

SECURITIES AND EXCHANGE COMMISSION

FORM 8-A12G

Form for registration of a class of securities pursuant to section 12(g)

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FILER

FARAH INC

CIK: **34501** | IRS No.: **741061146** | State of Incorporation: **TX** | Fiscal Year End: **1031**
Type: **8-A12G** | Act: **34** | File No.: **000-20377** | Film No.: **94504198**
SIC: **2320** Men's & boys' furnisngs, work clothg, & allied garments

Business Address
8889 GATEWAY WEST
EL PASO TX 79925
9155934444

As filed with the Securities and Exchange Commission on February 1, 1994.

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-A

FOR REGISTRATION OF CERTAIN CLASSES OF SECURITIES
PURSUANT TO SECTION 12(b) OR (g) OF THE
SECURITIES EXCHANGE ACT OF 1934

FARAH INCORPORATED

(Exact name of registrant as specified in its charter)

Texas 74-1061146
(State of incorporation or organization) (IRS Employer Identification No.)

8889 Gateway West
El Paso, Texas 79925
(Address of principal executive offices) (Zip Code)

Securities to be registered pursuant to Section 12(b) of the Act:

Title of each class to be so registered	Name of each exchange on which to be so registered	each class is to be registered
None	None	

Securities to be registered pursuant to Section 12(g) of the Act:

8.5% Convertible Subordinated Debentures Due February 1, 2004
(Title of Class)

Item 1. Description of Registrant's Securities to be Registered.

The securities to be registered hereunder are 8.5% Convertible Subordinated Debentures due February 1, 2004 (the "Debentures") of Farah Incorporated, a Texas corporation (the "Company"). For a description of the Debentures, see the information set forth under the caption "Description of New Notes" on pages 26 through 29 of the Exchange Offer Memorandum dated December 3, 1993, filed as Exhibit (a)(1) to the Company's Issuer Tender Offer Statement on Schedule 13E-4 dated December 3, 1993, which information is hereby incorporated herein by reference.

Item 2. Exhibits.

The following exhibits are filed as a part of this registration statement:

Exhibit No.	Description of Exhibit
1	Pages 26 through 29 of the Exchange Offer Memorandum dated December 3, 1993, filed as Exhibit (a)(1) to the Company's Issuer Tender Offer Statement on Schedule 13E-4 dated December 3, 1993, filed herewith.
2	Specimen of Debenture, filed herewith.
3	Indenture by and between the Company and Texas Commerce Bank N.A. as trustee, dated as of February 1, 1994, filed herewith.

Pursuant to the requirements of Section 12 of the Securities Exchange Act of 1934, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereto duly authorized.

FARAH INCORPORATED

Date: February 2, 1994
By: /s/ James C. Swaim
James C. Swaim
Executive Vice President,
Chief Financial Officer and
Treasurer

EXHIBIT 1

Pages 26 through 29 of the Exchange Offer Memorandum dated December 3, 1993, filed as Exhibit (a)(1) to the Company's Issuer Tender Offer Statement on Schedule 13E-4 dated December 3, 1993, filed herewith.

DESCRIPTION OF THE NEW NOTES

General

The New Notes are issued under the New Indenture, to be dated as of the Closing Date between the Company and Texas Commerce Bank, N.A.

THE FOLLOWING STATEMENTS, UNLESS THE CONTEXT OTHERWISE REQUIRES, ARE SUMMARIES OF THE SUBSTANCE OR GENERAL EFFECT OF CERTAIN PROVISIONS OF THE NEW INDENTURE AND ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE NEW INDENTURE AND NEW NOTES. Unless otherwise defined, capitalized terms used in the following description are used as defined in the New Indenture. All section references in the following description are to sections of the New Indenture. A copy of the New Indenture will be provided to any person requesting the same. Please contact the Company, att: Corporate Secretary, at 8889 Gateway West, El Paso, Texas 79925 for a copy of the New Indenture.

The New Notes will be limited to \$3,925,000 aggregate principal amount, will be unsecured obligations of the Company, will mature February 1, 2004, and will bear interest from the Closing Date at the rate of 8.5% per annum, payable semi-annually on February 1 and August 1 of each year to the holders of record at the close of business on the preceding January 15 or July 15, respectively, subject to certain exceptions. (Section 2.03.) The first interest payment will be due August 1, 1994. Principal is payable and the New Notes are convertible and transferable at the office of the Trustee; payment of interest may be made at the option of the Company by check mailed to the address of the person entitled thereto as it appears on the New Notes register. (Section 4.02, 6.01 and 6.02.)

The New Notes will be issued in fully registered form in denominations of \$1,000 or any whole multiple of \$1,000. (Section 2.03.)

Conversion Rights

The holders of the New Notes will be entitled at any time prior to the close of business on February 1, 2004, unless previously redeemed, to convert the New Notes (or portions thereof of \$1,000 or whole multiples of \$1,000) into Common Stock of the Company at a conversion price which is, subject to adjustment as provided in the Indenture and referred to below. (Sections 4.01 and 4.04). Subject to certain exceptions set forth in the Indenture, no adjustment will be made on conversion of any New Notes for interest accrued thereon or for dividends on any shares issued. (Section 4.02.) If any New Notes not called for redemption are converted between a record date for the payment of interest and the next succeeding interest payment date, such New Notes must be accompanied by funds equal to the interest payable on such interest payment date to the registered holder on such record date. (Section 4.02.) The Company will not be required to issue fractional shares and, in lieu thereof, will pay a cash adjustment. (Section 4.03.) In the case of New Notes called for redemption, conversion rights expire at the close of business on the second business day next preceding the redemption date. (Section 4.01.)

The conversion price is subject to adjustment under formulas set forth in the Indenture in certain events, including the issuance of stock of the Company as a dividend on Common Stock; subdivisions, combinations and reclassifications of the Common Stock; the issuance to all holders of Common Stock of rights or warrants entitling them to subscribe for Common Stock at less than the current market price (as defined); and the distribution to all holders of Common Stock of evidences of indebtedness of the Company or of assets (other than dividends or distributions in cash out of consolidated earnings or earned surplus). Except as stated in the preceding sentence, the conversion price will not be adjusted for the issuance of Common Stock in exchange for cash, property or services, whether upon the exercise of present or future options or warrants or otherwise. (Section 4.05).

Subordination of New Notes

Upon any distribution of assets of the Company upon any dissolution, winding up, liquidation, or reorganization, the payment of the principal of, premium, if any, and interest on the New Notes is to be subordinated to the extent provided in the Indenture in right of payment to the prior payment in full of all Senior Indebtedness and, in the event and during the continuation of any default in payment of Senior Indebtedness or an event of default which permits acceleration of Senior Indebtedness, no payment on account of principal, premium, if any, or interest may be made on the New Notes (Sections 3.01, 3.02 and 3.03), but the obligation of the Company to make payment of principal, premium, if

any, or interest on the New Notes will not otherwise be affected. (Section 3.04.) The holders of the New Notes will be subrogated to the rights of the holders of Senior Indebtedness to the extent of payments made on Senior Indebtedness upon any distribution of assets in any such proceedings out of the distributive shares of the New Notes. (Section 3.02). By reason of such subordination, certain general creditors of the Company may, in the event of insolvency, recover more, ratably, than holders of the New Notes upon any such distribution of assets.

Senior Indebtedness is defined in the Indentures as the principal of and premium, if any, and interest on (a) obligations of the Company in respect or indebtedness of the Company's subsidiaries outstanding or to be outstanding under the credit facility with Congress Financial Corporation (Southwest) in the amount of \$40,000,000, (b) indebtedness of the Company or any of its subsidiaries for money borrowed or evidenced by notes, debentures, bonds or other securities sold by the Company for money, for the payment of which indebtedness the Company is liable, or issued to

or assumed for a vendor for all or part of the purchase price of property purchased or acquired, whether outstanding on the date of the Indenture or thereafter created, incurred, assumed or guaranteed by the Company, unless in the instrument creating or evidencing the same it is provided that such indebtedness is not superior in right of payment to the New Notes and (c) renewals, extensions and refunding of any such indebtedness.

Redemption

The New Notes are redeemable on not less than 30 nor more than 60 days' prior notice at 100% of their principal amount, plus accrued interest, except that prior to February 1, 1996 the Company may not elect to make a redemption of the New Notes unless the average of the closing sale price of the Company's common stock as reported by the New York Stock Exchange, Inc. for the twenty (20) trading days immediately prior to the date of the notice of redemption exceeds 140% of the Conversion Price.

Sinking Fund

There will be no Sinking Fund in respect of the New Notes.

Restrictions as to Dividends and Certain Other Payments

The Company may not (a) pay any dividend (other than those payable in shares of its stock), (b) make any payment for the purchase, redemption, or retirement of its stock (other than stock retired by exchange for, or out of the proceeds of the

substantially concurrent sale of, other shares of stock) or (c) permit any Subsidiary (as defined) to purchase, redeem or otherwise acquire for value any shares of stock of the Company, if, upon giving effect thereto, the sum of such payments made subsequent to November 5, 1993 exceeds Consolidated Net Income (as defined) of the Company and its Subsidiaries for the period subsequent to November 5, 1993 plus (i) \$5,000,00 and (ii) the net proceeds of the sale after November 5, 1993 stock of the Company and (iii) the principal amount of indebtedness (including the New Notes) issued or sold after November 5, 1993 which has been converted into stock of the Company after that date. In determining the amount of net proceeds of the sale after January 31, 1994 of stock of the Company, such net proceeds shall be deemed not to exceed the sum of the capital and surplus of any going concern business acquired in connection therewith. (Section 6.03).

Modification of Indenture

The Company and the Trustee, with the consent of the holders of not less than 66% in aggregate principal amount of the New Notes at the time outstanding, may execute supplemental indentures adding to, changing, or eliminating the provisions of the Indenture or of any supplemental indentures or modifying the rights of the holders of the New Notes; provided, that no such supplement indenture

shall (i) extend the fixed maturity of any New Notes or reduce the rate or extend the time of payment of interest thereon, or reduce the principal amount thereof, or reduce any premium payable upon the redemption thereof, or alter the provisions of the Indenture so as to affect adversely the terms of conversion of the New Notes into Common Stock, without the consent of the holder of each New Notes so affected or (ii) reduce the aforesaid percentage of New Notes, the holders of which are required to consent to any such supplemental indenture, without the consent of the holders of all New Notes then outstanding; and provided further that no change shall terminate or impair the subordination provisions of the Indenture without prior written consent of the holders of Senior Indebtedness. (Section 12.02.)

Rights Upon Default

No holder of any New Notes is to have any right under the Indenture to institute any proceeding with respect to the Indenture or for any remedy thereunder, unless such holder previously shall have given to the Trustee written notice of default and unless also the holders of not less than 25% in aggregate principal amount of the New Notes shall have made written request upon the Trustee to institute such proceeding in its own name as trustee thereunder and shall have offered to the Trustee reasonable indemnity and the Trustee for the sixty days shall have neglected or refused to

institute any such proceeding. The right of any holder of any New Notes to institute suit for the enforcement of any payment of principal, premium, if any, and interest on the New Notes, on or the after the respective due dates expressed in the Indenture, may not be impaired or affected without the consent of such holder. (Section 8.04.)

In case any Event of Default, as defined in the Indenture, shall have occurred and be continuing, the Trustee or the holders of at least 25% in aggregate principal amount of the New Notes then outstanding may declare the principal of all the New Notes to be due and payable immediately. Under certain circumstances, the holders of a majority in aggregate principal amount of the New Notes may waive all defaults and may rescind and annul a declaration that the New Notes have become due and payable and its consequences. (Section 8.01.)

Subject to certain exceptions set forth in the Indenture, the holders of a majority of the New Notes are to have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee. Prior to the declaration of the maturity, the holders of a majority of the New Notes may on behalf of all holders waive any past default and its consequences, except a default in the payment of interest or premium, or the principal. (Section 8.06.)

Events of Default

The following are to be Events of Default: (a) failure to pay interest when due, continued for 30 days; (b) failure to pay principal (and premium, if any) when due and payable either at maturity, upon redemption, by declaration or otherwise; (c) failure to perform in any material respect any other covenant, continued for 60 days after written notice by the Trustee or the holders of at least 25% in aggregate principal amount of the New Notes then outstanding; (d) failure to pay certain indebtedness at maturity or upon acceleration of any indebtedness of the Company under the terms of the instrument under which such indebtedness is issued, if such acceleration is not annulled within 10 days after similar written notice; and (e) certain events in bankruptcy, insolvency, or reorganization. (Section 8.01.)

The Trustee, within ninety days after the occurrence of default, is to give the holders of New Notes notice of all such defaults known to the Trustee, unless cured or waived before the giving of such notice; provided that except in the case of default in the payment of principal of or interest on any of the New Notes or any Sinking Fund payment, the Trustee may withhold 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 the Trustee in good faith determines that the withholding of such notice is in the interest of the holders of the New Notes. (Section 8.07.)

Evidence of Compliance with Conditions and Covenants

As evidence of compliance with the conditions precedent, if any, provided for in the Indenture relating to any action to be taken by the Trustee upon any request or application by the Company, the Company is to furnish to the Trustee an Officers' Certificate (as defined) and an Opinion of Counsel (as defined) stating that such conditions precedent have been complied with. (Section 16.05).

The Indenture also contains provisions for certificates and opinions in certain other events, including a requirement that the Company file each year an Officers' Certificate stating whether or not to the knowledge of the signers the Company is in default with respect to any covenant, agreement, or condition contained in the Indenture. (Section 6.09.)

EXHIBIT 2

Specimen of Debenture, filed herewith.

[form of face of debenture]

No. . . .

\$. . .

FARAH INCORPORATED

8.50% Convertible Subordinated Debenture Due February 1, 2004

Farah Incorporated, a corporation duly organized and existing under the laws of the State of Texas (herein referred to as the "Company"), for value received, hereby promises to pay,

_____ to its registered assigns, the principal sum of One Million Six Hundred Seventy Three Thousand Dollars (\$1,673,000), on February 1, 2004, at its agency in The City of El Paso, Texas, in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts, and to pay to the registered holder hereof as hereinafter provided interest on said principal sum at the rate per annum specified in the title of this Debenture, in like coin or currency, from the February 1 or the August 1 next preceding the date hereof to which interest has been paid (unless the date hereof is a February 1 or August 1 or to which interest has been paid, in which case from the date hereof, or unless the date hereof is after January 15, and before the following February 1 or after July 15 and before the following August 1, in which case from such February 1 or August 1, provided, however, that if the Company shall default in payment of the interest due on such February 1 or August 1, then from the next preceding February 1 or August 1 to which interest has been paid, or if no interest has been paid on the Debentures, from the date hereof), semi-annually on February 1 and August 1 in each year, provided the first such payment of interest shall not be paid until August 1, 1994, until payment of said principal sum has been made or duly provided for. The interest so payable on any February 1 or August 1 will, subject to certain exceptions provided in the Indenture hereinafter referred to, be paid to the person in whose name this Debenture is registered at the close of business on the fifteenth day of the calendar month next preceding such February 1 or August 1 or, if such fifteenth day of the calendar

month is not a business day, the business day next preceding such fifteenth day of the calendar month.

This Debenture is continued on the reverse hereof and the additional provisions there set forth shall for all purposes have the same effect as if set forth at this place.

This Debenture shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed by the Trustee under the Indenture.

In Witness Whereof, Farah Incorporated has caused this Debenture to be signed, manually or in facsimile, by its resident or Vice

President and by its Secretary or an Assistant Secretary and a facsimile of its corporate seal to be imprinted hereon.

Dated:

Farah Incorporated

BY

.....
President

.....
Secretary

[form of reverse of debenture]

This Debenture is one of a duly authorized issue of Debentures of the Company known as its 8.5% Convertible Subordinated Debentures due February 1, 2004 (herein referred to as the "Debentures"), limited to the aggregate principal amount of One Million Six Hundred Seventy Three Thousand Dollars (\$1,673,000), all issued or to be issued under and pursuant to an indenture dated as of February 1, 1994 (herein referred to as the "Indenture"), duly executed and delivered between the Company and Texas Commerce Bank, N.A., a national banking association, Trustee (herein referred to as the "Trustee"), to which Indenture and all indentures supplemental thereto reference is hereby made for a description of the respective rights, limitation of rights, obligations, duties and immunities thereunder of the Trustee, the Company and the holders of the Debentures.

In case an Event of Default, as defined in the Indenture, shall have occurred and be continuing, the principal hereof may be declared, and upon such declaration shall become, due and payable, in the manner, with the effect and subject to the conditions

provided in the Indenture. The Indenture provides that in certain events such declaration and its consequences may be waived by the holders of a majority in aggregate principal amount of the Debentures then outstanding. It is also provided in the Indenture that the holders of a majority in aggregate principal amount of the Debentures at the time outstanding may on behalf of the holders of all of the Debentures waive, prior to such declaration, any past default under the Indenture and its consequences, except a default in the payment of the principal of (or premium, if any) or interest on any of the Debentures.

The payment of the principal of (and premium, if any) and interest on this Debenture is expressly subordinated, as provided in the Indenture, to the payment of all Senior Indebtedness, as defined in the Indenture, and by acceptance of this Debenture the holder hereof agrees, expressly for the benefit of the present and future holders of Senior Indebtedness, to be bound by the provisions of the Indenture.

Subject to the provisions of the Indenture, the holder of this Debenture is entitled, at his option, at any time on or before February 1, 2004 (except that, in case this Debenture or any portion thereof shall be called for redemption, such right shall terminate with respect to this Debenture or portion thereof, as the case may be so called for redemption at the close of business of the second business day next preceding the date fixed for redemption as provided in the Indenture), to convert the principal amount of this Debenture (or any portion hereof which is \$1,000 or a whole multiple thereof) into shares of Common Stock of the Company, as said shares shall be constituted at the date of conversion, at the conversion price of \$15.2375 principal amount of Debentures for each share of such Common Stock, or at the adjusted conversion price in effect at the date of conversion determined as provided in the Indenture, upon surrender of this Debenture to the Company at the office or agency of the Company in El Paso, Texas, accompanied by written notice of election to convert, and (if so required by the Company) by instruments of transfer, in form satisfactory to the Company, duly executed by the registered holder or by his duly authorized attorney. Such surrender shall, if made during the period from the close of business of the fifteenth day of the calendar month (or the next preceding business day if such fifteenth day is a day on which banking institutions in El Paso, Texas are authorized by law to close) next preceding the month during which an interest payment date falls to the opening of business on such interest payment date (unless this Debenture or the portion being converted shall have been called for redemption), also be accompanied by payment in New York Clearing House funds or other funds acceptable to the Company of an amount equal to the interest payable on such interest payment date on the principal amount of this Debenture then being converted. Subject to the foregoing, no adjustment is to be made on conversion for interest

accrued hereon or for dividends on Common Stock issued on conversion. The Company is not required to issue fractional shares in any such conversion, but shall make adjustment therefor in cash on the basis of the current market value of such fractional interest as provided in the Indenture.

The Indenture contains provisions permitting the Company and the Trustee, with the consent of the holders of not less than 66-2/3% in aggregate principal amount of the Debentures at the time outstanding, evidenced as in the indenture provided, to execute supplemental indentures adding any provisions to or changing in any manner or eliminating any of the provisions of the Indenture or of any supplemental indenture or modifying in any manner the rights of the holders of the Debentures; provided, however, that no such supplemental indenture shall (i) extend the maturity of any Debentures, or reduce the principal amount thereof, or reduce the rate or extend the time of payment of interest thereon, or reduce any premium payable upon the redemption thereof, or impair the right to convert the Debentures as set forth in the Indenture, without the consent of the holder of each Debenture so affected, or (ii) reduce the aforesaid percentage of Debenture, the consent of the holders of which is required for any such supplemental indenture, without the consent of the holders of all Debentures

then outstanding; and provided further that no change shall terminate or impair the subordination provisions of the Indenture without the prior written consent of the holders of Senior Indebtedness.

