FORM DEFA14A

Additional definitive proxy soliciting materials and Rule 14(a)(12) material

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IMMUNOMEDICS INC

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

FORM 8-K

CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934

Date of report (Date of earliest event reported): April 27, 2005

Immunomedics, Inc.

(Exact Name of Registrant as Specified in Its Charter)

Delaware	000-12104	61-1009366
(State or Other Jurisdiction of Incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)

300 American Road, Morris Plains, New Jersey	07950
(Address of Principal Executive Offices)	(Zip Code)

Registrant's telephone number, including area code: (973) 605-8200

Not Applicable

(Former Name or Former Address, if Changed Since Last Report)

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

|_| Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

|X| Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

|_| Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

|_| Pre-commencement communications pursuant to Rule 13e-4(c) under the

Exchange Act (17 CFR 240.13e-4(c))

Item 1.01. Entry into a Material Definitive agreement.

On April 27, 2005, Immunomedics, Inc. (the "Company") issued a press release announcing that it entered into a definitive agreements to sell $36 million of its 5% senior convertible notes due 2008 and common stock warrants in a private placement to a limited number of qualified institutional buyers and institutional accredited investors.

On May 2, 2005, the Company issued a second press release announcing that it closed the private placement of the notes and warrants, which raised a total of $37.675 million.

The information in this Item 1.01 on Form 8-K, including Exhibit 99.1, is being furnished and shall not be deemed to be "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities of such Section, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as otherwise expressly stated in such filing.

Item 3.02. Unregistered Sales of Equity Securities.

The Company entered into purchase agreements with several purchasers (each an "Agreement") on April 27, 2005 for the sale of (i) maximum of $46 million in aggregate principal amount of Notes and (ii) warrants to purchase up to approximately 3,600,000 shares of common stock (a warrant to purchase 76.394 shares of common stock for each $1,000 principal amount of notes purchased), including a 120 day option to purchase up to an additional 20% of notes and warrants based on their initial purchase.

The Notes bear interest at 5%, mature three years from the date of issuance, and are convertible into our common stock, at an initial conversion price of $2.62 . Holders of the notes may at their election at any time, and the Company may, subject to certain market performance targets and other conditions, cause the holders to convert the notes into shares of common stock prior to the maturity date. If the notes are converted prior to the third anniversary of the issue date, the holders will be entitled to interest through the third anniversary. The warrants will be exercisable commencing on the effective date of the share increase described in the attached press release until the third anniversary of the initial closing date at $2.98 per share of common stock.

The sale of the Notes and Warrants was completed on April 29, 2005 and purchasers were granted an option to purchase option to purchase up to an additional 20% principal amount of notes and warrants during the 120 day period following the closing. As of the date hereof, the Company is obligated on $37,675,000 in face amount of Notes and Warrants issued to the investors. The Notes and Warrants are a debt obligation arising other than in the ordinary

course of business which constitute a direct financial obligation of the Company.

The Notes and Warrants were offered and sold to investors in a private placement transaction made in reliance upon exemptions from registration pursuant to Section 4(2) under the Securities Act of 1933 and Rule 506 promulgated thereunder. Each investor is either a qualified institutional buyer as defined in Rule 144A under the Securities Act of 1933 or an institutional "accredited investor" as defined in Rule 501(A)(1), (2), (3) or (7) promulgated under the Securities Act of 1933.

A copy of the form of purchase agreement is attached hereto as Exhibit 10.1, the form of registration rights agreement as Exhibit 4.1, the form of warrant agreement as Exhibit 4.2, the form of Indenture as Exhibit 4.3, the press release announcing the transaction as Exhibit 99.1, and the press release announcing the closing of the transaction as Exhibit 99.2.

Item 9.01. Financial Statements and Exhibits.

(c) Exhibits:

4.1 - Form of Registration Rights Agreement between Immunomedics, Inc. and several purchasers

4.2 - Form of Warrant Agreement between Immunomedics, Inc. and JPMorgan Chase Bank, N.A. as warrant agent

4.3 - Form of Indenture by and among Immunomedics, Inc., Law Debenture Trust Company of New York as Trustee and JPMorgan Chase Bank, N.A. as Registrar, Paying Agent, and Conversion Agent

10.1 - Form of Purchase Agreement between Immunomedics, Inc. and several purchasers

99.1 - Press Release, dated April 27, 2005

99.2 - Press Release, dated May 2, 2005

SIGNATURES

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

Date: April 29, 2005 IMMUNOMEDICS, INC.

By:/s/ Cynthia L. Sullivan

Cynthia L. Sullivan
President and Chief Executive Officer

EXHIBIT INDEX

EXHIBIT NUMBER	DESCRIPTION
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4.3	Form of Indenture by and among Immunomedics, Inc., Law Debenture Trust Company of New York as Trustee and JPMorgan Chase Bank, N.A. as Registrar, Paying Agent, and Conversion Agent
10.1	Form of Purchase Agreement between Immunomedics, Inc. and purchasers
99.1	Press Release, dated April 26, 2005
99.2	Press Release, dated May 2, 2005

Exhibit 4.1

Immunomedics, Inc.

5% Senior Convertible Notes due 2008 & Common Stock

Registration Rights Agreement

April 27, 2005

Ladies and Gentlemen:

Immunomedics, Inc., a Delaware corporation (the "Company"), proposes to issue and sell to the several purchasers whose names are set forth on Schedule A hereto, (collectively, the "Purchasers" and each, a "Purchaser"), upon the terms set forth in each purchase agreement between the Company and a Purchaser (collectively, the "Purchase Agreements", and each, a "Purchase Agreement"), its 5% Senior Convertible Notes due 2008 (such notes and the additional notes that may subsequently be purchased upon exercise of a Holder's option pursuant to such Purchase Agreements, the "Notes") and the Warrants entitling the holder thereof to purchase shares of the Company's Common Stock (such warrants and additional warrants that may subsequently be purchased upon exercise of a Holder's option pursuant to such Purchase Agreements, the "Warrants," and, together with the Notes, the "Securities"). As an inducement to the Purchasers to enter into Purchase Agreements and in satisfaction of a condition to the obligations of each Purchaser thereunder, the Company agrees with each Purchaser, who from time to time holds Registrable Securities (as defined herein) as follows:

Section 1. Definitions. (a) Capitalized terms used herein without definition have the meanings ascribed to them in the Purchase Agreements. As used in this Agreement, the following defined terms have the following meanings:

"Additional Interest" has the meaning assigned thereto in Section 7(a) hereof.

"Additional Interest Payment Date" means each Interest Payment Date as defined in the Indenture.

"Affiliate" of any specified person means any other person who or which, directly or indirectly, is in control of, is controlled by, or is under common control with such specified person. For purposes of this definition, control of a person means the power, direct or indirect, to direct or cause the direction of the management and policies of such person whether by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Applicable Amount" means, (i) with respect to the Notes, the

principal amount of the Notes and (ii) with respect to shares of Common Stock issued upon conversion of the Securities pursuant to the Indenture, the principal amount of Securities that would then be convertible into such number of shares.

"Business Day" means each Monday, Tuesday, Wednesday, Thursday and Friday that is not a day on which banking institutions in The City of New York are authorized or obligated by law or executive order to close.

"Commission" means the United States Securities and Exchange Commission, or any other federal agency at the time administering the Exchange Act or the Securities Act, whichever is the relevant statute for the particular purpose.

"Common Stock" means the Company's common stock, par value $0.01 per share.

"DTC" means The Depository Trust Company.

"Effectiveness Period" has the meaning assigned thereto in Section 2(b)(i) hereof.

"Effective Time" means the time at which the Commission declares any Shelf Registration Statement effective or at which any Shelf Registration Statement otherwise becomes effective.

"Exchange Act" means the United States Securities Exchange Act of 1934, as amended.

"Holder" means any person that is the record owner of Registrable Securities (and includes any person that has a beneficial interest in any Registrable Security in book-entry form).

"Indenture" means the Indenture, dated as of April 29, 2005, between the Company and Law Debenture Trust Company of New York, pursuant to which the Securities are to be issued, and as amended and supplemented from time to time in accordance with its terms.

"Institutional Accredited Investor" means an institutional investor that is an "accredited investor" as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act.

"Issue Date" means the first date of original issuance of the Securities.

"Majority of Holders" means Holders holding over 50% of the aggregate principal amount of Registrable Securities outstanding.

"Notice and Questionnaire" means a Notice of Registration Statement and Selling Securityholder Election and Questionnaire substantially in the form of Appendix A hereto.

"Notice Holder" has the meaning assigned thereto in Section 3(a)(i) hereof.

"Option" means a Holder's right to purchase additional Registrable Securities pursuant to the terms of a Purchase Agreement.

The term "person" means an individual, partnership, limited liability company, corporation, trust or unincorporated organization, or a government or agency or political subdivision thereof.

"Prospectus" means the prospectus included in any Shelf Registration Statement, as amended or supplemented by any prospectus supplement with respect to the terms of the offering of any portion of the Registrable Securities covered by any Shelf Registration Statement and by all other amendments and supplements to such prospectus, including all material incorporated by reference in such prospectus and all documents filed after the date of such prospectus by the Company under the Exchange Act and incorporated by reference therein.

"QIB" means a "qualified institutional buyer" as defined in Rule 144A.

"Registrable Securities" means all or any portion of the Notes from time to time under the Indenture in registered form and the Warrants under the Warrant Agreement, the shares of Common Stock issuable upon conversion of the Notes or exercise of Warrants until the earliest of: (A) the date when such Registrable Security has been registered pursuant to an effective registration statement and disposed of in accordance therewith, (B) the date when all of the Common Stock issuable upon conversion of Securities have been sold pursuant to Rule 144 under the Securities Act, (C) the date on which the Holders of the Notes, Warrants and Common Stock issuable upon conversion of the Securities are able to sell all such Securities immediately pursuant to Rule 144(k) (or any successor rule or regulation) under the Securities Act or (D) the date when all of the Notes, Warrants and Common Stock issuable upon conversion of the Securities cease to be outstanding.

"Registration Default" has the meaning assigned thereto in Section 7(a) hereof.

"Securities Act" means the United States Securities Act of 1933, as amended.

"Shelf Registration" means a registration effected under the Securities Act pursuant to Section 2 hereof.

"Shelf Registration Statement" means a "shelf" registration statement filed under the Securities Act providing for the registration of, and the sale on a continuous or delayed basis by the Holders of, all of the Registrable Securities pursuant to Rule 415 under the Securities Act and/or any similar rule that may be adopted by the Commission, filed by the Company pursuant to the provisions of Section 2 of this Agreement, including the

Prospectus contained therein, any amendments and supplements to such registration statement, including post-effective amendments, and all exhibits and all material incorporated by reference in such registration statement, and any additional "shelf" registration statement or registration statements filed under the Securities Act to permit the registration and sale of Registrable Securities pursuant to Section 3(a)(ii) hereof.

"Suspension Period" has the meaning assigned thereto in Section 2(c) hereof.

"Suspension Notice" has the meaning assigned thereto in Section 3(z) hereof.

"Trust Indenture Act" means the Trust Indenture Act of 1939, or any successor thereto, and the rules, regulations and forms promulgated thereunder, as the same is amended from time to time.

The term "underwriter" means any underwriter, or any person deemed to be an underwriter pursuant to the Securities Act or the Exchange Act and the respective rules and regulations thereunder, as in effect at any relevant time, of Registrable Securities in connection with an offering thereof under a Shelf Registration Statement.

(b) Wherever there is a reference in this Agreement to a percentage of the "principal amount" of Registrable Securities or to a percentage of Registrable Securities, each share of Common Stock issued upon conversion of the Securities shall represent a principal amount or percentage of Registrable Securities determined based on a quotient, (i) the numerator of which shall be equal to the aggregate principal amount of Securities issued, less the aggregate principal amount of Securities outstanding as of the date of determination, and (ii) the denominator of which shall be equal to the aggregate number of shares of Common Stock issued upon conversion of the Securities as of the date of determination.

Section 2. Shelf Registration. (a) The Company shall, no later than 120 calendar days following the Issue Date, file with the Commission a Shelf Registration Statement relating to the resale of the Registrable Securities by the Holders from time to time in accordance with the methods of distribution elected by such Holders and, thereafter, shall use its best efforts to cause such Shelf Registration Statement to be declared effective under the Securities Act no later than 180 calendar days following the Issue Date; provided, however, that no Holder shall be entitled to be named as a selling securityholder in any Shelf Registration Statement as of the date it is declared effective or to use the Prospectus forming a part thereof for offers and resales of Registrable Securities unless such Holder is a Notice Holder. The Company shall amend the Shelf Registration Statement in accordance with the terms and conditions of this Agreement to include therein any Registrable Securities acquired by Notice Holders resulting from the exercise of Options.

(b) Subject to Section 2(c) hereof, the Company shall use its reasonable best efforts:

(i) to keep any Shelf Registration Statement continuously effective, supplemented and amended as required by the provisions of Section 3(j) hereof, in order to permit the Prospectus forming a part thereof to be usable by the Notice Holders listed therein until the earliest date when at least one of the following is true with respect to the Registrable Securities registered thereby: (A) the Registrable Securities have been disposed of pursuant to an effective Shelf Registration Statement, (B) the Registrable Securities have been sold pursuant to Rule 144 under the Securities Act, (C) the Registrable Securities are eligible to be sold pursuant to Rule 144(k) (or any successor rule or regulation) under the Securities Act or (D) the Registrable Securities cease to be outstanding (such period being referred to herein as the "Effectiveness Period"); and

(ii) after the Effective Time of the Shelf Registration Statement, upon receipt of a completed and signed Notice and Questionnaire from any Holder of Registrable Securities that is not then a Notice Holder, to take the actions provided for in Section 3(a)(ii) hereof.

The Company shall be deemed not to have used its reasonable best efforts to keep any Shelf Registration Statement effective during the Effectiveness Period if the Company voluntarily takes any action that would result in Holders of Registrable Securities covered thereby not being able to offer and sell any of such Registrable Securities under such Shelf Registration Statement during that period, unless such action is (A) required by applicable law and the Company thereafter promptly complies with the requirements of Section 3(j) hereof or (B) permitted pursuant to Section 2(c) hereof.

(c) After the Effective Time of the Shelf Registration Statement, the Company may suspend the use of any Prospectus by written notice to the Notice Holders for a period not to exceed an aggregate of 45 calendar days in any 90 calendar day period (each such period, a "Suspension Period") if:

(i) an event has occurred and is continuing as a result of which the Shelf Registration Statement would, in the Company's reasonable judgment, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; and

(ii) the Company determines in good faith that the disclosure of such event at such time would have a material adverse effect on the Company and its subsidiaries taken as a whole.

provided, that in the event the disclosure relates to a previously undisclosed proposed or pending material business transaction, the disclosure of which would impede the Company's ability to consummate such transaction, the Company may extend a Suspension Period for an additional 15 calendar day period; provided further, however, that, notwithstanding anything to the contrary herein, any Suspension Periods permitted under this subsection (c), including, without limitation, any extension of a Suspension Period, may not exceed an aggregate of 90 calendar days in any 360 calendar day period.

Section 3. Registration Procedures. In connection with the Shelf Registration Statement, the following provisions shall apply:

(a) (i) Not less than 30 calendar days prior to the time the Company in good faith intends to have the Shelf Registration Statement declared effective, the Company shall distribute the Notice and Questionnaire to the Holders of Registrable Securities. The Company shall take action to name as a selling securityholder in the Shelf Registration Statement at the Effective Time each Holder that completes, executes and delivers a Notice and Questionnaire to the Company at the address set forth in the Notice and Questionnaire (a "Notice Holder") prior to or on the 20th calendar day after such Holder's receipt thereof so that such Holder is permitted to deliver the Prospectus forming a part thereof as of such time to purchasers of such Holder's Registrable Securities in accordance with applicable law. The Company will not be required to take any action to name any Holder as a selling securityholder in the Shelf Registration Statement at the time of its effectiveness or to enable any Holder to use the Prospectus forming a part thereof for resales of Registrable Securities unless such Holder has returned a completed and signed Notice and Questionnaire to the Company as set forth in this Section 3(a).

(ii) After the Effective Time of the Shelf Registration Statement, the Company shall, upon the request of any Holder of Registrable Securities that is not then a Notice Holder, promptly send a Notice and Questionnaire to such Holder. After the Effective Time of the Shelf Registration Statement, the Company shall (A) after the date a completed and signed Notice and Questionnaire is delivered to the Company, prepare and file with the Commission (x) a supplement to the Prospectus as promptly as practicable or, if required by applicable law, a post-effective amendment to the Shelf Registration Statement or an additional Shelf Registration Statement as promptly as practicable after the end of the fiscal quarter ended not less than 10 days after receipt of the Notice and Questionnaire and (y) any other document required by applicable law, so that the Holder delivering such Notice and Questionnaire is named as a selling securityholder in a Shelf Registration Statement and is permitted to deliver the Prospectus to purchasers of such Holder's Registrable Securities in accordance with applicable law, and (B) if the Company files a post-effective amendment to the Shelf Registration Statement, or an additional Shelf Registration Statement, use its reasonable best efforts to cause such post-effective amendment or such additional Shelf Registration Statement to become effective under the Securities Act as promptly as is practicable; provided, however, that if a Notice and Questionnaire is delivered to the Company during a Suspension Period, the Company will not be obligated to take the actions set forth in this clause (ii) until the termination of such Suspension Period.

(b) The Company shall furnish to each Notice Holder, prior to the Effective Time, a copy of the Shelf Registration Statement initially filed with the Commission, and shall furnish to such Notice Holders, prior to the filing with the Commission, copies of each amendment thereto and each amendment or supplement, if any, to the Prospectus included therein (other than supplements solely for the purpose of naming one or more Notice Holders as selling

securityholders), and shall use its best efforts to reflect in each such document, at the Effective Time or when so filed with the Commission, as the case may be, such comments as such Notice Holders and their respective counsel reasonably may propose.

(c) The Company shall promptly take such action as may be necessary so that (i) the Shelf Registration Statement and any amendment thereto and the Prospectus forming a part thereof and any amendment or supplement thereto (and each report or other document incorporated therein by reference in each case) comply in all material respects with the Securities Act and the Exchange Act and the respective rules and regulations thereunder, as in effect at any relevant time, (ii) the Shelf Registration Statement and any amendment thereto does not, when it becomes effective, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, and (iii) the Prospectus forming a part of the Shelf Registration Statement, and any amendment or supplement to such Prospectus, in the form delivered to purchasers of the Registrable Securities during the Effectiveness Period, does not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(d) The Company shall promptly advise each Notice Holder:

(i) when the Shelf Registration Statement has been filed with the Commission and when the Shelf Registration Statement has become effective, in each case by issuing a public announcement thereof to Reuters Economic Services or Bloomberg Business News;

(ii) when any Prospectus supplement, Shelf Registration Statement or post-effective amendment to a Shelf Registration has been filed with the Commission and, with respect to a Shelf Registration Statement or any post-effective amendment, when the same has been declared effective by the Commission, provided, however that the Company shall not be required by this clause (ii) to notify any previously existing Notice Holder of the filing of a prospectus supplement that merely names one or more other Notice Holders as selling securityholders;

(iii) of the issuance by the Commission of any stop order suspending the effectiveness of any Shelf Registration Statement or the initiation of any proceedings for such purpose;

(iv) of the receipt by the Company of any notification with respect to the suspension of the qualification of the securities included in any Shelf Registration Statement for sale in any jurisdiction or the initiation of any proceeding for such purpose; and

(v) of the happening of any event or the existence of any state of facts that requires the making of any changes in any Shelf Registration Statement or the Prospectus included therein so that, as of such date, such Shelf Registration Statement and Prospectus do not contain an untrue

statement of a material fact and do not omit to state a material fact required to be stated therein or necessary to make the statements therein (in the case of the Prospectus, in the light of the circumstances under which they were made) not misleading (which advice will be accompanied by an instruction to such Holders to suspend the use of the Prospectus until the requisite changes have been made, which notice need not specify the nature of the event giving rise to such suspension).

(e) The Company shall use its reasonable best efforts to prevent the issuance, and if issued to obtain the withdrawal at the earliest possible time, of any order suspending the effectiveness of any Shelf Registration Statement.

(f) The Company shall, as promptly as reasonably practicable, furnish to each Notice Holder, and any underwriter, upon their request and without charge, at least one (1) conformed copy of the Registration Statement and any amendment thereto, including financial statements but excluding all documents incorporated or deemed to be incorporated therein by reference and all exhibits (unless requested in writing to the Company by such Notice Holder).

(g) The Company shall, during the Effectiveness Period, deliver to each Notice Holder, without charge, as many copies of each Prospectus in which the Notice Holder is listed as a selling securityholder included in the applicable Shelf Registration Statement and any amendment or supplement thereto, as such Notice Holder may reasonably request; and the Company consents (except during a Suspension Period or during the continuance of any event described in Section 3(d) (iii)-(vi) above) to the use of the Prospectus and any amendment or supplement thereto by each of the Notice Holders in connection with the offering and sale of the Registrable Securities covered by the Prospectus and any amendment or supplement thereto during the Effectiveness Period.

