minimum amount of any sinking fund payment provided for by the terms of Notes of any particular 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 Notes of any particular Series is herein referred to as an “**optional sinking fund payment**”. The cash amount of any sinking fund payment may be subject to reduction as provided in Section 11.2. Each sinking fund payment shall be applied to the redemption of Notes of any particular Series as provided for by the terms of Notes of that Series.

### 11.2 Satisfaction of Sinking Fund Payments With Notes

The Company (1) may deliver Outstanding Notes of a Series (other than any Notes previously called for redemption) and (2) may apply as a credit Notes of a Series which have been redeemed either at the election of the Company pursuant to the terms of such Notes or through the application of permitted optional sinking fund payments pursuant to the terms of such Notes, in each case in satisfaction of all or any part of any sinking fund payment with respect to the Notes of such Series required to be made pursuant to the terms of such Notes as provided for by the terms of such Series; *provided, however*, that such Notes have not been previously so credited. Such Notes shall be received and credited for such purpose by the Principal Paying Agent for such Notes at the principal amount thereof (or, if the context so requires, such lesser amount in the case of Discount Notes) and the amount of such sinking fund payment shall be reduced accordingly.

### 11.3 Redemption of Notes for Sinking Fund

Not less than 60 days prior to each sinking fund payment date for any particular Series of Notes (or such shorter period as shall be satisfactory to the Principal Paying Agent for the Notes of such Series), the Company will deliver to the Principal Paying Agent for the Notes of such Series, with a copy to the Trustee for the Notes of such Series, an Officers' Certificate specifying the amount of the next ensuing mandatory sinking fund payment for that Series pursuant to the terms of that Series, the portion thereof, if any, which is to be satisfied by payment of cash in the currency in which the Notes of that Series are payable (except as otherwise specified pursuant to Section 3.1 for the Notes of that Series and except as provided in Section 3.10) and the portion thereof, if any, which is to be satisfied by delivering and crediting Notes of that Series pursuant to Section 11.2 and shall state the basis for such credit and that such Notes have not previously been so

credited and will also deliver to such Principal Paying Agent any Notes to be so delivered. The Principal Paying Agent for the Notes of such Series shall select the Notes to be redeemed upon such sinking fund payment date in the manner specified in Section 10.3 and cause notice of the redemption thereof be given in the name of and at the expense of the Company in the manner provided in Section 10.4. Such notice having been duly given, the redemption of such Notes shall be made upon the terms and in the manner stated in Sections 10.6 and 10.7.

\* \* \*

This instrument 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.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture dated April 12, 2006 to be duly executed, and their respective corporate seals to be hereunto affixed and attested, all as of the 12<sup>th</sup> day of April, 2006.

KAUPTHING BANK HF.  
as Issuer

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

DEUTSCHE BANK TRUST COMPANY  
AMERICAS  
as Trustee

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

With respect solely to Section 1.15 hereof:

KAUPTHING SECURITIES INC.  
as Agent for Service of Process

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



**EXHIBIT I**  
**Form of US Global Senior Note**

**EXHIBIT II**  
**Form of International Global Senior Note**