Any consent or waiver by the registered holder of this Debenture given as provided in the Indenture (unless effectively revoked as provided in the Indenture) shall be conclusive and binding upon such holder and upon all future holders of this Debenture and of any Debenture issued in exchange or substitution herefor, irrespective of whether or not annotation of such consent or waiver is made upon this Debenture.

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

The Debentures are issuable as Debentures without coupons in the denominations of \$1,000 and any whole multiple of \$1,000. At the office agency to be maintained by the Company in El Paso, Texas, and in the manner and subject to the limitations provided in the Indenture, Debentures may be exchanged for a like aggregate principal amount of Debentures of other authorized denominations, without payment of any charge other than a sum sufficient to reimburse the Company for any tax or other governmental charge incident thereto. Both principal of (and premium, if any) and interest on this Debenture are payable at the office or agency of

the Company in El Paso, Texas and, in the case of interest paid on any interest payment date, by check mailed to the registered holders of the Debentures.

The Debentures are subject to redemption as a whole or in part at any time, at the option of the Company, on not less than 30 nor more than 60 days' prior notice given as provided in the Indenture, together with interest accrued and unpaid thereon to the date fixed for redemption, except that no redemption at the option of the Company may be carried out prior to February 1, 1996 unless the average of the current Market Price per share of the Common Stock, for the 20 consecutive Trading Days, prior to the date upon which the notice of redemption pursuant to the Indenture is first mailed to holders of the Debentures shall have been at least 140% of the then current conversion price.

The transfer of this Debenture is registrable by the registered holder hereof in person or by his attorney duly authorized in writing on the books of the Company at the office or agency to be maintained by the Company in El Paso, Texas, subject to the terms of the Indenture but without payment of any charge other than a sum sufficient to reimburse the Company for any tax or other governmental charge incident thereto, and upon surrender and cancellation of this Debenture upon any such registration of transfer, a new Debenture or Debentures of authorized denomination or denominations, for the same aggregate principal amount, will be issued to the transferee in exchange herefor.

Prior to due presentment for registration of transfer of this Debenture, the Company, the Trustee, any paying or conversion agent and any Debenture registrar may deem and treat the person in whose name this Debenture shall be registered upon the books of the Company as the absolute owner of this Debenture (whether or not this Debenture shall be overdue and notwithstanding any notation of ownership or other writing hereon), for the purpose of receiving payment of or on account of the principal hereof, premium, if any, and interest due hereon and for all other purposes, and neither the Company nor the Trustee nor any paying or conversion agent nor any Debenture registrar shall be affected by any notice to the contrary.

No recourse shall be had for the payment of the principal of, premium, if any, or the interest on this Debenture, or for any claim based hereon, or otherwise in respect hereof, or based on or in respect of the Indenture or any indenture supplemental thereto, against an incorporator, stockholder, officer or director, as such, past, present or future, of the Company or of any successor corporation, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released.

[form of trustee's certificate of authentication]

This is one of the Debentures described in the within-mentioned Indenture.

_____ as Trustee

By:
Authorized Officer

[form of conversion notice]

To Farah Incorporated:

The undersigned owner of this Debenture hereby irrevocably exercises the option to convert this Debenture, or portion hereof below designated, into shares of Common Stock of Farah Incorporated in accordance with the terms of the Indenture referred to in this Debenture, and directs that the shares issuable and deliverable upon the conversion, together with any check in payment for fractional shares and any Debentures representing any unconverted principal amount hereof, be issued and delivered to the registered holder hereof unless a different name has been indicated below. If shares are to be issued in the name of a person other than the undersigned, the undersigned will pay all transfer taxes

payable with respect thereto. Any amount required to be paid by the undersigned on account of interest accompanies this Debenture.

Dated ,

.....
Signature

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

.....
(Name)

.....
(Address)

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

Tax Identification
Number

Principal Amount
to be Converted

\$ _____

EXHIBIT 3

Indenture by and between the Company and Texas Commerce Bank N.A. as trustee, dated as of February 1, 1994, filed herewith.

THIS INDENTURE, dated as of the day of February 1, 1994, between Farah Incorporated, a corporation duly organized and existing under the laws of the State of Texas (hereinafter sometimes referred to as the "Company"), party of the first part, and Texas Commerce Bank, N.A., a national banking association (hereinafter sometimes referred to as the "Trustee"), party of the second part,

Witnesseth:

Whereas, for its lawful corporate purposes, the Company has duly authorized an issue of its 8.50% Convertible Subordinated Debentures due February 1, 2004 (hereinafter referred to as the "Debentures"), for an aggregate principal amount of One Million Six Hundred Seventy Three Thousand Dollars (\$1,673,000), to be issued as registered Debentures without coupons, to be authenticated by the certificate of the Trustee, to be payable February 1, 2004 to be redeemable as hereinafter provided, and the principal thereof to be convertible into shares of Common Stock of the Company as hereinafter provided; and, to provide the terms and conditions upon which the Debentures are to be authenticated, issued and delivered, the Company has duly authorized the execution of this Indenture; and

Whereas, the Debentures and the Trustee's certificate of authentication to be borne by the Debentures are to be substantially in the following forms, respectively:

[form of face of debenture]

No. . . .

\$. . .

FARAH INCORPORATED

8.50% Convertible Subordinated Debenture Due February 1, 2004

Farah Incorporated, a corporation duly organized and existing under the laws of the State of Texas (herein referred to as the "Company"), for value received, hereby promises to pay,

_____ to its registered assigns, the principal sum of One Million Six Hundred Seventy Three Thousand Dollars (\$1,673,000), on February 1, 2004, at its agency in The City of El Paso, Texas, in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts, and to pay to the registered holder hereof as hereinafter provided interest on said principal sum at the rate per annum specified in the title of this Debenture, in like coin or currency, from the February 1 or the August 1 next preceding the

date hereof to which interest has been paid (unless the date hereof is a February 1 or August 1 or to which interest has been paid, in which case from the date hereof, or unless the date hereof is after January 15, and before the following February 1 or after July 15 and before the following August 1, in which case from such February 1 or August 1, provided, however, that if the Company shall default in payment of the interest due on such February 1 or August 1, then from the next preceding February 1 or August 1 to which interest has been paid, or if no interest has been paid on the Debentures, from the date hereof), semi-annually on February 1 and August 1 in each year, provided the first such payment of interest shall not be paid until August 1, 1994, until payment of said principal sum has been made or duly provided for. The interest so payable on any February 1 or August 1 will, subject to certain exceptions provided in the Indenture hereinafter referred to, be paid to the person in whose name this Debenture is registered at the close of business on the fifteenth day of the calendar month next preceding such February 1 or August 1 or, if such fifteenth day of the calendar month is not a business day, the business day next preceding such fifteenth day of the calendar month.

This Debenture is continued on the reverse hereof and the additional provisions there set forth shall for all purposes have the same effect as if set forth at this place.

This Debenture shall not be valid or become obligatory for any purpose until the

certificate of authentication hereon shall have been signed by the Trustee under the Indenture.

In Witness Whereof, Farah Incorporated has caused this Debenture to be signed, manually or

in facsimile, by its resident or Vice President and by its Secretary or an Assistant Secretary and a facsimile of its corporate seal to be imprinted hereon.

Dated:

Farah Incorporated

BY
President

.....
Secretary

[form of reverse of debenture]

This Debenture is one of a duly authorized issue of Debentures of the Company known as its 8.5% Convertible Subordinated Debentures due February 1, 2004 (herein referred to as the "Debentures"), limited to the aggregate principal amount of One Million Six Hundred Seventy Three Thousand Dollars (\$1,673,000), all issued or to be issued under and pursuant to an indenture dated as of February 1, 1994 (herein referred to as the "Indenture"), duly executed and delivered between the Company and Texas Commerce Bank, N.A., a national banking association, Trustee (herein referred to as the "Trustee"), to which Indenture and all indentures supplemental thereto reference is hereby made for a description of the respective rights, limitation of rights, obligations, duties and immunities thereunder of the Trustee, the Company and the holders of the Debentures.

In case an Event of Default, as defined in the Indenture, shall have occurred and be continuing, the principal hereof may be declared, and upon such declaration shall become, due and payable, in the manner, with the

effect and subject to the conditions provided in the Indenture. The Indenture provides that in certain events such declaration and its

consequences may be waived by the holders of a majority in aggregate principal amount of the Debentures then outstanding. It is also provided in the Indenture that the holders of a majority in aggregate principal amount of the Debentures at the time outstanding may on behalf of the holders of all of the Debentures waive, prior to such declaration, any past default under the Indenture and its consequences, except a default in the payment of the principal of (or premium, if any) or interest on any of the Debentures.

The payment of the principal of (and premium, if any) and interest on this Debenture is expressly subordinated, as provided in the Indenture, to the payment of all Senior Indebtedness, as defined in the Indenture, and by acceptance of this Debenture the holder hereof agrees, expressly for the benefit of the present and future holders of Senior Indebtedness, to be bound by the provisions of the Indenture.

Subject to the provisions of the Indenture, the holder of this Debenture is entitled, at his option, at any time on or before February 1, 2004 (except that, in case this Debenture or any portion thereof shall be called for redemption, such right shall terminate with respect to this Debenture or portion thereof, as the case may be so called for redemption at the close of business of the second business day next preceding the date fixed for redemption as provided in the Indenture), to convert the principal amount of this Debenture (or any portion hereof which is \$1,000 or a whole multiple thereof) into shares of Common Stock of the Company, as said shares shall be constituted at the date of conversion, at the conversion price of \$15.2375 principal amount of Debentures for each share of such Common Stock, or at the adjusted conversion price in effect at the date of conversion determined as provided in the Indenture, upon surrender of this Debenture to the Company at the office or agency of the Company in El Paso, Texas, accompanied by written notice of election to convert, and (if so required by the Company) by instruments of transfer, in form satisfactory to the Company, duly executed by the registered holder or by his duly authorized attorney. Such

surrender shall, if made during the period from the close of business of the fifteenth day of the calendar month (or the next preceding business day if such fifteenth day is a day on which banking institutions in El Paso, Texas are authorized by law to close) next preceding the month during which an interest payment date falls to the opening of business on such interest payment date (unless this Debenture or the portion being converted shall have been called for redemption), also be accompanied by payment in New York Clearing House funds or other funds acceptable to the Company of an amount equal to the interest payable on such interest payment date on the principal amount of this Debenture then being converted. Subject to the foregoing, no adjustment is to be made on conversion for interest accrued hereon or for dividends on Common Stock issued on conversion. The Company is not required to issue fractional shares in any such conversion, but shall make adjustment therefor in cash on the basis of the current market value of such fractional interest as provided in the Indenture.

The Indenture contains provisions permitting the Company and the Trustee, with the consent of the holders of not less than 66-2/3% in aggregate principal amount of the Debentures at the time outstanding, evidenced as in the indenture provided, to execute supplemental indentures adding any provisions to or changing in any manner or eliminating any of the provisions of the Indenture or of any supplemental indenture or modifying in any manner the rights of the holders of the Debentures; provided, however, that no such supplemental indenture shall (i) extend the maturity of any Debentures, or reduce the principal amount thereof, or reduce the rate or extend the time of payment of interest thereon, or reduce any premium payable upon the redemption thereof, or impair the right to convert the Debentures as set forth in the Indenture, without the consent of the holder of each Debenture so affected, or (ii) reduce the aforesaid percentage of Debenture, the consent of the holders of which is required for any such supplemental indenture, without the consent of the holders of all Debentures then outstanding; and provided further that no change shall

terminate or impair the subordination provisions

of the Indenture without the prior written consent of the holders of Senior Indebtedness.

Any consent or waiver by the registered holder of this Debenture given as provided in the Indenture (unless effectively revoked as provided in the Indenture) shall be conclusive and binding upon such holder and upon all future holders of this Debenture and of any Debenture issued in exchange or substitution herefor, irrespective of whether or not annotation of such consent or waiver is made upon this Debenture.

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

The Debentures are issuable as Debentures without coupons in the denominations of \$1,000 and any whole multiple of \$1,000. At the office agency to be maintained by the Company in El Paso, Texas, and in the manner and subject to the limitations provided in the Indenture, Debentures may be exchanged for a like aggregate principal amount of Debentures of other authorized denominations, without payment of any charge other than a sum sufficient to reimburse the Company for any tax or other governmental charge incident thereto. Both principal of (and premium, if any) and interest on this Debenture are payable at the office or agency of the Company in El Paso, Texas and, in the case of interest paid on any interest payment date, by check mailed to the registered holders of the Debentures.

The Debentures are subject to redemption as a whole or in part at any time, at the option of the Company, on not less than 30 nor more than 60 days' prior notice given as provided in the Indenture, together with interest accrued and unpaid thereon to the date fixed for redemption, except that no redemption at the option of the Company may be carried out prior to February 1, 1996 unless the average of the current Market Price per share of the Common

Stock, for the 20 consecutive Trading Days, prior to the date upon which the notice of redemption pursuant to the Indenture is first mailed to holders of the Debentures shall have

been at least 140% of the then current conversion price.

The transfer of this Debenture is registrable by the registered holder hereof in person or by his attorney duly authorized in writing on the books of the Company at the office or agency to be maintained by the Company in El Paso, Texas, subject to the terms of the Indenture but without payment of any charge other than a sum sufficient to reimburse the Company for any tax or other governmental charge incident thereto, and upon surrender and cancellation of this Debenture upon any such registration of transfer, a new Debenture or Debentures of authorized denomination or denominations, for the same aggregate principal amount, will be issued to the transferee in exchange herefor.

Prior to due presentment for registration of transfer of this Debenture, the Company, the Trustee, any paying or conversion agent and any Debenture registrar may deem and treat the person in whose name this Debenture shall be registered upon the books of the Company as the absolute owner of this Debenture (whether or not this Debenture shall be overdue and notwithstanding any notation of ownership or other writing hereon), for the purpose of receiving payment of or on account of the principal hereof, premium, if any, and interest due hereon and for all other purposes, and neither the Company nor the Trustee nor any paying or conversion agent nor any Debenture registrar shall be affected by any notice to the contrary.

No recourse shall be had for the payment of the principal of, premium, if any, or the interest on this Debenture, or for any claim based hereon, or otherwise in respect hereof, or based on or in respect of the Indenture or any indenture supplemental thereto, against an incorporator, stockholder, officer or director, as such, past, present or future, of the Company or of any successor corporation, whether by

virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released.

[form of trustee's certificate of authentication]

This is one of the Debentures described in the within-mentioned Indenture.

_____ as Trustee

By:
Authorized Officer

[form of conversion notice]

To Farah Incorporated:

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

Dated ,

.....
Signature

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

.....
(Name)

.....
(Address)

.....

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

Tax Identification
Number

Principal Amount
to be Converted

\$ _____

And whereas, all acts and things
necessary to make the Debentures, when executed
by the Company and authenticated and delivered
by the Trustee as in this Indenture provided,
the valid, binding and legal obligations of the
Company, and to constitute these presents a
valid indenture and agreement according to its
terms, have been done and performed, and the
execution of this Indenture and the issue
hereunder of the Debentures have in all respects
been duly authorized, and the Company, in the
exercise of the legal right and power vested in
it, is executing this Indenture and proposes to
make, execute, issue and deliver the Debentures;

Now, Therefore, This Indenture Witnesseth:

That in order to declare the terms and
conditions upon which the Debentures are
authenticated, issued and delivered, and in
consideration of the premises, of the purchase
and acceptance of the Debentures by the holders
thereof and of the sum of One Dollar to it duly
paid by the Trustee at the execution of these

presents, the receipt whereof is hereby acknowledged, the Company covenants and agrees with the Trustee, for the equal and proportionate benefit of the respective holders from time to time of the Debentures, as follows:

ARTICLE 1.

Definitions.

SECTION 1.01. The terms defined in this Section 1.01. (except as otherwise expressly provided or unless the context otherwise requires), for all purposes of this Indenture and of any indenture supplemental hereto, shall have the respective meanings specified in this Section 1.01. All other terms used in this Indenture which are defined in the Trust Indenture Act of 1939, as amended, or which are by reference therein defined in the Securities Act of 1933, as amended (except as herein otherwise expressly provided or unless the context otherwise requires), shall have the meanings assigned to such terms in said Trust Indenture Act and in said Securities Act as they were in force at the date of the execution of this Indenture.

Authorized Newspaper:

The term "Authorized Newspaper" shall mean a newspaper printed in the English language and customarily published at least once a day for at least five days in each calendar week and of general circulation in El Paso, Texas.

Whenever successive publications are required to be made in an Authorized Newspaper, the successive publications may be made in the same or in a different newspaper meeting the foregoing requirements and in each case on any day of the week. If, because of temporary or permanent suspension of publication or general

circulation of any newspaper or for any other reason, it is impossible or impracticable to publish any notices required by this Indenture in the manner herein provided, then such publication in lieu thereof as shall be made

with the approval of the Trustee shall constitute a sufficient publication of such notice.

Board of Directors:

The term "Board of Directors," when used with reference to the Company, shall mean the Board of Directors of the Company, or the Executive Committee of the Board of Directors of the Company.

Business Day:

The term "business day" shall mean a day which is neither a Saturday nor a Sunday nor a day on which banking institutions in El Paso, Texas; are authorized by law to close.

Certificate of a Firm of Independent Public Accountants:

The term "Certificate of a Firm of Independent Public Accountants" shall mean a certificate signed by an independent public accountant or a firm of independent public accountants (who may be the independent accountants regularly retained by the Company) acceptable to the Trustee. Such accountant or firm shall be entitled to rely upon an Opinion of Counsel as to the interpretation of any legal matters relating to such certificate. The acceptance by the Trustee of or its actions on, such a certificate shall be sufficient evidence that such accountant is acceptable to the Trustee. Any Certificate of a Firm of Independent Public Accountants shall contain a statement that such firm is independent.

Common Stock:

The term "Common Stock", when used with reference to stock of the Company, shall mean all shares now or hereafter authorized of the class of the Common Stock of the Company presently authorized and stock of any other

class into which such shares may hereafter have been changed.

Company:

The term "Company" shall mean Farah Incorporated, and, subject to the provisions of Article Thirteen, shall also include its successors and assigns.

Consolidated Net Income:

The term "Consolidated Net Income" shall mean the aggregate of the net income or net deficit, determined in accordance with generally accepted accounting principles, of (a) the Company since November 5, 1993 to the end of its last fiscal quarter preceding the date of such determination, and (b) each Subsidiary since the date such corporation became a Subsidiary to the end of its last fiscal quarter preceding the date of such determination, after (i) making appropriate deduction for outstanding minority interests, if any, and (ii) making appropriate provision for eliminations and adjustments of intercompany items.

Conversion Price:

The term "conversion price" shall mean the price per share of Common Stock from time to time in effect at which Debentures may be converted into Common Stock as hereinafter in Article Four provided.

Date of Conversion:

The term "date of conversion" shall mean the date on which any Debenture shall be surrendered for conversion and notice given in accordance with the provisions of Article Four hereof.

Debenture or Debentures:

The term "Debenture" or "Debentures" shall mean any Debenture or Debentures, as the case maybe, authenticated and delivered under this Indenture.

The term "outstanding", when used with reference to Debentures, shall, subject to the provisions of Section 10.04, mean, as of any

particular time, all Debentures authenticated and delivered by the Trustee under this Indenture, except

(a) Debentures theretofore canceled by the Trustee or delivered to the Trustee for cancellation;

(b) Debentures for the payment or redemption of which moneys in the necessary amount shall have been deposited in trust with the Trustee or with any paying agent (other than the Company) or shall have been set aside and segregated in trust by the Company (if the Company shall act as its own paying agent), provided that, if such Debentures are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Article Five provided or provision satisfactory to the Trustee shall have been made for giving such notice; and

(c) Debentures in lieu of or in substitution for which other Debentures shall have been authenticated and delivered pursuant to the terms of Section 2.07.