(h) Prior to any offering of Registrable Securities pursuant to a Shelf Registration Statement, the Company shall (i) register or qualify (or at the Notice Holder's option, cooperate with the Notice Holders and their respective counsel in connection with the registration or qualification or exemption from such registration or qualification of) such Registrable Securities for offer and sale under the securities or "Blue Sky" laws of such jurisdictions within the United States as any Notice Holder may reasonably request in writing, (ii) keep such registrations or qualifications or exemption therefrom in effect and comply with such laws so as to permit the continuance of offers and sales in such jurisdictions for so long as may be necessary to enable any Notice Holder or underwriter, to complete its distribution of Registrable Securities pursuant to such Shelf Registration Statement, and (iii) take any and all other actions necessary or advisable to enable the disposition in such jurisdictions of such Registrable Securities; provided, however, that in no event shall the Company be obligated to (A) qualify as a foreign corporation or as a dealer in securities in any jurisdiction where it would not otherwise be required to so qualify but for this Section 3(h) or (B) subject itself to general or unlimited service of process or to taxation in any such jurisdiction if they are not now so subject

(i) Unless any Registrable Securities are in book-entry only form,

the Company shall cooperate with the Notice Holders to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold pursuant to any Shelf Registration Statement, which certificates, if so required by any securities market or exchange upon which any Registrable Securities are quoted or listed, will be penned, lithographed or engraved, or produced by any combination of such methods, on steel engraved borders, and which certificates will be free of any restrictive legends and in such permitted denominations and registered in such names as Notice Holders may request in connection with the sale of Registrable Securities pursuant to such Shelf Registration Statement.

(j) Upon the occurrence of any fact or event contemplated by paragraph 3(d)(v) above, subject to Section 2(c) hereof, the Company shall promptly, but in any event within 20 Business Days following such occurrence, prepare, and file a post-effective amendment to any Shelf Registration Statement or an amendment or supplement to the related Prospectus included therein or file any other document with the Commission so that, as thereafter delivered to purchasers of the Registrable Securities, the Prospectus will not include an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. If the Company notifies the Notice Holders of the occurrence of any fact or event contemplated by paragraph 3(d)(v) above, the Notice Holder shall suspend the use of the Prospectus until the requisite changes to the Prospectus have been made.

(k) Not later than the Effective Time of a Shelf Registration Statement, the Company shall, as applicable, provide a CUSIP number for the debt securities to be sold pursuant to a Shelf Registration Statement.

(l) The Company shall use its best efforts to comply with the Securities Act and the Exchange Act and the respective rules and regulations thereunder, as in effect at any relevant time, and make generally available to its securityholders earnings statements (which need not be audited) satisfying the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder (or any similar rule promulgated under the Securities Act) no later than at the time required by the Securities Act and the Exchange Act and the rules and regulations thereunder, as in effect at any relevant time, commencing on the first day of the first fiscal quarter of the Company commencing after (i) the effective date of a Shelf Registration Statement, (ii) the effective date of each post-effective amendment to such Shelf Registration Statement, or (iii) the date of each filing by the Company with the Commission of an Annual Report on Form 10-K that is incorporated by reference in such Shelf Registration Statement, which statements will cover said 12-month periods.

(m) Not later than the Effective Time of the initial Shelf Registration Statement, the Company shall use its best efforts to cause the Indenture to be qualified under the Trust Indenture Act; in connection with such qualification, the Company shall cooperate with the Trustee under the Indenture and the Holders (as defined in the Indenture) to effect such changes to the Indenture as may be required for such Indenture to be so qualified in accordance with the terms of the Trust Indenture Act; and the Company shall execute, and

shall use all reasonable efforts to cause the Trustee to execute, all documents that may be required to effect such changes and all other forms and documents required to be filed with the Commission to enable such Indenture to be so qualified in a timely manner. In the event that any such amendment or modification referred to in this Section 3(m) involves the appointment of a new trustee under the Indenture, the Company shall appoint a new trustee thereunder pursuant to the applicable provisions of the Indenture.

(n) The Company shall enter into such customary agreements and take all such other necessary actions in connection therewith (including those reasonably requested by the holders of a majority of the Registrable Securities being sold) in order to expedite or facilitate disposition of such Registrable Securities; provided, that the Company will not be required to take any action in connection with an underwritten offering without its consent.

(o) The Company shall (i) make reasonably available for inspection by one or more representatives of the selling Holders, designated in writing by a Majority of Holders whose Registrable Securities are included in a Shelf Registration Statement, any underwriter participating in any disposition pursuant to any Shelf Registration Statement, and any attorney, accountant or other agent retained by such Notice Holders or any such underwriter all relevant financial and other records, pertinent corporate documents and properties of the Company and its subsidiaries, and (ii) cause the Company's officers, directors and employees to make reasonably available for inspection all information reasonably requested by such Notice Holders or any such underwriter, attorney, accountant or agent in connection with such Shelf Registration Statement, in each case, as is customary for similar due diligence examinations; provided, however, that such persons shall, at the Company's request, first agree in writing with the Company that any information that is reasonably and in good faith designated by the Company in writing as confidential at the time of delivery, or inspection, as the case may be, of such information will be kept confidential by such persons and will be used solely for the purposes of exercising rights under this Agreement, unless such disclosure is made in connection with a court proceeding or required by law, or such records, information or documents become available to the public generally or through a third party without an accompanying obligation of confidentiality; and provided further that, if the foregoing inspection and information gathering would otherwise disrupt the Company's conduct of its business, such inspection and information gathering will, to the greatest extent possible, be coordinated on behalf of the Notice Holders and the other parties entitled thereto by one counsel designated by and on behalf of the Notice Holders and other parties.

(p) The Company will use its best efforts to cause the Common Stock issuable upon conversion of the Notes or exercise of Warrants to be quoted or listed on the Nasdaq National Market or other market or stock exchange on which the Common Stock primarily trades on or prior to the Effective Time of each Shelf Registration Statement hereunder.

(q) The Company will make, cooperate and assist in any filings required to be made with National Association of Securities Dealers, Inc.

(r) The Company shall use its reasonable best efforts to take all other steps necessary to effect the registration, offering and sale of the Registrable Securities covered by the Shelf Registration Statement contemplated hereby.

(s) The Company shall furnish to each of the underwriter(s), if any, and their respective counsel, if any, before filing with the Commission, a copy of the Shelf Registration Statement and copies of any Prospectus included therein or any amendments or supplements to the Shelf Registration Statement or Prospectus (other than documents incorporated by reference after the initial filing of the Shelf Registration Statement), which documents will be subject to the review of such underwriter(s) and counsel, for a period of at least five Business Days, and the Company will not file the Shelf Registration Statement or Prospectus or any amendment or supplement to the Shelf Registration Statement or Prospectus (other than documents incorporated by reference) to which a selling Holder of Registrable Securities covered by the Shelf Registration Statement or the underwriter(s), if any, shall reasonably object within five Business Days after the receipt thereof. The Company shall also furnish to each of the underwriter(s), if any, and their respective counsel, if any, before filing with the Commission, if reasonably practicable, or otherwise promptly after filing with the Commission, copies of any amendments to the Shelf Registration Statement or supplements to the Prospectus (other than documents incorporated by reference after the initial filing of the Shelf Registration Statement), and to make the Company's representatives available for discussion of such amendments or supplements and make such changes in such amendments or supplements prior to the filing thereof, if reasonably practicable, or prepare and file further amendments or supplements, as underwriter(s), if any, or their respective counsel, if any, may reasonably request subject to the provisos contained in the last sentence of Section 3(s) hereof. An objection by an underwriter or by counsel to an underwriter shall be deemed to be a reasonable objection to such filing if the Shelf Registration Statement, amendment, Prospectus or supplement, as applicable, as proposed to be filed, contains a material misstatement or omission.

(t) The Company shall, if requested by any selling Holders or the underwriter(s), if any, promptly incorporate in the Shelf Registration Statement or Prospectus, pursuant to a supplement or post-effective amendment if necessary, such information as such selling Holders and underwriter(s), if any, may reasonably request to have included therein, including, without limitation: (i) information relating to the "Plan of Distribution" of the Registrable Securities, (ii) information with respect to the principal amount of Securities or number of shares of Common Stock issued upon conversion of the Securities being sold, (iii) the purchase price being paid therefor and (iv) any other terms of the offering of the Registrable Securities to be sold in such offering; provided, however, that with respect to any information requested for inclusion by a selling Holder, this clause (t) shall apply only to such information that relates to the Registrable Securities to be sold by such selling Holder; and make all required filings of such Prospectus supplement or post-effective amendment as soon as reasonably practicable after the Company is notified of the matters to be incorporated in such Prospectus supplement or post-effective amendment.

(u) Subject to any notice by the Company in accordance with this Section 3 of the existence of any fact or even of the kind described in Section 3(d)(vi), the Company hereby consents to the use of the Prospectus and any amendment or supplement thereto by each of the selling Holders and each of the underwriter(s), if any, in connection with the offering and the sale of the Registrable Securities covered by the Prospectus or any amendment or supplement thereto.

(v) If an underwriting agreement is entered into in connection with the registration, the Company shall:

(i) upon request, furnish to each selling Holder and each underwriter, in such substance and scope as they may reasonably request and as are customarily made by issuers to underwriters in primary underwritten offerings for selling security holders, upon the date of closing of any sale of Registrable Securities in an Underwritten Registration:

(A) a certificate, dated the date of such closing, signed by the Chief Financial Officer of the Company confirming, as of the date thereof, matters of the type set forth in the Purchase Agreement and such other matters as such parties may reasonably request;

(B) opinions, each dated the date of such closing, of counsel to the Company covering such of the matters as are customarily covered in legal opinions to underwriters in connection with underwritten offerings of securities; and

(C) customary comfort letters, dated the date of such closing, from the Company's independent accountants, in the customary form and covering matters of the type customarily covered in comfort letters to underwriters in connection with primary underwritten offerings of securities;

(ii) set forth in full in the underwriting agreement, if any, indemnification provisions and procedures which provide rights no less protective than those set forth in Section 5 hereof with respect to all parties to be indemnified; and

(iii) deliver such other documents and certificates as may be reasonably requested by such parties to evidence compliance with clause (A) above and with any customary conditions contained in the underwriting agreement or other agreement entered into by the selling Holders pursuant to this clause 3(v).

(w) The Company shall, before any public offering of Registrable Securities, cooperate with the selling Holders, the underwriter(s), if any, and their respective counsel in connection with the registration and qualification of the Registrable Securities under the securities or "Blue Sky" laws of such

jurisdictions in the United States as the selling Holders or underwriter(s), if any, may reasonably request and do any and all other acts or things necessary or advisable to enable the disposition in such jurisdictions of the Registrable Securities covered by the Shelf Registration Statement; provided, however, that the Company shall not be required (i) to register or qualify as a foreign corporation or a dealer of securities where it is not now so qualified or to take any action that would subject it to the service of process in any jurisdiction where it is not now so subject or (ii) to subject itself to taxation in any such jurisdiction if it is not now so subject.

(x) The Company shall cause the Indenture to be qualified under the TIA not later than the effective date of the Shelf Registration Statement required by this Agreement, and, in connection therewith, cooperate with the Trustee and the holders of Debentures to effect such changes to the Indenture as may be required for such Indenture to be so qualified in accordance with the terms of the TIA, and execute and use its commercially reasonable efforts to cause the Trustee thereunder to execute all documents that may be required to effect such changes and all other forms and documents required to be filed with the Commission to enable such Indenture to be so qualified in a timely manner.

(y) The Company shall, if reasonably requested by the underwriter(s), make appropriate officers of the Company reasonably available to the underwriter(s) for meetings with prospective purchasers of the Registrable Securities and prepare and present to potential investors customary "road show" or marketing material in a manner consistent with other new issuances of other securities similar to the Registrable Securities.

(z) Each Holder agrees by acquisition of a Registrable Security that, upon receipt of any notice (a "Suspension Notice") from the Company of the existence of any fact of the kind described in Section 3(d)(v) hereof, such Holder will, and will use its reasonable efforts to cause any underwriter(s) in an Underwritten Offering to, forthwith discontinue disposition of Registrable Securities pursuant to the Shelf Registration Statement until:

(i) such Holder has received copies of the supplemented or amended Prospectus contemplated by Section 3(d)(v) hereof; or

(ii) such Holder is advised in writing by the Company that the use of the Prospectus may be resumed, and has received copies of any additional or supplemental filings that are incorporated by reference in the Prospectus.

If so directed by the Company, each Holder will deliver to the Company (at the Company's expense) all copies, other than permanent file copies then in such Holder's possession, of the Prospectus covering such Registrable Securities that was current at the time of receipt of such notice of suspension.

Section 4. Registration Expenses. The Company shall bear all fees and expenses incurred in connection with the performance by the Company of its obligations under Sections 2 and 3 of this Agreement whether or not any of the

Shelf Registration Statements are declared effective. Such fees and expenses include, without limitation, (i) all registration and filing fees (including, without limitation, fees and expenses (x) with respect to filings required to be made with the National Association of Securities Dealers, Inc. and (y) of compliance with United States federal and state securities or "Blue Sky" laws to the extent such filings or compliance are required pursuant to this Agreement (including, without limitation, reasonable fees and disbursements of the counsel specified in the next sentence in connection with "Blue Sky" qualifications of the Registrable Securities under the laws of such jurisdictions as the Notice Holders of a majority of the Registrable Securities being sold pursuant to a Shelf Registration Statement may designate)), (ii) printing expenses (including, without limitation, expenses of printing certificates for Registrable Securities in a form eligible for deposit with The Depository Trust Company), (iii) duplication expenses relating to copies of any Shelf Registration Statement or Prospectus delivered to any Holders hereunder, (iv) fees and disbursements of counsel for the Company in connection with the Shelf Registration Statement, and (v) reasonable fees and disbursements of the Trustee and its counsel and of the registrar and transfer agent for the Common Stock. In addition, the Company shall bear or reimburse the Notice Holders for the reasonable fees and disbursements of one firm of legal counsel for the Holders (up to a maximum of $5,000), but which may, upon the written consent of a majority of the Holders (which shall not be unreasonably withheld), be another nationally recognized law firm experienced in securities law matters designated by the Company. In addition, the Company shall pay the internal expenses of the Company (including, without limitation, all salaries and expenses of officers and employees performing legal or accounting duties), the expense of any annual audit, the fees and expenses incurred in connection with the listing of the Registrable Securities on any securities exchange on which similar securities of the Company are then listed and the fees and expenses of any person, including special experts, retained by the Company.

Section 5. Indemnification and Contribution. (a) Indemnification by the Company. The Company shall indemnify and hold harmless each Notice Holder, each person, if any, who controls any such Notice Holder within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, and each Affiliate of any Notice Holder from and against any loss, claim, damage, liability or expense whatsoever as incurred (including but not limited to reasonable attorneys' fees and any and all expenses whatsoever incurred in investigating, preparing or defending against any litigation, commenced or threatened, or any claim whatsoever, and any and all amounts paid in settlement of any claim or litigation), joint or several, to which they or any of them may become subject under the Securities Act, the Exchange Act or otherwise, insofar as any such loss, claim, damage, liability or expense (or action in respect thereof) arises out of, or is based upon, any untrue statement or alleged untrue statement of a material fact contained in the Shelf Registration Statement or any amendment thereto or any related preliminary prospectus or the Prospectus or any amendment thereto of supplement thereof, or arises out of, or is based upon, the omission or alleged omission to state therein any material fact required to be stated therein or necessary to make the statements therein not misleading; provided, however, that the Company will not be liable to any such indemnified party in any such case to the extent that any such loss, claim, damage,

liability or expense arises out of, or is based upon, any such untrue statement or alleged untrue statement or omission or alleged omission made therein in reliance upon and in conformity with written information furnished to the Company by or on behalf of such indemnified party specifically for use therein; and provided further, however, that the Company will not be liable to any such indemnified party in any such case to the extent that such loss, claim, damage, liability or expense arises from an offer or sale by a Notice Holder of Registrable Securities during a Suspension Period, if such indemnified party is a Notice Holder that received from the Company a notice of the commencement of such Suspension Period prior to the making of such offer or sale. The foregoing indemnity agreement is in addition to any liability that the Company may otherwise have to any indemnified party. The Company will not be liable under this Section 5(a) for any settlement of any action effected without its written consent, which will not be unreasonably withheld; provided, however, that with respect to actions pursuant to clauses (1), (2) and (3) of Section 5(c), no such consent will be required.

(b) Indemnification by the Notice Holders. Each Notice Holder, severally and not jointly, shall indemnify and hold harmless the Company, and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any loss, claim, damage, liability or expense whatsoever as incurred (including but not limited to attorneys' fees and any and all expenses whatsoever incurred in investigating, preparing or defending against any litigation, commenced or threatened, or any claim whatsoever, and any and all amounts paid in settlement of any claim or litigation), to which they or any of them may become subject under the Securities Act, the Exchange Act or otherwise, insofar as any such loss, claim, damage, liability or expense (or action in respect thereof) arises out of, or is based upon, any untrue statement or alleged untrue statement of a material fact contained in the Shelf Registration Statement or any amendment thereto or any related preliminary prospectus or the Prospectus or any amendment thereto of supplement thereof, or arises out of, or is based upon, the omission or alleged omission to state therein any material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission made therein was made in reliance upon and in conformity with written information furnished to the Company by or on behalf of such Notice Holder specifically for use therein. In no event shall the liability of any selling Notice Holder hereunder be greater in amount than the dollar amount of the proceeds received by such Holder upon the sale of the Registrable Securities pursuant to the Shelf Registration Statement giving rise to such indemnification obligation. The foregoing indemnity agreement is in addition to any liability that any Notice Holder may otherwise have to the Company, and any such controlling person.

(c) Notices of Claims, Etc. Promptly after receipt by an indemnified party under this Section 5 of notice of any claim or the commencement of any action, the indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under this Section 5, notify the indemnifying party in writing of the claim or the commencement of that action; provided, however, that the failure to notify the indemnifying party shall not relieve it

from any liability that it may have under this Section 5. If any such claim or action is brought against an indemnified party, and it notifies the indemnifying party thereof, the indemnifying party will be entitled to participate therein and, to the extent that it wishes, jointly with any other similarly notified indemnifying party, to assume the defense thereof with counsel reasonably satisfactory to the indemnified party. After notice from the indemnifying party to the indemnified party of its election to assume the defense of such claim or action, the indemnifying party will not be liable to the indemnified party under this Section 5 for any legal or other expenses subsequently incurred by the indemnified party in connection with the defense thereof other than reasonable costs of investigation; provided, however, that a Majority of Holders will have the right to employ counsel to represent jointly a Majority of Holders and its respective directors, employees, officers and controlling persons who may be subject to liability arising out of any claim in respect of which indemnity may be sought by a Majority of Holders against the Company under this Section 5 if (1) employment of such counsel has been authorized in writing by the indemnifying party, or (2) such indemnifying party has not employed counsel to have charge of the defense of such proceeding within 30 days of the receipt of notice thereof, or (3) such indemnified party has reasonably concluded that the representation of such indemnified party and those directors, employees, officers and controlling persons by the same counsel representing the indemnifying party would be inappropriate under applicable standards of professional conduct due to actual or potential differing interests between them or where there may be one or more defenses available to them that are different from, additional to or in conflict with those available to the indemnifying party, and in any such event ((1), (2) or (3)) the fees and expenses of such separate counsel shall be paid by the indemnifying party as incurred. It is understood that the indemnifying party will not be liable for the fees and expenses of more than one separate firm (in addition to local counsel in each jurisdiction) for all indemnified parties in connection with any proceeding or related proceedings. No indemnifying party may, without the prior written consent of the indemnified parties, effect any settlement or compromise of, or consent to the entry of judgment with respect to, any pending or threatened claim, investigation, action or proceeding in respect of which indemnity or contribution may be or could have been sought hereunder (whether or not the indemnified party or parties are actual or potential parties thereto) unless (x) such settlement, compromise or judgment (i) includes an unconditional release of such indemnified party from all liability arising out of such claim, action, suit or proceeding and (ii) does not include a statement as to or an admission of fault, culpability or failure to act by or on behalf of any indemnified party, and (y) the indemnifying party confirms in writing its indemnification obligations hereunder with respect to such settlement, compromise or judgment.

(d) Contribution. If the indemnification provided for in this Section 5 is unavailable or insufficient to hold harmless an indemnified party under subsections (a) or (b) above, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of the losses, claims, damages, expenses or liabilities (or actions in respect thereof) referred to in subsection (a) or (b) above (i) in such proportion as is appropriate to reflect the relative benefits received by the indemnifying party or parties on the one hand and the indemnified party on the other from the

registration of the Registrable Securities pursuant to the Shelf Registration, or (ii) if the allocation provided by the foregoing clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the indemnifying party or parties on the one hand and the indemnified party on the other in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities (or actions in respect thereof) as well as any other relevant equitable considerations. The relative fault of the parties will be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company on the one hand or such Holder or such other indemnified party, as the case may be, on the other, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The amount paid by an indemnified party as a result of the losses, claims, damages or liabilities referred to in the first sentence of this subsection (d) is deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any action or claim which is the subject of this subsection (d). The Company and the Holders agree that it would not be just and equitable if contribution pursuant to this Section 5(d) were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to herein. Notwithstanding any other provision of this Section 5(d), the Holders of the Registrable Securities will not be required to contribute any amount in excess of the amount by which the gross proceeds received by such Holders from the sale of the Registrable Securities pursuant to the Shelf Registration Statement exceeds the amount of damages which such Holders have otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this paragraph (d), each person, if any, who controls such indemnified party within the meaning of the Securities Act or the Exchange Act will have the same rights to contribution as such indemnified party and each person, if any, who controls the Company within the meaning of the Securities Act or the Exchange Act will have the same rights to contribution as the Company. The Holders' respective obligations to contribute pursuant to this Section 5 are several in proportion to the respective amount of Registrable Securities they have sold pursuant to a Registration Statement and not joint. The remedies provided for in this Section 5 are not exclusive and do not limit any rights or remedies which may otherwise be available to any indemnified party at law or in equity.

(e) The indemnity and contribution provisions contained in this Section 5 will remain operative and in full force and effect regardless of (i) any termination of this Agreement, (ii) any investigation made by or on behalf of any Holder or any person controlling such Holder, or by or on behalf of the Company, its officers or directors or any person controlling the Company, and (iii) any sale of Registrable Securities pursuant to the Shelf Registration Statement.