Debentureholder; Registered holder:

The terms "debentureholder," "holder of Debentures," "registered holder" or other similar terms shall mean any person who shall at the time be the registered holder of any Debenture or Debentures on the books of the Company kept for that purpose in accordance with the provisions of this Indenture.

Event of Default:

The term "Event of Default" shall mean

any event specified in Section 8.01, continued

for the period of time, if any, therein designated.

Indenture:

The term "Indenture" shall mean this instrument or, if amended or supplemented as herein provided, as so amended or supplemented.

Market Price Per Share of Common Stock:

The term "Market Price per share of Common Stock" for any Trading Day means (x) the closing bid price for the Common Stock on such Trading Day as published by the National Association of Securities Dealers Automated Quotation System ("NASDAQ") (or, if such prices are not so published by NASDAQ, the average of the high and low bid prices for the Common Stock on such Trading Day, as furnished by any New York Stock Exchange member firm selected from time to time by the Company for such purpose) or (y) if the Common Stock is then listed or admitted to trading on a national securities exchange, the last sale price for the Common Stock on such Trading Day as reported in the consolidated transaction or other reporting system for securities listed or traded on such exchange, or, in case no such reported sale takes place on such Trading Day, the reported closing bid price for the Common Stock on such Trading Day on the principal national securities exchange on which the Common Stock is then listed or admitted to trading.

Officers' Certificate:

The term "Officers' Certificate" shall mean a certificate signed by the President or any Vice President and by the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary of the Company. Each such certificate shall include the statements provided for in Section 16.05, if and to the extent required by the provisions thereof.

Opinion of Counsel:

The term "Opinion of Counsel" shall mean an opinion in writing signed by legal counsel, who may be an employee of, or of counsel to, the Company, or who may be counsel

not employed by, or of counsel to, the Company who is acceptable to the Trustee. Each such opinion shall include the statements provided for in Section 16.05, if and to the extent required by the provisions thereof.

Responsible Officer:

The term "responsible officer", when used with respect to the Trustee, shall mean the chairman and vice-chairman of the board of directors or trustees, the chairman and vice-chairman of the executive committee of the board of directors or trustees, the president, any vice-president, the secretary, the cashier, the treasurer, any trust officer, any assistant or second vice-president, or any other officer or an assistant officer of the Trustee customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of his knowledge of and familiarity with the particular subject.

Senior Indebtedness:

The term "Senior Indebtedness" shall mean the principal of and premium, if any, on and interest on the following: (a) obligations of the Company in respect of the Accounts Financing Agreement [Security Agreement], dated as of August 2, 1990, between Congress Financial Corporation (Southwest) ("Congress") and Farah U.S.A., Inc. ("Farah USA"), and together with all amendments and supplements thereto, including, but not limited to, the Covenant Supplement to Accounts Financing Agreement [Security Agreement] dated as of August 2, 1990, and all other agreements, documents and instruments at any time executed and/or delivered in connection with any of the foregoing or related thereto, as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or

replaced, collectively, the "Financing Agreements"), which Financing Agreements include, inter alia, the guarantees of all obligations of Farah USA to Congress by each of the Company, Farah International, Inc., Farah Sales Corp., Farah Manufacturing Company, Inc., Farah Manufacturing Company of New Mexico, Inc.,

Farah Licensing Corp., Farah Clothing Company, Inc., FTX, Inc., Radco Sportswear, Inc., Value Slacks, Inc., and Value Clothing Company, Inc., (b) indebtedness for money borrowed (other than the Debentures), for the payment of which the Company is responsible or liable, and any indebtedness evidenced by notes, debentures, bonds or other securities sold by the Company for money, for the payment of which the Company is responsible or liable, or indebtedness issued to or assumed for a vendor for all or part of the purchase price of real or personal property purchased, or real or personal property acquired in any consolidation, merger or similar transaction, whether outstanding on the date of execution of this Indenture or thereafter created, incurred, assumed or guaranteed by the Company, unless in the instrument creating or evidencing the same or pursuant to which the same is outstanding it is provided that such indebtedness is not superior in right of payment to the Debentures, and (c) renewals, extensions and refundings of any such indebtedness.

Subsidiary:

The term "Subsidiary" shall mean any corporation of which the Company, or the Company and one or more Subsidiaries, or any one or more Subsidiaries, directly or indirectly own or control more than 50% of the outstanding capital stock having under ordinary circumstances (not dependent upon the happening of a contingency) voting power in the election of members of the board of directors, managers or trustee of said corporation.

Trading Day:

The term "Trading Day" shall mean any day on which trading takes place (x) in the over-the-counter market and prices reflecting

such trading are published by NASDAQ, or (y) if the Common Stock is then listed or admitted to trading on a national securities exchange, on the principal national securities exchange on which the Common Stock is then listed or admitted to trading.

Trustee:

The term "Trustee" shall mean Texas Commerce Bank, N.A., and, subject to the provisions of Article Nine hereof, shall also include its successors. The term "principal office" of the Trustee shall mean the principal office of the Trustee, in El Paso, Texas, at which the corporate trust business of the Trustee shall, at any particular time, be administered, which office is, at the date of the execution of this Indenture, located at El Paso, Texas.

Trust Indenture Act of 1939:

Except as herein otherwise expressly provided or unless the context inquires otherwise, the term "Trust Indenture Act of 1939" shall mean the Trust Indenture Act of 1939 as it was in force at the date of execution of this Indenture.

SECTION 1.02. A Certificate of a Firm of Independent Public Accountants shall be conclusive evidence of Consolidated Net Income as of the date of any determination. Notwithstanding the foregoing, the Trustee shall be under no duty to require that it is furnished with a Certificate of a Firm of Independent Public Accountants either annually or at any other periodic interval or in any event unless evidence of Consolidated Net Income shall be required.

ARTICLE 2.

Issue, Description, Execution, Registration, Transfer and Exchange of Debentures.

SECTION 2.01. The Debentures shall be designated as 8.5% Convertible Subordinated Debentures due February 1, 2004 Debentures for the aggregate principal amount of One Million

Six Hundred Seventy Three Thousand Dollars (\$1,673,000) upon the execution of this Indenture, or from time to time thereafter, may be executed by the Company and delivered to the Trustee for authentication, and the Trustee shall thereupon authenticate and deliver said Debentures to or upon the written order of the Company, signed by its President or a Vice President, without any further corporate action by the Company.

The aggregate principal amount of Debentures authorized by this Indenture is limited to One Million Six Hundred Seventy Three Thousand Dollars (\$1,673,000) and, except as provided in Section 2.07, the Company shall not execute and the trustee shall not authenticate or deliver Debentures in excess of such aggregate principal amount.

Nothing contained in this Section 2.01 or elsewhere in this Indenture, or in the Debentures, is intended to or shall limit execution by the Company or authentication or delivery by the Trustee of Debentures under the circumstances contemplated by Sections 2.05, 2.06, 4.02, 5.02 and 12.04 hereof.

SECTION 2.02. The Debentures and the Trustee's certificate of authentication to be borne by the Debentures shall be substantially of the tenor and purport as in this Indenture above recited, and may have such letters, numbers or other marks of identification or designation and such legends or endorsements thereon as the Board of Directors of the Company may deem appropriate and as are not inconsistent with the provisions of this Indenture, or as may be required to comply with any law or with any rule or regulations made pursuant thereto or with any rule or regulation of any stock exchange on which the Debenture may listed, or to conform to usage. The Debentures may be printed, lithographed or fully or partly engraved.

SECTION 2.03. The Debentures shall bear interest at the rate per annum set forth in their title, payable semiannually on February 1 and August 1, shall mature on February 1, 2004 and shall be issuable as fully registered Debentures without coupons in denominations of

\$1,000 and any whole multiple of \$1,000. The person in whose name any Debenture is registered at the close of business on any record date (as hereinbelow defined) with respect to any interest payment date shall be entitled to receive the interest payable thereon on such interest payment date notwithstanding the cancellation of such Debenture upon any transfer, exchange or conversion thereof subsequent to such record date and prior to such interest payment date, unless the Company shall default in the payment of interest due on such

interest payment date on any Debentures, in which case such defaulted interest shall be paid to the person in whose name such Debenture (or any Debenture or Debentures issued upon transfer or exchange thereof) is registered on a subsequent record date, which shall be the fifteenth day next preceding the date of payment of such defaulted interest, to be established by a written notice to debenture holders given by or on behalf of the Company not less than ten days prior to the record date for the payment of such defaulted interest. The term "record date" as used in this Section 2.03 with respect to any regular interest payment date shall mean the fifteenth day of the calendar month next preceding such interest payment date, or, if such fifteenth day of the calendar month is not a business day, the business day next preceding such fifteenth day of the calendar month, and such term, as used in this Section, with respect to the payment of any defaulted interest, shall mean the fifteenth day next preceding the date fixed by the Company for the payment of defaulted interest.

Except as provided in the next sentence, the Debentures shall be dated the date of authentication and shall bear interest from the February 1 or August 1, as the case may be, to which interest has been paid last preceding the date thereof, unless such date is a February 1 or August 1 to which interest has been paid, in which case they shall bear interest from such date, or unless the date hereof is on or prior to July 15, 1994, in which case from the date hereof, or if no interest has been paid on the Debentures they shall bear interest from the date hereof. Each Debenture authenticated

between the record date for any interest payment date and such interest payment date shall be dated the date of its authentication but shall bear interest from such interest payment date; provided, however, that if and to the extent the Company shall default in the payment of the interest due on such interest payment date, then any Debenture so authenticated shall bear interest from the February 1 or August 1, as the case may be, next preceding the date of such Debenture, to which interest has been paid, or if no interest has been paid on the Debentures, from February 1, 1994.

SECTION 2.04. The Debenture shall be signed on behalf of the Company, manually or in facsimile, by its President or a Vice President, Secretary or an Assistant Secretary under its corporate name which may be a facsimile. Only such Debentures as shall bear a certificate of authentication substantially in the form herein recited, executed by the Trustee, shall be entitled to the benefits of this Indenture or be valid or obligatory for any purpose. The Certificate by the Trustee upon any Debenture executed by the Company shall be conclusive evidence that the Debenture so authenticated has been duly authenticated and delivered hereunder and that holder is entitled to the benefits of this Indenture.

In case any officer of the Company who shall have signed any of the Debentures, manually or in facsimile, shall cease to be such officer before the Debentures so signed shall have been authenticated and delivered by the Trustee, or disposed of by the Company, such Debentures nevertheless may be authenticated and delivered or disposed of as though the person who signed such Debentures had not ceased to be such officer of the Company; and any Debenture may be signed on behalf of the Company, manually or in facsimile, by such persons as, at the actual date of the execution of such Debenture, shall be the proper officers of the Company, although at the date of the execution of this Indenture any such person was not such officer.

SECTION 2.05. Debentures may be exchanged for a like aggregate principal amount of Debentures of other authorized denominations. Debentures to be exchanged shall be surrendered

at the office or agency to be maintained by the Company in accordance with the provisions of Section 6.02. and the Company shall execute and the Trustee shall authenticate and such office or agency shall deliver in exchange therefor the Debenture or Debentures which the debentureholder making the exchange shall be entitled to receive.

The Company shall keep, at the office or agency to be maintained by the Company in accordance with the provisions of Section 6.02, a register or registers in which, subject to such reasonable regulations as it may prescribe, the Company shall register the Debentures and the transfer of Debentures as in this Article

Two provided. Upon surrender for registration of transfer of any Debenture at such office or agency, the Company shall execute and the Trustee shall authenticate and the Company shall deliver in the name of the transferee or transferees a new Debenture or Debentures for a like aggregate principal amount.

All Debentures presented or surrendered for exchange, registration of transfer, redemption, conversion or payment shall, if so required by the Company or the Trustee, be accompanied by a written instrument or instruments of transfer, in form satisfactory to the Company or the Trustee, duly executed by the registered holder or by his attorney duly authorized in writing.

No service charge shall be made for any exchange or registration of transfer of Debentures, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto.

The Company shall not be required (a) to issue, exchange or register the transfer of any Debentures during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of less than all the outstanding Debentures and ending at the close of business on the day of such mailing, or (b) to exchange or register the transfer of any Debentures or portions thereof called or selected for redemption.

SECTION 2.06. Pending the preparation

of definitive Debentures, the Company may execute and the Trustee shall authenticate and deliver temporary Debentures (printed or lithographed) of any denomination and substantially in the form of the definitive Debentures, with such omissions, insertions and variations as may be appropriate for temporary Debentures, all as may be determined by the Board of Directors of the Company. Temporary Debentures may contain such reference to any provisions of this Indenture as may be appropriate. Every such temporary Debenture shall be authenticated by the Trustee upon the same conditions and in substantially the same manner, and with the same effect, as the definitive Debentures. Without unnecessary delay the Company will execute and deliver to the Trustee definitive Debentures and thereupon

any or all temporary Debentures may be surrendered in exchange therefor, at the principal office of the Trustee in El Paso, Texas, and the Trustee shall authenticate and deliver in exchange for such temporary Debentures an equal aggregate principal amount of definitive Debentures. Until so exchanged, the temporary Debentures shall in all respects be entitled to the same benefits under this Indenture as definitive Debentures authenticated and delivered hereunder.

SECTION 2.07. In case any temporary or definitive Debenture shall become mutilated or be destroyed, lost or stolen, the Company, in the case of any mutilated Debenture shall, and in the case of any destroyed, lost or stolen Debenture in its discretion may, execute, and upon its request the Trustee shall authenticate and deliver, a new Debenture in exchange and substitution for the mutilated Debenture, or in lieu of and substitution for the Debenture so destroyed, lost or stolen, or, if any such Debenture shall have matured or shall be about to mature, instead of issuing a substituted Debenture, the Company may pay the same without surrender thereof. In every case the applicant for a substituted Debenture or for such payment shall furnish to the Company and to the Trustee such security or indemnity as may be required by them to save each of them harmless, and, in

every case of destruction, loss or theft, the applicant shall also furnish to the Company and to the Trustee evidence to their satisfaction of the destruction, loss or theft of such Debenture and of the ownership thereof. The Trustee may authenticate any such substituted Debenture and deliver the same, or the Trustee or any paying agent of the Company may make any such payment, upon the written request or authorization of any officer of the Company, and shall incur no liability to anyone by reason of anything done or omitted to be done by it in good faith under the provisions of this Section 2.07. Upon the issue of any substituted Debenture, 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 connected therewith and in addition a further sum not exceeding two dollars for each Debenture so issued in substitution.

To the extent lawful every substituted Debenture issued pursuant to the provisions of this Section 2.07 in substitution for any destroyed, lost or stolen Debenture shall constitute an additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Debenture shall be found at any time, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Debentures duly issued hereunder.

To the full extent legally enforceable, all Debentures shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, destroyed, lost or stolen Debentures and shall preclude any and all other rights or remedies notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

SECTION 2.08. Debentures surrendered for the purpose of payment, redemption, conversion into Common Stock, exchange, substitution or registration of transfer, shall, if surrendered to the Company of any paying or conversion agent or registrar, be delivered to

the Trustee and the same, together with Debentures surrendered to the Trustee for cancellation, shall be canceled by it, and no Debentures shall be issued in lieu thereof except as expressly permitted by any of the provisions of this Indenture. The Trustee shall, at the request of the Company, destroy canceled Debentures and deliver a certificate of destruction thereof to the Company. If the Company shall purchase or otherwise acquire any of the Debentures, however, such purchase or acquisition shall not operate as a payment, redemption or satisfaction of the indebtedness represented by such Debentures unless and until the Company, at its option, shall deliver or surrender the same to the Trustee for cancellation.

ARTICLE 3.

Subordination of Debentures

SECTION 3.01. The Company, for itself, its successors and assign covenants and agrees, and each holder of Debentures by his acceptance thereof, likewise covenants and agrees, that the payment of the principal of and premium, if any, and interest on each and all of the Debentures is hereby expressly subordinated to the extent and in the manner hereinafter set forth, in right of payment to the prior payment in full of all Senior Indebtedness.

SECTION 3.02. Upon any distribution of assets of the Company upon any dissolution, winding up, liquidation or reorganization of the Company, whether in bankruptcy, insolvency, reorganization or receivership proceedings or upon an assignment for the benefit of creditors or any other marshalling of the assets and liabilities of the Company or otherwise (subject to the power of a court of competent jurisdiction to make other equitable provision reflecting the rights conferred in this Indenture upon the Senior Indebtedness and the holders thereof with respect to the Debentures and the holders thereof by a lawful plan of reorganization under applicable bankruptcy law),

(a) the holders of all Senior Indebtedness shall first be entitled to receive

payment in full of the principal thereof, premium, if any, and the interest due thereon before the holders of the Debentures are entitled to receive any payment upon the principal of and premium, if any, or interest on indebtedness evidenced by the Debentures;

(b) any payment or distribution of assets of the Company of any kind of character, whether in cash, property or securities, to which the holders of the Debentures or the Trustee would be entitled except for the provisions of this Article Three shall be paid by the liquidating trustee or agent or other person making such payment or distribution, whether a trustee in bankruptcy, a receiver or liquidating trustee or otherwise, directly to the holders of Senior Indebtedness or their representative or representatives or to

the trustee or trustees under any indenture under which any instruments evidencing any of such Senior Indebtedness may have been issued, ratably according to the aggregate amounts remaining unpaid on account of the principal of, premium, if any, and interest on the Senior Indebtedness held or represented by each, to the extent necessary to make payment in full of all Senior Indebtedness remaining unpaid, after giving effect to any concurrent payment or distribution to the holders of such Senior Indebtedness; and

(c) in the event that, notwithstanding the foregoing, any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities, shall be received by the Trustee or holders of the Debentures before all Senior Indebtedness is paid in full, such payment or distribution shall be paid over to the holders of such Senior Indebtedness or their representative or representatives or to the trustee or trustees under any indenture under which any instruments evidencing any of such Senior Indebtedness may have been issued, ratably as aforesaid for application to the payment of all Senior Indebtedness remaining unpaid until all such Senior Indebtedness shall have been paid in full, after giving effect to

any concurrent payment or distribution to the holders of such Senior Indebtedness.

Subject to the payment in full of all Senior Indebtedness, the holders of the Debentures shall be subrogated to the rights of the holders of Senior Indebtedness to receive payments or distributions of cash, property or securities of the Company applicable to the Senior Indebtedness until the principal of, premium, if any, and interest on the Debentures shall be paid in full and no such payments or distributions to the holders of the Debentures of cash, property or securities otherwise distributable to the Senior Indebtedness shall, as between the Company, its creditors, other than the holders of Senior Indebtedness, and the holders of the Debentures, be deemed to be a payment by the Company to or on account of the Debentures. It is understood that the provisions of this Article Three are and are intended solely for the purpose of defining the relative

rights of the holders of the Debentures, on the one hand, and the holders of the Senior Indebtedness, on the other hand. Nothing contained in this Article Three or elsewhere in this Indenture or in the Debentures is intended to or shall impair, as between the Company, its creditors, other than the holders of Senior Indebtedness, and the holders of the Debentures, the obligation of the Company, which is unconditional and absolute, to pay to the holders of the Debentures the principal of, premium, if any, and interest on the Debentures as and when the same shall become due and payable in accordance with their terms or to affect the relative rights of the holders of the Debentures and creditors of the Company, other than the holders of the Senior Indebtedness, nor shall anything herein or in the Debentures prevent the Trustee or the holder of any Debenture from exercising all remedies otherwise permitted by applicable law upon default under this Indenture, subject to the rights, if any, under this Article Three of the holders of Senior Indebtedness in respect of cash, property or securities of the Company received upon the exercise of any such remedy. Upon any payment or distribution of assets of the Company referred

to in this Article Three, the Trustee, subject to the provisions of Section 9.01, and the holders of the Debentures shall be entitled to rely upon a certificate of the liquidating trustee or agent or other person making any distribution to the Trustee or to the holders of the Debentures for the purpose of ascertaining the persons entitled to participate in such distribution, the holders of the Senior Indebtedness and other indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article Three.

The Trustee, however, shall not be deemed to owe any fiduciary duty or any other contractual obligation or account hereof (whether such claim is as a third-party beneficiary or otherwise) to the holders of Senior Indebtedness, and shall not be liable to any such holders if it shall pay over or distribute to or on behalf of holders of Debentures or the Company moneys or assets to which any holders of Senior Indebtedness shall be entitled by virtue of this Article Three.

SECTION 3.03. In the event and during the continuation of any default in the payment of principal of, or premium, if any, or interest on, any Senior Indebtedness beyond any applicable period of grace, or in the event that any event of default with respect to any Senior Indebtedness shall have occurred and be continuing, or would occur as a result of the payment referred to hereinafter, permitting the holders of such Senior Indebtedness (or a trustee on behalf of the holders thereof) to accelerate the maturity thereof, then, unless and until such default or event of default shall have been cured or waived or shall have ceased to exist, no payment of principal, premium, if any, or interest on the Debentures shall be made by the Company.

SECTION 3.04. Nothing contained in this Indenture or in any of the Debentures shall (a) affect the obligation of the Company to make. or prevent the Company from making, at any time except as provided in Sections 3.0 and 3.03, payments of principal of, premium, if any, or interest on the Debentures, or (b) prevent

the application by the Trustee of any moneys deposited with it hereunder to the payment of or on account of the principal of, premium, if any, or interest on the Debentures, if, at the time of such deposit, the Trustee did not have written notice of any event prohibiting the making of such deposit by the Company from the Company or from the holder of any Senior Indebtedness or from the representatives of any such holder.

SECTION 3.05. Each holder of Debentures by his acceptance therefor authorizes and directs the Trustee in his behalf to take such action as may be necessary or appropriate to effectuate the subordination as provided in this Article Three and appoints the Trustee his attorney-in-fact for any and all such purposes.

SECTION 3.06. Notwithstanding the provisions of this Article or any other provisions of the Indenture, neither the Trustee nor any paying agent shall be charged with knowledge of the existence of any Senior Indebtedness or of any event which would prohibit the making of any payment of moneys to or by the Trustee or such paying agent, unless

and until the Trustee or such paying agent shall have received written notice thereof from the Company or from the holder of any Senior Indebtedness or from the representative of any such holder.

ARTICLE 4.

Conversion of Debentures.

SECTION 4.01. Subject to and upon compliance with the provisions of this Article Four, at the option of the holder, any Debenture or any portion of the principal amount thereof which is \$1,000 or a whole multiple thereof, may, at any time on or before February 1, 2004, or in case such Debenture or some portion thereof, shall be called for redemption prior to such date, then, with respect to such Debenture or portion thereof so called for redemption, until and including, but not after, the close of business on the second business day next

preceding the date fixed for such redemption, be converted at the principal amount thereof into Common Stock at the conversion price in effect at the date of conversion.

SECTION 4.02. In order to exercise the conversion privilege, the holder of any Debenture to be converted shall surrender such Debenture to the Company at its office or agency in El Paso, Texas, together with the conversion notice in the form provided on the Debentures duly executed, and, if so required by the Company, the Debenture shall also be accompanied by proper assignments thereof to the Company or in blank for transfer and any requisite Federal and State transfer tax stamps. Debentures so surrendered during the period from the close of business on the record date preceding an interest payment date to the opening of business on such interest payment date shall (unless any such Debenture or the portion thereof being converted shall have been called for redemption) also be accompanied by payment in New York Clearing House funds or other funds acceptable to the Company of an amount equal to the interest payable on such interest payment date on the principal amount of such Debenture then being converted. As promptly as practicable after the surrender of such Debenture for conversion as aforesaid, the Company shall issue

and shall deliver at said office or agency to such holder, or on his written order, a certificate or certificates for the number of full shares issuable upon the conversion of such Debenture or portion thereof and a check or cash in respect of any fraction of a share of Common Stock issuable upon such conversion, all as provided in this Article Four, together with a Debenture or Debentures in principal amount equal to the unconverted and unredeemed portion, if any, of the Debenture so converted. Such conversion shall be deemed to have been effected on the date on which such notice shall have been received at said office or agency and such Debenture shall have been surrendered as aforesaid, and the person or persons in whose name or names any certificate or certificates for shares of Common Stock shall be issuable upon such conversion shall be deemed to have

become on said date the holder or holders of record of the shares represented thereby, provided, however, that any such surrender on any date when the stock transfer books of the Company shall be closed shall constitute the person or persons in whose name or names the certificates are to be issued as the record holder or holders thereof for all purposes on the next succeeding date on which such stock transfer books are open, but such conversion shall be at the conversion price in effect on such next succeeding day on which such transfer books are open. Subject to the foregoing, no adjustment shall be made for interest accrued on any Debenture that shall be converted or for dividends on any Common Stock that shall be issued upon the conversion of such Debenture.

SECTION 4.03. The Company shall not be required to issue fractions of shares of Common Stock upon conversion of Debentures. If more than one Debenture shall be surrendered for conversion at one time by the same holder, the number of full shares which shall be issuable upon conversion thereof shall be computed on the basis of the aggregate principal amount of the Debentures so surrendered. If any fractional interest in a share of Common Stock would be deliverable upon the conversion of any Debenture or Debentures, the Company shall make an adjustment therefor in cash equal to the current market value or such fractional interest computed to the nearest thousandth of a share

either on the basis of the last reported sale price of Common Stock on the New York Stock Exchange (or, if not listed on the New York Stock Exchange, then on such other exchange on which the Common Stock is listed as the Company may designate) on the last business day prior to the date of conversion or if there shall not have been a sale on such last business day, on the basis of the average of the bid and asked quotations therefor on such exchange on such last business day, or if the Common Stock shall not then be listed on any exchange, at the highest bid quotation in the over-the-counter market on such last business day as reported by National Quotation Bureau, Inc.

SECTION 4.04. The conversion price shall be as specified in the form of Debenture hereinabove set forth or, after adjustment as provided in this Article Four, the conversion price as so adjusted.

SECTION 4.05. The conversion price shall be adjusted from time to time as follows:

(a) In case the Company shall, at any time or from time to time while any of the Debentures are outstanding, (i) pay a dividend in shares of its Common Stock, (ii) subdivide its outstanding shares of Common Stock, (iii) combine its outstanding shares of Common Stock into a smaller number of shares, or (iv) issue by reclassification of its shares of Common Stock any shares of stock of the Company, the conversion price in effect immediately prior thereto shall be adjusted so that the holder of any Debenture thereafter surrendered for conversion shall be entitled to receive the number of shares of Common Stock or other securities of the Company which he would have owned or have been entitled to receive after the happening of any of the events described above, had such Debenture been converted immediately prior to the happening of such event. An adjustment made pursuant to this subdivision (a) shall become effective, in the case of a dividend, on the payment date retroactively to immediately after the opening of business on the day following the record date for the determination of shareholders entitled to receive such dividend, subject to the provisions of subdivision (f) of this Section 4.05, and

shall become effective in the case of a subdivision, combination or reclassification immediately after the opening of business on the day following the day when such subdivision, combination or reclassification, as the case may be, becomes effective.

(b) In case the Company shall, at any time or from time to time while any of the Debentures are outstanding, issue rights or warrants to all holders of shares of its Common Stock entitling them (for a period expiring within 45 days of the record date mentioned

below) to subscribe for or purchase shares of Common Stock at a price per share less than the current market price per share of Common Stock (as defined in subdivision (d) below) at such record date, the conversion price in effect immediately prior to the issuance of such rights or warrants shall be adjusted as follows: the number of shares of Common Stock into which \$1,000 principal amount of Debentures was theretofore convertible shall be multiplied by a fraction, of which the numerator shall be the number of shares of Common Stock outstanding immediately prior to such record date plus the number of additional shares of Common Stock offered for subscription or purchase, and of which the denominator shall be the number of shares of Common Stock outstanding immediately prior to such record date plus the number of shares which the aggregate offering price of the total number of shares so offered would purchase at such current market price; and the conversion price shall be adjusted by dividing \$1,000 by the new number of shares into which \$1,000 principal amount of Debentures shall be convertible as aforesaid. Such adjustment shall become effective on the date of such issuance retroactively to immediately after the opening of business on the day following the record date for the determination of shareholders entitled to receive such rights or warrants, subject to the provisions of subdivision (f) of this Section 4.05.

(c) In case the Company shall, at any time or from time to time while any of the Debentures are outstanding, distribute to all holders of shares of its Common Stock evidences of its indebtedness or securities or assets (excluding cash dividends or cash

distributions payable out of consolidated earnings or earned surplus, or dividends payable in shares of Common Stock) or rights to subscribe (excluding those referred to in subdivision (b) above), the conversion price in effect immediately prior to such distribution shall be adjusted by multiplying the number of shares of Common Stock into which \$1,000 principal amount of Debentures was theretofore convertible by a fraction, of which the

numerator shall be the current market price per share of Common Stock (as defined in subdivision (d) below) on the record date for such distribution, and of which the denominator shall be such current market price per share of the Common Stock, less the then fair market value (as determined by the Board of Directors of the Company, whose determination shall be conclusive) of the portion of the assets or securities or evidences of indebtedness so distributed or of such subscription rights applicable to one share of Common Stock; and the conversion price shall be adjusted by dividing \$1,000 by the new number of shares into which \$1,000 principal amount of Debentures shall be convertible as aforesaid. Such adjustment shall become effective on the date of such distribution retroactively to immediately after the opening of business on the day following the record date for the determination of shareholders entitled to receive such distribution, subject to the provisions of subdivision (f) of this Section 4.05. For the purposes of this subdivision (c) consolidated earnings or earned surplus shall be computed by adding thereto all charges against earned surplus on account of dividends paid in shares of Common Stock in respect of which the conversion price has been adjusted, all as determined by the independent public accountants then regularly auditing the accounts of the Company, whose determination shall be conclusive.

(d) For the purpose of any computation under subdivisions (b) and (c) above, the current market price per share of Common Stock at any date shall be deemed to be the average of the market values of the Common Stock for the ten consecutive business days immediately preceding the day in question. The market value of the Common Stock for each day

shall be determined as provided in Section 4.03 hereof.

(e) Accept as herein otherwise provided, no adjustment in the conversion price shall be made by reason of the issuance in exchange for cash, property or services, of

shares of Common Stock, or any securities convertible into or exchangeable for shares of Common Stock, or carrying the right to purchase any of the foregoing.

(f) If the Company shall take a record of the holders of its Common Stock for the purpose of entitling them to receive any dividend for any subscription or purchase rights or any distribution and shall, thereafter and before the distribution to stockholders of any such dividend, subscription or purchase rights or distribution, legally abandon its plan to pay or deliver such dividend, subscription or purchase rights or distribution, then no adjustment of the conversion price shall be required by reason of the taking of such record.

(g) No adjustment in the conversion price shall be required unless such adjustment would require an increase or decrease of at least 1% in such price: provided, however, that any adjustments which by reason of this subdivision (g) are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Article Four shall be made to the nearest cent or to the nearest one-hundredth of a share, as the case may be.

(h) Whenever the conversion price is adjusted as herein provided, the Company shall (i) forthwith place on file at the principal office of the Trustee a statement signed by the President or a Vice President of the Company and by its Treasurer or an Assistant Treasurer showing in detail the facts requiring such adjustment and the conversion price after such adjustment and shall exhibit the same from time to time to any debenture-holder desiring an inspection thereof, and (ii) cause a notice

stating that such adjustment has been effected and the adjusted conversion price, to be mailed to the holders of Debentures at their last addresses as they shall appear on the registry books.

SECTION 4.06. In case of any reclassification or change of outstanding shares

of Common Stock issuable upon conversion of the Debentures (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination), or in case of any consolidation of the Company with one or more other corporations (other than a consolidation in which the Company is the continuing corporation and which does not result in any reclassification or change of outstanding shares of Common Stock issuable upon conversion of the Debentures), or in case of the merger of the Company into another corporation, or in case of any sale or conveyance to another corporation of the property of the Company as an entirety or substantially as an entirety, the Company, or such successor or purchasing corporation, as the case may be, shall execute with the Trustee a supplemental indenture providing that the holder of each Debenture then outstanding shall have the right to convert such Debenture into the kind and amount of shares of stock and other securities and property receivable upon such reclassification, change, consolidation, merger, sale or conveyance by a holder of the number of shares of Common Stock into which such Debenture might have been converted immediately prior to such reclassification, change, consolidation, merger, sale or conveyance. Such supplemental indenture shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Article Four.

As evidence of the kind and amount of shares of stock or other securities or property into which Debentures may properly be convertible after any such reclassification, change, consolidation, merger, sale or conveyance, or as to the appropriate adjustments of the conversion prices applicable with respect thereto, the Trustee, subject to the provisions of Section 9.01, may accept a Certificate of a Firm of Independent Public Accountants with respect thereto, and, in the absence of bad

faith upon the part of the Trustee, the Trustee may conclusively rely thereon, and shall not be responsible or accountable to any holder of Debentures for any provisions in conformity therewith, or approved in such certificate,

which may be contained in any such supplemental indenture. The above provisions of this Section shall similarly apply to successive reclassifications and changes of shares of Common Stock and to successive consolidations, mergers, sales or conveyances.

SECTION 4.07. The issue of stock certificates on conversion of Debentures shall be made without charge to the converting debentureholder for any issue tax in respect of the issue thereof. The Company shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of shares in any name other than that of the holder of any Debenture converted, and the Company shall not be required to issue or deliver any such stock certificate unless and until the person or persons requesting the issue thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid.

SECTION 4.08. The Company shall at all times reserve and keep available out of its authorized but unissued shares, for the purpose of effecting the conversion of the Debentures, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding Debentures.

If any shares of Common Stock reserved or to be reserved for the purpose of conversion of Debentures hereunder require registration with or approval of any governmental authority under any Federal or State law before such shares may be validly issued upon conversion, then the Company covenants that it will in good faith and as expeditiously as possible endeavor to secure such registration or approval, as the case may be.

The Company covenants that all shares of Common Stock which may be issued upon conversion of Debentures shall upon issue be fully paid and non-assessable by the Company and

free from all taxes, liens and charges with respect to the issue thereof.

SECTION 4.09. Neither the Trustee nor any conversion agent shall at any time be under any duty or responsibility to any holder of Debentures to determine whether any facts exist which may require any adjustment of the conversion price, or with respect to the nature or extent of any such adjustment when made, or with respect to the method employed, or herein or in any supplemental indenture provided to be employed, in making the same, subject, however, to the provisions of Section 9.01 of this Indenture. Neither the Trustee nor any conversion agent shall be accountable with respect to the validity or value (or the kind or amount) of any shares of Common Stock, or of any securities or property, which may at any time be issued or delivered upon the conversion of any Debenture; and neither of them makes any representation with respect thereto. Neither the Trustee nor any conversion agent shall be responsible for any failure of the Company to make any cash payment or to issue, transfer or deliver any shares of Common Stock or stock certificates or other securities or property upon the surrender of any Debenture for the purpose of conversion or, subject to Section 9.01, to comply with any of the covenants of the Company contained in this Article Four.

SECTION 4.10. In the event

(1) that the Company shall pay any dividend or make any distribution to the holders of Common Stock otherwise than in cash out of its retained earnings; or

(2) that the Company shall offer for subscription, pro rata, to the holders of Common Stock any additional shares of stock of any class or any other right; or

(3) that the Company shall effect any reclassification or change of outstanding shares of the Common Stock issuable upon the conversion of the Debentures (other than a change in

par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination), or any consolidation of the Company with, or merger of the Company into, another corporation (other than a consolidation in which the Company is the continuing corporation and which does not result in any reclassification or change of outstanding shares of Common Stock issuable upon conversion of the Debentures), or any sale or conveyance to another corporation of the property of the Company as an entirety or substantially as an entirety,

then, and in any one or more of such events, the Company will give to the Trustee and any conversion agent written notice thereof at least ten days prior to (i) the record date fixed with respect to any of the events specified in (1) and (2) above, and (ii) the effective date of any of the events specified in (3) above; and shall mail a copy of such notice to the holders of Debentures at their last addresses as they shall appear upon the registry books.

ARTICLE 5.

Redemption of Debentures.

Section 5.01. The Company may, at its option, redeem at any time all or from time to time any part of the Debentures, on any date prior to maturity, specified in the form of Debenture hereinbefore set forth for redemption, together with interest accrued and unpaid thereon to the date fixed for redemption.

Section 5.02. In case the Company shall desire to exercise such right to redeem all or, as the case may be, any part of the Debentures in accordance with the right reserved so to do, it shall give notice of such redemption to holders of the Debentures to be redeemed as hereinafter in this Section 5.02 provided.

Notice of redemption shall be given to the holders of Debentures to be redeemed as a

whole or in part by mailing by first-class mail

a notice of such redemption not less than thirty nor more than sixty days prior to the date fixed for redemption to their last addresses as they shall appear upon the registry books, but failure to give such notice by mailing in the manner herein provided to the holder of any Debenture designated for redemption as a whole or in part, or any defect therein, shall not affect the validity of the proceedings for the redemption of any other Debentures.

Any notice which is mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the holder receives the notice.

The notice of redemption to each holder of Debentures to be redeemed shall specify the principal amount of Debentures to be redeemed, shall state the date fixed for redemption and the redemption price at which Debentures are to be redeemed, and shall state that payment of the redemption price of the Debentures to be redeemed will be made at the office or agency to be maintained by the Company in accordance with the provisions of Section 6.0, upon presentation and surrender of such Debentures, that interest accrued to the date fixed for redemption will be paid as specified in said notice, and that on and after said date interest thereon will cease to accrue, and each such notice shall state the current conversion price and that the right to convert Debentures shall terminate as provided in this Indenture. If less than all the Debentures are to be redeemed, the notice of redemption to each holder shall specify such holder's Debentures to be redeemed as a whole or in part. In case any Debenture is to be redeemed in part only, the notice which relates to such Debenture shall state the portion of the principal amount thereof to be redeemed (which shall be \$1,000 or a whole multiple thereof), and shall state that on and after the redemption date, upon surrender of such Debenture, the holder will receive the redemption price in respect of the principal amount thereof called for redemption and, without charge, a new Debenture or Debentures of authorized denominations for the principal amount thereof remaining unredeemed.

If less than all the Debentures are to be redeemed the Company shall give the Trustee, at least forty-five days in advance of the date fixed for redemption, notice of the aggregate

principal amount of Debentures to be redeemed, and thereupon the Trustee shall select in such manner as it shall deem appropriate and fair, in its discretion, the numbers of Debentures to be redeemed as a whole or in part and shall thereafter promptly notify the Company in writing of the numbers of Debentures or portions thereof to be redeemed. For the purpose of any redemption of less than all the Debentures, the Company and the Trustee may treat as outstanding Debentures surrendered for conversion during the period of fifteen days immediately preceding the mailing of the notice of redemption.

If any Debenture selected for redemption in part is surrendered for conversion in part on or before the close of business on the second business day next preceding the date fixed for redemption, the part of such Debenture converted shall be applied first to the part to be redeemed.

Section 5.03. If the giving of notice of redemption shall have been completed as above provided, the Debentures or portions of Debentures specified in such notice shall, unless theretofore converted into Common Stock, become due and payable on the date and at the place stated in such notice at the applicable redemption price, together with interest accrued to the date fixed for redemption, and on and after such date fixed for redemption (unless the Company shall default in the payment of such Debentures at the redemption price, together with interest accrued to the date fixed for redemption) interest on the Debentures or portion of Debentures so called for redemption shall cease to accrue, and any right to convert the principal of the Debentures or portions of Debentures so called for redemption shall terminate at the close of business on the second business day next preceding said date. On presentation and surrender of such Debentures at said place of payment in said notice specified, the said Debentures shall be paid and redeemed by the Company at the applicable redemption

price together with interest accrued to the date fixed for redemption.