Section 6. Holder's Obligations. Each Holder agrees, by acquisition of the Registrable Securities, that no Holder of Registrable Securities will be entitled to sell any Registrable Securities pursuant to a Shelf Registration Statement or to receive a Prospectus relating thereto, unless such Holder has furnished the Company with a Notice and Questionnaire as required pursuant to Section 3(a) hereof (including the information required to be included in such Notice and Questionnaire) and the information set forth in the next sentence. Each Notice Holder agrees promptly to furnish to the Company all information required to be disclosed in order to make the information previously furnished to the Company by such Notice Holder not misleading and any other information regarding such Notice Holder and the distribution of such Registrable Securities as the Company may from time to time reasonably request. Any sale of any Registrable Securities by any Notice Holder will constitute a representation and warranty by such Notice Holder that the information relating to such Notice Holder and its plan of distribution is as set forth in the Prospectus delivered by such Notice Holder in connection with such disposition, that such Prospectus does not as of the time of such sale contain any untrue statement of a material fact relating to or provided by such Notice Holder or its plan of distribution and that such Prospectus does not as of the time of such sale omit to state any material fact relating to or provided by such Notice Holder or its plan of distribution necessary in order to make the statements in such Prospectus, in the light of the circumstances under which they were made, not misleading.

Section 7. Additional Interest. (a) If (i) on or prior to the 120th day following the Issue Date, the Shelf Registration Statement has not been filed with the Commission, (ii) on or prior to the 180th day following the Issue Date, the Shelf Registration Statement is not declared effective under the Securities Act by the Commission, (iii) except as provided in Section 2(c) hereof, the Shelf Registration Statement is filed and declared effective but, during the Effectiveness Period, shall thereafter cease to be effective or fail to be usable for its intended purpose without such disability being cured within 10 Business Days by an effective post-effective amendment to the Shelf Registration Statement, a supplement to the Prospectus or a report filed with the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act that cures such failure, or (iv) prior to or on the 45th or 60th day as the case may be, of any Suspension Period, such suspension has not been terminated or any Suspension Periods exceed an aggregate of 90 days in any 360-day period, (each a "Registration Default"), the Company will pay interest in addition to the interest then payable on the Notes, ("Additional Interest"), from and including the day following the date of such Registration Default to but excluding the day on which such Registration Default is cured, at an annual rate equal to 0.5% on the Applicable Amount, which rate shall increase by an additional 0.5% per annum every 90 days that such Registration Default is continuing, provided that such Additional Interest shall under no circumstances exceed a maximum rate of 2.0% per annum.

(b) So long as any Securities remain outstanding, the Company shall notify the Trustee within 2 Business Days after each and every date on which an event occurs in respect of which Additional Interest is required to be paid. Any amounts of Additional Interest due pursuant to clause (a) of this Section 7 will be payable in cash semi-annually in arrears on each Additional Interest Payment

Date, commencing with the first such date occurring after any such Additional Interest commences to accrue, to Holders to whom regular interest is payable on such Additional Interest Payment Date with respect to Securities that are Registrable Securities. All accrued Additional Interest shall be paid by the Company to Record Holders of Registrable Securities on each Additional Interest Payment Date by wire transfer of immediately available funds or by federal bank check. The Company agrees to deliver all notices, certificates and other documents contemplated by the Indenture in connection with the payment of Additional Interest.

All obligations of the Company set forth in this Section 7 that are outstanding with respect to any Transfer Restricted Security at the time such security ceases to be a Registrable Security shall survive until such time as all such obligations with respect to such Registrable Security shall have been satisfied in full; provided, however, that Additional Interest shall cease to accrue on the day immediately prior to the date such Registrable Security ceases to be a Registrable Security.

(c) Except as provided in Section 8(a) hereof, the Additional Interest set forth in this Section 7 will be the exclusive remedy available to the Holders of Registrable Securities for such Registration Default. In no event will the Company be required to pay Additional Interest in excess of the applicable maximum rate of 2.00% per annum set forth above, regardless of whether one or multiple Registration Defaults exist.

Section 8. Information Requirements. The Company covenants that, if at any time before the end of the Effectiveness Period the Company is not subject to the reporting requirements of the Exchange Act, it will cooperate with any Holder and take such further reasonable action as any Holder may reasonably request in writing (including, without limitation, making such reasonable representations as any such Holder may reasonably request), all to the extent required from time to time to enable such Holder to sell Registrable Securities without registration under the Securities Act within the limitation of the exemptions provided by Rule 144 and Rule 144A under the Securities Act and customarily taken in connection with sales pursuant to such exemptions. Upon the written request of any Holder, the Company shall deliver to such Holder a written statement as to whether it has complied with such filing requirements, unless such a statement has been included in the Company's most recent report filed pursuant to Section 13 or Section 15(d) of Exchange Act. Notwithstanding the foregoing, nothing in this Section 8 shall be deemed to require the Company to register any of its securities (other than the Registrable Securities) under any section of the Exchange Act.

Section 9. Miscellaneous. (a) Specific Performance. The parties hereto acknowledge that there would be no adequate remedy at law if the Company fails to perform any of its obligations hereunder and that the Holders from time to time may be irreparably harmed by any such failure, and accordingly agree that the Holders, in addition to any other remedy to which they may be entitled at law or in equity and without limiting the remedies available to the Notice Holders under Section 7 hereof, are entitled to compel specific performance of the obligations of the Company under this Registration Rights Agreement in

accordance with the terms and conditions of this Registration Rights Agreement, in any court of the United States or any State thereof having jurisdiction.

(b) Amendments and Waivers. This Agreement, including this Section 9(b), may be amended, and waivers or consents to departures from the provisions hereof may be given, only by a written instrument duly executed by the Company and a Majority of the Holders. Each Holder of Registrable Securities outstanding at the time of any such amendment, waiver or consent or thereafter will be bound by any amendment, waiver or consent effected pursuant to this Section 9(b), whether or not any notice, writing or marking indicating such amendment, waiver or consent appears on the Registrable Securities or is delivered to such Holder.

(c) Notices. All notices and other communications provided for or permitted hereunder shall be made in writing by hand delivery, by telecopier, by courier guaranteeing overnight delivery or by first-class mail, return receipt requested, and will be deemed given (i) when made, if made by hand delivery, (ii) upon confirmation, if made by telecopier, (iii) one (1) Business Day after being deposited with such courier, if made by overnight courier or (iv) on the date indicated on the notice of receipt, if made by first-class mail, to the parties as follows:

(i) if to a Holder of Registrable Securities, at the most current address given by such Holder to the Company in a Notice and Questionnaire or any amendment thereto;

(ii) if to the Company, to:

Immunomedics, Inc.
300 American Road
Morris Plains, New Jersey 07950
Attention: Gerard Gorman, Chief Financial Officer
Facsimile: (973) 605-8282

with a copy to:

Cadwalader Wickersham & Taft LLP
One World Financial Center
New York, New York 10281
Attention: Gerald A. Eppner, Esq.
Facsimile: (212) 504-6666

or to such other address as such person may have furnished to the other persons identified in this Section 8(c) in writing in accordance herewith.

(d) Parties in Interest. The parties to this Agreement intend that all Holders of Registrable Securities shall be entitled to receive the benefits of this Agreement and that any Notice Holder will be bound by the terms and provisions of this Agreement by reason of such election with respect to the Registrable Securities which are included in a Shelf Registration Statement. All the terms and provisions of this Agreement shall be binding upon, shall inure to the benefit of and shall be enforceable by the respective successors and assigns

of the parties hereto and any Holder from time to time of the Registrable Securities to the aforesaid extent. In the event that any transferee of any Holder of Registrable Securities acquires Registrable Securities, in any manner, whether by gift, bequest, purchase, operation of law or otherwise, such transferee will, without any further writing or action of any kind, be entitled to receive the benefits of and, if a Notice Holder, will be conclusively deemed to have agreed to be bound by and to perform all of the terms and provisions of this Agreement to the aforesaid extent.

(e) Counterparts. This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

(f) Headings. The headings in this Agreement are for convenience of reference only and do not limit or otherwise affect the meaning hereof.

(g) Governing Law. This Agreement is governed by and construed in accordance with the laws of the State of New York.

(h) Severability. In the event that any one or more of the provisions contained herein, or the application thereof in any circumstances, is held invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions hereof will not be in any way impaired or affected thereby, it being intended that all of the rights and privileges of the parties hereto are enforceable to the fullest extent permitted by law.

(i) Survival. The respective indemnities, agreements, representations, warranties and other provisions set forth in this Agreement or made pursuant hereto will remain in full force and effect, regardless of any investigation (or any statement as to the results thereof) made by or on behalf of any Notice Holder, any director, officer or partner of such Holder, any agent or underwriter, any director, officer or partner of such agent or underwriter, or any controlling person of any of the foregoing, and will survive the transfer and registration of the Registrable Securities of such Holder.

Section 10. Submission to Jurisdiction; Appointment of Agent for Service. The Company agrees that any suit, action or proceeding against the Company arising out of or based upon this Agreement or the transactions contemplated hereby may be instituted in any state or federal court in The City of New York, New York, and waives any objection which it may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the non-exclusive jurisdiction of such courts in any suit, action or proceeding. The Company expressly accepts the non-exclusive jurisdiction of any such court in respect of any such suit, action or proceeding. The Company agrees that a final judgment in any such proceeding brought in any such court will be conclusive and binding thereupon and may be enforced in any other court in the jurisdiction to which the Company is or may be subject by suit upon such judgment.

Please confirm that the foregoing correctly sets forth the agreement between the Company and you.

Very truly yours,

Immunomedics, Inc.

By:_____
Name:
Title:

Accepted as of the date hereof:

[Purchaser]

By:_____
Name:
Title:

Exhibit 1

Exhibit 1 To Election and Questionnaire

Notice of Transfer of Transfer Restricted Securities

Immunomedics, Inc.
300 American Road
Morris Plains, New Jersey 07950

Re: Immunomedics, Inc.'s
5% Convertible Senior Notes due 2008 (the "Notes")

Dear Sirs:

Please be advised that _____ has transferred Transfer Restricted Securities (as defined in Appendix A to the Registration Rights Agreement, dated as of April [__], 2005 by and among the Company and the purchasers listed therein (the "Registration Rights Agreement") and such person's rights under the Registration Rights Agreement related to such Transfer Restricted Securities to the following person and in the following amounts:

[Amount and Description]

[Name]

[Address]

Very truly yours,

[name]

By:_____
(Authorized Signature)

Dated:_____

Exhibit 4.2

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COMMON STOCK WARRANT AGREEMENT

dated as of April 29, 2005

between

IMMUNOMEDICS, INC.

and

JPMORGAN CHASE BANK, N.A., as Warrant Agent

Common Stock Warrants

Expiring April 29, 2008

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EXHIBITS

COMMON STOCK WARRANT AGREEMENT

WARRANT AGREEMENT, dated as of April 29, 2005 (as modified, amended or supplemented, this "Agreement"), between IMMUNOMEDICS, INC, a Delaware corporation (the "Company") and JPMORGAN CHASE BANK, N.A., as Warrant Agent (the "Warrant Agent").

W I T N E S S E T H:

WHEREAS, the Company, proposes to issue and sell to the several purchasers, (collectively, the "Purchasers" and each, a "Purchaser"), upon the terms set forth in each purchase agreement between the Company and a Purchaser (collectively, the "Purchase Agreements", and each, a "Purchase Agreement"), its 5% Senior Convertible Notes due 2008 (the "Notes"), with warrants (each, a "Warrant, and together with the Notes, the "Securities") representing the right to purchase shares of common stock of the Company issuable upon conversion of the Notes or exercise of the warrants, ("Common Stock"). The shares of Common Stock issued upon exercise of the Warrants are referred to as the "Warrant Shares," and such warrant certificates and other warrant certificates issued pursuant to this Agreement being herein called the "Warrant Certificates"; and

WHEREAS, the Company desires the Warrant Agent to act on behalf of the Company, and the Warrant Agent is willing so to act, in connection with the issuance, transfer, exchange, exercise and cancellation of the Warrants, and the Company wishes to set forth in this Agreement, among other things, the provisions of the Warrants, the form of the Warrant Certificates evidencing the Warrants and the terms and conditions upon which the Warrants may be issued, transferred, exchanged, exercised and canceled. Any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Purchase Agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual agreements herein contained, the parties hereto agree as follows:

ARTICLE I

ISSUANCE OF WARRANTS AND FORM, EXECUTION, DELIVERY AND REGISTRATION OF WARRANT CERTIFICATES

Section 1.01 Issuance of Warrants. (a) Pursuant to the terms of the Purchase Agreements, the Company will sell to each of the Purchasers multiples of (i) $1,000 in aggregate principal amount of Notes together with (ii) a Warrant to purchase 76.394 shares of Common Stock per $1,000 principal amount of Notes, at the Exercise Price set forth in Section 2.01.

(b) Warrants shall be issued, with the Notes, and thereafter shall be detachable and may be traded separately subject to certain restrictions described herein, ("Transfer Restrictions"). The price of each unit shall be equal to 100% of the principal amount of the Notes included in such unit, plus accrued interest, if any, from the Closing Date (the "Unit Purchase Price"). Each Warrant Certificate included in such a unit shall evidence 76.394 Warrants for each $1,000 principal amount of Notes included in such unit.

Section 1.02 Form, Execution and Delivery of Warrant Certificates. (a) One or more Warrant Certificates evidencing Warrants to purchase not more than 3,600,000, Warrant Shares (except as provided in Sections 1.03, 1.04 and 2.03(e)) may be executed by the Company and delivered to the Warrant Agent upon the execution of this Warrant Agreement or from time to time thereafter.

(b) Each Warrant Certificate, whenever issued, shall be in registered form substantially in the form set forth in Exhibit A hereto, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Agreement. Each Warrant Certificate shall be printed, lithographed, typewritten, mimeographed or engraved on steel engraved borders or otherwise reproduced in any other manner as may be approved by the officers executing the same (such execution to be conclusive evidence of such approval) and may have such letters, numbers or other marks of identification or designation and such legends or endorsements printed, lithographed or engraved thereon as the officers of the Company executing the same may approve (such execution to be conclusive evidence of such approval) and as are not inconsistent with the provisions of this Agreement, or as may be required to comply with any law or with any rule or regulation made pursuant thereto, or with any regulation of any stock exchange on which the Warrants, the Notes or the Warrant Shares may be listed, or to conform to usage. Each Warrant Certificate shall be signed on behalf of the Company by its Chairman of the Board, President or any Executive, Senior Vice President or Corporate Secretary. The signature of any such officer on any Warrant Certificate may be manual or facsimile. Each Warrant Certificate, when so signed on behalf of the Company, shall be delivered to the Warrant Agent together with an order for the countersignature and delivery of such Warrants.

(c) The Warrant Agent shall, upon receipt of the order referred to in Section 1.02(b) and of any Warrant Certificate duly executed on behalf of the Company, countersign such Warrant Certificate and deliver such Warrant Certificate to or upon the order of the Company. Each Warrant Certificate shall be dated the date of the Warrant Agent's countersignature (the "Grant Date").

(d) No Warrant Certificate shall be entitled to any benefit under this Agreement or be valid or obligatory for any purpose, and no Warrant

evidenced thereby may be exercised, unless such Warrant Certificate has been countersigned by the manual signature of the Warrant Agent. Such signature by the Warrant Agent upon any Warrant Certificate executed by the Company shall be conclusive evidence that such Warrant Certificate has been duly issued under the terms of this Agreement.

(e) If any officer of the Company who has signed any Warrant Certificate either manually or by facsimile signature shall cease to be such officer before such Warrant Certificate shall have been countersigned and delivered by the Warrant Agent, such Warrant Certificate nevertheless may be countersigned and delivered as though the person who signed such Warrant Certificate had not ceased to be such officer of the Company; and any Warrant Certificate may be signed on behalf of the Company by such persons as, at the actual date of the execution of such Warrant Certificate, shall be the proper officers of the Company as specified in this Section 1.02, regardless of whether at the date of the execution of this Agreement any such person was such officer.

(f) The Holders (defined below) shall be entitled to receive Warrants in physical, certificated form.

Section 1.03 Transfer of Warrants. (a) A Warrant Certificate may be transferred at the option of the Purchaser thereof upon surrender of such Warrant Certificate at the corporate trust office of the Warrant Agent, properly endorsed or accompanied by appropriate instruments of transfer and written instructions for transfer, all in form satisfactory to the Company and the Warrant Agent (the Purchaser and any transferee or transferees pursuant to this Section 1.03, a "Holder") . Upon any such registration of transfer, the Company shall execute, and the Warrant Agent shall countersign and deliver, as provided in Section 1.02, in the name of the designated transferee a new Warrant Certificate or Warrant Certificates of any authorized denomination evidencing in the aggregate a like number of unexercised Warrants.

(b) Upon surrender at the corporate office of the Warrant Agent, properly endorsed or accompanied by appropriate instruments of transfer and written instructions for such exchange, all in form satisfactory to the Company and the Warrant Agent, one or more Warrant Certificates may be exchanged for one or more Warrant Certificates in any other authorized denominations; provided that such new Warrant Certificate(s) evidence the same aggregate number of Warrants as the Warrant Certificate(s) so surrendered. Upon any such surrender for exchange, the Company shall execute, and the Warrant Agent shall countersign and deliver, as provided in Section 1.02, in the name of the Holder of such Warrant Certificates, the new Warrant Certificates.

(c) The Warrant Agent shall keep, at its corporate trust office, books in which, subject to such reasonable regulations as it may prescribe, it shall register Warrant Certificates in accordance with Section 1.02 and transfers, exchanges, exercises and cancellations of outstanding Warrant Certificates. Whenever any Warrant Certificates are surrendered for transfer or exchange in accordance with this Section 1.03, an authorized officer of the Warrant Agent shall manually countersign and deliver the Warrant Certificates which the Holder making the transfer or exchange is entitled to receive.

(d) No service charge shall be made for any transfer or exchange of Warrant Certificates, but the Company or the Warrant Agent may require payment of a sum sufficient to cover any stamp or other tax or other governmental charge that may be imposed in connection with any such transfer or exchange.

Section 1.04 Lost, Stolen, Mutilated or Destroyed Warrant Certificates. Upon receipt by the Company and the Warrant Agent of evidence satisfactory to them of the ownership of and the loss, theft, destruction or mutilation of any Warrant Certificate and of indemnity satisfactory to them and, in the case of mutilation, upon surrender of such Warrant Certificate to the Warrant Agent for cancellation, then, in the absence of notice to the Company or the Warrant Agent that such Warrant Certificate has been acquired by a protected purchaser, the Company shall execute, and an authorized officer of the Warrant Agent shall manually countersign and deliver, in exchange for or in lieu of the lost, stolen, destroyed or mutilated Warrant Certificate, a new Warrant Certificate of the same tenor and for a like number of Warrants. No service charge, other than as set forth in this Section 1.04, shall be made for any replacement of Warrant Certificates. The Company and/or the Warrant Agent may require the payment of a sum sufficient to cover any stamp or other tax or other governmental charge that may be imposed in connection with any exchange. The Warrant Agent may require the Holder to pay for "lost certificate bond" fee, the amount of which to be determined by the Warrant Agent, for any replacement Warrant Certificate issuance hereunder. To the extent permitted under applicable law, the provisions of this Section 1.04 are exclusive with respect to the replacement of mutilated, lost, stolen or destroyed Warrant Certificates and shall preclude any and all other rights or remedies.

Section 1.05 Cancellation of Warrant Certificates. Any Warrant Certificate surrendered to the Warrant Agent for transfer, exchange or exercise of the Warrants evidenced thereby shall be promptly canceled by the Warrant Agent and shall not be reissued and, except as expressly permitted by this Agreement, no Warrant Certificate shall be issued hereunder in lieu thereof. The Warrant Agent shall deliver to the Company from time to time or otherwise dispose of canceled Warrant Certificates in accordance with its customary procedures. Any Warrant Certificate surrendered to the Company for transfer, exchange or exercise of the Warrants evidenced thereby shall be promptly delivered to the Warrant Agent and such transfer, exchange or exercise shall not be effective until such Warrant Certificate has been received by the Warrant Agent.

Section 1.06 Treatment of Holders of Warrant Certificates. (a) The term "Holder", as used herein, shall mean any person in whose name at the time any Warrant Certificate shall be registered upon the books to be maintained by the Warrant Agent for that purpose.

(b) Every Holder consents and agrees with the Company, the Warrant Agent and with every subsequent Holder that until the Warrant Certificate is transferred on the books of the Warrant Agent, the Company and the Warrant Agent may treat the registered Holder of such Warrant Certificate as the absolute owner of the Warrants evidenced thereby for any purpose and as the person

entitled to exercise the rights attaching to the Warrants evidenced thereby, any notice to the contrary notwithstanding.

ARTICLE II

EXERCISE PRICE, DURATION AND EXERCISE OF WARRANTS

Section 2.01 Exercise Price. The initial exercise price of each Warrant shall equal $2.98 per Warrant Share, subject to customary adjustment for dilutive events.

Section 2.02 Duration of Warrants. Each Warrant may be exercised in whole or in part on any Business Day (as defined below) occurring during the period (the "Exercise Period") commencing on the effective date of the Share Increase, as defined in the Purchase Agreement, and ending at 5:00 P.M., New York time, on the third anniversary of the issuance of the Securities (the "Expiration Date"). Each Warrant remaining unexercised after 5:00 P.M., New York time, on the Expiration Date shall become void, and all rights of the Holder under this Agreement shall cease.

As used herein, the term "Business Day" means any day which is not a Saturday or Sunday and is not a legal holiday or a day on which banking institutions generally are authorized or obligated by law or regulation to close in New York.

Section 2.03 Exercise Of Warrants.

(a) A Holder may exercise a Warrant by delivering, not later than 5:00 P.M., New York time, on any Business Day during the Exercise Period (the "Exercise Date") to the Warrant Agent at its corporate trust department (i) the Warrant Certificate evidencing the Warrants to be exercised, (ii) an election to purchase the Warrant Shares ("Election to Purchase"), properly completed and executed by the Holder on the reverse of the Warrant Certificate and (iii) the Exercise Price for each Warrant to be exercised in lawful money of the United States of America by bank wire transfer in immediately available funds. If any of (a) the Warrant Certificate, (b) the Election to Purchase, or (c) the Exercise Price therefor, is received by the Warrant Agent after 5:00 P.M., New York time, on the specified Exercise Date, the Warrants will be deemed to be received and exercised on the next succeeding day which is a Business Day. If the Warrants are received or deemed to be received after the Expiration Date, the exercise thereof will be null and void and any funds delivered to the Warrant Agent will be returned to the Holder or Participant, as the case may be, as soon as practicable. In no event will interest accrue on funds deposited with the Warrant Agent in respect of an exercise or attempted exercise of Warrants. The validity of any exercise of Warrants will be determined by the Company in its sole discretion and such determination will be final and binding upon the Holder and the Company. Neither the Company nor the Warrant Agent shall have any obligation to inform a Holder of the invalidity of any exercise of Warrants. The Warrant Agent shall deposit all funds received by it in payment of the Exercise Price in the account with the Warrant Agent for such purpose and shall advise the Company at the end of each day on which funds for the exercise of the

Warrants are received of the amount so deposited to its account.

(b) In lieu of cash pursuant to Section 2.03(a)(iii) above, the Holder may elect to exchange all or some of this Warrant for Warrant Shares equal to the value of the amount of the Warrant Certificate being exchanged on the date of exchange. If the Holder elects to exchange this Warrant as provided in this Section 2.03(b), the Warrant Holder shall tender to the Company the Warrant Certificate for the amount being exchanged, along with written notice of the Holder's election to exchange some or all of this Warrant, and the Company shall promptly issue to the Holder (but in any case, within three Business Days) the number of shares of Common Stock computed using the following formula:

$$X = \frac{Y\ (A-B)}{A}$$

Where:

X = The number of Warrant Shares to be issued to the Warrant Holder.

Y = The number of Warrant Shares purchasable under the Warrant Certificate being exchanged (as adjusted to the date of such calculation).

A = The means the volume weighted average sales price of the Company's Common Stock for the 5 trading day period preceding the date of exercise of the Warrant.

B = The Exercise Price (as adjusted to the date of such calculation).

(c) The Warrant Agent shall, on the Business Day following the Exercise Date of any Warrant, advise the Company and the transfer agent and registrar in respect of the Warrant Shares issuable upon such exercise as to the number of Warrants exercised in accordance with the terms and conditions of this Agreement, the instructions of each Holder or Participant, as the case may be, with respect to delivery of the Warrant Shares issuable upon such exercise, and the delivery of definitive Warrant Certificates evidencing the balance, if any, of the Warrants remaining after such exercise, and such other information as the Company or such transfer agent and registrar shall reasonably require.

(d) The Company shall, by 5:00 P.M., New York time, on the third Business Day next succeeding the Exercise Date, execute, issue and deliver to the Warrant Agent, the Warrant Shares to which such Holder is entitled, in fully registered form, registered in such name or names as may be directed by such Holder. Upon receipt of such Warrant Shares, the Warrant Agent shall, by 5:00 P.M., New York time, on the fifth Business Day next succeeding, transmit such Warrant Shares, to or upon the order of the Holder, together with, or preceded by the prospectus referred to in Section 5.06 hereof. The Company agrees that it will provide such information and documents to the Warrant Agent as may be necessary for the Warrant Agent to fulfill its obligations hereunder.

(e) The accrual of dividends, if any, on the Warrant Shares issued upon the valid exercise of any Warrant will be governed by the terms of the Company's certificate of incorporation and such Warrant Shares. From and after the issuance of such Warrant Shares, the former Holder of the Warrants exercised will be entitled to the benefits of the Company's certificate of incorporation under which such Warrant Shares are issued, and such former Holder's right to receive payments of dividends and any other amounts payable in respect of the Warrant Shares shall be governed by, and shall be subject to, the terms and provisions of the Company's certificate of incorporation and the Warrant Shares.

(f) Warrants may be exercised only in whole numbers of Warrants. If fewer than all of the Warrants evidenced by a Warrant Certificate are exercised, a new Warrant Certificate for the number of Warrants remaining unexercised shall be executed by the Company and countersigned by the Warrant Agent as provided in Section 1.02 hereof, and delivered to the Holder at the address specified on the books of the Warrant Agent or as otherwise specified by such Holder.

(g) Neither the Company not the Warrant Agent shall be required to pay any stamp or other tax or other governmental charge required to be paid in connection with any transfer involved in the issue of the Warrant Shares; and in the event that any such transfer is involved, neither the Company nor the Warrant Agent shall not be required to issue or deliver any Warrant Shares until such tax or other charge shall have been paid or it has been established to the Company's and the Warrant Agent's satisfaction that no such tax or other charge is due.

Section 2.04 Adjustment Under Certain Circumstances. The Exercise Price and the number of Warrant Shares purchasable upon the exercise of each Warrant shall be subject to adjustment upon (i) the issuance of a stock dividend to the holders of the outstanding Warrant Shares or a combination, subdivision or reclassification of the Common Stock; (ii) the issuance of rights, warrants or options to all holders of the Common Stock entitling the holders thereof to purchase Common Stock for an aggregate consideration per share less than the current market price per share of the Common Stock; or (iii) any distribution by the Company to the holders of the Common Stock of evidences of indebtedness of the Company or of assets (excluding cash dividends or distributions payable out of consolidated earnings and earned surplus and dividends or distributions referred to in (i) above); provided that no such adjustment in the number of Warrant Shares purchasable upon exercise of the Warrants will be required until cumulative adjustments require an adjustment of at least 1% of such number. No fractional shares will be issued upon exercise of Warrants, but the Company will pay the cash value of any fractional shares otherwise issuable. The adjustments to be made under this Section 2.04 shall be determined by the Company and such determination shall be final and binding upon the Holders.

ARTICLE III

OTHER PROVISIONS RELATING TO RIGHTS OF HOLDERS OF WARRANTS

Section 3.01 No Rights as Holders of Warrant Shares Conferred by Warrants or Warrant Certificates. No Warrant Certificate or Warrant evidenced

thereby shall entitle the Holder thereof to any of the rights of a holder of any Warrant Shares, including, without limitation, the right to receive dividends, if any, or payments upon the liquidation, dissolution or winding up of the Company or to exercise voting rights, if any.

Section 3.02 Warrant Anti-dilution Provisions. (a) The Exercise Price and the number of shares of Common Stock issuable upon exercise of each Warrant shall be adjusted from time to time as follows:

(i) If and whenever on or after April 29, 2005 (the "Original Grant Date"), the Company issues or sells, or is deemed to have issued or sold, any shares of Common Stock, Options or Convertible Securities (including the issuance or sale of shares of Common Stock owned or held by or for the account of the Company, but excluding Exempted Issuances (as defined below)), for a consideration per share less than a price (the "Applicable Price") equal to the Exercise Price in effect immediately prior to such issuance or sale, then immediately after such issue or sale the Exercise Price then in effect shall be reduced to an amount equal to such consideration per share. Upon each such adjustment of the Exercise Price pursuant to the immediately preceding sentence, the number of shares of Common Stock acquirable upon exercise of each Warrant shall be adjusted to the number of shares determined by multiplying the Exercise Price in effect immediately prior to such adjustment by the number of shares of Common Stock acquirable upon exercise of such Warrant immediately prior to such adjustment and dividing the product thereof by the Exercise Price resulting from such adjustment. For purposes of this Warrant, "Exempted Issuances" shall mean: (i) the issuance or grant of equity securities of the Company to officers or employees of the Company or any subsidiary thereof pursuant to any management equity rights plan or other equity-based employee benefits plan or arrangement that has been duly authorized by the Company's Board of Directors or a committee thereof; and (ii) the issuance of shares of Common Stock in connection with the conversion of the Notes or exercise of the Warrants.

(b) For purposes of determining the adjusted Exercise Price under Section 3.02(a) above, the following shall be applicable:

(i) If the Company grants or sells any Options and the lowest price per share for which one share of Common Stock is issuable upon the exercise of any such Option or upon conversion, exchange or exercise of any Convertible Securities issuable upon exercise of any such Option is less than the Applicable Price, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Company at the time of the granting or sale of such Option for such price per share. For purposes of this Section 3.02(b)(i), the "lowest price per share for which one share of Common Stock is issuable upon exercise of any such Option or upon conversion, exchange or exercise of any Convertible Security issuable upon exercise of any such Option" shall be equal to the sum of the lowest amounts of consideration (if any) received or receivable by the Company with respect to any one share of Common Stock upon the granting or sale of the Option, upon exercise of the Option and upon

conversion, exchange or exercise of any Convertible Security issuable upon exercise of such Option. No further adjustment of the Exercise Price shall be made upon the actual issuance of such Common Stock or of such Convertible Securities upon the exercise of such Options or upon the actual issuance of such Common Stock upon conversion, exchange or exercise of such Convertible Securities.

(ii) If the Company issues or sells any Convertible Securities and the lowest price per share for which one share of Common Stock is issuable upon such conversion, exchange or exercise thereof is less than the Applicable Price, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Company at the time of the issuance or sale of such Convertible Securities for such price per share. For the purposes of this Section 3.02(b)(ii), the "lowest price per share for which one share of Common Stock is issuable upon such conversion, exchange or exercise" shall be equal to the sum of the lowest amounts of consideration (if any) received or receivable by the Company with respect to one share of Common Stock upon the issuance or sale of the Convertible Security and upon conversion, exchange or exercise of such Convertible Security. No further adjustment of the Exercise Price shall be made upon the actual issuance of such Common Stock upon conversion, exchange or exercise of such Convertible Securities, and if any such issue or sale of such Convertible Securities is made upon exercise of any Options for which adjustment of the Exercise Price had been or are to be made pursuant to other provisions of this Section 3.02(b), no further adjustment of the Exercise Price shall be made by reason of such issue or sale.

(iii) If the purchase, exchange or exercise price provided for in any Options, the additional consideration, if any, payable upon the issue, conversion, exchange or exercise of any Convertible Securities, or the rate at which any Options or Convertible Securities are convertible into or exchangeable or exercisable for Common Stock changes at any time, the Exercise Price in effect at the time of such change shall be adjusted to the Exercise Price that would have been in effect at such time had such Options or Convertible Securities provided for such changed purchase, exchange or exercise price, additional consideration or changed conversion rate, as the case may be, at the time initially granted, issued or sold and the number of shares of Common Stock acquirable hereunder shall be correspondingly readjusted. For purposes of this Section 3.02(b)(iii), if the terms of any Option or Convertible Security that was outstanding as of the date of issuance of this Warrant are changed in the manner described in the immediately preceding sentence, then such Option or Convertible Security and the Common Stock deemed issuable upon exercise, conversion or exchange thereof shall be deemed to have been issued as of the date of such change. No adjustment shall be made if such adjustment would result in an increase of the Exercise Price then in effect.

(c) For purposes of determining the adjusted Exercise Price under Sections 3.02(a) and 3.02(b), the following shall be applicable:

(i) In case any Options are issued in connection with the issue or sale of other securities of the Company, together comprising one integrated transaction or series of related transactions, (A) the Options will be deemed to have been issued for a consideration equal to the greater of $0.01 and the specific aggregate consideration, if any, allocated to such Options (in either case, the "Option Consideration") and, for purposes of applying the provisions of this Section 3.02, the Option Consideration shall be allocated pro rata among all the shares of Common Stock issuable upon exercise of such Options to determine the consideration per each such share of Common Stock and (B) the other securities will be deemed to have been issued for an aggregate consideration equal to the aggregate consideration received by the Company for the Options and other securities (determined as provided below with respect to each share of Common Stock represented thereby), less the sum of (1) the Black-Scholes Value (as defined below) of such Options and (2) the Option Consideration. If any Common Stock, Options or Convertible Securities are issued or sold or deemed to have been issued or sold for cash, the consideration received therefor will be deemed to be the net amount received by the Company therefor. If any Common Stock, Options or Convertible Securities are issued or sold for a consideration other than cash, the amount of such consideration received by the Company will be the fair value of such consideration, except where such consideration consists of marketable securities, in which case the amount of consideration received by the Company will be the Weighted Average Price of such securities on the date of receipt of such securities. If any Common Stock, Options or Convertible Securities are issued to the owners of the non-surviving entity in connection with any merger in which the Company is the surviving entity, the amount of consideration therefor will be deemed to be the fair value of such portion of the net assets and business of the non-surviving entity as is attributable to such Common Stock, Options or Convertible Securities, as the case may be. The fair value of any consideration other than cash or securities will be determined jointly by the Company and the holder of this Warrant. If such parties are unable to reach agreement within ten (10) days after the occurrence of an event requiring valuation (the "Valuation Event"), the fair value of such consideration will be determined within five (5) Business Days after the tenth (10th) day following the Valuation Event by an independent, reputable appraiser jointly selected by the Company and the Holder of this Warrant. The determination of such appraiser shall be final and binding upon all parties absent error, and the fees and expenses of such appraiser shall be borne by the Company.

(ii) If the Company takes a record of the holders of Common Stock for the purpose of entitling them (1) to receive a dividend or other distribution payable in Common Stock, Options or in Convertible Securities or (2) to subscribe for or purchase Common Stock, Options or Convertible Securities, then such record date will be deemed to be the date of the issue or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

(iii) The "Black-Scholes Value" of any Options shall mean the sum of the amounts resulting from applying the Black-Scholes pricing model to each such Option, which calculation is made with the following inputs: (i) the "option striking price" being equal to the lowest exercise price possible under the terms of such Option on the date of the issuance of such Option (the "Valuation Date"), (ii) the "interest rate" being equal to the interest rate on one-year United States Treasury Bills issued most recently prior to the Valuation Date (or if such rate is not available then an equivalent rate determined jointly by the Company and the holder of this Warrant), (iii) the "time until option expiration" being the time from the Valuation Date until the expiration date of such Option, (iv) the "current stock price" being equal to the Weighted Average Price of the Common Stock on the Valuation Date, (v) the "volatility" being the 100-day historical volatility of the Common Stock as of the Valuation Date (as reported by the Bloomberg "HVT" screen), and (vi) the "dividend rate" being equal to zero. Within three (3) Business Days after the Company Valuation Date, each of the Company and the holder of this Warrant shall deliver to the other a written calculation of its determination of the Black-Scholes value of the Options. If the holder and the Company are unable to agree upon the calculation of the Black-Scholes Value of the Options within five (5) Business Days of the Valuation Date, then the Company shall submit via facsimile the disputed calculation to an investment banking firm (jointly selected by the Company and the holder of this Warrant) within seven (7) Business Days of the Valuation Date. The Company shall cause such investment banking firm to perform the calculations and notify the company and the holder of the results no later than ten (10) Business Days after the Valuation Date. Such investment banking firm's calculation of the Black-Scholes Value of the Options shall be deemed conclusive absent error. The Company shall bear the fees and expenses of such investment banking firm for providing such calculation.

(d) If the Company at any time after the date of issuance of this Warrant subdivides (by any stock split, stock dividend, recapitalization or otherwise) its outstanding shares of Common Stock into a greater number of shares, the Exercise Price in effect immediately prior to such subdivision will be proportionately reduced and the number of shares of Common Stock obtainable upon exercise of this Warrant will be proportionately increased. If the Company at any time after the date of issuance of this Warrant combines (by combination, reverse stock split or otherwise) its outstanding shares of Common Stock into a smaller number of shares, the Exercise Price in effect immediately prior to such combination will be proportionately increased and the number of shares of Common Stock obtainable upon exercise of this Warrant will be proportionately decreased. Any adjustment under this Section 3.02(d) shall become effective at the close of business on the date the subdivision or combination becomes effective.

(e) If any event occurs of the type contemplated by the provisions of this Section 3.02 but not expressly provided for by such provisions (including the granting of stock appreciation rights, phantom stock rights or other rights with equity features), then the Company's Board of Directors will

make an appropriate adjustment in the Exercise Price and the number of shares of Common Stock obtainable upon exercise of this Warrant so as to protect the rights of the holders of the Warrants; provided that no such adjustment will increase the Exercise Price or decrease the number of shares of Common Stock obtainable as otherwise determined pursuant to this Section 3.02. Notwithstanding anything to the contrary contained in this Section 3.02, in no event shall the Exercise Price be reduced below the par value of the Common Stock.

(f) Notices. Immediately upon any adjustment of the Exercise Price or the number of Warrant Shares to be issued to the Warrant Holder pursuant to this Section 3.02, the Company will give written notice thereof to the holder of this Warrant and the Warrant Agent, setting forth in reasonable detail, and certifying, the calculation of such adjustment.

(g) Responsibility of Warrant Agent for Anti-Dilution Provisions(h) .. The Warrant Agent has no duty to determine when an adjustment under this Section 3.02 should be made, how it should be made or what it should be. The Warrant Agent makes no representation as to the validity or value of any securities or assets issued upon exercise of the Warrants. The Warrant Agent shall not be responsible for any failure of the Company to comply with this Section 3.02.

Section 3.03 Definitions.

(a) "Approved Stock Plan" means any employee benefit plan that has been approved by the Board of Directors and shareholders of the Company prior to the date of the Grant Date, pursuant to which the Company's securities may be issued to any consultant, employee, officer or director for services provided to the Company.

(b) "Convertible Securities" means any stock or securities (other than Options and Exempted Issuances) directly or indirectly convertible into or exchangeable or exercisable for Common Stock.

(c) "Options" means (other than Exempted Issuances) any rights, warrants or options to subscribe for or purchase Common Stock or Convertible Securities.

ARTICLE IV

CONCERNING THE WARRANT AGENT

Section 4.01 Warrant Agent. The Company hereby appoints JPMorgan Chase Bank, N.A. as Warrant Agent of the Company in respect of the Warrants upon the terms and subject to the conditions herein set forth, and JPMorgan Chase Bank, N.A. hereby accepts such appointment. The Warrant Agent shall have the powers and authority granted to and conferred upon it hereby and such further powers and authority to act on behalf of the Company as the Company may hereafter grant to or confer upon it.

Section 4.02 Limitations on Warrant Agent's Obligations. The Warrant Agent accepts its obligations herein set forth upon the terms and conditions hereof, including the following, to all of which the Company agrees and to all of which the rights hereunder of the Holders from time to time shall be subject:

(a) Compensation and Indemnification. The Company agrees to pay the Warrant Agent compensation to be agreed upon with the Company for all services rendered by the Warrant Agent and to reimburse the Warrant Agent for all reasonable expenses (including reasonable counsel and agent fees) incurred by the Warrant Agent in connection with the services rendered by it hereunder. The Company also agrees to indemnify the Warrant Agent for, and to hold it harmless against, any loss, liability or expense incurred without gross negligence, bad faith or willful misconduct, arising out of or in connection with its acting as Warrant Agent hereunder.

(b) Agent for the Company. In acting in the capacity of Warrant Agent under this Agreement, the Warrant Agent is acting solely as agent of the Company and does not assume any obligation or relationship of agency or trust with any of the owners or holders of the Warrants except as expressly set forth herein.

(c) Counsel. The Warrant Agent may consult with counsel satisfactory to it (which may be counsel to the Company), and the advice of such 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 the advice of such counsel.

(d) Documents. The Warrant Agent shall be protected and shall incur no liability for or in respect of any action taken or thing suffered by it in reliance upon any notice, direction, consent, certificate, affidavit, statement or other paper or document reasonably believed by it to be genuine and to have been presented or signed by the proper parties.

(e) Certain Transactions. The Warrant Agent, and its officers, directors and employees, may become the owner of, or acquire any interest in, any Warrant, with the same rights that it or they would have were it not the Warrant Agent hereunder, and, to the extent permitted by applicable law, it or they may engage or be interested in any financial or other transaction with the Company and may act on, or as a depositary, trustee or agent for, any committee or body of holders of Warrants, Notes or Warrant Shares, or other securities or obligations of the Company as freely as if it were not the Warrant Agent hereunder. Nothing in this Agreement shall be deemed to prevent the Warrant Agent from acting as trustee under either Indenture.

(f) No Liability for Interest. The Warrant Agent shall not be under any liability for interest on any monies at any time received by it pursuant to any of the provisions of this Agreement.

(g) No Liability for Invalidity. The Warrant Agent shall not be under any responsibility with respect to the validity or sufficiency of this Agreement or the execution and delivery hereof (except the due execution and

delivery hereof by the Warrant Agent) or with respect to the validity or execution of the Warrant Certificates (except its countersignature thereon).

(h) No Responsibility for Recitals. The recitals contained herein and in the Warrant Certificates (except as to the Warrant Agent's countersignature thereon) shall be taken as the statements of the Company and the Warrant Agent assumes no responsibility hereby for the correctness of the same.

(i) No Implied Obligations. The Warrant Agent shall be obligated to perform such duties as are specifically set forth herein and no implied duties or obligations shall be read into this Agreement against the Warrant Agent. The Warrant Agent shall not be under any obligation to take any action hereunder which may tend to involve it in any expense or liability, the payment of which within a reasonable time is not, in its opinion, assured to it. The Warrant Agent shall not be accountable or under any duty or responsibility for the use by the Company of any Warrant Certificate authenticated by the Warrant Agent and delivered by it to the Company pursuant to this Agreement or for the application by the Company of the proceeds of the issue and sale, or exercise, of the Warrants. The Warrant Agent shall have no duty or responsibility in case of any default by the Company in the performance of its covenants or agreements contained herein or in any Warrant Certificate or in the case of the receipt of any written demand from a Holder with respect to such default, including, without limiting the generality of the foregoing, any duty or responsibility to initiate or attempt to initiate any proceedings at law or otherwise or, except as provided in Section 5.03 hereof, to make any demand upon the Company.