Section 5.04. All Debentures surrendered to the Trustee, pursuant to the provisions of this Article Five, shall be forthwith canceled by it, and, at the request of

the Company, shall be destroyed by the Trustee, which shall deliver its certificate thereof to the Company.

ARTICLE 6.

Article Covenants of the Company.

The Company covenants as follows:

Section 6.01. The Company will duly and punctually pay or cause to be paid the principal of (and premium, if any) and interest on each of the Debentures at the time and place and in the manner provided herein and in the Debentures. Each instalment of interest on the Debentures may be paid by mailing checks for such interest payable to or upon the written order of the person entitled thereto pursuant to Section 2.03 to the address of such person as it appears on the registry books of the Company.

Section 6.02. So long as any of the Debentures shall remain outstanding, the Company will maintain an office or agency in El Paso, Texas, where the Debentures may be presented for registration, exchange and registration of transfer and conversion as in this Indenture provided, and where notices and demands to or upon the Company in respect of the Debentures or of this Indenture may be served, and where the Debentures may be presented for payment. The Company will give to the Trustee notice of the location of such office or agency and of any change of location thereof. In case the Company shall fail to maintain such office or agency or shall fail to give such notice of the location or of any change in the location thereof, presentations and demands may be made and notices may be served at the principal office of the Trustee.

Section 6.03. So long as any of the Debentures shall remain outstanding, the Company will not, except as provided below in this Section 6.03, (a) declare or pay any dividend or make any distribution on any stock of the Company or to its stockholders (other than dividends or distributions payable in shares of stock of the Company), or (b) purchase, redeem or otherwise acquire or retire for value any

shares of its stock, or (c) permit any Subsidiary to purchase, redeem or otherwise acquire for value any shares of stock of the Company, or pay any dividend to any minority interest if, upon giving effect thereto, the sum of such dividends, distributions, purchases, redemptions, acquisitions and retirements after November 5, 1993 (hereinafter referred to as "Stock Payments"), exceeds Consolidated Net Income, plus (i) \$5,000,000, (ii) the net proceeds (in cash or if other than cash, the fair value hereof as determined by the Board of Directors) of the issue or sale after November 5, 1993 of stock of the Company, and (iii) the principal amount of convertible securities issued or sold after November 5, 1993 which have been converted. In the event that the net proceeds of the issue or after November 5, 1993 of stock of the Company consist, in whole or in part, of all or substantially all of the assets of a going concern business or such amount of stock of a corporation constituting a going concern business as would make such corporation a Subsidiary as defined herein, the fair value of such net proceeds (as determined by the Board of Directors) for the purposes of this Section shall not exceed the sum of the capital and surplus of such going concern business or corporation or the proportion of the capital and surplus of such corporation as shall be applicable to the proportion of stock acquired by the Company.

The provisions of this Section 6.03 shall not prevent (A) the payment of any dividend within 60 days after the date of declaration thereof, if at said date such declaration complied with the provisions of this Section 6.03, or (B) the retirement of any shares of the Company's stock by exchange for, or out of the proceeds of the substantially

concurrent sale of, other shares of its stock.

Section 6.04. The Company will insure and keep insured, and will cause every Subsidiary to insure and keep insured, to a reasonable amount with reputable insurance companies, so much of their respective properties as companies engaged in a similar business and to the extent such companies in accordance with good business practice customarily insure properties of a similar character against loss by fire and from other

causes or, in lieu thereof, in the case of itself or of any one or more of its Subsidiaries, the Company will maintain or cause to be maintained a system or systems of self-insurance which will accord with the approved practices of companies owning or operating properties of a similar character and maintaining such systems.

Section 6.05. The Company, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided in Section 9.10, a Trustee, so that there shall at all times be a Trustee hereunder.

Section 6.06. (a) If the Company shall appoint a paying agent other than the Trustee, it will cause such paying agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section 6.06 and Section 14.04,

(1) that it will hold all sums held by it as such agent for the payment of the principal of (and premium, if any) or interest on the Debentures (whether such sums have been paid to it by the Company or by any other obligor on the Debentures) in trust for the benefit of the holders of the Debentures and will notify the Trustee of the receipt of sums to be so held,

(2) that it will give the Trustee notice of any failure by the

Company (or by any other obligor on the Debentures) to make any payment of the principal of (and premium, if any) or interest on the Debentures when the same shall be due and payable, and

(3) that it will at any time during the continuance of any Event of Default specified in subsections (a) or (b) of Section 8.01, upon the written request of the Trustee, deliver to the Trustee all sums so held in trust by it.

(b) If the Company shall act as its own paying agent, it will, on or before each due date of the principal of (and premium, if any) or interest on the Debentures, set aside, segregate and hold in trust for the benefit of the holders of the Debentures, a sum sufficient to pay such principal (and premium, if any) or interest so becoming due and will notify the Trustee of such action, or any failure by it or any other obligor on the Debentures to take such action and will at any time during the continuance of any Event of Default specified in subsections (a) or (b) of Section 8.01, upon the written request of the Trustee, deliver to the Trustee all sums so held in trust by it.

(c) Anything in this Section 6.06 to the contrary notwithstanding, the Company may, at any time, for the purpose of obtaining a satisfaction and discharge of this Indenture, or for any other reason, pay or cause to be paid to the Trustee all sums held in trust by it, or any paying agent hereunder, as required by this Section 6.06, such sums to be held by the Trustee upon the trusts herein contained.

(d) Anything in this Section 6.06 to the contrary notwithstanding, the agreement to hold sums in trust as provided in this Section 6.06 is subject to the provisions of Sections 14.03 and 14.04.

Section 6.07. (a) The Company will endeavor to, and will endeavor to cause each Subsidiary to, (i) pay all taxes, assessments and governmental charges lawfully levied or

assessed upon it, its property, or upon any part thereof or upon its income or profits, or any part thereof, before the same shall become delinquent, and (ii) duly observe and conform to all lawful requirements of any governmental authority relative to any of its property, and all covenants, terms and conditions upon or under which any of its property is held; provided that nothing in this Section 6.07 or elsewhere in this Indenture contained shall require the Company or any Subsidiary to observe or conform to any requirement of governmental authority or to pay any such tax, assessment or governmental charge so long as the validity thereof shall be contested in good faith.

(b) The Company will, and will cause each Subsidiary to, keep and maintain all buildings, plants and other property owned by it in such good condition, repair and working order and supplied with all such necessary equipment as in the judgment of the Company may be necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times; provided, however, that nothing in this Section 6.07 or, subject to the provisions of Sections 13.01 and 13.02, elsewhere in this Indenture or in the Debentures contained shall prevent the Company or a Subsidiary from selling, abandoning or otherwise disposing of any property, real or personal, tangible or intangible, whenever in the judgment of the Company or such Subsidiary it is advisable or desirable to do so.

Section 6.08. From time to time whenever reasonably demanded by the Trustee the Company will make, execute and deliver or cause to be made, executed and delivered any and all such further and other instruments and assurances and take all such further action as may be reasonably necessary or proper to carry out the intention of or to facilitate the performance of the terms of this Indenture or to secure the rights and remedies hereunder of the holders of the Debentures.

Section 6.09. The Company will, so long as any of the Debentures are outstanding:

(1) deliver to the Trustee, forthwith upon becoming aware of any default or defaults in the performance of any covenant, agreement or condition contained in this Indenture which has not been cured or waived, an Officers' Certificate specifying such default or defaults, and

(2) deliver to the Trustee within 120 days after the end of each fiscal year of the Company, beginning with the year 1994, an Officers' Certificate stating that in the course of the performance by the signers of their duties as officers of the Company they would normally obtain knowledge of any default by the

Company in the performance of any covenant, agreement or condition contained in this Indenture, stating whether or not they have obtained knowledge of any such default, and if so, specifying each such default of which the signers have knowledge and the nature and status thereof.

ARTICLE 7.

Debentureholders Lists and Reports by the Company and the Trustee

Section 7.01. The Company will furnish or cause to be furnished to the Trustee

(a) semi-annually, not more than 15 days after each January 15 and July 15 beginning July 15, 1994, a list, in such form as the Trustee may reasonably require, of the names and addresses of the debentureholders as of such January 15 and July 15, as the case may be (or if such January 15 or July 15 is not a business day, as of the business day next preceding such January 15 or July 15), and

(b) at such other times as the Trustee may request in writing, within 30 days after the receipt by the Company of

any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished,

provided, however, that so long as the Trustee is the Debenture registrar, no such list shall be required to be furnished.

Section 7.02. (a) The Trustee shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the holders of Debentures contained in the most recent list furnished to it as provided in Section 7.01 or received by it in the capacity of paying agent (if so acting) and Debenture registrar.

The Trustee may destroy any list furnished to it as provided in Section 7.01 upon receipt of a new list so furnished.

(b) In case three or more holders of Debentures (hereinafter referred to as "applicants") apply in writing to the Trustee, and furnish to the Trustee reasonable proof that each such applicant has owned a Debenture for a period of at least six months preceding the date of such application, and such application states that the applicants desire to communicate with other holders of Debentures with respect to their rights under this Indenture or under the Debentures, and is accompanied by a copy of the form of proxy or other communication which such applicants propose to transmit, then the Trustee shall, within five business days after the receipt of such application, at its election either

(1) afford such applicants access to the information preserved at the time by the Trustee in accordance with the provisions of subsection (a) of this Section 7.02, or

(2) inform such applicants as to the approximate number of holders of Debentures whose names and addresses appear in the information preserved at the time by the Trustee in accordance with the provisions of subsection (a) of this Section 7.02, and as to the

approximate cost of mailing to such debentureholders the form of proxy or other communication, if any, specified in such application.

If the Trustee shall elect not to afford such applicants access to such information, the Trustee shall, upon the written request of such applicants, mail to each debentureholder whose name and address appears in the information preserved at the time by the Trustee in accordance with the provisions of subsection (a) of this Section 7.02, a copy of the form of proxy or other communication which is specified in such request, with reasonable promptness after a tender to the Trustee of the material to be mailed and of payment, or provision for the payment, of the reasonable expenses of mailing, unless within five days after such tender, the Trustee shall mail to such applicants and file with the Securities and Exchange Commission, together with a copy of the

material to be mailed, a written statement to the effect that, in the opinion of the Trustee, such mailing would be contrary to the best interests of the holders of Debentures or would be in violation of applicable law. Such written statement shall specify the basis of such opinion. If said Commission, after opportunity for a hearing upon the objections specified in the written statement so filed, shall enter an order refusing to sustain any of such objections or if, after the entry of an order sustaining one or more of such objections, said Commission shall find, after notice and opportunity for hearing, that all the objections so sustained have been met and shall enter an order so declaring, the Trustee shall mail copies of such material to all such debentureholders with reasonable promptness after the entry of such order and the renewal of such tender; otherwise the Trustee shall be relieved of any obligation or duty to such applicants respecting their application.

(c) Each and every holder of the Debentures, by receiving and holding the same, agrees with the Company and the Trustee that neither the Company nor the Trustee nor any

paying agent nor the Debenture registrar shall be held accountable by reason of the disclosure of any such information as to the names and addresses of the holders of Debentures in accordance with the provisions of subsection (b) of this Section 7.02, regardless of the source from which such information was derived, and that the Trustee shall not be held accountable by reason of mailing any material pursuant to a request made under said subsection (b).

Section 7.03. (a) The Company covenants and agrees to file with the Trustee within fifteen days after the Company is required to file the same with the Securities and Exchange Commission, copies of the annual reports and of the information, documents and other report (or copies of such portions of any of the foregoing as said Commission may from time to time by rules and regulations prescribe) which the Company may be required to file with said Commission pursuant to Section 13 or Section 1(d) of the Securities Exchange Act of 1934 or, if the Company is not required to file information, documents or reports pursuant to

either of such sections then to file with the Trustee and said Commission, in accordance with rules and regulations prescribed from time to time by said Commission, such of the supplementary and periodic information, documents and reports which may be required pursuant to Section 13 of the Securities Exchange Act of 1934 in respect of a security listed and registered on a national securities exchange as may be prescribed from time to time in such rules and regulations.

(b) The Company covenants and agrees to file with the Trustee and the Securities and Exchange Commission, in accordance with the rules and regulations prescribed from time to time by said Commission, such additional information, documents, and reports with respect to compliance by the Company with the conditions and covenants provided for in this Indenture as may be required from time to time by such rules and regulations.

(c) The Company covenants and agrees

to transmit to the holders Of Debentures within thirty days after the filing thereof with the Trustee in the manner and to the extent provided in subsection (c) of Section 7.04 with respect to reports pursuant to subsection (a) of said Section 7.04, such summaries of any information, documents and reports required to be filed by the Company pursuant to subsections (a) and (b) of this Section 7.03 as may be required by rules and regulations prescribed from time to time by the Securities and Exchange Commission.

Section 7.04. (a) On or before November 15, 1994, and on or before November 15 in every year thereafter, so long as any Debentures are outstanding hereunder, the Trustee shall transmit to the debentureholders as hereinafter in this Section 7.04 provided, a brief report dated as of September 15 of the year in which such report is made with respect to:

(1) its eligibility under Section 9.09, and its qualifications under Section 9.08, or in lieu thereof, if to the best of its knowledge it has continued to be eligible and qualified under such

actions, a written statement to such effect;

(2) the character and amount of any advances (and if the Trustee elects so to state, the circumstances surrounding the making thereof) made by the Trustee (as such) which remain unpaid on the date of such report, and for the reimbursement of which it claims or may claim a lien or charge, prior to that of the Debentures, on any property or funds held or collected by it as Trustee, except that the Trustee shall not be required (but may elect) to state such advances if such advances so remaining unpaid aggregate not more than one-half of one per cent of the principal amount of the Debentures outstanding on the date of such report;

(3) the amount, interest rate, and maturity date of all other indebtedness owing by the Company (or by any other obligor on the Debentures) to the Trustee in its individual capacity, on the date of such report, with a brief description of any property held as collateral security therefor, except any indebtedness based upon a creditor relationship arising in any manner described in paragraphs (2), (3), (4), or (6) of subsection (b) of Section 9.13;

(4) the property and funds, if any, physically in the possession of the Trustee as such on the date of such report; and

(5) any action taken by the Trustee in the performance of its duties under this Indenture which it has not previously reported and which in its opinion materially affects the Debentures, except action in respect of a default, notice of which has been or is to be withheld by it in accordance with the provisions of Section 8.07.

(b) The Trustee shall transmit to the debentureholders, as hereinafter provided, a brief report with respect to the character and amount of any advances (and if the Trustee elects so to state, the circumstances surrounding the making thereof) made by the Trustee (as such) since the date of the last report transmitted pursuant to the provisions of subsection (a) of this Section 7.04 (or if no such report has yet been so transmitted, since the date of execution of this Indenture), for the reimbursement of which it claims or may claim a lien or charge prior to that of the Debentures on property or funds held or collected by it as Trustee, and which it has not previously reported pursuant to this subsection, except that the Trustee shall not be required (but may elect) to report such advances if such advances remaining unpaid at any time aggregate

ten per cent or less of the principal amount of Debentures outstanding at such time, such report to be transmitted within ninety days after such time.

(c) Reports pursuant to this Section 7.04 shall be transmitted by mail to all holders of Debentures, as the names and addresses of such holders shall appear upon the registration books of the Company.

(d) A copy of each such report shall, at the time of such transmission to debentureholders, be filed by the Trustee with each stock exchange upon which the Debentures are listed and also with the Securities and Exchange Commission. The Company agrees to notify the Trustee where and as the Debentures become listed on any stock exchange and the Trustee shall have no duty to file copies of any reports as aforesaid until so notified.

ARTICLE 8.

Remedies of the Trustee and Debentureholders in Event of Default.

Section 8.01. In case one or more of the following Events of Default shall have occurred and be continuing, that is to say:

(a) default in the payment, whether or not prohibited by the provisions of Article Three, of any instalment of interest upon any of the Debentures as and when the same shall become due and payable, and continuance of such default for a period of thirty days; or

(b) default in the payment, whether or not prohibited by the provisions of Article Three, of the principal of (and premium, if any, on) any of the Debentures as and when the same shall become due and payable either at maturity, upon redemption, by declaration or otherwise; or

(c) failure on the part of the Company duly to observe or perform in any material respect any other of the

covenants, conditions or agreements on the part of the Company in the Debentures or in this Indenture contained, for a period of sixty days after the date on which written notice of such failure, requiring the same to be remedied, shall have been given to the Company by the Trustee, or to the Company and the Trustee by the holders of at least twenty-five per cent in principal amount of the Debentures at the time outstanding under this Indenture; or

(d) an event of default as defined in any mortgage, indenture or instrument, under which there may be issued, or by which there may be secured or evidenced, any indebtedness of the Company, whether such indebtedness now exists or shall hereafter be created, shall happen and such indebtedness shall be due or such default shall result in such indebtedness becoming or being declared due and payable prior to the date on which it would otherwise become due and payable, and such acceleration shall not be rescinded or annulled within ten days after written notice to the Company from the Trustee or to the Company and to the Trustee from the holders of not less than twenty-five percent in principal amount of the Debentures then outstanding under this Indenture; or

(e) a decree or order by a court having jurisdiction in the premises shall have been entered adjudging the Company a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization of the Company under the National Bankruptcy Act or any other similar applicable Federal or State law, and such decree or order shall have continued undischarged or unstayed for a period of ninety days; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver or trustee or assignee in bankruptcy or insolvency of the Company or of its property, or for the winding up or liquidation of its affairs, shall have been entered, and such decree or order shall

have remained in force undischarged and unstayed for a period of ninety days; or

(f) the Company shall institute proceedings to be adjudicated a voluntary bankrupt, or shall consent to the institution of a bankruptcy proceeding against it, or shall file a petition or answer or consent seeking reorganization under the National Bankruptcy Act or any other similar applicable Federal or State law, or shall consent to the filing of any such petition, or shall consent to the appointment of a receiver or trustee or assignee in bankruptcy or insolvency of it or of its property, or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or corporate action shall be taken by the Company in furtherance of any of the aforesaid purposes:

Then and in each and every such case, unless the principal of all the Debentures shall have already become due and payable, either the Trustee or the holders of not less than twenty-five per cent in aggregate principal amount of the Debentures then outstanding hereunder, by notice in writing to the Company (and to the Trustee if given by debentureholders), may declare the principal of all the Debentures to be due and payable immediately, and upon any such declaration the

same shall become and shall be immediately due and payable, anything in this Indenture or in the Debentures contained to the contrary notwithstanding. This provision, however, is subject to the condition that if, at any time after the principal of the Debentures shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the Company shall pay or shall deposit with the Trustee a sum sufficient to pay all matured installments of interest upon all the Debentures and the principal of (and premium, if any, on) any and all Debentures which shall have become due otherwise than by

declaration (with interest on overdue installments of interest to the extent permitted by law, and on such principal and premium, if any, at the rate of interest borne by the Debentures to the date of such payment or deposit) and the amounts payable to the Trustee under Section 9.06, and any and all defaults under the Indenture, other than the non-payment of principal of and accrued interest on Debentures which shall have become due by declaration, shall have been remedied--then and in every such case the holders of a majority in aggregate principal amount of the Debentures then outstanding, by written notice to the Company and to the Trustee, may waive all defaults and rescind and annul such declaration and its consequences; but no such waiver or rescission and annulment shall extend to or shall affect any subsequent default, or shall impair any right consequent thereon.

In case the Trustee shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned because of such rescission or annulment or for any other reason or shall have been determined adversely to the Trustee, then and in every such case the Company, the Trustee and the holders of the Debentures shall be restored respectively to their former positions and rights hereunder, and all rights, remedies and powers of the Company and the Trustee and the holders of the Debentures shall continue as though no such proceedings had been taken.