Section 4.03 Compliance with Applicable Laws. The Warrant Agent agrees to comply with all applicable federal and state laws imposing obligations on it in respect of the services rendered by it under this Agreement and in connection with the Warrants, including (but not limited to) the provisions of United States federal income tax laws regarding information reporting and backup withholding.

Section 4.04 Resignation, Removal and Appointment of Successor.

(a) The Company agrees, for the benefit of the Holders from time to time, that there shall at all times be a Warrant Agent hereunder until all the Warrants issued hereunder have been exercised or have expired in accordance with their terms, which Warrant Agent shall be a bank or trust company organized under the laws of the United States of America or one of the states thereof, which is authorized under the laws of the jurisdiction of its organization to exercise corporate trust powers, has a combined capital and surplus of at least $50,000,000 and has an office or an agent's office in the United States of America.

(b) The Warrant Agent may at any time resign as such agent by giving written notice to the Company of such intention on its part, specifying the date on which it desires such resignation to become effective; provided that such date shall not be less than thirty (30) days after the date on which such notice is given, unless the Company agrees to accept such notice less than thirty (30)

days prior to such date of effectiveness. If no such Successor Warrant Agent has accepted appointment on the date that is thirty (30) days from the date of delivery of the Warrant Agent's resignation notice, the resigning Warrant Agent may petition a court of competent jurisdiction for the appointment of a successor Warrant Agent.

(c) The Company may remove the Warrant Agent at any time by giving written notice to the Warrant Agent of such removal, specifying the date on which it desires such removal to become effective. Such resignation or removal shall take effect upon the appointment by the Company, as hereinafter provided, of a successor Warrant Agent (which shall be a bank or trust company qualified as set forth in Section 4.04(a)) and the acceptance of such appointment by such successor Warrant Agent. The obligation of the Company under Section 4.02(a) shall continue to the extent set forth therein notwithstanding the resignation or removal of the Warrant Agent.

(d) If at any time the Warrant Agent shall resign, or shall cease to be qualified as set forth in Section 4.04(a), or shall be removed, or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or shall file a petition seeking relief under any applicable Federal or State bankruptcy or insolvency law or similar law, or make an assignment for the benefit of its creditors or consent to the appointment of a receiver, conservator or custodian of all or any substantial part of its property, or shall admit in writing its inability to pay or to meet its debts as they mature, or if a receiver or custodian of it or of all or any substantial part of its property shall be appointed, or if an order of any court shall be entered for relief against it under the provisions of any applicable Federal or State bankruptcy or similar law, or if any public officer shall have taken charge or control of the Warrant Agent or of its property or affairs, for the purpose of rehabilitation, conservation or liquidation, a successor Warrant Agent, qualified as set forth in Section 4.04(a), shall be appointed by the Company by an instrument in writing, filed with the successor Warrant Agent. Upon the appointment as herein provided of a successor Warrant Agent and acceptance by the latter of such appointment, the Warrant Agent so superseded shall cease to be Warrant Agent under this Agreement.

(e) Any successor Warrant Agent appointed under this Agreement shall execute, acknowledge and deliver to its predecessor and to the Company an instrument accepting such appointment, and thereupon such successor Warrant Agent, without any further act, deed or conveyance, shall become vested with all the authority, rights, powers, trusts, immunities, duties and obligations of such predecessor with like effect as if originally named as Warrant Agent under this Agreement, and such predecessor, upon payment of its charges and disbursements then unpaid in accordance with Section 4.02(a), shall thereupon become obligated to transfer, deliver and pay over, and such successor Warrant Agent shall be entitled to receive, all monies, securities and other property on deposit with or held by such predecessor, as Warrant Agent under this Agreement.

(f) Any corporation into which the Warrant Agent may be merged or converted or any corporation with which the Warrant Agent may be consolidated, or any corporation resulting from any merger, conversion or consolidation to

which the Warrant Agent shall be a party, or any corporation to which the Warrant Agent shall sell or otherwise transfer all or substantially all the assets and business of the Warrant Agent, in each case provided that it shall be qualified as set forth in Section 4.04(a), shall be the successor Warrant Agent under this Agreement without the execution or filing of any paper or any further act on the part of any of the parties to this Agreement, including, without limitation, any successor to the Warrant Agent first named above.

ARTICLE V

MISCELLANEOUS

Section 5.01 Amendments.

(a) This Agreement and any Warrant Certificate may be amended by the parties hereto by executing a supplemental warrant agreement (a "Supplemental Agreement"), without the consent of the Holder of any Warrant, for the purpose of (i) curing any ambiguity, or curing, correcting or supplementing any defective provision contained herein, or making any other provisions with respect to matters or questions arising under this Agreement that is not inconsistent with the provisions of this Agreement or the Warrant Certificates, (ii) evidencing the succession of another corporation to the Company and the assumption by any such successor of the covenants of the Company contained in this Warrant Agreement and the Warrants, (iii) evidencing and providing for the acceptance of appointment by a successor Warrant Agent with respect to the Warrants, (iv) issuing definitive Warrant Certificates in accordance with paragraph (b) of Section 1.03, (v) adding to the covenants of the Company for the benefit of the Holders or surrendering any right or power conferred upon the Company under this Agreement, or (vi) amending this Agreement and the Warrants in any manner that the Company may deem to be necessary or desirable and that will not adversely affect the interests of the Holders in any material respect.

(b) The Company and the Warrant Agent may amend this Agreement and the Warrants by executing a Supplemental Agreement with the consent of the Holders of not fewer than a majority of the unexercised Warrants affected by such amendment, for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Agreement or of modifying in any manner the rights of the Holders under this Agreement; provided, however, that, without the consent of each Holder of Warrants affected thereby, no such amendment may be made that (i) changes the Warrants so as to reduce the number of Warrant Shares purchasable upon exercise of the Warrants or so as to increase the exercise price (other than as provided by Section 2.03), (ii) shortens the period of time during which the Warrants may be exercised, (iii) otherwise adversely affects the exercise rights of the Holders in any material respect, or (iv) reduces the number of unexercised Warrants the consent of the Holders of which is required for amendment of this Agreement or the Warrants.

Section 5.02 Merger, Consolidation, Sale, Transfer or Conveyance. The Company may consolidate or merge with or into any other corporation or sell, lease, transfer or convey all or substantially all of its assets to any other corporation, provided that (i) either (x) the Company is the continuing

corporation or (y) the corporation (if other than the Company) that is formed by or results from any such consolidation or merger or that receives such assets is a corporation organized and existing under the laws of the United States of America or a state thereof and such corporation assumes the obligations of the Company with respect to the performance and observance of all of the covenants and conditions of this Agreement to be performed or observed by the Company and (ii) the Company or such successor corporation, as the case may be, must not immediately be in default under this Agreement. If at any time there shall be any consolidation or merger or any sale, lease, transfer, conveyance or other disposition of all or substantially all of the assets of the Company, then in any such event the successor or assuming corporation shall succeed to and be substituted for the Company, with the same effect as if it had been named herein and in the Warrant Certificates as the Company; the Company shall thereupon be relieved of any further obligation hereunder or under the Warrants, and, in the event of any such sale, lease, transfer, conveyance (other than by way of lease) or other disposition, the Company as the predecessor corporation may thereupon or at any time thereafter be dissolved, wound up or liquidated. Such successor or assuming corporation thereupon may cause to be signed, and may issue either in its own name or in the name of the Company, Warrant Certificates evidencing the Warrants not theretofore exercised, in exchange and substitution for the Warrant Certificates theretofore issued. Such Warrant Certificates shall in all respects have the same legal rank and benefit under this Agreement as the Warrant Certificates evidencing the Warrants theretofore issued in accordance with the terms of this Agreement as though such new Warrant Certificates had been issued at the date of the execution hereof. In any case of any such merger or consolidation or sale, lease, transfer, conveyance or other disposition of all or substantially all of the assets of the Company, such changes in phraseology and form (but not in substance) may be made in the new Warrant Certificates, as may be appropriate.

Section 5.03 Notices and Demands to the Company and Warrant Agent. If the Warrant Agent shall receive any notice or demand addressed to the Company by the Holder or a Participant, as the case may be, the Warrant Agent shall promptly forward such notice or demand to the Company.

Section 5.04 Addresses. Any communications from the Company to the Warrant Agent with respect to this Agreement shall be addressed to JPMorgan Chase Bank, N.A., 4 New York Plaza, 15th Floor New York, New York 10004, Attention: Institutional Services, and any communications from the Warrant Agent to the Company with respect to this Agreement shall be addressed to Immunomedics, Inc. 300 American Road Morris Plains, NJ 07950, Attention: General Counsel (or such other address as shall be specified in writing by the Warrant Agent or by the Company, as the case may be). The Company or the Warrant Agent shall give notice to the Holders of Warrants by mailing written notice by first class mail, postage prepaid, to such Holders as their names and addresses appear in the books and records of the Warrant Agent.

Section 5.05 GOVERNING LAW. THIS AGREEMENT AND EACH WARRANT CERTIFICATE AND ALL RIGHTS HEREUNDER AND THEREUNDER AND PROVISIONS HEREOF AND THEREOF SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (WITHOUT REFERENCE TO APPLICABLE CONFLICTS OF LAW PROVISIONS).

Section 5.06 Obtaining of Governmental Approvals. The Company shall from time to time take all action which may be necessary to obtain and keep effective any and all permits, consents and approvals of governmental agencies and authorities and securities acts filings under United States Federal and state laws, which the Company may deem necessary or appropriate in connection with the issuance, sale, transfer and delivery of the Warrants, the exercise of the Warrants, the issuance, sale, transfer and delivery of the Warrant Shares to be issued upon exercise of Warrants or upon the expiration of the period during which the Warrants are exercisable.

Section 5.07 Benefits of Warrant Agreement. Nothing in this Agreement or any Warrant Certificate expressed or implied and nothing that may be inferred from any of the provisions hereof or thereof is intended, or shall be construed, to confer upon, or give to, any person or corporation other than the Company, the Warrant Agent and their respective successors and assigns or the holders any right, remedy or claim under or by reason of this Agreement or any Warrant Certificate or of any covenant, condition, stipulation, promise or agreement hereof or thereof; and all covenants, conditions, stipulations, promises and agreements contained in this Agreement or any Warrant Certificate shall be for the sole and exclusive benefit of the Company and the Warrant Agent and their respective successors and assigns and of the Holders.

Section 5.08 Headings. The descriptive headings of the several Articles and Sections of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

Section 5.09 Severability. If any provision in this Agreement or in any Warrant Certificate shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions, or of such provisions in any other jurisdiction, shall not in any way be affected or impaired thereby.

Section 5.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original; but such counterparts shall together constitute but one and the same instrument.

Section 5.11 Inspection of Agreement. A copy of this Agreement shall be available at all reasonable times and during normal business hours at the principal corporate trust office of the Warrant Agent and at the office of the Company at 300 American Road Morris Plains, NJ 07950, for inspection by any Holder. The Warrant Agent may require any such Holder to submit satisfactory proof of ownership for inspection by it.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

IMMUNOMEDICS, INC.

By: _____
Name:
Title:

JPMORGAN CHASE BANK, N.A., as Warrant Agent

By: _____
Name:
Title:

EXHIBIT A

[FORM OF WARRANT CERTIFICATE]

PRIOR TO THE SHARE INCREASE, THIS WARRANT CERTIFICATE CANNOT BE EXERCISED IN WHOLE OR IN PART.

EXERCISABLE ONLY IF COUNTERSIGNED BY THE WARRANT AGENT AS PROVIDED HEREIN.

Warrant Certificate evidencing

Warrants to Purchase

Common Stock

as described herein.

IMMUNOMEDICS, INC.

No. _____ CUSIP No. _____

VOID AFTER [5:00 P.M.], NEW YORK TIME, ON _____ __, ___

This certifies that _____ or registered assigns is the registered holder of _____ warrants to purchase certain securities (the "Warrants"). Each Warrant entitles the holder thereof, subject to the provisions contained herein and in the Warrant Agreement referred to below, to purchase from Immunomedics, Inc., a Delaware corporation (the "Company"), [ ] shares of the Company's Common Stock (the "Warrant Shares"), at the Exercise Price set forth below. The initial exercise price of each Warrant (the "Exercise Price") shall be [ ].

Subject to the terms of the Warrant Agreement, each Warrant

evidenced hereby may be exercised in whole but not in part at any time, as specified herein, on any Business Day (as defined below) occurring during the period (the "Exercise Period") commencing on the date of the Share Increase, as defined in the Purchase Agreement, becomes effective, and ending at 5:00 P.M., New York time, on the third anniversary of the issuance of the Securities (the "Expiration Date"). Each Warrant remaining unexercised after 5:00 P.M., New York time, on the Expiration Date shall become void, and all rights of the holder of this Warrant Certificate evidencing such Warrant shall cease.

The holder of the Warrants represented by this Warrant Certificate may exercise any Warrant evidenced hereby by delivering, not later than 5:00 P.M., New York time, on any Business Day during the Exercise Period (the "Exercise Date") to JPMorgan Chase Bank, N.A. (the "Warrant Agent", which term includes any successor warrant agent under the Warrant Agreement described below) at its corporate trust department at 4 New York Plaza, 15th Floor New York, New York 10004, (i) this Warrant Certificate, (ii) an election to purchase ("Election to Purchase"), properly executed by the holder hereof on the reverse of this Warrant Certificate and (iii) the Exercise Price for each Warrant to be exercised in lawful money of the United States of America by bank wire transfer in immediately available funds. If any of (a) this Warrant Certificate, (b) the Election to Purchase, or (c) the Exercise Price therefor, is received by the Warrant Agent after 5:00 P.M., New York time, on the specified Exercise Date, the Warrants will be deemed to be received and exercised on the next succeeding day which is a Business Day. If the Warrants to be exercised are received or deemed to be received after the Expiration Date, the exercise thereof will be null and void and any funds delivered to the Warrant Agent will be returned to the holder as soon as practicable. In no event will interest accrue on funds deposited with the Warrant Agent in respect of an exercise or attempted exercise of Warrants. The validity of any exercise of Warrants will be determined by the Company in its sole discretion and such determination will be final and binding upon the holder of the Warrants. Neither the Warrant Agent nor the Company shall have any obligation to inform a holder of Warrants of the invalidity of any exercise of Warrants. As used herein, the term "Business Day" means any day which is not a Saturday or Sunday and is not a legal holiday or a day on which banking institutions generally are authorized or obligated by law or regulation to close in The City of New York.

Warrants may be exercised only in whole numbers of Warrants. If fewer than all of the Warrants evidenced by this Warrant Certificate are exercised, a new Warrant Certificate for the number of Warrants remaining unexercised shall be executed by the Company and countersigned by the Warrant Agent as provided in Section 1.02 of the Warrant Agreement, and delivered to the holder of this Warrant Certificate at the address specified on the books of the Warrant Agent or as otherwise specified by such registered holder.

This Warrant Certificate is issued under and in accordance with the Warrant Agreement, dated as of April 29, 2005 (the "Warrant Agreement"), between the Company and the Warrant Agent and is subject to the terms and provisions contained in the Warrant Agreement, to all of which terms and provisions the holder of this Warrant Certificate consents by acceptance hereof. Copies of the Warrant Agreement are on file and can be inspected at the above-mentioned office

of the Warrant Agent and at the office of the Company at 300 American Road Morris Plains, NJ 07950.

The accrual of dividends, if any, on the Warrant Shares issued upon the valid exercise of any Warrant will be governed by the terms of the Company's certificate of incorporation and such Warrant Shares. From and after the issuance of such Warrant Shares, the former holder of the Warrants exercised will be entitled to the benefits of the Company's certificate of incorporation under which such Warrant Shares are issued and such former holder's right to receive payments of dividends and any other amounts payable in respect of the Warrant Shares shall be governed by, and shall be subject to, the terms and provisions of the Company's certificate of incorporation and the Warrant Shares.

The Exercise Price and the number of Warrant Shares purchasable upon the exercise of each Warrant shall be subject to adjustment in accordance with Section 3.02 of the Warrant Agreement and upon (i) the issuance of a stock dividend to the holders of the outstanding shares of Warrant Shares or a combination, subdivision or reclassification of the Warrant Shares; (ii) the issuance of rights, warrants or options to all holders of the Warrant Shares entitling the holders thereof to purchase Warrant Shares for an aggregate consideration per share less than the current market price per share of the Warrant Shares; or (iii) any distribution by the Company to the holders of the Warrant Shares of evidences of indebtedness of the Company or of assets (excluding cash dividends or distributions payable out of consolidated earnings and earned surplus and dividends or distributions referred to in (i) above); provided that no such adjustment in the number of Warrant Shares purchasable upon exercise of the Warrants will be required until cumulative adjustments require an adjustment of at least 1% of such number. No fractional shares will be issued upon exercise of Warrants, but the Company will pay the cash value of any fractional shares otherwise issuable. Any adjustment to be made to this Warrant Certificate shall be made pursuant to Section 2.03 of the Warrant Agreement as determined by the Company in good faith and such determination shall be final and binding upon the Holders of the Warrants.

Upon due presentment for registration of transfer or exchange of this Warrant Certificate at the corporate trust office of the Warrant Agent, the Company shall execute, and the Warrant Agent shall countersign and deliver, as provided in Section 1.02 of the Warrant Agreement, in the name of the designated transferee one or more new Warrant Certificates of any authorized denomination evidencing in the aggregate a like number of unexercised Warrants, subject to the limitations provided in the Warrant Agreement.

Neither this Warrant Certificate nor the Warrants evidenced hereby shall entitle the holder hereof or thereof to any of the rights of a holder of the Warrant Shares, including, without limitation, the right to receive the payments of principal of (and premium, if any), and interest, if any, on Debt Securities or Units consisting of Debt Securities purchasable upon such exercise, to enforce any of the covenants in the applicable Indenture, the right to receive dividends, if any, payments upon the liquidation, dissolution or winding up of the Company or to exercise voting rights, if any.

The Warrant Agreement and this Warrant Certificate may be amended as provided in the Warrant Agreement including, under certain circumstances described therein, without the consent of the holder of this Warrant Certificate or the Warrants evidenced thereby.

THIS WARRANT CERTIFICATE AND ALL RIGHTS HEREUNDER AND UNDER THE WARRANT AGREEMENT AND PROVISIONS HEREOF AND THEREOF SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (WITHOUT REFERENCE TO APPLICABLE CONFLICTS OF LAW PROVISIONS).

This Warrant Certificate shall not be entitled to any benefit under the Warrant Agreement or be valid or obligatory for any purpose, and no Warrant evidenced hereby may be exercised, unless this Warrant Certificate has been countersigned by the manual signature of the Warrant Agent.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

Dated as of April 29, 2005

IMMUNOMEDICS, INC.

By: _____
Name:
Title:

JPMORGAN CHASE BANK, N.A., as Warrant Agent

By: _____
Name:
Title:

[REVERSE]

Instructions for Exercise of Warrant

To exercise the Warrants evidenced hereby, the holder must, by 5:00 P.M., New York time, on the specified Exercise Date during the Exercise Period, deliver to the Warrant Agent at its corporate trust department, a wire transfer in immediately available funds, in each case payable to the Warrant Agent at Account No. 10222363.1, in an amount equal to the Exercise Price in full for the Warrants exercised. In addition, the Warrant holder must provide the information required below and deliver this Warrant Certificate to the Warrant Agent at the address set forth below. This Warrant Certificate and the Election to Purchase must be received by the Warrant Agent by 5:00 P.M., New York time, on the

specified Exercise Date during the exercise period.

ELECTION TO PURCHASE
TO BE EXECUTED IF WARRANT HOLDER DESIRES
TO EXERCISE THE WARRANTS EVIDENCED HEREBY

The undersigned hereby irrevocably elects to exercise, on _____, ____ (the "Exercise Date"), _____ Warrants, evidenced by this Warrant Certificate, to purchase, [_____] shares of Common Stock (the "Warrant Shares") of Immunomedics, Inc., a Delaware corporation (the "Company"), and represents that on or before the Exercise Date such holder has tendered payment for such Warrant Shares by (i) bank wire transfer in immediately available funds to the order of the Company c/o [Name and address of Warrant Agent], in the amount of $_____ in accordance with the terms hereof or (ii) by cashless exercise as set forth in Section 2.03(b) of the Warrant Agreement. The undersigned requests that said number of Warrant Shares be in fully registered form, in the authorized denominations, registered in such names and delivered, all as specified in accordance with the instructions set forth below.

If said number of Warrant Shares is less than all of the Warrant Shares purchasable hereunder, the undersigned requests that a new Warrant Certificate evidencing the remaining balance of the Warrants evidenced hereby be issued and delivered to the holder of the Warrant Certificate unless otherwise specified in the instructions below.

Dated: _____ __, ____

Name_____
(Please Print) / / / /- / / /- / / / / /
(Insert Social Security or Other
Identifying Number of Holder)
Address_____

Signature_____

This Warrant may only be exercised by presentation to the Warrant Agent at one of the following locations:

By hand at

By mail at

The method of delivery of this Warrant Certificate is at the option and risk of the exercising holder and the delivery of this Warrant Certificate will be deemed to be made only when actually received by the Warrant Agent. If delivery is by mail, registered mail with return receipt requested, properly insured, is recommended. In all cases, sufficient time should be allowed to assure timely delivery.

Name in which Warrant Shares are to be registered if other than in the name of

the registered holder of this Warrant Certificate:

_____

Address to which Warrant Shares are to be mailed if other than to the address of the registered holder of this Warrant Certificate as shown on the books of the Warrant Agent:

_____
(Street Address)

_____
(City and State) (Zip Code)

Name in which Warrant Certificate evidencing unexercised Warrants, if any, are to be registered if other than in the name of the registered holder of this Warrant Certificate:

_____

Address to which certificate representing unexercised Warrants, if any, are to be mailed if other than to the address of the registered holder of this Warrant Certificate as shown on the books of the Warrant Agent:

_____
(Street Address)

_____
(City and State) (Zip Code)

_____
Signature

(Signature must conform in all respects to the name of the holder as specified on the face of this Warrant Certificate. If Warrant Shares, or a Warrant Certificate evidencing unexercised Warrants, are to be issued in a name other than that of the registered holder hereof or are to be delivered to an address other than the address of such holder as shown on the books of the Warrant Agent, the above signature must be guaranteed by a member firm of a registered national stock exchange, a member of the National Association of Securities Dealers, Inc., a participant in the Security Transfer Agents

Medallion Program or the Stock Exchange Medallion Program, or by a commercial bank or trust company having an office or correspondent in the United States.)

SIGNATURE GUARANTEE

Name of Firm _____

Address _____

Area Code and Number _____

Authorized Signature _____

Name _____

Title _____

Dated: _____, 200__

ASSIGNMENT

(FORM OF ASSIGNMENT TO BE EXECUTED IF WARRANT HOLDER DESIRES TO TRANSFER WARRANTS EVIDENCED HEREBY)

FOR VALUE RECEIVED _____ hereby sells, assigns and transfers unto _____
(Please print name and address including zip code)
(Please insert social security or other identifying number)

the rights represented by the within Warrant Certificate and does hereby irrevocably constitute and appoint _____ Attorney, to transfer said Warrant Certificate on the books of the Warrant Agent with full power of substitution in the premises.

Dated:

_____
Signature

(Signature must conform in all respects to the name of the holder as specified on the face of this Warrant Certificate and must bear a signature guarantee by a member firm of a registered national securities

exchange, a member of the National Association of Securities Dealers, Inc., a participant in the Security Transfer Agents Medallion Program or the Stock Exchange Medallion Program, or by a commercial bank or trust company having an office or correspondent in the United States)

SIGNATURE GUARANTEE

Name of Firm _____

Address _____

Area Code
and Number _____

Authorized
Signature _____

Name _____

Title _____

Dated: _____, 200__

Exhibit 4.3

==========

IMMUNOMEDICS, INC.,

as Issuer

Law Debenture Trust Company of
New York

as Trustee

JPMorgan Chase Bank, N.A.
as Registrar, Paying Agent, and Conversion Agent

5% Senior Convertible Notes due 2008

INDENTURE

Dated as of April 29, 2005

==========

CROSS-REFERENCE TABLE*

Trust Indenture Act Section	Indenture Section
310(a)(1)	9.10
(a)(2)	9.10
(a)(3)	n/a
(a)(4)	n/a
(a)(5)	9.10
(b)	9.10
(c)	n/a
311(a)	9.11
(b)	9.11
(c)	n/a
312(a)	2.5
(b)	13.3
(c)	13.3
313(a)	9.6
(b)(1)	9.6
(b)(2)	9.6 9.6;
(c)	13.2
(d)	9.6
314(a)(1), (2), (3)	6.2; 13.5
(a)(4)	6.2; 6.3; 13.5
(b)	n/a
(c)(1)	13.4
(c)(2)	13.4
(c)(3)	n/a
(d)	n/a
(e)	13.5
(f)	n/a
315(a)	9.1(b)
(b)	9.5; 13.2
(c)	9.1(a)
(d)	9.1(c)
(e)	8.11
316(a)	
(a)(1)(A)	8.5
(a)(1)(B)	8.4
(a)(2)	n/a
(b)	8.7
(c)	n/a

317	(a)(1)	8.8
	(a)(2)	8.9
	(b)	2.3
318	(a)	13.1
	(b)	n/a
	(c)	13.1

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MISCELLANEOUS

INDENTURE, dated as of April 29, 2005, among IMMUNOMEDICS, INC., a Delaware corporation (the "Company"), Law Debenture Trust Company of New York, a New York banking corporation, as Trustee (the "Trustee"), and JPMorgan Chase Bank, N.A., as Registrar, Paying Agent, and Conversion Agent.

Each party agrees as follows for the benefit of the other parties and for the equal and ratable benefit of the Holders of the Company's 5% Senior Convertible Notes due 2008:

ARTICLE I

DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.1 Definitions.

"Additional Interest" shall mean any "Additional Interest" to be paid by the Company (i) pursuant to the terms of the Registration Rights Agreement and (ii) any interest payable pursuant to Section 6.9 below. All references herein or in the Securities to interest accrued or payable as of any date shall include any Additional Interest accrued or payable as of such date as provided herein or in the Registration Rights Agreement and/or Section 6.9.

"Additional Shares" has the meaning set forth in the Registration Rights Agreement.

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

"Agent Member" means members of, or participants in, the Depositary.

"Applicable Stock" means (a) the Common Stock that may be issued in lieu of the Company's obligation to pay interest on the Securities in cash and (b) in the event of a merger, consolidation or other similar transaction involving the Company that is otherwise permitted hereunder in which the Company is not the surviving corporation, the common stock of such surviving corporation or its direct or indirect, as applicable, parent corporation.

"Authorization Default" has the meaning set forth in Section 6.9(b).

"Authorization Default Purchase Notice" has the meaning set forth in Section 4.1(c).

"Authorization Default Purchase Price" has the meaning set forth in Section 4.1(a).

"Bankruptcy Law" means Title 11, United States Code, or any similar Federal or State law for the relief of debtors.

"Board of Directors" means either the board of directors of the Company or any duly authorized committee of such board.

"Board Resolution" means a resolution of the Board of Directors.

"Business Day" means each day of the year other than a Saturday or a Sunday or other day on which banking institutions in the City of New York are

required or authorized by law, regulation or executive order to close.

"cash" means such coin or currency of the United States as at any time of payment is legal tender for the payment of public and private debts.

"Closing Sale Price" of a share of Applicable Stock on any date means the closing per share sale price (or, if no closing sale price is reported, the average of the bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices) on such date as reported by The Nasdaq National Market system or, if the shares of Applicable Stock are not quoted on The Nasdaq National Market system, as reported on a national securities exchange. If the Applicable Stock is not listed for trading on a national securities exchange and not quoted by The Nasdaq National Market on the relevant date, the "Closing Sale Price" shall be the last quoted bid for the Applicable Stock in the over-the-counter market on the relevant date as reported by the National Quotation Bureau or similar organization. If the Applicable Stock is not so quoted, the "Closing Sale Price" shall be the average of the midpoint of the last bid and ask prices for the Applicable Stock on the relevant date from each of at least three nationally recognized independent investment banking firms selected by the Company for this purpose.

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

"Common Stock" means the common stock, $0.01 par value per share, of the Company as that stock exists on the date of this Indenture or any other shares of Equity Interest of the Company into which such Common Stock shall be reclassified, exchanged or changed.

"Company" means the party named as the "Company" in the first paragraph of this Indenture until a successor replaces it pursuant to the applicable provisions of this Indenture and, thereafter, means such successor. The foregoing sentence shall likewise apply to any subsequent successor or successors to such successors.

"Company Request" or "Company Order" means a written request or order signed in the name of the Company by any two Officers, at least one of whom is the Chief Executive Officer or the Chief Financial Officer.

"Continuing Director" means, as of any date of determination, any member of the Board of Directors of the Company who:

(1) was a member of such Board of Directors on the date of this Indenture; or

(2) was nominated for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such Board of Directors at the time of such nomination or election.

"Conversion Agent" has the meaning set forth in Section 2.3.

"Conversion Limitation" has the meaning set forth in Section 12.15.

"Conversion Notice" has the meaning set forth in Section 12.2(b).

"Conversion Price" means $2.62.

"Conversion Rate" shall equal a fraction, the numerator of which shall equal 1,000 and the denominator of which shall equal the Conversion Price.

"Corporate Trust Office" means the principal office of the Trustee at which at any time its corporate trust business shall be administered, which office at the date hereof is located at 767 Third Avenue, 31st Floor, New York, New York 10017 Attn: Corporate Trust Administration, or such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the principal corporate trust office of any successor Trustee (or such other address as a successor Trustee may designate from time to time by notice to the Holders and the Company).

"Current Market Price" has the meaning set forth in Section 12.3(g).

"Current Stock Price" means the closing sale price of the Common Stock (or if no closing sale price is reported, the average of the closing bid and closing ask prices or, if more than one in either case, the average of the average closing bid and average closing ask prices) on such date as reported in composite transactions for the principal United States securities exchange on which the Common Stock is traded or, if the Common Stock is not listed on a United States national or regional securities exchange, as reported by the Nasdaq System or by the National Quotation Bureau Incorporated. In the absence of such a quotation, the Company will determine the closing sale price on the basis it considers appropriate.

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

"Default" means, when used with respect to the Securities, any event which is, or after notice or passage of time or both would be, an Event of Default.

"Defaulted Interest" has the meaning set forth in Section 2.16.

"Depositary" means The Depository Trust Company, its nominees and their respective successors.

"Designated Event" means the occurrence of any of the following events:

(a) the acquisition by any person, including any syndicate or group deemed to be a "person" under Section 13(d)(3) of the Exchange Act, of beneficial ownership, directly or indirectly, through a purchase, merger or other acquisition transaction or series of purchases, mergers or other acquisition transactions of shares of the Company's capital stock entitling that person to exercise 50% or more of the total voting power of

all shares of the Company's capital stock entitled to vote generally in elections of directors, other than any acquisition by the Company, any of its subsidiaries or any of its employee benefit plans; or

(b) one or more persons file a Statement on Schedule TO or a Statement on Schedule 13D (or any successors thereto) stating that they have become and actually are beneficial owners of the Company's Voting Stock representing more than 80%, in the aggregate, of the voting power of all of our classes of Voting Stock entitled to vote generally in the election of the members of the Company's Board of Directors; or

(c) the first day on which two thirds of the members of the Company's Board of Directors or directors designated for nomination solely by the Continuing Directors are not Continuing Directors; or

(d) the consolidation or merger of the Company with or into any other person, any merger of another person into the Company, or any conveyance, transfer, sale, lease or other disposition of all or substantially all of the Company's properties and assets to another person, other than:

(1) any merger transaction:

(x) that does not result in any reclassification, conversion, exchange or cancellation of outstanding shares of the Company's capital stock; and

(y) pursuant to which holders of the Company's capital stock immediately prior to such transaction have the right to exercise, directly or indirectly, 50% or more of the total voting power of all shares of the Company's capital stock entitled to vote generally in elections of directors of the continuing or surviving person immediately after giving effect to such issuance; or

(2) any merger solely for the purpose of changing the Company's jurisdiction of incorporation and resulting in a reclassification, conversion or exchange of outstanding shares of common stock solely into shares of common stock of the surviving entity.

"Designated Event Purchase Date" has the meaning set forth in Section 5.1(a).

"Designated Event Purchase Notice" has the meaning set forth in Section 5.1(c).

"Designated Event Purchase Price" has the meaning set forth in Section 5.1(a).

"distributed assets" has the meaning set forth in Section 12.3(d).

"EDGAR" has the meaning set forth in Section 6.2(b).

"Equity Interest" of any Person means any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) corporate stock or other equity participations, including partnership interests, whether general or limited, of such Person.

"Event of Default" has the meaning set forth in Section 8.1.

"Exchange Act" means the United States Securities Exchange Act of 1934, as amended.

"Ex-Dividend Time" means, with respect to any issuance or distribution on Common Stock, the first Trading Day on which the Common Stock trades regular way on the principal securities exchange or market on which the Common Stock is then traded without the right to receive such issuance or distribution.

"Expiration Time" has the meaning set forth in Section 12.3(f).

"Fair Market Value" has the meaning set forth in Section 12.3(g).

"Global Security" has the meaning specified in Section 2.1.

"Holder" means a person in whose name a Security is registered on the Registrar's books.

"Indebtedness" means, with respect to any Person, without duplication, any liability of such Person:

(a) for borrowed money;

(b) evidenced by bonds, debentures, notes;

(c) in respect of letters of credit or bankers acceptances or similar instruments (or reimbursement obligations with respect thereto);

(d) to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business;

(e) as lessee, the obligations of which are capitalized in accordance with generally accepted accounting principles; and

(f) for Indebtedness of others guaranteed by such Person or for which such Person is legally responsible or liable (whether by agreement to purchase indebtedness of, or to supply funds or to invest in, others).

The amount of Indebtedness of any Person at any date shall be (i) the outstanding principal amount of all unconditional obligations described above, as such amount would be reflected on a balance sheet prepared in accordance with generally accepted accounting principles, and the maximum liability at such date of such Person for any contingent obligations described above, (ii) the accreted value thereof, in the case of any Indebtedness issued with original issue discount, and (iii) the principal amount thereof, together with any interest thereon that is more than 30 days past due, in the case of any other Indebtedness.

"Indenture" means this Indenture, as amended or supplemented from time to time in accordance with the terms hereof, including the provisions of the TIA that are explicitly incorporated in this Indenture by reference to the TIA.

"Initial Interest Rate" means 5% per annum.

"Institutional Accredited Investor" means an institutional investor that is an "accredited investor" as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act.

"Interest Payment Date" has the meaning set forth in Exhibit A attached hereto

"interest rate" means, for the avoidance of doubt, the Initial Interest Rate, any applicable Additional Interest and any applicable Defaulted Interest.

"Issue Date" of any Security means the date on which such Security was originally issued or deemed issued as contemplated by Section 2.1 and as set forth on the face of the Security.

"Legal Holiday" means any day other than a Business Day.

"Non Electing Share" has the meaning set forth Section 12.4.

"Officer" means the Chief Executive Officer, the President, the Chief Financial Officer, any Vice President, the Treasurer, or the Secretary of the Company.

"Officers' Certificate" means a written certificate containing the information specified in Section 13.4 and Section 13.5, signed in the name of the Company by any two Officers, at least one of whom is the Chief Executive Officer or the Chief Financial Officer, and delivered to the Trustee. An Officers' Certificate given pursuant to Section 6.3 shall be signed by the Chief Financial Officer and one other Officer.

"Opinion of Counsel" means a written opinion containing the information specified in Section 13.4 and Section 13.5, from legal counsel. The counsel may be an employee of, or counsel to, the Company.

"Outstanding Converts" means the outstanding 3.25% Convertible Senior Notes due 2006 of the Company.

"Paying Agent" has the meaning set forth in Section 2.3.

"Person" or "person" means any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof (and for purposes of the definition of "Designated Event" shall also have the meaning set forth in such definition).

"Physical Securities" means Securities issued in definitive, fully registered form without interest coupons, substantially in the form of Exhibit A hereto, with the applicable restrictive legends as provided in Section 2.13(b).

"Principal Amount" of a Security means the principal amount of the Security as set forth on the face of the Security.

"Purchase Agreements" means the Purchase Agreements dated April 27, 2005 between the Company and the Purchasers named therein pursuant to which the Securities are being sold.

"QIB" means a "qualified institutional buyer" as defined in Rule 144A.

"Record Date" has the meaning set forth in Section 12.3(g).

"Reference Period" has the meaning set forth in Section 12.3(d).

"Register" has the meaning set forth in Section 2.3.

"Registrar" has the meaning specified in Section 2.3

"Registration Rights Agreement" means the Registration Rights Agreement, dated April 27, 2005, between the Company and the Holders, as amended or supplemented from time to time.

"Regular Record Date" has the meaning set forth in Exhibit A attached hereto.

"Responsible Officer" means, when used with respect to the Trustee, the officer within the corporate trust department of the Trustee, including any vice president, assistant vice president or trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

"Restricted Security" means a Security which is a Transfer Restricted Security.

"Rule 144A" means Rule 144A under the Securities Act (or any successor provision), as it may be amended from time to time.

"SEC" means the United States Securities and Exchange Commission, or any successor thereto.

"Securities" means any of the Company's 5% Senior Convertible Notes due 2008, as amended or supplemented from time to time, issued under this Indenture that are in substantially the form attached hereto as Exhibit A. For the avoidance of doubt, the term "Securities" means the 5% Senior Convertible Notes due 2008 issued on the initial Issue Date and any such notes issued thereafter pursuant to the option to purchase additional such notes pursuant to the Purchase Agreements and as contemplated by Section 2.1.

"Securities Act" means the United States Securities Act of 1933, as amended, or any successor statute thereto.

"Share Increase" has the meaning set forth in Section 6.9(a)

"Special Record Date" has the meaning set forth in Exhibit A attached hereto.

"Spin-Off" has the meaning set forth in Section 12.3(d).

"Stated Maturity," when used with respect to any Security, means May 1, 2008.

"Subsidiary" means any person of which at least a majority of the outstanding Voting Stock shall at the time directly or indirectly be owned or controlled by the Company or by one or more Subsidiaries or by the Company and one or more Subsidiaries.

"TIA" means the United States Trust Indenture Act of 1939 as in effect on the date of this Indenture; provided, however, that in the event the TIA is amended after such date, TIA means, to the extent required by any such amendment, the TIA as so amended.

"Trading Day" means a day during which trading in securities generally occurs on the Nasdaq National Market system or, if the Applicable Stock is not quoted on the Nasdaq National Market system, on the principal U.S. national or regional securities exchange on which the Applicable Stock is then listed or, if the Applicable Stock is not listed on a U.S. national or regional securities exchange, and not reported on the Nasdaq National Market system, any day other than a Saturday or Sunday or a day on which banking institutions in the State of New York are authorized or obligated by law or executive order to close.

"Transfer Certificate" has the meaning set forth in Section 2.13(b).

"Transfer Restricted Security" has the meaning set forth in Section

2.13(b).

"Trigger Event" has the meaning set forth in Section 12.3(d).

"Trustee" means the party named as the "Trustee" in the first paragraph of this Indenture until a successor replaces it pursuant to the applicable provisions of this Indenture and, thereafter, shall mean such successor. The foregoing sentence shall likewise apply to any subsequent such successor or successors.

"Unrestricted Security" means a Security that is not a Transfer Restricted Security.

"Voting Stock" of a person means Equity Interest of such person of the class or classes pursuant to which the holders thereof have the general voting power under ordinary circumstances to elect at least a majority of the board of directors, managers or trustees of such person (irrespective of whether or not at the time Equity Interest of any other class or classes shall have or might have voting power by reason of the happening of any contingency).

"Wholly Owned Subsidiary" means a Subsidiary all the Equity Interest of which is owned by the Company or another Wholly Owned Subsidiary, other than directors' qualifying shares.

Section 1.2 Incorporation by Reference of Trust Indenture Act. Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture. The following TIA terms used in this Indenture have the following meanings:

"Commission" means the SEC.

"indenture securities" means the Securities.

"indenture security holder" means a Holder.

"indenture to be qualified" means this Indenture.

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

"obligor" on the indenture securities means the Company.

All other TIA terms used but not defined in this Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by SEC rule have the meanings assigned to them by such definitions.

Section 1.3 Rules of Construction. Unless the context otherwise requires:

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

(b) an accounting term not otherwise defined has the meaning

assigned to it in accordance with accounting principles generally accepted in the United States as in effect from time to time;

(c) "or" is not exclusive;

(d) "including" means including, without limitation; and

(e) words in the singular include the plural, and words in the plural include the singular.

Section 1.4 Acts of Holders. (a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company, as described in Section 13.2. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section 1.4.

(b) The fact and date of the execution by any person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to such officer the execution thereof. Where such execution is by a signer acting in a capacity other than such signer's individual capacity, such certificate or affidavit shall also constitute sufficient proof of such signer's authority, if it so states. The fact and date of the execution of any such instrument or writing, or the authority of the person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(c) The Principal Amount and certificate number of any Security and the ownership of Securities shall be proved by the Register maintained by the Registrar for the Securities.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Security shall bind every future Holder of the same Security and the Holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee or the Company in reliance thereon, whether or not notation of such action is made upon such Security.

(e) If the Company shall solicit from the Holders any request, demand, authorization, direction, notice, consent, waiver or other Act, the Company may, at its option, by or pursuant to a Board Resolution, fix in advance

a record date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other Act, but the Company shall have no obligation to do so. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other Act may be given before or after such record date, but only the Holders of record at the close of business on such record date shall be deemed to be Holders for the purposes of determining whether Holders of the requisite proportion of outstanding Securities have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the outstanding Securities shall be computed as of such record date; provided that no such authorization, agreement or consent by the Holders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than six months after the record date.

ARTICLE II

THE SECURITIES

Section 2.1 Form and Dating. The Securities shall be designated as the "5% Senior Convertible Notes due 2008" of the Company. The aggregate Principal Amount of Securities outstanding at any time may not exceed $46,000,000 except as provided in Section 2.7. On the initial Issue Date, the Company shall issue $37,675,000 Principal Amount of Securities and may issue up to an additional $7,535,000 of Securities for a period of 120 days from the initial Issue Date. If any Purchasers specified in any Purchase Agreements elect, under any such Purchase Agreements, to exercise their option to purchase additional Securities, then the Company shall issue, and the Trustee shall authenticate as provided in this Section 2.1 and in Section 2.2, such additional Securities on one or more subsequent Issue Dates pursuant to the terms of this Indenture, provided that the aggregate Principal Amount of Securities that may be issued hereunder shall not exceed $46,000,000. Securities issued on the initial Issue Date and any Securities issued on a subsequent Issue Date shall be of the same series for all purposes of this Indenture, including with respect to any matter with respect to which a Holder of an Security may be entitled to vote or deliver a waiver. Interest will accrue on the Securities from April 28, 2005 though the Securities will be issued as of April 29, 2005 for all other purposes of this Indenture. For all purposes of this Indenture, including with respect to any matter with respect to which a Holder of an Security may be entitled to vote or deliver a consent, Securities, whether held by a QIB or an Institutional Accredited Investor, shall be of the same series. Interest will accrue on Securities issued after the initial Issue Date from April 28, 2005.