Section 8.02. The Company covenants that (1) in case default shall be made in the

payment of any installment of interest on any of the Debentures, as and when the same shall become due and payable, and such default shall have continued for a period of thirty days, or (2) in case default shall be made in the payment of the principal of (and premium, if any, on) any of the Debentures when the same shall have become due and payable, whether upon maturity of the Debentures or upon redemption or upon declaration or otherwise--then, upon demand of the Trustee, the Company will pay to the Trustee, for the benefit of the holders of the

Debentures, the whole amount that then shall have become due and payable on all such Debentures for principal (and premium, if any), or interest, or both, as the case may be, with interest upon the overdue principal (and premium, if any) and installments of interest (to the extent permitted by law) at the rate of interest borne by the Debentures; and in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including a reasonable compensation to the Trustee, its agents, attorneys and counsel, and any expenses or liabilities incurred, and all advances made, by the Trustee hereunder.

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

In case there shall be pending proceedings for the bankruptcy or for the reorganization of the Company or any other obligor upon the Debentures under the National Bankruptcy Act or any other applicable law or in connection with the insolvency of the Company or any other obligor upon the Debentures or in case a receiver or trustee shall have been appointed for its property, or in case of any other

judicial proceedings relative to the Company or any other obligor upon the Debentures or to creditors or property of the Company or such other obligor, the Trustee, irrespective of whether the principal of the Debentures shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made demand pursuant to the provisions of this Section 8.02,

shall be entitled and empowered by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount of principal, premium, if any, and interest owing and unpaid in respect of the Debentures, and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and of the debentureholders allowed in any judicial proceeding relative to the Company or any other obligor upon the Debentures, its creditors, or its property and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute the same after the deduction of the amounts payable to the Trustee under Section 9.06; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized by each of the debentureholders 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 debentureholders, to pay to the Trustee any amount due it under Section 9.06. To the extent that payment of such amounts out of the estate in any such proceedings shall be denied for any reason, payment of the same shall be secured by a lien on, and shall be paid out of, any and all distributions, dividends, moneys, securities and other property which the holders of the Debentures may be entitled to receive in such proceedings, whether in liquidation or under any plan of reorganization or arrangement or otherwise.

All rights of action and of asserting claims under this Indenture, or under any of the Debentures, may be enforced by the Trustee without the possession of any of the Debentures, or the production thereof on any trial or other proceeding relative thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall be for

the ratable benefit of the holders of the Debentures.

Section 8.03. Subject to the provisions of Article Three, any moneys collected by the Trustee pursuant to Section 8.02 shall be applied in the order following, at

the date or dates filed by the Trustee for the distribution of such moneys, upon presentation of the several Debentures, and stamping thereon the payment, if only partially paid, and upon surrender thereof if fully paid:

First: To the payment of costs and expenses of collection, and of all amounts payable to the Trustee under Section 9.06;

Second: In case the principal of the outstanding Debentures shall not have become due and be unpaid, to the payment of interest on the Debentures, in the order of the maturity of the installments of such interest, with interest upon the overdue installments of interest (so far as permitted by law and to the extent that such interest has been collected by the Trustee) at the rate of interest borne by the Debentures, such payment to be made ratably to the persons entitled thereto, without discrimination or preference;

Third: In case the principal of the outstanding Debenture shall have become due, by declaration or otherwise to the payment of the whole amount then owing and unpaid upon the Debentures for principal (and premium, if any) and interest, with interest on the overdue principal (and premium, if any) and installments of interest (so far as permitted by law and to the extent that such interest has been collected by the Trustee) at the rate of interest borne by the Debentures; and in case such moneys shall be insufficient to pay in full the whole amount so due and unpaid upon the Debentures, then to the payment of such principal (and premium, if any)

and interest, without preference or priority of principal (and premium, if any) over interest or of interest over principal (and premium, if any) or of

an instalment of interest over any other instalment of interest, ratably to the aggregate of such principal (and premium, if any) and accrued and unpaid interest; and

Fourth: To the payment of the remainder, if any, to the Company, its successors or assigns, or to whosoever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

Section 8.04. Except as otherwise expressly provided in Section 8.09, no holder of any Debenture shall have any right by virtue or by availing of any provision of this Indenture to institute any suit action or proceeding in equity or at law upon or under or with respect to this Indenture or for the appointment of a receiver or trustee, or for an other remedy hereunder, unless such holder previously shall have given to the Trustee written notice of default and of the continuance thereof as hereinbefore provided, and unless also the holders of not less than twenty-five per cent, in aggregate principal amount of the Debenture then outstanding shall have made written request upon the Trustee to institute such action, suit or proceeding in its own name as trustee hereunder and shall have offered to the Trustee such reasonable indemnity as it may require against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee, for sixty days after its receipt of such notice, request and offer of indemnity, shall have neglected or refused to institute any such action, suit or proceeding and no direction inconsistent with such written request shall have been given to the Trustee pursuant to Section 8.06; it being understood and intended, and being expressly covenanted by the taker and holder of every Debenture with every other taker and holder and the Trustee, that no one or more holders of Debentures shall have any right in any manner whatever by virtue or by availing of any provision of this Indenture to affect, disturb or prejudice the rights of the holders

of any other of such Debentures, or to obtain or seek to obtain priority over or preference to any other such holder, or to enforce any right under this Indenture, except in the manner herein provided and for the equal, ratable and common benefit of all holders of Debentures. For the protection and enforcement of the provisions of this Section 8.04, each and every debentureholder and the Trustee shall be entitled to such relief as can be given either at law or in equity.

Notwithstanding any other provisions in this Indenture, but subject to the provisions of Article Three, however, the right of any holder of any Debenture to receive payment of the principal of (and premium, if any) and interest on such Debenture, on or after the respective due dates expressed in such Debenture, or to institute suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such holder.

Section 8.05. In case of a default hereunder the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any of such rights, either by suit in equity or by action at law or by proceeding in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture or in aid of the exercise of any power granted in this Indenture, or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law. All powers and remedies given by this Article Eight to the Trustee or to the debentureholders shall, to the extent permitted by law, be deemed cumulative and not exclusive of any thereof or of any other powers and remedies available to the Trustee or the holders of the Debentures, by judicial proceedings or otherwise, to enforce the performance or observance of the covenants and agreements contained in this Indenture, and no delay or omission of the Trustee or of any holder of any of the Debentures to exercise any right or power accruing upon any default occurring and continuing as aforesaid shall impair any such right or power, or shall be

construed to be a waiver of any such default or

an acquiescence therein; and, subject to the provisions of Section 8.04, every power and remedy given by this Article Eight or by law to the Trustee or to the debentureholders may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or by the debentureholders

Section 8.06. The holders of a majority in aggregate principal amount of the Debentures at the time outstanding (determined as provided in Section 10.04) shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee; provided, however, that, subject to Section 9.01, the Trustee shall have the right to decline to follow any such direction if the Trustee being advised by counsel determines that the action so directed may not lawfully be taken, or if the Trustee in good faith shall, by a responsible officer or officers of the Trustee, determine that the proceedings so directed would be illegal or involve it in personal liability, and provided further that nothing in this Indenture shall impair the right of the Trustee in its discretion to take any action deemed proper by the Trustee and which is not inconsistent with such direction by the debentureholders. Prior to the declaration of the maturity of the Debentures as provided in Section 8.01 hereof, the holders of a majority in aggregate principal amount of the Debentures at the time outstanding (determined as provided in Section 10.04) may on behalf of the holders of all of the Debentures waive any past default hereunder and its consequences, except a default in the payment of interest or premium on, or the principal of, any of the Debentures. In the case of any such waiver the Company, the Trustee and the holders of the Debentures shall be restored to their former positions and rights hereunder, respectively; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 8.07. The Trustee shall,

within ninety days after the occurrence of any default hereunder, give to the debentureholders in the manner and to the extent provided in subsection (c) of Section 7.04 with respect to

reports pursuant to subsection (a) of said Section 7.04, notice of such default known to the Trustee unless such default shall have been cured or waived before the giving of such notice (the term "default" for the purposes of this Section 8.07 being hereby defined to be the events specified in clauses (a), (b), (c), (d), (e) and (f) of Section 8.01, not including any periods of grace provided for in clauses (a), (c), (d) and (e), respectively, and irrespective of the giving of notice specified in clauses (c) and (d)); provided, that, except in the case of default in the payment of the principal of (and premium, if any) or interest on any of the Debentures, the 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 the Trustee in good faith determines that the withholding of such notice is in the interest of the debentureholders.

Section 8.08. All parties to this Indenture agree, and each holder of any Debenture 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 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 8.08 shall not apply to any suit instituted by the Trustee, to any suit instituted by any debentureholder, or group of debentureholders, holding in the aggregate more than ten per cent in aggregate principal amount of the Debentures outstanding, or to any suit

instituted by any debentureholder for the enforcement of the payment of the principal of (and premium, if any) or interest on any Debenture, on or after the due date expressed in such Debenture or for the enforcement of his right to convert his Debenture as provided in Article Four.

Section 8.09. Anything in this Indenture to the contrary notwithstanding, the holder of any Debenture, without reference to and without the consent of either the Trustee or the holder of any other Debenture, in his own behalf and for his own benefit may enforce, and may institute and maintain any proceedings suitable to enforce, his right to convert his Debenture into Common Stock as provided in Article Four.

ARTICLE 9.

Concerning the Trustee.

Section 9.01. The Trustee, prior to the occurrence of an Event of Default and after the curing or waiving of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default has occurred (which has not been cured or waived) the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, provided, however, that

(a) prior to the occurrence of an Event of Default and after the curing or waiving of all Events of Default which may have occurred:

(1) the duties and obligations of the Trustee shall be determined solely by the express provisions of this

Indenture and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into

this Indenture against the Trustee; and

(2) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture;

(b) the Trustee shall not be liable for any error of judgment made in good faith by a responsible officer or officers of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts; and

(c) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of not less than a majority in principal amount of the Debentures at the time outstanding (determined as provided in Section 10.04) relating to the time, method and place of conducting any proceeding for any remedy available to the

Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture.

(d) the Trustee shall not be deemed to have knowledge of any occurrence or event which would constitute or with notice of the lapse of time or both, would constitute and Event of Default pursuant to Section

8.01(c), (d), (e) or (f), unless and until it has actual knowledge or has received written notification of such occurrence or event from the Company or a Debentureholder.

None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers, if there is reasonable ground for believing that the repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

Section 9.02. Except as otherwise provided in Section 9.01:

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

(b) Any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by an instrument signed in the name of the Company by the President or any Vice President and the Secretary or an Assistant Secretary or the Treasurer or an Assistant Treasurer (unless other evidence in respect thereof be herein

specifically prescribed); and any resolution of the Board of Directors of the Company may be evidenced to the Trustee by a copy thereof certified by the Secretary or an Assistant Secretary of the Company;

(c) 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 accordance with such advice or Opinion of Counsel;

(d) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the debentureholders, pursuant to the provisions of this Indenture, unless such debentureholders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which may be incurred therein or thereby;

(e) The Trustee shall not be liable for any action taken or omitted by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture;

(f) Prior to the occurrence of an Event of Default hereunder and after the curing of all Events of Default, 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, consent, order, approval, bond, debenture or other paper or document, unless requested in writing so to do by the holders of not less

than a majority in aggregate principal amount of the Debentures then outstanding; provided, however, that if the payment within a reasonable time to the Trustee of the costs, expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Trustee, not reasonably assured to the Trustee by the security afforded to it by the terms of this Indenture, the Trustee may require reasonable indemnity against such costs, expenses or liabilities as a condition to so proceeding; and provided further, that nothing in this subparagraph (f) shall

require the Trustee to give the debentureholders any notice other than that required by Section 8.07. The reasonable expense of every such examination shall be paid by the Company or, if paid by the Trustee, shall be repaid by the Company upon demand;

(g) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care hereunder; and

(h) The Trustee shall be under no responsibility for the approval by it in good faith of any expert for any of the purposes expressed in this Indenture.

Section 9.03. The recitals contained herein and in the Debentures (other than the certificate of authentication on the Debentures) shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the

Debentures. The Trustee shall not be accountable for the use or application by the Company of any of the Debentures or of the proceeds of such Debentures, or for the use or application of any moneys paid over by the Trustee in accordance with any provision of this Indenture, or for the use or application of any moneys received by any paying agent other than the Trustee.

Section 9.04. The Trustee or any paying agent, conversion agent or Debenture registrar, in its individual or any other capacity, may become the owner or pledgee of Debentures with the same rights it could have if it were not Trustee, paying agent, conversion agent or Debenture registrar.

The Trustee shall be entitled to all the rights set forth in Article Three in respect

of any Senior Indebtedness at any time held by it, to the same extent as any other holder of Senior Indebtedness and nothing in Section 9.13 or elsewhere in this Indenture shall be construed to deprive the Trustee of any of its rights as such holder.

Section 9.05 Subject to the provisions of Section 14.04 hereof, all moneys received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any moneys received by it hereunder except such as it may agree with the Company to pay thereon. So long as no Event of Default shall have occurred and be continuing, all interest allowed on any such moneys shall be paid from time to time upon the written order of the Company, signed by its President or any Vice President or its Treasurer or an Assistant Treasurer.

Section 9.06 The Company covenants and agrees to pay to the Trustee from time to time, and the Trustee shall be entitled to, reasonable compensation (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust)

for all services rendered by it in the execution of the trusts hereby created and in the exercise and performance of the powers and duties hereunder of the Trustee, and the Company will pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in connection with the acceptance or administration of its trust under this Indenture (including the reasonable compensation and the expenses and disbursements of its counsel and of all persons not regularly in its employ) except any such expense, disbursement or advance as may arise from its negligence or bad faith. The Company also covenants to indemnify Trustee for, and to hold it harmless against any loss liability or expense incurred without negligence or bad faith on the part of the Trustee and arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending itself against any claim of liability in the premises. The

obligations of the Company under this Section 9.06 to compensate the Trustee and to pay or reimburse the Trustee for expenses, disbursements and advances shall constitute additional indebtedness hereunder and shall survive the satisfaction and discharge of this Indenture. Such additional indebtedness shall be secured by a lien prior to that of the Debentures upon all property and funds held or collected by the Trustee as such, except funds held in trust for the benefit of the holders of particular Debentures.

Section 9.07. Except as otherwise provided in Section 9.01, whenever in the administration of the provisions of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or bad faith on the part of the Trustee, be deemed to be conclusively proved and established by an Officers' Certificate delivered to the Trustee, and such Certificate, in the absence of negligence or bad faith on the

part of the Trustee, shall be full warrant to the Trustee for an action taken, suffered or omitted by it under the provisions of this Indenture upon the faith thereof.

Section 9.08. (a) If the Trustee has or shall acquire any conflicting interest, as defined in this Section 9.08, it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in Section 9.10, such resignation to become effective upon the appointment of a successor trustee and such successor's acceptance of such appointment, and the Company shall take prompt steps to have a successor appointed in the manner provided in Section 9.10.

(b) In the event that the Trustee shall fail to comply with the provisions of subsection (a) of this Section 9.08, the Trustee shall, within ten days after the expiration of such ninety-day period, transmit notice of such failure to the debentureholders in the manner

and to the extent provided in subsection (c) of Section 7.04 with respect to reports pursuant to subsection (a) of said Section 7.04.

(c) For the purposes of this Section 9.08 the Trustee shall be deemed to have a conflicting interest if

(1) the Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities of the Company, are outstanding, unless such other indenture is a collateral trust indenture under which the only collateral consists of Debentures issued under this Indenture, provided that there shall be excluded from the operation of this paragraph any other indenture or indentures under which other securities, or certificates of interest or participation in other securities, of the Company are

outstanding if (i) this Indenture and such other indenture or indentures are wholly unsecured and such other indenture or indentures are hereafter qualified under the Trust Indenture Act of 1939, as amended, unless the Securities and Exchange Commission shall have found and declared by order pursuant to subsection (b) of Section 305 or subsection (c) of Section 307 of the Trust Indenture Act of 1939, as amended, that differences exist between the provisions of this Indenture and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture and such other indenture or indentures, or (ii) the Company shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that the trusteeship under this Indenture and such other

indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures;

(2) the Trustee or any of its directors or executive officers is an obligor upon the Debentures or an underwriter for the Company;

(3) the Trustee directly or indirectly controls or is directly or indirectly controlled by or is under direct or indirect common control with the Company or an underwriter for the Company;

(4) the Trustee or any of its

directors or executive officers is a director, officer, partner, employee, appointee, or representative of the Company, or of an underwriter (other than the Trustee itself) for the Company who is currently engaged in the business of underwriting, except that (A) one individual may be a director and/or an executive officer of the Trustee and a director and/or an executive officer of the Company, but may not be at the same time an executive officer of both the Trustee and the Company; (B) if and so long as the number of directors of the Trustee in office is more than nine, one additional individual may be a director and/or an executive officer of the Trustee and a director of the Company; and (C) the Trustee may be designated by the Company or by an underwriter for the Company to act in the capacity of transfer agent, registrar, custodian, paying agent, fiscal agent, escrow agent, or depository, or in any other similar capacity, or, subject to the provisions of paragraph (1) of this subsection (c), to act as trustee whether under an indenture or otherwise;

(5) ten per cent or more of the voting securities of the Trustee is beneficially owned by the Company or by any director, partner, or executive officer thereof, or twenty per cent or more of such voting securities is beneficially owned, collectively, by any two or more of such persons; or ten per cent or more of the voting securities of the Trustee is beneficially owned either by an underwriter for the Company or by any director, partner, or executive officer thereof, or is beneficially owned, collectively, by any two or more such persons;

(6) the Trustee is the beneficial owner of, or holds as

collateral security for an obligation which is in default, (A) five per cent or more of the voting securities, or ten per cent or more of any other class of security, of the Company, not including the Debentures issued under this Indenture and securities issued under any other indenture under which the Trustee is also trustee, or (B) ten per cent or more of any class of security of an underwriter for the Company;

(7) the Trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default, five per cent or more of the voting securities of any person who, to the knowledge of the Trustee, owns ten per cent or more of the voting securities of, or controls directly or indirectly or is under direct or indirect common control with, the Company;

(8) the Trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default, ten per cent or more of any class of security of any person who, to the knowledge of the Trustee, owns fifty per cent or more

of the voting securities of the Company; or

(9) the Trustee owns on May 15 in any calendar year, in the capacity of executor, administrator, testamentary or inter vivos trustee, guardian, committee or conservator, or in any other similar capacity, an aggregate of twenty-five per cent or more of the voting securities or of any class of security, of any person, the beneficial ownership of a specified percentage of which could have constituted a conflicting interest under paragraph (6), (7), or (8) of this subsection (c). As to any

such securities of which the Trustee acquired ownership through becoming executor, administrator, or testamentary trustee of an estate which included them, the provisions of the preceding sentence shall not apply, for a period of two years from the date of such acquisition, to the extent that such securities included in such estate do not exceed twenty-five per cent of such voting securities or twenty-five per cent of any such class of security. Promptly after May 15, in each calendar year, the Trustee shall make a check of its holdings of such securities in any of the above-mentioned capacities as of May 15. If the Company fails to make payment in full of principal of or interest on any of the Debentures when and as the same become due and payable and such failure continues for thirty days thereafter, the Trustee shall make a prompt check of its holdings of such securities in any of the above-mentioned capacities as of the date of the expiration of such thirty-day period, and after such date, notwithstanding the foregoing provisions of this paragraph (9), all such securities so held by the Trustee, with sole or joint control over such securities vested in it, shall but only so long as such failure shall continue, be considered as

though beneficially owned by the Trustee for the purposes to paragraphs (6), (7) and (8) of this subsection (c).

The specifications of percentages in paragraphs (5) to (9), inclusive, of this subsection (c) shall not be construed as indicating that the ownership of such percentages of the securities of a person is or is not necessary or sufficient to constitute direct or indirect control of the purposes of paragraphs (3) or (7) of this subsection (c).