The Securities may be issued initially only to QIBs and Institutional Accredited Investors in the form of one or more permanent Global Securities without interest coupons, substantially in the form of Exhibit A hereto, with the applicable legends as provided in Section 2.13(b) (each a "Global Security" and collectively the "Global Securities"); provided, however that Global Securities sold to QIBs shall be in fully registered form, and Global Securities sold to Institutional Accredited Investors shall not be registered. Global Securities initially issued to QIBs shall be registered in

the name of the Depositary or its nominee for credit to the accounts of the Agent Members holding the Securities evidenced thereby. The aggregate principal amount of the Securities may from time to time be increased or decreased by adjustments made on the records of the Trustee, as Custodian, and of the Depositary or its nominee, as hereinafter provided.

The Trustee's certificate of authentication shall be substantially in the form of Exhibit A attached hereto, which is incorporated in and made a part of this Indenture. The Securities may have notations, legends or endorsements required by law, stock exchange rule or usage (provided that any such notation, legend or endorsement required by usage is in a form acceptable to the Company). The Company shall provide any such notations, legends or endorsements to the Trustee in writing. Each Security shall be dated the date of its authentication. Each Global Security issued to QIBs shall be duly executed by the Company and authenticated and delivered by the Trustee, registered in the name of the Depositary or a nominee thereof and eligible for the book entry clearing and settlement of the Depositary. Each Global Security issued to Institutional Accredited Investors shall be in physical form and registered in the name of the Institutional Accredited Investor on the books and records of the Registrar.

A Holder of any Security at the close of business on a Regular Record Date shall be entitled to receive interest (including Additional Interest, if any) on such Security on the corresponding Interest Payment Date. A Holder of any Security which is converted after the close of business on a Regular Record Date and prior to the corresponding Interest Payment Date (other than any Security whose Maturity is prior to such Interest Payment Date) shall be entitled to receive interest (including Additional Interest, if any) on the Principal Amount of such Security, notwithstanding the conversion of such Security prior to such Interest Payment Date. However, any such Holder which surrenders any such Security for conversion during the period between the close of business on such Regular Record Date and ending with the opening of business on the corresponding Interest Payment Date shall be required to pay the Company an amount equal to the interest (including Additional Interest, if any) on the Principal Amount of such Security so converted, which is payable by the Company to such Holder on such Interest Payment Date, at the time such Holder surrenders such Security for conversion. Notwithstanding the foregoing, any such Holder which surrenders for conversion any Security which has been called for conversion by the Company, and which shall be settled in whole or in part in cash, on a date that is after a Record Date but prior to the corresponding Interest Payment Date in a notice of conversion given by the Company pursuant to Section 12.1(b) shall be entitled to receive (and retain) such interest (including Additional Interest, if any) and need not pay the Company an amount equal to the interest (including Additional Interest, if any) on the Principal Amount of such Security so converted at the time such Holder surrenders such Security for conversion.

Principal of, and interest (including Additional Interest, if any) on, Global Securities shall be payable to the to the Paying Agent, for the account of Holders thereof in immediately available funds.

Principal on Physical Securities shall be payable at the office or agency of the Company maintained for such purpose, initially the Paying Agent. Interest (including Additional Interest, if any) on Physical Securities will be payable by (i) U.S. Dollar check mailed to the address of the Person entitled thereto as such address shall appear in the Register, or (ii) upon application to the Registrar not later than the relevant Record Date by a Holder of an aggregate principal amount of Securities in excess of $5,000,000, wire transfer in immediately available funds to an account within the United States, which application shall remain in effect until the Holder notifies, in writing, the Registrar to the contrary.

Section 2.2 Execution and Authentication. The Securities shall be executed on behalf of the Company by any Officer. The signature of the Officer on the Securities may be manual or facsimile.

A Security bearing the manual or facsimile signature of an individual who was at the time of the execution of the Security an Officer shall bind the Company, notwithstanding that such individual has ceased to hold such office(s) prior to the authentication and delivery of such Securities or did not hold such office(s) at the date of authentication of such Securities.

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

The Trustee shall authenticate and deliver the Securities for original issuance in an aggregate Principal Amount of $46,000,000 upon one or more Company Orders without any further action by the Company (other than as contemplated below and in Section 13.4 and Section 13.5). The aggregate Principal Amount due at the Stated Maturity of the Securities outstanding at any time may not exceed the amount set forth in Section 2.1 except as provided in Section 2.7. In authenticating Securities under this Indenture, and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall receive and shall be fully protected in relying upon:

(a) a copy of the Board Resolution in or pursuant to which the terms and form of the Securities were established, the issuance and sale of the Securities was authorized, this Indenture was authorized and specified Officers were authorized to establish the form and determine the terms of the Securities and the form of this Indenture, to execute the Securities and this Indenture on behalf of the Company and to take any other necessary actions relating thereto and evidence of any actions taken by authorized Officers pursuant to that Board Resolution, certified by the Secretary, an Assistant Secretary or the General Counsel of the Company to have been duly adopted by the Board of Directors or taken by any authorized Officer and to be in full force and effect as of the date of such certificate; and

(b) an Officer's Certificate delivered in accordance with Section 13.4 and Section 13.5; and

(c) an Opinion of Counsel which shall state:

(i) that the form of such Securities has been established by or pursuant to a resolution of the Board of Directors and in conformity with the provisions of this Indenture;

(ii) that the terms of such Securities have been established in or pursuant to a resolution of the Board of Directors and in conformity with the other provisions of this Indenture;

(iii) that such Securities, when authenticated and delivered by the Trustee and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, shall constitute valid and legally binding obligations of the Company, enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting the enforcement of creditors' rights and to general equity principles;

(iv) that all laws and requirements in respect of the execution and delivery by the Company of such Securities have been complied with; and

(v) that this Indenture has been duly authorized, executed and delivered by the Company and constitutes a valid and binding agreement of the Company enforceable in accordance with its terms.

The Trustee shall act as the initial authenticating agent. Thereafter, the Trustee may appoint an authenticating agent acceptable to the Company to authenticate Securities. An authenticating agent may authenticate Securities whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent.

The Securities shall be issued only in denominations of $1,000 of Principal Amount and any integral multiple of $1,000.

Section 2.3 Registrar, Paying Agent and Conversion Agent. Pursuant to Section 6.5, the Company shall maintain an office or agency where Securities may be presented for registration of transfer or for exchange ("Registrar"), an office or agency where Securities may be presented for redemption, repurchase or payment ("Paying Agent"), an office or agency where Securities may be presented for conversion ("Conversion Agent") and an office or agency where notices and demands to or upon the Company in respect of the Securities and this Indenture may be served. Pursuant to Section 6.5, the Company shall at all times maintain a Registrar, Paying Agent, Conversion Agent and an office or agency where notices and demands to or upon the Company in respect of the Securities and this Indenture may be served in the Borough of Manhattan, New York City. The Registrar shall keep a register of the Securities (the "Register") and of their transfer and exchange.

The Company may have one or more co-registrars, one or more additional paying agents and one or more additional conversion agents. The term Paying Agent includes any additional paying agent, including any named pursuant to Section 6.5. The term Conversion Agent includes any additional conversion agent, including any named pursuant to Section 6.5.

The Company shall enter into an appropriate limited agency agreement with any Registrar, Paying Agent, Conversion Agent or co registrar (in each case, if such Registrar, agent or co registrar is a Person other than the Trustee). Each such agreement shall implement the provisions of this Indenture that relate to such agent. The Company shall notify the Trustee of the name and address of any such agent. If the Company fails to maintain a Registrar, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to Section 9.7. The Company or any Subsidiary or an Affiliate of either of them may act as Paying Agent, Registrar, Conversion Agent or co registrar and, if the Company fails to maintain a Conversion Agent, the Company shall act as such.

The Company hereby initially appoints JPMorgan Chase Bank, N.A. as Registrar, Paying Agent and Conversion Agent in connection with the Securities.

Section 2.4 Paying Agent to Hold Cash and Securities in Trust. Except as otherwise provided herein, prior to 10:00 a.m., New York City time, on each due date of payments in respect of any Security, the Company shall deposit with the Paying Agent, cash (in immediately available funds if deposited on the due date) or number of shares of Applicable Stock, as applicable, sufficient to make such payments when so becoming due. The Company shall require each Paying Agent (other than the Trustee) to agree in writing that the Paying Agent shall hold in trust for the benefit of Holders or the Trustee all cash and Applicable Stock held by the Paying Agent for the making of payments in respect of the Securities and shall notify the Trustee of any default by the Company in making any such payment. If the Company, a Subsidiary or an Affiliate of either of them acts as Paying Agent, it shall segregate the money and Applicable Stock held by it as Paying Agent and hold it as a separate trust fund. The Company at any time may require a Paying Agent to pay all cash and Applicable Stock held by it to the Trustee, and to account for any funds and Applicable Stock disbursed by it, and the Trustee may at any time during the continuance of any such default, upon the written request to the Paying Agent, require such Paying Agent to forthwith pay to the Trustee all cash and Applicable Stock so held in trust. Upon doing so, the Paying Agent shall have no further liability for the cash or Applicable Stock.

Section 2.5 Holder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders. If the Trustee is not the Registrar, the Company shall cause to be furnished to the Trustee on or before each semiannual interest payment date and at such other times as the Trustee may request in writing a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Holders.

Section 2.6 Transfer and Exchange. (a) The Securities are issuable to QIBs in registered form and to Institutional Accredited Investors in unregistered form. Holders may transfer Securities only by written application to the Registrar stating the name of the proposed transferee and otherwise complying with the terms of this Indenture. No such transfer shall be effected until, and such transferee shall succeed to the rights of a Holder only upon, final acceptance and registration of the transfer by the Registrar in the Register. Furthermore, any Holder of a Global Security shall, by acceptance of such Global Security, agree that transfers of beneficial interests in such Global Security may be effected only through a book-entry system maintained by the Holder of such Global Security (or its agent) and that ownership of a beneficial interest in the Global Security shall be required to be reflected in a book-entry. Notwithstanding the foregoing, and only in the case of a Restricted Security, a beneficial interest in a Global Security being transferred in reliance on an exemption from the registration requirements of the Securities Act other than in accordance with Rule 144 or Rule 144A may only be transferred for a Physical Security.

(b) Subject to compliance with any applicable additional requirements contained in Section 2.13, when a Security is presented to the Registrar with a request to register a transfer thereof or to exchange such Security for an equal principal amount of Securities of other authorized denominations, the Registrar shall register the transfer or make the exchange as requested and shall make, or cause the Depositary to make, as the case may be, appropriate adjustments to the Register or the book-entry system of the Depositary to reflect transfer of Securities between Holders of Global Securities held by QIBs and Institutional Accredited Investors; provided, however, that every Security presented or surrendered for registration of transfer or exchange shall be duly endorsed or accompanied by an assignment form and, if applicable, a transfer certificate, each in the form included in Exhibit A attached hereto and in form satisfactory to the Registrar and each duly executed by the Holder thereof or its attorney duly authorized in writing. To permit registration of transfers and exchanges, upon surrender of any Security for registration of transfer or exchange at an office or agency maintained for such purpose pursuant to Section 2.3, the Company shall execute, and the Trustee shall authenticate Securities of a like aggregate principal amount at the Registrar's request. Any transfer or exchange shall be without charge, except that the Company or Registrar may require payment of a sum sufficient to pay all taxes, assessments or other governmental charges that may be imposed in connection with the transfer or exchange of the Securities from the Holder requesting such transfer or exchange.

None of the Company, the Registrar or the Trustee shall be required to exchange or register a transfer of (i) any Securities selected for redemption (except, in the case of Securities to be redeemed in part, the portion thereof not to be redeemed), or (ii) any Securities in respect of which a Authorization Default Purchase Notice or a Designated Event Purchase Notice has been given and not withdrawn by the Holder thereof in accordance with the terms of this Indenture (except, in the case of Securities to be repurchased in part, the portion thereof not to be repurchased).

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

(c) Any Registrar appointed pursuant to Section 2.3 shall provide to the Trustee such information as the Trustee may reasonably require in connection with the delivery by such Registrar of Securities upon transfer or exchange of Securities.

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

Section 2.7 Book Entry Procedure for Global Securities. (a) Each Global Security issued to QIBs initially shall (i) be registered in the name of the Depositary for such Global Securities or the nominee of such Depositary, (ii) be delivered to the Trustee as custodian for such Depositary and (iii) bear legends as set forth in Section 2.15.

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

(b) Transfers of a Global Security shall be limited to transfers of such Global Security in whole, but not in part, to the Depositary, its successors or their respective nominees. If at any time the Depositary notifies the Company that it is unwilling or unable to continue as Depositary or if at any time the Depositary shall no longer be qualified to serve as the Depositary, the Company shall appoint a successor depositary with respect to the Securities. If a successor depositary is not appointed by the Company within 90 days after the Company receives such notice or becomes aware of such ineligibility, the Trustee, upon receipt of a Company Order for the authentication and delivery of definitive Securities, will authenticate and deliver Securities of like tenor and terms in definitive form in an aggregate Principal Amount equal to the Principal Amount of the Global Securities or Securities in exchange for such Global Security or Securities.

The Company may at any time and in its sole discretion determine that the Securities issued in the form of one or more Global Securities shall no longer be represented by such Global Securities. In such event, the Company will execute, and the Trustee, upon receipt of a Company Order for the authentication and delivery of definitive Securities, will authenticate and deliver Securities of like tenor and terms in definitive form in an aggregate Principal Amount equal to the Principal Amount of the Global Security or Securities in exchange for such Global Security or Securities. Interests of beneficial owners in a Global Security may be transferred in accordance with the rules and procedures of the Depositary and the provisions of Section 2.6. In addition, Physical Securities shall be transferred to all beneficial owners in exchange for their beneficial interests in a Global Security, if (i) the Depositary (A) notifies the Company that it is unwilling or unable to continue as Depositary for such Global Security, and a successor depositary is not appointed by the Company within 90 days of such notice, (B) ceases to be qualified to serve as Depositary and a successor depositary is not appointed by the Company within 90 days of such notice, (ii) the Company executes and delivers to the Trustee a Company Order that such Global Security shall be so transferable, registrable and exchangeable, and such transfers shall be registrable, or (iii) an Event of Default of which the Trustee has actual notice has occurred and is continuing and the Registrar has received a request from the Depositary to issue such Physical Securities.

(c) Any beneficial interest in one of the Global Securities that is transferred to a person who takes delivery in the form of an interest in the other Global Security will, upon transfer, cease to be an interest in such Global Security and become an interest in the other Global Security and, accordingly, will thereafter be subject to all transfer restrictions, if any, and other procedures applicable to beneficial interests in such other Global Security for as long as it remains such an interest.

(d) In connection with any transfer of a portion of the beneficial interests in a Global Security to beneficial owners pursuant to paragraph (b) of this Section 2.7, the Registrar shall reflect on its books and records the date and a decrease in the Principal Amount of such Global Security in an amount equal to the Principal Amount of the beneficial interest in such Global Security to be transferred, and the Company shall execute, and the Trustee shall authenticate and make available for delivery, one or more Physical Securities of like tenor and amount.

(e) In connection with the transfer of an entire Global Security to beneficial owners pursuant to paragraph (b) of this Section, such Global Security shall be deemed to be surrendered to the Trustee for cancellation, and the Company shall execute, and the Trustee shall authenticate and deliver, to each beneficial owner identified by the Depositary in exchange for its beneficial interest in such Global Security, an equal Principal Amount of Physical Securities of authorized denominations.

(f) Any Physical Security delivered in exchange for an interest in a Global Security pursuant to paragraph (b) or (d) of this Section shall, except as otherwise provided by Section 2.13, bear the legend regarding transfer

restrictions applicable to the Physical Security set forth in Section 2.13.

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

Section 2.8 Replacement Securities. If (a) any mutilated Security is surrendered to the Company, the Registrar or the Trustee, or (b) the Company, the Registrar and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Security, and there is delivered to the Company, the Registrar and the Trustee such security or indemnity as may be required by them to save each of them harmless, then, in the absence of notice to the Company, the Registrar or the Trustee that such Security has been acquired by a bona fide purchaser, the Company shall execute and upon its written request the Trustee shall authenticate and deliver, in exchange for any such mutilated Security or in lieu of any such destroyed, lost or stolen Security, a new Security of like tenor and principal amount, bearing a certificate number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, or is about to be repurchased by the Company pursuant to Article V, the Company in its discretion may, instead of issuing a new Security, pay, redeem or repurchase such Security, as the case may be.

Upon the issuance of any new Securities under this Section 2.7, the Company may require the payment of a sum sufficient to cover any tax, assessment or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee or the Registrar) connected therewith.

Every new Security issued pursuant to this Section 2.7 in lieu of any mutilated, destroyed, lost or stolen Security shall constitute an original additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Security shall be at any time enforceable by anyone, and shall be entitled to all benefits of this Indenture equally and proportionately with any and all other Securities duly issued hereunder.

The provisions of this Section 2.7 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

Section 2.9 Outstanding Securities; Determinations of Holders' Action. Securities outstanding at any time are all the Securities authenticated by the Trustee, except for:

(a) those cancelled by it,

(b) those paid, redeemed or repurchased pursuant to Section 2.7, those delivered to it for cancellation, and

(c) those described in this Section 2.10 as not outstanding.

A Security does not cease to be outstanding because the Company or an Affiliate thereof holds the Security; provided, however, that in determining whether the Holders of the requisite principal amount of Securities have given or concurred in any request, demand, authorization, direction, notice, consent, waiver, or other Act hereunder, Securities owned by the Company or any other obligor upon the Securities or any Affiliate of the Company or such other obligor shall be disregarded and deemed not to be outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent, waiver or other Act, only Securities which a Responsible Officer of the Trustee actually knows to be so owned shall be so disregarded. Subject to the foregoing, only Securities outstanding at the time of such determination shall be considered in any such determination.

If a Security is replaced pursuant to Section 2.7, the replaced Security ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Security is held by a bona fide purchaser unaware that such Security has been replaced.

If the Paying Agent holds, in accordance with the terms of this Indenture, prior to 10:00 a.m., New York City time, on a Designated Event Purchase Date or Stated Maturity, as the case may be, cash or securities, if permitted hereunder, sufficient to pay Securities payable on that date, then on such Designated Event Purchase Date or Stated Maturity, as the case may be, such Securities shall cease to be outstanding and interest (inclusive of Additional Interest, if any) on such Securities shall cease to accrue.

If a Security is converted in accordance with Article XII, then from and after the time of conversion on the date of conversion, such Security shall cease to be outstanding and interest (inclusive of Additional Interest, if any) on such Security shall cease to accrue.

Section 2.10 Temporary Securities. Pending the preparation of definitive Securities, the Company may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary Securities which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Securities in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the Officers executing such Securities may determine, as conclusively evidenced by their execution of such Securities.

If temporary Securities are issued, the Company shall cause definitive Securities to be prepared without unreasonable delay. After the preparation of definitive Securities, the temporary Securities shall be exchangeable for definitive Securities upon surrender of the temporary Securities at the office or agency of the Company designated for such purpose pursuant to Section 2.3, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities the Company shall execute

and the Trustee shall authenticate and deliver in exchange therefor a like principal amount of definitive Securities of authorized denominations. Until so exchanged the temporary Securities shall in all respects be entitled to the same benefits under this Indenture as definitive Securities.

Section 2.11 Cancellation. All Securities surrendered for payment, repurchase by the Company pursuant to Article V, conversion, redemption or registration of transfer or exchange shall, if surrendered to any person other than the Trustee, be delivered to the Trustee and shall be promptly cancelled by it. The Company may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and all Securities so delivered shall be promptly cancelled by the Trustee. The Company may not issue new Securities to replace Securities it has paid or delivered to the Trustee for cancellation or that any Holder has converted pursuant to Article XII. No Securities shall be authenticated in lieu of or in exchange for any Securities cancelled as provided in this Section 2.11, except as expressly permitted by this Indenture. All cancelled Securities held by the Trustee shall be disposed of by the Trustee in accordance with the Trustee's customary procedure.

Section 2.12 Persons Deemed Owners. Prior to due presentment of a Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment (whether in cash or Applicable Stock) of principal of, Authorization Default Purchase Price, Designated Event Purchase Price, and interest (inclusive of Additional Interest, if any) on, the Security, for the purpose of receiving cash or Applicable Stock upon conversion and for all other purposes whatsoever, whether or not such Security be overdue, and neither the Company, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

Section 2.13 Additional Transfer and Exchange Requirements.

(a) Transfer and Exchange of Securities. In the event that Securities are presented by a Holder to the Registrar with a request:

(x) to register the transfer of the Securities; or

(y) to exchange such Securities for an equal principal amount of Securities of other authorized denominations,

such Registrar shall register the transfer or make the exchange as requested; provided, however, that the Securities presented or surrendered for register of transfer or exchange:

(i) shall be duly endorsed or accompanied by a written instrument of transfer in accordance with the proviso to the first paragraph of Section 2.6; and

(ii) in the case of a Restricted Security, such request shall be

accompanied by the following additional information and documents, as applicable:

(A) if such Restricted Security is being delivered to the Registrar by a Holder for registration in the name of such Holder, without transfer, or such Restricted Security is being transferred to the Company or a Subsidiary of the Company, a certification to that effect from such Holder (in substantially the form set forth in the Transfer Certificate);

(B) if such Restricted Security is being transferred to a person the Holder reasonably believes is a QIB in accordance with Rule 144A or pursuant to an effective registration statement under the Securities Act, a certification to that effect from such Holder (in substantially the form set forth in the Transfer Certificate); or

(C) if such Restricted Security is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 or to an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act) pursuant to and in compliance with an exemption from the registration requirements under the Securities Act, a certification to that effect from the Holder (in substantially the form set forth in the Transfer Certificate) and, in the case of a transfer to an institutional accredited investor, a certificate containing certain representations and warranties (in substantially the form set forth in Exhibit B) and, in either case, if the Company or the Trustee so requests, a customary Opinion of Counsel, certificates and other information reasonably acceptable to the Company and the Registrar to the effect that such transfer does not require registration under the Securities Act.