For the purposes of paragraphs (6),

(7), (8), and (9) of this subsection (c) only, (A) the terms "security" and "securities" shall include only such securities as are generally known as corporate securities, but shall not include any note or other evidence of indebtedness issued to evidence an obligation to repay moneys lent to a person by one or more banks, trusts companies or banking firms, or any certificate of interest or participation in any such note or evidence of indebtedness (B) an obligation shall be deemed to be in default when a default in payment of principal shall have continued for thirty days or more and shall not have been cured; and (C) the Trustee shall not be deemed to be the owner or holder of (i) any security which it holds as collateral security (as trustee or otherwise) for an obligation which is not in default as defined in clause (B) above, or (ii) any security which it holds as collateral security under this Indenture, irrespective of any default hereunder, or (iii) any security which it holds as agent for collection or as custodian, escrow agent, or depository, or in any similar representative capacity.

(d) For the purposes of this Section

9.08:

(1) The term "underwriter" when used with reference to the Company shall mean every person, who, within three years prior to the time as of which the determination is made, has purchased from the Company with a view to, or has offered or sold for the Company in connection with, the distribution of any security of the

Company outstanding at such time, or has participated or has had a direct or indirect participation in any such undertaking, or has participated or has had a participation in the direct or indirect underwriting of any such undertaking but such term shall not include a person whose interest was limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors'

or sellers' commission.

(2) The term "director" shall mean any director of a corporation or any individual performing similar functions with respect to any organization whether incorporated or unincorporated.

(3) The term "person" shall mean an individual, a corporation a partnership, an association, a joint-stock company, a trust, an unincorporated organization, or a government or political subdivision thereof. As used in this paragraph, the term "trust" shall include only a trust where the interest or interests of the beneficiary or beneficiaries are evidenced by a security.

(4) The term "voting security" shall mean any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a person, or any security issued under or pursuant to any trust, agreement or arrangement whereby a trustee or trustees or agent or agents for the owner or holder of such security are presently entitled to vote in the direction or management of the affairs of a person.

(5) The term "Company" shall mean any obligor upon the Debentures.

(6) The term "executive officer" shall mean the president, every vice-president, every trust officer, the cashier, the secretary, and the

treasurer of a corporation, and any individual customarily performing similar functions with respect to any organization whether incorporated or unincorporated, but shall not include the chairman of the board of directors.

The percentages of voting securities and other securities specified in this Section 9.08 shall be calculated in accordance with the following provisions:

(A) A specified percentage of the voting securities of the Trustee, the Company or any other person referred to in this Section 9.08 (each of whom is referred to as a "person" in this paragraph) means such amount of the outstanding voting securities of such person as entitles the holder or holders thereof to cast such specified percentage of the aggregate votes which the holders of all the outstanding voting securities of such person are entitled to cast in the direction or management of the affairs of such person.

(B) A specified percentage of a class of securities of a person means such percentage of the aggregate amount of securities of the class outstanding.

(C) The term "amount", when used in regard to securities means the principal amount if relating to evidences of indebtedness, the number of shares if relating to capital shares, and the number of units if relating to any other kind of security.

(D) The term "outstanding" means issued and not held by or for the account of the issuer. The following securities shall not be deemed outstanding within the meaning of this definition:

(i) Securities of an issuer held in a sinking fund relating to securities of the issuer of the same class;

(ii) Securities of an issuer held in a sinking fund relating

to another class of securities of the issuer, if the obligation evidenced by such other class of securities is not in default as to principal or interest or otherwise

(iii) Securities pledged by the issuer thereof as security for an obligation of the issuer not in default as to principal or interest or otherwise;

(iv) Securities held in escrow if placed in escrow by the issuer thereof;

provided, however, that any voting securities of an issuer shall be deemed outstanding if any person other than the issuer is entitled to exercise the voting rights thereof.

(E) A security shall be deemed to be of the same class as another security if both securities confer upon the holder or holders thereof substantially the same rights and privileges, provided, however, that, in the case of secured evidences of indebtedness, all of which are issued under a single indenture, differences in the interest rates or maturity dates of various series thereof shall not be deemed sufficient to constitute such series different classes, and provided, further, that, in the case of unsecured evidences of indebtedness, differences in the interest rate or maturity dates thereof shall not be deemed sufficient to constitute them securities of different classes, whether or not they are issued under a single indenture.

Section 9.09. The Trustee hereunder shall at all times be a corporation organized and doing business under the laws of the United States or any State or territory thereof or of the District of Columbia authorized under such

laws to exercise corporate trust powers, having a combined capital and surplus of at least five million dollars, subject to supervision or examination by Federal, State, Territorial, or District of Columbia authority and having its principal office and place of business in El Paso, Texas. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section 9.09, 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. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 9.09, the Trustee shall resign immediately in the manner and with the effect specified in Section 9.10.

Section 9.10. (a) The Trustee, or any trustee hereafter appointed may at any time resign by giving written notice of such resignation to the Company and by giving to the debentureholders notice thereof in the manner and to the extent provided in subsection (c) of Section 7.04 with respect to reports pursuant to subsection (a) of said Section 7.04. Upon receiving such notice of resignation and if the Company shall deem it appropriate evidence satisfactory to it of such mailing the Company shall promptly appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors of the Company, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee. If no successor trustee shall have been so appointed and have accepted appointment within thirty days after the mailing of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor trustee, or any debentureholder who has been a bona fide holder of a Debenture or Debentures for at least six months may, subject to the provisions of Section 8.08 on behalf of himself and all others similarly situated, petition any

such court for the appointment of a successor trustee. Such court may thereupon after such

notice, if any, as it may deem proper, appoint a successor trustee.

(b) In case at any time any of the following shall occur--

(1) the Trustee shall fail to comply with the provisions of subsection (a) of Section 9.08 after written request therefor by the Company or by any debentureholder who has been a bona fide holder of a Debenture or Debentures for at least six months or

(2) the Trustee shall cease to be eligible in accordance with the provisions of Section 9.09 and shall fail to resign after written request therefor by the Company or by any such debentureholder, or

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

then, in any such case, the Company may remove the Trustee and appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors of the Company, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or, subject to the provisions of Section 8.08, any debentureholder who has been a bona fide holder of a Debenture or Debentures for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

(c) The holders of a majority in aggregate principal amount of the Debentures at the time outstanding (determined as provided in Section 10.04) may at any time remove the Trustee and appoint a successor trustee by written instrument or instruments signed by such holders or their attorneys-in-fact duly authorized, or by the affidavits of the permanent chairman and secretary of a meeting of the debentureholders evidencing the vote upon a resolution or resolutions submitted thereto with respect to such removal and appointment (as provided in Article Eleven), and by delivery thereof to the Trustee so removed to the successor trustee and to the Company.

(d) Any resignation or removal of the Trustee and appointment of a successor trustee pursuant to any of the provisions of this Section 9.10 shall become effective upon acceptance of appointment by the successor trustee as provided in Section 9.11.

Section 9.11. Any successor trustee appointed as provided in Section 9.10 shall execute, acknowledge and deliver to the Company and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights powers, duties and obligations of its predecessor hereunder, with like effect as if originally named as trustee herein; but, nevertheless, on the written request of the Company or of the successor trustee, the trustee ceasing to act shall, upon payment of any amounts then due it pursuant to the provisions of Section 9.06, execute and deliver an instrument transferring to such successor trustee all the rights and powers of the trustee so ceasing to act. Upon request of any such successor trustee, the Company shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any trustee ceasing to act shall, nevertheless, retain a lien upon all property or funds held or collected by such trustee to secure any amounts

then due it pursuant to the provisions of Section 9.06.

No successor trustee shall accept appointment as provided in this Section 9.11 unless at the time of such acceptance such successor trustee shall be qualified under the provisions of Section 9.08 and eligible under the provisions of Section 9.09.

Upon acceptance of appointment by a successor trustee as provided in this Section 9.11, the successor trustee shall at the expense of the Company transmit notice of the succession of such trustee hereunder to the debentureholders in the manner and to the extent provided in subsection (c) of Section 7.04 with respect to reports pursuant to subsection (a) of said Section 7.04.

Section 9.12. Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger or conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to the business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation shall be qualified under the provisions of Section 9.08 and eligible under the provisions of Section 9.09, without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture any of the Debentures shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor Trustee, and deliver such Debentures so authenticated; and in case at that time any of the Debentures shall not have been authenticated, any successor to the Trustee may authenticate such Debentures either in the name of any predecessor hereunder or in the name of the successor Trustee; and in any such case such certificate shall have the full force which it is anywhere in the Debentures or in this Indenture provided that the certificate of the Trustee shall have; provided, however, that the right to adopt the certificate of authentication

of any predecessor trustee or authenticate Debentures in the name of an predecessor trustee shall apply only to its successor or successors by merger, conversion or, consolidation.

Section 9.13 (a) Subject to the provision of subsection (b) of this Section 9.13, if the Trustee shall be or shall become a creditor, directly or indirectly, secured or unsecured, of the Company or of any other obligor on the Debentures within four months prior to a default, as defined in subsection (c) of this Section 9.13, or subsequent to such a default, then, unless and until such default shall be cured, the Trustee shall set apart and hold in a special account for the benefit of the Trustee individually, the holders of the Debentures, and the holders of other indenture securities (as defined in subsection (c) of this Section 9.13)

(1) an amount equal to any and all reductions in the amount due and owing upon any claim as such creditor in respect of principal or interest, effected after the beginning of such four months' period, and valid as against the Company and its other creditors, except any such reduction resulting from the receipt or disposition of any property described in paragraph (2) of this subsection, or from the exercise of any right of set-off which the Trustee could have exercised if a petition in bankruptcy had been filed by or against the Company upon the date of such default; and

(2) all property received by the Trustee in respect of any claims as such creditor, either as security therefor, or in satisfaction or composition thereof, or otherwise, after the beginning of such four months' period, or an amount equal to the proceeds of any such property if disposed of, subject, however, to the rights, if any, of the Company and its other creditors in such property or such proceeds.

Nothing herein contained, however, shall affect the right of the Trustee

(A) to retain for its own account (i) payments made on account

of any such claim by any person (other than the Company) who is liable thereon, and (ii) the proceeds of the bona fide sale of any such claim by the Trustee to a third person, and (iii) distributions made in cash, securities, or other property in respect of claims filed against the Company in bankruptcy or receivership or in proceedings for reorganization pursuant to the National Bankruptcy Act or applicable State laws;

(B) to realize, for its own account, upon any property held by it as security for any such claim, if such property was so held prior to the beginning of such four months' period;

(C) to realize, for its own account, but only to the extent of the claim hereinafter mentioned, upon any property held by it as security for any such claim, if such claim was created after the beginning of such four months' period and such property was received as security therefor simultaneously with the creation thereof, and if the Trustee shall sustain the burden of proving that at the time such property was so received, the Trustee had no reasonable cause to believe that a default, as defined in subsection (c) of this Section 9.13, would occur within four months; or

(D) to receive payment on any claim referred to in paragraph (B) or (C), against the release of any property held as security for such claim as provided in such paragraph (B) or (C), as the case may be, to the

extent of the fair value of such property.

For the purposes of paragraphs (B), (C), and (D), property substituted after the beginning of such four months' period for property held as security at the time of such substitution shall, to the extent of the fair value of the property released, have the same

status as the property released, and to the extent that any claim referred to in any of such paragraphs is created in renewal of or in substitution for or for the purpose of repaying or refunding any pre-existing claim of the Trustee as such creditor, such claim shall have the same status as such pre-existing claim.

If the Trustee shall be required to account, the funds and property held in such special account and the proceeds thereof shall be apportioned between the Trustee, the debentureholders and the holders of other indenture securities in such manner that the Trustee, the debentureholders and the holders of other indenture securities realize, as a result of payments from such special account and payments of dividends on claims filed against the Company in bankruptcy or receivership or in proceedings for reorganization pursuant to the National Bankruptcy Act or applicable State law, the same percentage of their respective claims, figured before crediting to the claim of the Trustee anything on account of the receipt by it from the Company of the funds and property in such special account and before crediting to the respective claims of the Trustee, the debentureholders, and the holders of other indenture securities dividends on claims filed against the Company in bankruptcy or receivership or in proceedings for reorganization pursuant to the National Bankruptcy Act or applicable State law, but after crediting thereon receipts on account of the indebtedness represented by their respective claims from all sources other than from such dividends and from the funds and property so held in such special account. As used in this paragraph, with respect to any claim, the term "dividends" shall include any distribution with respect to such claim in bankruptcy or

receivership or in proceedings for reorganization pursuant to the National Bankruptcy Act or applicable State law, whether such distribution is made in cash, securities, or other property, but shall not include any such distribution with respect to the secured portion, if any of such claim. The court in which such bankruptcy, receivership or proceeding for reorganization is pending shall have jurisdiction (i) to apportion between the Trustee, the debentureholders, and the holders of other indenture securities, in accordance

with the provisions of this paragraph, the funds and property held in such special account and the proceeds thereof, or (ii) in lieu of such apportionment, in whole or in part, to give to the provisions of this paragraph due consideration in determining the fairness of the distributions to be made to the Trustee, the debentureholders and the holders of other indenture securities with respect to their respective claims, in which event it shall not be necessary to liquidate or to appraise the value of any securities or other property held in such special account or as security for any such claim or to make a specific allocation of such distributions as between the secured and unsecured portions of such claims, or otherwise to apply the provisions of this paragraph as a mathematical formula.

Any Trustee who has resigned or been removed after the beginning of such four months' period shall be subject to the provisions of this subsection (a) as though such resignation or removal had not occurred. If any Trustee has resigned or been removed prior to the beginning of such four months' period, it shall be subject to the provisions of this subsection (a) if and only if the following conditions exist:

(i) the receipt of property or reduction of claim which would have given rise to the obligation to account, if such Trustee had continued as trustee, occurred after the beginning of such four months' period; and

(ii) such receipt of property or

reduction of claim occurred within four months after such resignation or removal.

(b) There shall be excluded from the operation of subsection (a) of this Section 9.13 a creditor relationship arising from

(1) the ownership or acquisition of securities issued under any indenture, or any security or securities having a maturity of one year or more at the time of acquisition by the Trustee;

(2) advances authorized by a receivership or bankruptcy court of competent jurisdiction, or by this Indenture, for the purpose of preserving any property which shall at any time be subject to the lien of this Indenture or of discharging tax liens or other prior liens or encumbrances thereon, if notice of such advance and of the circumstances surrounding the making thereof is given to the debentureholders at the time and in the manner provided in Section 7.04 (c) with respect to reports pursuant to subsections (a) and (b) thereof, respectively;

(3) disbursements made in the ordinary course of business in the capacity of trustee under an indenture, transfer agent, registrar, custodian, paying agent, conversion agent, fiscal agent or depositary, or other similar capacity;

(4) an indebtedness created as a result of services rendered or premises rented; or an indebtedness created as a result of goods or securities sold in a cash transaction as defined in such subsection (c) of this Section 913;

(5) the ownership of stock or of other securities of a corporation organized under the provisions of

Section 25(a) of the Federal Reserve Act, as amended, which is directly or indirectly a creditor of the Company; or

(6) the acquisition, ownership, acceptance or negotiation of any drafts, bills of exchange, acceptance or obligations which fall within the classification of self-liquidating paper as defined in subsection (c) of this Section 9.13.

(c) As used in this Section 9.13

(1) The term "default" shall mean any failure to make payment in full of the principal of or interest upon any of the Debentures or upon the other indenture securities when and as such principal or interest becomes due and payable.

(2) The term "other indenture securities" shall mean securities upon which the Company is an obligor (as defined in the Trust Indenture Act of 1939, as amended) outstanding under any other indenture (A) under which the Trustee is also trustee, (B) which contains provisions substantially similar to the provisions of subsection (a) of this Section 9.13, and (C) under which a default exists at the time of the apportionment of the funds and property held in said special account.

(3) The term "cash transaction" shall mean any transaction in which full payment for goods or securities sold is made within several days after delivery of the goods or securities in currency or in checks or other orders drawn upon banks or bankers and payable upon demand.

(4) The term "self-liquidating paper" shall mean any draft, bill of exchange, acceptance or obligation

which is made, drawn, negotiated or incurred by the Company for the purpose of financing the purchase, processing, manufacture, shipment, storage or sale of goods, wares or merchandise and which is secured by documents evidencing title to, possession of, or a lien upon, the goods, wares or merchandise or the receivables or proceeds arising from the sale of the goods, wares or merchandise previously constituting the security, provided the security is received by the Trustee simultaneously with the creation of the creditor relationship with the Company arising from the making, drawing, negotiating

or incurring of the draft, bill of exchange, acceptance or obligation.

(5) The term "Company" shall mean any obligor upon the Debentures.

ARTICLE 10.

Concerning the Debentureholders

Section 10.01. Whenever in this Indenture it is provided that the holders of a specified percentage in aggregate principal amount of the Debentures may take any action (including the making of any demand or request, the giving of any notice, consent, or waiver or the taking of any other action) the fact that at the time of taking any such action the holders of such specified percentage have joined therein may be evidenced (a) by any instrument or any number of instruments of similar tenor executed by debentureholders in person or by agent or proxy appointed in writing, or (b) by the record of the holders of Debentures voting in favor thereof at any meeting of debentureholders duly called and held in accordance with the provisions of Article Eleven, or (c) by a combination of such instrument or instruments and any such record of such a meeting of debentureholders.

Section 10.02. Subject to the

provisions of Section 9.01, 9.02 and 11.05, proof of the execution of any instrument by a debentureholder or his agent or proxy and proof of the holding by any person of any of the Debentures shall be sufficient if made in the following manner:

The fact and date of the execution by any such person of any instrument may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in any State within the United States, that the person executing such instrument acknowledged to him the execution thereof, or by an affidavit of a witness to such execution sworn to before any such notary or other such officers or in any other manner which the Trustee may deem sufficient. If such execution is by an officer of a corporation, association or trust, trustee of a trust or a

member of a partnership on behalf of such corporation, association, trust or partnership, such certificate or affidavit shall also constitute sufficient proof of his authority.

The ownership of Debentures shall be proved by the registers of such Debentures, or by a certificate of the registrar thereof.

The Trustee shall not be bound to recognize any person as a debentureholder unless and until his title to the Debentures held by him is proved in the manner in this Article Ten provided.

The record of any debentureholders' meeting shall be proved in the manner provided in Section 11.06.

The Trustee may accept such other proof or require such additional proof of any matter referred to in this Section 10.02 as it shall deem reasonable.

Section 10.03. Prior to due presentment for registration of transfer of any Debenture, the Company, the Trustee, any paying or conversion agent and any Debenture registrar may deem and treat the person in whose name such Debenture shall be registered upon the books of the Company as the absolute owner of such Debenture (whether or not such Debenture shall be overdue and notwithstanding any notation of ownership or other writing thereon made by

anyone other than the Company or any Debenture registrar) for the purpose of receiving payment of or on account of the principal of, premium, if any, and interest on such Debenture and for all other purposes; and neither the Company nor the Trustee nor any paying or conversion agent nor any Debenture registrar shall be affected by any notice to the contrary. All such payments so made to any such holder for the time being, or upon his order, shall be valid, and, to the extent of the sum or sums so paid, effectual to satisfy and discharge the liability of moneys payable upon any such Debenture.

Section 10.04. In determining whether the holders of the requisite aggregate principal amount of Debentures have concurred in any demand, direction, request, notice, consent, waiver or other action under this Indenture, Debentures which are owned by the Company or any other obligor on the Debentures or by any person directly or indirectly controlling or controlled

by or under direct or indirect common control with the Company or any other obligor on the Debentures shall be disregarded and deemed not to be outstanding for the purpose of any such determination, provided that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, consent or waiver, only Debentures which the Trustee knows are so owned shall be so disregarded. Debentures so owned which have been pledged in good faith may be regarded as outstanding for the purposes of this Section 10.04, if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Debentures and that the pledgee is not a person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or any such other obligor. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

Section 10.05. At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 10.01, of the taking of any action by the holders of the percentage in

aggregate principal amount of the Debentures specified in this Indenture in connection with such action, any holder of a Debenture the serial number of which is shown by the evidence to be included in the Debentures the holders of which have consented to such action may, by filing written notice with the Trustee at its principal office and upon proof of holding as provided in Section 10.02, revoke such action so far as concerns such Debenture. Except as aforesaid any such action taken by the holder of any Debenture and any direction, demand, request, waiver, consent, vote or other action of the holder of any Debenture which by any provisions of this Indenture is required or permitted to be given shall be conclusive and binding upon such holder and upon all future holders and owners of such Debenture, and of any Debenture issued in lieu thereof, irrespective of whether or not any notation in regard thereto is made upon such Debenture. Any action taken by the holders of the percentage in aggregate principal amount of the Debentures specified in this Indenture in connection with such action shall be conclusively binding upon the Company,

the Trustee and the holders of all the Debentures subject, however, to the provisions of Section 9.01 hereof.

ARTICLE 11.

Debentureholders' Meetings.

Section 11.01. A meeting of debentureholders may be called at any time and from time to time pursuant to the provisions of this Article Eleven for any of the following purposes:

- (1) to give any notice to the Company or to the Trustee, or to give any directions to the Trustee, or to consent to the waiving of any default hereunder and its consequences, or to take any other action authorized to be taken by debentureholders pursuant to any of the provisions of Article Eight;

(2) to remove the Trustee and appoint a successor trustee pursuant to the provisions of Article Nine.

(3) To consent to the execution of an indenture or indentures supplemental hereto pursuant to the provisions of Section 12.02; or

(4) to take any other action authorized to be taken by or on behalf of the holders of any specified aggregate principal amount of the Debentures under any other provision of this Indenture or under applicable law.

Section 11.02. The Trustee may at any time call a meeting of debentureholders to take any action specified in Section 11.01, to be held at such time and at such place in El Paso, Texas, as the Trustee shall determine. Notice of every meeting of the debentureholders, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting, shall be mailed to the holders of Debentures, at their last addresses as they shall appear upon the register or registers provided for in Section 2.05, not

less than twenty nor more than sixty days prior to the date fixed for the meeting.

Section 11.03. In case at any time the Company, pursuant to a resolution of its Board of Directors, or the holders of at least ten per cent in aggregate principal amount of the Debentures then outstanding, shall have requested the Trustee to call a meeting of debentureholders to take any action authorized in Section 11.01 by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have mailed notice of such meeting within twenty days after receipt of such request, then the Company or the holders of Debentures in the amount above specified may determine the time and the place in said El Paso, Texas for such meeting and may call such meeting to take any action authorized in Section 11.01 by mailing notice thereof as provided in

Section 11.02.

Section 11.04. To be entitled to vote at any meeting of debentureholders a person shall (a) be a holder of one or more Debentures; or (b) be a person appointed by an instrument in writing as proxy by a holder of one or more Debentures. The only persons who shall be entitled to be present or to speak at any meeting of debentureholders shall be the persons entitled to vote at such meeting and their counsel and any representatives of the Trustee and its counsel and any representatives of the Company and its counsel.

Section 11.05. Notwithstanding any other provisions of this Indenture the Trustee may make such reasonable regulations as it may deem advisable for any meeting of debentureholders, in regard to proof of the holding of Debentures and of the appointment of proxies and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall think fit. Except as otherwise permitted or required by any such regulations, the holding of Debentures shall be proved in the manner specified in Section 10.02 and the appointment of any proxy shall be proved

in the manner specified in said Section 10.02; provided however, that such regulations may provide that written instruments appointing proxies regular on their face, may be presumed valid and genuine without the proof hereinabove or in said Section 10.02 specified.

The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by debentureholders as provided in Section 11.03, in which case the Company or the debentureholders calling the meeting, as the case maybe, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting, shall be elected by a majority in aggregate principal amount of Debentures represented at the meeting.

Subject to the provisions of Section 10.04, at any meeting each debentureholder or proxy shall be entitled to one vote for each \$1,000 principal amount of Debentures held or represented by him, provided, however, that no vote shall be cast or counted at any meeting in respect of any Debenture challenged as not outstanding and ruled by the chairman of the meeting to be not outstanding. The chairman of the meeting shall have no right to vote other than by virtue of Debentures held by him or instruments in writing as aforesaid duly designating him as the person to vote on behalf of other debentureholders. Any meeting of debentureholders duly called pursuant to the provisions of Section 11.02 or 11.03 may be adjourned from time to time, and the meeting maybe held as so adjourned without further notice.

At any meeting of debentureholders, the presence of persons holding or representing Debentures in an aggregate principal amount sufficient to take action on the business for the transaction of which such meeting was called shall constitute a quorum, but, if less than a quorum is present, the persons holding or representing a majority in aggregate principal amount of the Debentures represented at the meeting may adjourn such meeting with the same effect for all intents and purposes as though a quorum had been present.

Section 11.06. The vote upon any resolution submitted to any meeting of debentureholders shall be by written ballots on

which shall be subscribed the signatures of the holders of Debentures or of their representatives by proxy and the serial number or numbers of the Debentures held or represented by them. The permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record in duplicate of the proceedings of each meeting of debentureholders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of

the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was mailed as provided in Section 11.02. The record shall show the serial numbers of the Debentures voting in favor of or against any resolution. The record shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one of the duplicates shall be delivered to the Company and the other to the Trustee to be preserved by the Trustee.

Any record so signed and verified shall be conclusive evidence of the matters therein stated.

Section 11.07. Nothing in this Article Eleven contained shall be deemed or construed to authorize or permit, by reason of any call of a meeting of debentureholders or any rights expressly or impliedly conferred hereunder to make such call, any hindrance or delay in the exercise of any right or rights conferred upon or reserved to the Trustee or to the debentureholders under any of the provisions of this Indenture or of the Debentures.

ARTICLE 12.

Supplemental Indentures.

Section 12.01. The Company, when authorized by a resolution of its Board of Directors, and the Trustee may from time to time and at any time enter into an indenture or

indentures supplemental hereto (which shall comply with the provisions of the Trust Indenture Act of 1939 as then in effect) for one or more of the following purposes:

(a) to evidence the succession of another corporation to the Company, or successive successions, and the assumption by the successor corporation of the covenants, agreements and obligations of the Company pursuant to Article Thirteen hereof;

(b) to add to the covenants of the Company such further covenants, restrictions or conditions as its Board of Directors and the Trustee shall consider to be for the protection of the holders of Debentures, to surrender any right or power herein reserved to or conferred upon the Company and to make the occurrence, or the occurrence and continuance, of a default in an of such additional covenants, restrictions or conditions a default or an Event of Default permitting the enforcement of all or any of the several remedies provided in this Indenture as herein set forth; provided, however, that in respect of an such additional covenant, restriction or condition such supplemental indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement upon such default or may limit the remedies available to the Trustee upon such default; and

(c) to cure any ambiguity or to correct or supplement any provision contained herein or in any supplemental indenture which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture, or to make such other provisions in regard to matters or questions arising under this Indenture or any supplemental indenture which shall not be inconsistent with this Indenture or any indenture supplemental hereto and which shall not adversely affect the interests of the holders of the Debentures.

The Trustee is hereby authorized to join with the Company in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be therein contained and to accept the conveyance, transfer, mortgage, pledge or assignment of any property thereunder, but the Trustee shall not be obligated to enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Any supplemental indenture authorized by the provisions of this Section 12.01 may be executed by the Company and the Trustee without the consent of the holders of any of the Debentures at the time outstanding, notwithstanding any of the provisions of Section 12.02.

Section 12.02. With the consent (evidenced as provided in Section 10.01) of the holders of not less than 66 2/3% in aggregate principal amount of the Debentures at the time outstanding (determined as provided in Section 10.04), the Company, when authorized by a resolution of its Board of Directors, and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto (which shall comply with the provisions of the Trust Indenture Act of 1939 as then in effect) for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of any supplemental indenture or of modifying in any manner the rights of the holders of the Debentures; provided, however, that no such supplemental indenture shall (i) extend the maturity of any Debentures, or reduce the rate or extend the time of payment of interest thereon, or reduce the principal amount thereof, or reduce any premium payable upon the redemption thereof, or alter the provisions of this Indenture so as to affect adversely the terms of conversion of the Debentures into Common Stock, without the consent of the holder of each Debenture so affected, or (ii) reduce the aforesaid percentage of Debentures, the holders of which are required to consent to any supplemental indenture, without the consent of the holders of all Debentures then outstanding; and provided further that no change or modification shall directly or indirectly modify

or eliminate the provisions of Article Three in any manner which might terminate or impair the subordination of the Debentures to Senior Indebtedness without the prior written consent of the holders of the Senior Indebtedness.

Upon the request of the Company, accompanied by a copy of a resolution of its Board of Directors certified by the Secretary or

an Assistant Secretary of the Company authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence of the consent of debentureholders as aforesaid, the Trustee shall join with the Company in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such supplemental indenture.

It shall not be necessary for the consent of the debentureholders under this Section 12.02 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

Promptly after the execution by the Company and the Trustee of any supplemental indenture pursuant to the provisions of this Section 12.02, the Company shall mail a notice to the debentureholders, setting forth in general terms the substance of such supplemental indenture. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

Section 12.03. Upon the execution of any supplemental indenture pursuant to the provisions of this Article Twelve, this Indenture shall be and be deemed to be modified and amended in accordance therewith and the respective rights, limitation of rights, obligations, duties and immunities under this Indenture of the Trustee, the Company and the holders of Debentures shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

The Trustee, subject to the provisions of Section 9.01, may rely on an Opinion of Counsel as conclusive evidence that any such supplemental indenture complies with the provisions of this Article Twelve.

Section 12.04. Debentures authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article Twelve, or after any action taken at a debentureholders' meeting pursuant to Article Eleven, may bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture or as to any action taken at any such meeting. If the Company or the Trustee shall so determine, new Debentures so modified as to conform, in the opinion of the Trustee and the Board of Directors of the Company, to any modification of this Indenture contained in any such supplemental indenture may be prepared by the Company, authenticated by the Trustee and delivered in exchange for the Debentures then outstanding.

ARTICLE 13.

Consolidation, Merger, Sale or Conveyance.

Section 13.01. The Company covenants that it will not merge or consolidate with any other corporation or sell or convey all or substantially all of its assets to any person, firm or corporation, unless (i) either the Company shall be the continuing corporation, or the successor corporation (if other than the Company) shall be a corporation organized and existing under the laws of the United States of America or a State thereof and such corporation shall expressly assume the due and punctual payment of the principal of and premium, if any, and interest on all the Debentures, according to their tenor, and the due and punctual performance and observance of all of the covenants and conditions of this Indenture to be performed by the Company by supplemental indenture satisfactory to the Trustee, executed and delivered to the Trustee by such corporation, and (ii) the Company or such successor corporation, as the case may be, shall not, immediately after such merger or

consolidation, or such sale or conveyance, be in default in the performance of any such covenant or condition.

Section 13.02. In case of any such consolidation, merger, sale or conveyance and upon any such assumption by the successor corporation, such successor corporation shall succeed to and be substituted for the Company, with the same effect as if it had been named herein as the party of the first part such successor corporation thereupon may cause to be signed, and may issue either in its own name or in the name of Farah Incorporated, any or all of the Debentures issuable hereunder which theretofore shall not have been delivered to the Trustee, and, upon the order of such successor corporation, instead of the Company, and subject to all the terms, conditions and limitations in this Indenture prescribed, the Trustee shall authenticate and shall deliver any Debentures which previously shall have been signed and delivered by the officers of the Company to the Trustee, and any Debentures which such successor corporation thereafter shall cause to be signed and delivered to the Trustee. All the Debentures so issued shall in all respects have the same legal rank and benefit under this Indenture as the Debentures theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Debentures had been issued at the date of the execution hereof.

In case of any such consolidation, merger, sale or conveyance such changes in phraseology and form (but not in substance) may be made in the Debentures thereafter to be issued as may be appropriate.

Section 13.03. The Trustee, subject to the provisions of Sections 9.01 and 9.02, may rely on an Opinion of Counsel as conclusive evidence that any such consolidation, merger, sale or conveyance, and any such assumption, complies with the provisions of this Article and that it is proper for the Trustee under the provisions of Article Twelve and of this Article Thirteen to join in the execution of the supplemental indenture provided for in Section 13.01.

ARTICLE 14.

Satisfaction and Discharge of Indenture; Unclaimed Moneys.

Section 14.01. If (a) the Company shall deliver to the Trustee for cancellation all Debentures theretofore authenticate (other than any Debentures which shall have been destroyed, lost or stolen and which shall have been replaced or paid as provided in Section 2.07) and not theretofore canceled, or (b) all the Debentures not theretofore canceled or delivered to the Trustee for cancellation shall have become due and payable, or are by their terms to become due and payable within one year or are to be called for redemption pursuant to Article Five within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption, and the Company shall deposit with the Trustee as trust funds the entire amount sufficient to pay at maturity or upon redemption all of such Debentures not theretofore canceled or delivered to the Trustee for cancellation, including principal (and premium, if any) and interest due or to become due to such date of maturity or redemption date, as the case may be, and if in either case the Company shall also pay or cause to be paid all other sums payable hereunder by the Company, then except as to the remaining rights of conversion of any Debenture this Indenture shall cease to be of further effect, and the Trustee, on demand of the Company, accompanied by an Officers' Certificate and an Opinion of Counsel, and at the cost and expense of the Company, shall execute proper instruments acknowledging satisfaction of and discharging this Indenture. The Company hereby agrees to reimburse the Trustee for any costs or expenses theretofore and thereafter reasonable and properly incurred by the Trustee in connection with this Indenture or the Debentures.

Section 14.02. All moneys deposited with the Trustee pursuant to Section 14.01 shall be held in trust and applied by it to the payment, either directly or through any paying agent (including the Company acting as its own paying agent), to the holders of the particular Debentures, for the payment or redemption of

which such moneys have been deposited with the Trustee, of all sums due and to become due

thereon for principal and interest and premium, if any.

Section 14.03. In connection with the satisfaction and discharge of this Indenture all moneys then held by any paying agent under the provisions of this Indenture shall, upon demand of the Company, be paid to the Trustee and thereupon such paying agent shall be released from all further liability with respect to such moneys.

Section 14.04. Any moneys deposited with the Trustee or any paying agent for the payment of the principal of, premium, if any, or interest on any Debentures and not applied but remaining unclaimed by the holders of Debentures for six years after the date upon which no Debentures shall have been outstanding shall be repaid to the Company by the Trustee or by such paying agent on demand; and the holder of any of the Debentures entitled to receive such payment shall thereafter look only to the Company for the payment thereof; provided, however that the Trustee or such paying agent, before being required to make any such repayment, may at the expense of the Company cause to be published once a week for two successive weeks (in each case on any day of the week) in an Authorized Newspaper, a notice that said moneys have not been so applied and that after a date named therein any unclaimed balance of said moneys then remaining will be returned to the Company.

Except as otherwise provided in Section 5.05, if at any time any Debentures for the payment or redemption of which moneys shall have been deposited with the Trustee shall be converted as provided in Article Four, the moneys then on deposit for the payment or redemption of such Debenture shall be repaid to the Company.

ARTICLE 15.

Immunity of Incorporators, Stockholders, Officers and Directors

Section 15.01. No recourse under or upon any obligation, covenant or agreement of

this Indenture, or of any Debenture, or for any claim based thereon or otherwise in respect thereof, shall be had against any incorporator, stockholder, officer or director, as such, past, present or future, of the Company or of any successor corporation, either directly or through the Company, 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 understood that this Indenture and the obligations issued hereunder are solely corporate obligations, and that no such personal liability whatever shall attach to, or is or shall be incurred by, the incorporators, stockholders, officers or directors, as such, of the Company or any successor corporation or any of them, because of the creation of the indebtedness hereby authorized, or under or by reason of the obligations, covenants or agreements contained in this Indenture or in any of the Debentures or implied therefrom; and that any and all such personal liability of every name and nature, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such incorporator, stockholder, officer or director, as such, because of the creation of the indebtedness hereby authorized, or under or by reason of the obligations, covenants or agreements contained in this Indenture or in any of the Debentures or implied therefrom are hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Indenture and the issue of such Debentures.

ARTICLE 16.

Miscellaneous Provisions.

Section 16.01. All the covenants, stipulations, promises and agreements in this Indenture contained by or in behalf of the Company shall bind its successors and assigns, whether so expressed or not.

Section 16.02. Any act or proceeding by any provision of this Indenture authorized or required to be done or performed by any board

committee or officer of the Company shall and

may be done and performed with like force and effect by the like board, committee or officer of any corporation that shall at the time be the lawful sole successor of the Company.

Section 16.03. Any notice or demand which by any provisions of this Indenture is required or permitted to be given or served by the Trustee or by the holders of Debentures to or on the Company may be given or served by being deposited postage prepaid in a post office letter box addressed (until another address is filed by the Company with the Trustee for such purpose), as follows: Farah Incorporated, 8889 Gateway West, El Paso, Texas 79985. Any notice, direction, request or demand by any debentureholder to or upon the Trustee shall be deemed to have been sufficiently given or made, for all purposes, if given or made at the principal office of the Trustee.

Section 16.04. This Indenture and each Debenture shall be deemed to be a contract made under the laws of the State of Texas, and for all purposes shall be construed in accordance with the laws of said State.

Section 16.05. Upon any request or application by the Company to the Trustee to take any action under any of the provisions of this Indenture, the Company shall furnish to the Trustee an Officers' Certificate stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent have been complied with, except that in the case of any such application or demand as to which the furnishing of such document is specifically required by any provision of this Indenture relating to such particular application or demand, no additional certificate or opinion need be furnished.

Each certificate (other than those provided for in Section 6.09) or opinion provided for in this Indenture and delivered to the Trustee with respect to compliance with a

condition or covenant provided for in this Indenture shall include (1) a statement that the person making such certificate or opinion has read such covenant or condition; (2) a brief

statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (3) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and (4) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

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

Any certificate, statement or opinion of an officer of the Company or of counsel may be based, in so far as it relates to accounting matters, upon a certificate or opinion of or representations by an accountant or firm of accountants in the employ of the Company, unless such officer or counsel, as the case may be, knows that the certificate or opinion or representations with respect to the accounting matters upon which his certificate, statement or

opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous. Any certificate or opinion of any independent firm of public accountants filed with the Trustee shall contain a statement that such firm is independent.

Section 16.06. In any case where the date of payment of interest on or principal of the Debentures or the date fixed for redemption of any Debenture shall be a Saturday or a Sunday or shall be in El Paso, Texas a day on which banking institutions are authorized by law to close, then payment of interest or principal (and premium, if any) need not be made on such date, but may be made on the next succeeding day not in El Paso, Texas a day on which banking institutions are authorized by law to close, with the same force and effect as if made on the date of the payment of interest on or principal of the Debentures or the date fixed for redemption of any Debentures, and no interest shall accrue for the period after such date.

Section 16.07. Nothing in this Indenture or in the Debentures, expressed or implied, shall be construed to constitute a security interest under the Uniform Commercial Code or similar legislation, as now or hereafter enacted and in effect, in any jurisdiction where property of the Company or its Subsidiaries is located.

Section 16.08. If and to the extent that any provision of this Indenture limits, qualifies or conflicts with another provision which is required to be included in this Indenture by any of Sections 310 to 317, inclusive, of the Trust Indenture Act of 1939, as amended, such required provision shall control.

Section 16.09. Nothing in this Indenture or in the Debentures, expressed or implied, shall give or be construed to give any person, firm or corporation, other than the parties hereto and the holders of the Debentures, any legal or equitable right, remedy or claim under or in respect of this Indenture, or under any covenant, condition and provision