(b) Legends.

(1) Except as permitted by the following paragraphs (2), (3) and (4), each Security (and all Securities issued in exchange therefor or upon registration of transfer or replacement thereof) shall bear a legend in substantially the form called for by footnote 1 to Exhibit A, or by Exhibit C attached hereto (each, a "Transfer Restricted Security"), for so long as it is required by this Indenture to bear such legend. Each Transfer Restricted Security shall have attached thereto a certificate (a "Transfer Certificate") in substantially the form called for by footnote 2 to Exhibit A attached hereto.

(2) Upon any sale or transfer of a Transfer Restricted Security (x) after the expiration of the holding period applicable to sales of the Securities under Rule 144(k) of the Securities Act, (y) pursuant to Rule 144 or (z) pursuant to an

effective registration statement under the Securities Act, any Registrar shall permit the Holder thereof to exchange such Restricted Security for an Unrestricted Security; provided, however, that the Holder of such Restricted Security shall, in connection with such exchange or transfer, comply with the other applicable provisions of this Section 2.13.

(3) Upon the exchange, registration of transfer or replacement of Securities not bearing the legend described in paragraph (1) above, the Company shall execute, and the Trustee shall authenticate and deliver Securities that do not bear such legend and that do not have a Transfer Certificate attached thereto.

(4) Until the expiration of the holding period applicable to sales of the Securities under Rule 144(k) of the Securities Act or a transfer pursuant to Rule 144 or pursuant to an effective registration statement under the Securities Act, the Applicable Stock issued upon conversion of the Securities shall bear the legend in substantially the form called for by Exhibit C attached hereto.

(c) Transfers to the Company. Nothing contained in this Indenture or in the Securities shall prohibit the sale or other transfer of any Securities to the Company or any of its Subsidiaries, which Securities shall thereupon be cancelled in accordance with Section 2.11.

(d) Removal of the Restricted Securities Legends. Each Security and each stock certificate representing shares of the Common Stock issued upon conversion of any Security (other than a stock certificate representing shares of the Common Stock issued upon conversion of a Security that previously has been sold pursuant to a registration statement that has been declared effective under the Securities Act and which continues to be effective at the time of such sale) shall bear the applicable restrictive legend as set forth in Exhibit A or Exhibit C, as the case may be, until the earlier of:

(i) the date which is two years after the original issuance date of such Security;

(ii) in the case of Securities held by QIBs, the date such Security has, or such shares of the Common Stock have been sold pursuant to a registration statement that has been declared effective under the Securities Act (and which continues to be effective at the time of such sale);

(iii) in the case of Securities held by Institutional Accredited Investors, the date such shares of Common stock have been sold pursuant to a registration statement that has been declared effective under the Securities Act (and which continues to be effective at the time of such sale);

The Holder must give notice thereof to the Trustee and any transfer agent for the Common Stock, as applicable.

Notwithstanding the foregoing, the restrictive legend may be removed from any Security or any stock certificate representing shares of the Common Stock issued upon conversion of any Security if there is delivered to the Company such satisfactory evidence, which may include an opinion of independent counsel, as may be reasonably required by the Company, that neither such legend nor the restrictions on transfer set forth therein are required to ensure that transfers of such Security or shares of the Common Stock issued upon conversion of Securities, as the case may be, will not violate the registration requirements of the Securities Act or the qualification requirements under any state securities laws. Upon provision of such satisfactory evidence, at the written direction of the Company, (i) in the case of a Security, the Trustee shall authenticate and deliver in exchange for such Security another Security or Securities having an equal aggregate principal amount that does not bear such legend or (ii) in the case of a stock certificate representing shares of the Common Stock, the transfer agent for the Common Stock shall authenticate and deliver in exchange for the stock certificate or stock certificates representing such shares of Common Stock bearing such legend, one or more new stock certificates representing a like aggregate number of shares of Common Stock that do not bear such legend. If the restrictive legend has been removed from a Security or stock certificates representing shares of the Common Stock issued upon conversion of any Security as provided above, no other Security issued in exchange for all or any part of such Security or stock certificates representing shares of the Common Stock issued upon conversion of such Security shall bear such legend, unless the Company has reasonable cause to believe that such other Security is a "restricted security" (or such shares of Common Stock are "restricted securities") within the meaning of Rule 144 and instructs the Trustee in writing to cause a restrictive legend to appear thereon.

Any Security (or Security issued in exchange or substitution therefor) as to which such restrictions on transfer shall have expired in accordance with their terms or as to which the conditions for removal of the restrictive legend as set forth in this Section 2.13(d) have been satisfied may, upon surrender of such Security for exchange to the Registrar in accordance with the provisions of Section 2.6, be exchanged for a new Security or Securities, of like tenor and aggregate principal amount, which shall not bear the restrictive legend required by 2.13(b)

Any stock certificate representing shares of the Common Stock issued upon conversion of any Security as to which such restrictions on transfer shall have expired in accordance with their terms or as to which the conditions for removal of the restrictive legend as set forth in this Section 2.13(d) have been satisfied may, upon surrender of the stock certificates representing such shares of Common Stock for exchange in accordance with the procedures of the transfer agent for the Common Stock, be exchanged for a new stock certificate or stock certificates representing a like aggregate number of shares of Common Stock, which shall not bear the restrictive legend required by 2.13(b).

Section 2.14 CUSIP Numbers. The Company may issue the Securities

with one or more "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in notices of redemption or repurchase as a convenience to Holders; provided that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any notice of a redemption or repurchase and that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption or repurchase shall not be affected by any defect in or omission of such numbers. The Company shall promptly notify the Trustee of any change in the CUSIP numbers.

Section 2.15 Ranking. The indebtedness of the Company arising under or in connection with this Indenture and every outstanding Security issued under this Indenture from time to time constitutes and shall constitute a senior unsecured general obligation of the Company, ranking equally with other existing and future senior unsecured Indebtedness of the Company and ranking senior in right of payment to any future Indebtedness of the Company that is expressly made subordinate to the Securities by the terms of such Indebtedness.

Section 2.16 Defaulted Interest. If the Company fails to make a payment of interest (including Additional Interest, if any) on any Security when due and payable ("Defaulted Interest"), it shall pay such Defaulted Interest plus (to the extent lawful) any interest payable on the Defaulted Interest, in any lawful manner. It may elect to pay such Defaulted Interest, plus any such interest payable on it, to the Persons who are Holders of such Securities on which the interest is due on a subsequent Special Record Date. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each such Security. The Company shall fix any such Special Record Date and payment date for such payment. At least 15 days before any such Special Record Date, the Company shall mail to Holders affected thereby a notice that states the Special Record Date, the Interest Payment Date, and amount of such interest (and such Additional Interest, if any) to be paid.

ARTICLE III

[INTENTIONALLY OMITTED]

ARTICLE IV

PURCHASE AT THE OPTION OF HOLDERS UPON AN AUTHORIZATION DEFAULT

Section 4.1 Authorization Default Put Right. (a) In the event that an Authorization Default shall occur, each Holder shall have the right, at the Holder's option, but subject to the provisions of this Section 4.1, to require the Company to purchase, in whole or in part, at any time or from time-to-time, and upon the exercise of such right, the Company shall purchase, all of such Holder's Securities, or any portion of the Principal Amount thereof that is equal to $1,000 or an integral multiple thereof, as directed by such Holder pursuant to this Section 4.1, on or after the date(s) designated for such purpose by the Company (each such date, an "Authorization Default Purchase Date") that is a Business Day no later than 20 Business Days after the date of notice pursuant to Section 4.1(b) of the occurrence of an Authorization Default.

The Company shall be required to purchase such Securities at a purchase price in cash equal to (i) 100% of the Principal Amount plus (ii) any accrued and unpaid interest (inclusive of Additional Interest, if any) to, but excluding, the Authorization Default Purchase Date (collectively, the "Authorization Default Purchase Price"). In the event that an Authorization Default Purchase Date is a date that is after any Regular Record Date but on or before the corresponding Interest Payment Date, the Company shall be required to pay accrued and unpaid interest (inclusive of Additional Interest, if any) to the Holder at the applicable Authorization Default Purchase Date.

(b) No later than 15 calendar days after the occurrence of an Authorization Default, the Company shall mail a written notice of the Authorization Default by first class mail to the Trustee (and the Paying Agent if the Trustee is not then acting as Paying Agent) and to each Holder at its address shown in the Register of the Registrar, and to beneficial owners as required by applicable law. No failure by the Company to give the foregoing notice shall limit any Holder's right to exercise its rights pursuant to Section 4.1(a) or affect the validity of the proceedings for the purchase of its Securities hereunder. The notice shall include a form of Authorization Default Purchase Notice and shall briefly state:

(i) the Authorization Default Purchase Date

(ii) the Authorization Default Purchase Price;

(iii) the name and address of the Paying Agent and the Conversion Agent;

(iv) the Conversion Rate and any adjustments thereto;

(v) that the applicable Securities must be surrendered to the Paying Agent to collect payment;

(vi) that the Purchase Price for any Security as to which an Authorization Default Purchase Notice has been duly given and not withdrawn shall be paid promptly following the time of surrender of such Security as described in Section 4.1(b)(vii);

(vii) that the Securities as to which a Authorization Default Purchase Notice has been given may be converted into Common Stock pursuant to Article XII of this Indenture only if the Authorization Default Purchase Notice has been withdrawn in accordance with the terms of this Indenture;

(viii) the procedures for withdrawing an Authorization Default Purchase Notice, including a form of notice of withdrawal;

(ix) that, unless the Company defaults in making payment of such Authorization Default Purchase Price, interest (including any Additional Interest), if any, on Securities surrendered for purchase by the Company shall cease to accrue on and after the purchase date; and

(x) the CUSIP number(s) of the Securities.

At the Company's request, the Trustee shall give the notice of purchase right in the Company's name and at the Company's expense; provided, however, that the Company makes such request at least five Business Days (unless a shorter period shall be satisfactory to the Trustee) prior to the date by which such notice of purchase right must be given to the Holders in accordance with this Section 4.1(b); provided, further, that the text of the notice of purchase right shall be prepared by the Company.

Simultaneously with delivering the written notice pursuant to this Section 4.1(b), the Company shall publish a notice containing all information specified in such written notice in a newspaper of general circulation in New York, New York or publish such information on the Company's website, or through such other public medium that reasonably could be expected to inform Holders of such information.

Delivery of such form of Authorization Default Purchase Notice to the Holders shall be made in the Company's name and at the Company's expense and the text of such form of Authorization Default Purchase Notice shall be prepared by the Company pursuant to clause (b) of this Section.

In the event that there remain Securities outstanding after the initial Authorization Default Purchase Date and Holders thereafter desire to have the Company purchase their Securities pursuant to Section 4.1(a), then the Company will comply with this Article IV (including by mailing subsequent notices as described in this Section 4.1(b)); provided, however, that the Company will not be required to mail such notices and purchase such Securities more than once every 30 calendar days.

(c) A Holder may exercise its rights specified in clause (a) of this Section 4.1 upon delivery of a written notice (which shall be in substantially the form included on the reverse side of the Securities entitled "Option of Holder to Elect Purchase upon Authorization Default" hereto and which may be delivered by letter, overnight courier, hand delivery, facsimile transmission or in any other written form) of the exercise of such rights (a "Authorization Default Purchase Notice") to the Paying Agent at any time on or before the 20th Business Day after the date of the Company's notice of the Authorization Default.

The Authorization Default Purchase Notice delivered by a Holder shall state (i) the certificate number or numbers of the Security or Securities which the Holder shall deliver to be purchased, (ii) the portion of the Principal Amount of the Security which the Holder shall deliver to be purchased, which portion must be $1,000 or an integral multiple thereof, and (iii) that such Security shall be purchased pursuant to the terms and conditions specified in the Securities and this Indenture.

Delivery of a Security to the Paying Agent by delivery (together with all necessary endorsements) at the offices of the Paying Agent is a

condition to receipt by the Holder of the Authorization Default Purchase Price therefor; provided, however, that such Authorization Default Purchase Price shall be so paid pursuant to this Section 4.1 only if the Security so delivered to the Paying Agent shall conform in all respects to the description thereof in the related Authorization Default Purchase Notice, as determined by the Company.

The Company shall purchase from the Holder thereof, pursuant to this Section 4.1, a portion of a Security if the Principal Amount of such portion is $1,000 or an integral multiple of $1,000. Provisions of this Indenture that apply to the purchase of all of a Security pursuant to Section 4.1 through Section 4.7 also apply to the purchase of such portion of such Security.

The Paying Agent shall promptly notify the Company of the receipt by it of any Authorization Default Purchase Notice or written withdrawal thereof.

Delivery of such Authorization Default Purchase Notice to the Company shall be made in the Holder's name and at the Holder's expense and the text of such Authorization Default Purchase Notice shall be prepared by the Holder pursuant to clause (c) of this Section.

Section 4.2 Effect of Authorization Default Purchase Notice; Withdrawal of Authorization Default Purchase Notice. (a) Upon receipt by the Paying Agent of the Authorization Default Purchase Notice specified in Section 4.1(c), the Holder of the Security in respect of which such Authorization Default Purchase Notice was given shall (unless such Authorization Default Purchase Notice is withdrawn as specified in the following paragraph) thereafter be entitled to receive the Authorization Default Purchase Price with respect to such Security. Such Authorization Default Purchase Price shall be paid to such Holder, subject to receipt of cash by the Paying Agent, promptly following the later of (a) the Authorization Default Purchase Date with respect to such Security and (b) the delivery of such Security to the Paying Agent by the Holder thereof. Securities in respect of which an Authorization Default Purchase Notice has been given by the Holder thereof may not be converted pursuant to Article XII on or after the date of the delivery of such Authorization Default Purchase Notice unless such Authorization Default Purchase Notice has first been validly withdrawn as specified in the following paragraph.

(b) An Authorization Default Purchase Notice may be withdrawn by means of a written notice which may be delivered by letter, overnight courier, hand delivery, facsimile transmission or in any other written form of withdrawal delivered by the Holder to the Paying Agent at any time prior to the close of business on the Business Day immediately preceding the Authorization Default Purchase Date, specifying (a) the Principal Amount of the Security or portion thereof (which must be a Principal Amount of $1,000 or an integral multiple of $1,000 in excess thereof) with respect to which such notice of withdrawal is being submitted, and (b) the certificate numbers of the withdrawn Securities, and (c) the Principal Amount, if any, which remains subject to the Authorization Default Purchase Notice.

Section 4.3 Deposit of Authorization Default Purchase Price. Prior to 10:00 a.m., New York City time, on the applicable Authorization Default

Purchase Date, the Company shall deposit with the Paying Agent (or if the Company or a Subsidiary or an Affiliate of either of them is acting as the Paying Agent, shall segregate and hold in trust as provided in Section 2.4) an amount of cash (in immediately available funds if deposited on such Business Day) sufficient to pay the aggregate Authorization Default Purchase Price of all the Securities or portions thereof which are to be purchased as of such Authorization Default Purchase Date.

If the Paying Agent holds, in accordance with the terms hereof, at 10:00 a.m., New York City time, on the applicable Authorization Default Purchase Date, cash sufficient to pay the Authorization Default Purchase Price of any Securities for which an Authorization Default Purchase Notice has been tendered and not withdrawn pursuant to Section 4.2(b), then, on such Authorization Default Purchase Date, such Securities shall cease to be outstanding and interest (inclusive of Additional Interest, if any,) on such Securities shall cease to accrue, whether or not such Securities are delivered to the Paying Agent, and the rights of the Holders in respect thereof shall terminate (other than the right to receive the Authorization Default Purchase Price upon delivery of such Securities).

Section 4.4 Securities Purchased in Part. Any Security which is to be purchased only in part shall be surrendered at the office of the Paying Agent (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or such Holder's attorney duly authorized in writing) and promptly after the applicable Authorization Default Purchase Date the Company shall execute and the Trustee shall authenticate and deliver to the Holder of such Security, without charge, a new Security or Securities, of any authorized denomination or denominations as may be requested by such Holder, in aggregate principal amount equal to, and in exchange for, the portion of the Principal Amount of the Security so surrendered that is not purchased.

Section 4.5 Covenant to Comply With Securities Laws Upon Purchase of Securities. When complying with the provisions of Section 4.1 hereof (provided that such offer or purchase constitutes an "issuer tender offer" for purposes of Rule 13e-4 (which term, as used herein, includes any successor provision thereto) under the Exchange Act at the time of such offer or purchase), and subject to any exemptions available under applicable law, the Company shall:

(a) comply with Rule 13e-4 and Rule 14e-1 (or any successor provision) under the Exchange Act;

(b) file the related Schedule TO (or any successor schedule, form or report) under the Exchange Act; and

(c) otherwise comply with all Federal and state securities laws so as to permit the rights and obligations under this Article IV to be exercised in the time and in the manner specified therein.

Section 4.6 Repayment to the Company. To the extent that the

aggregate amount of cash deposited by the Company pursuant to Section 4.3 exceeds the aggregate Authorization Default Purchase Price of the Securities or portions thereof which the Company is obligated to purchase as of the applicable Authorization Default Purchase Date, then, promptly after such Authorization Default Purchase Date, the Paying Agent shall return any such excess to the Company.

ARTICLE V

PURCHASE AT THE OPTION OF HOLDERS UPON A DESIGNATED EVENT

Section 5.1 Designated Event Put Right. (a) In the event that a Designated Event shall occur, each Holder shall have the right, at the Holder's option, but subject to the provisions of this Section 5.1, to require the Company to purchase, in whole or in part, at any time or from time-to-time, and upon the exercise of such right, the Company shall purchase, all of such Holder's Securities, or any portion of the Principal Amount thereof that is equal to $1,000 or an integral multiple thereof, as directed by such Holder pursuant to this Section 5.1, on or after the date(s) designated for such purpose by the Company (each such date, a "Designated Event Purchase Date") that is a Business Day no later than 20 Business Days after the date of notice pursuant to Section 5.1(b) of the occurrence of a Designated Event (subject to extension to comply with applicable law). The Company shall be required to purchase such Securities at a purchase price in cash equal to (i) 100% of the Principal Amount plus (ii) any accrued and unpaid interest (inclusive of Additional Interest, if any) to, but excluding, the Designated Event Purchase Date (collectively, the "Designated Event Purchase Price"). In the event that a Designated Event Purchase Date is a date that is after any Regular Record Date but on or before the corresponding Interest Payment Date, the Company shall be required to pay accrued and unpaid interest (inclusive of Additional Interest, if any) to the Holder of record on the Regular Record Date.

(b) No later than 20 calendar days after the occurrence of a Designated Event, the Company shall mail a written notice of the Designated Event by first class mail to the Trustee (and the Paying Agent if the Trustee is not then acting as Paying Agent) and to each Holder at its address shown in the Register of the Registrar, and to beneficial owners as required by applicable law. No failure by the Company to give the foregoing notice shall limit any Holder's right to exercise its rights pursuant to Section 5.1(a) or affect the validity of the proceedings for the purchase of its Securities hereunder. The notice shall include a form of Designated Event Purchase Notice and shall briefly state:

(i) the date of such Designated Event and, briefly, the events causing such Designated Event;

(ii) the date by which the Designated Event Purchase Notice must be delivered to the Paying Agent in order for a Holder to exercise the purchase right pursuant to this Section 5.1;

(iii) the Designated Event Purchase Date;

(iv) the Designated Event Purchase Price;

(v) the name and address of the Paying Agent and Conversion Agent;

(vi) the Conversion Rate and any adjustments thereto;

(vii) that the Securities as to which a Designated Event Purchase Notice has been given may be converted into Common Stock pursuant to Article XII of this Indenture only if the Designated Event Purchase Notice has been withdrawn in accordance with the terms of this Indenture;

(viii) that the applicable Securities must be surrendered to the Paying Agent to collect payment;

(ix) that the Designated Event Purchase Price for any Security as to which a Designated Event Purchase Notice has been duly given and not withdrawn shall be paid promptly following the later of the Designated Event Purchase Date and the time of surrender of such Security as described in Section 5.1(b)(viii);

(x) briefly, the conversion rights of the Securities, and that the Holder must satisfy the requirements set forth in the Indenture in order to convert the Securities;

(xi) the procedures for withdrawing a Designated Event Purchase Notice, including a form of notice of withdrawal;

(xii) that, unless the Company defaults in making payment of such Designated Event Purchase Price, interest (inclusive of Additional Interest, if any) on Securities surrendered for purchase by the Company shall cease to accrue on and after the Designated Event Purchase Date; and

(xiii) the CUSIP number(s) of the Securities.

At the Company's request, the Trustee shall give the notice of purchase right in the Company's name and at the Company's expense; provided, however, that the Company makes such request at least five Business Days (unless a shorter period shall be satisfactory to the Trustee) prior to the date by which such notice of purchase right must be given to the Holders in accordance with this Section 5.1(b); provided, further, that the text of the notice of purchase right shall be prepared by the Company.

Simultaneously with delivering the written notice pursuant to this Section 5.1(b), the Company shall publish a notice containing all information specified in such written notice in a newspaper of general circulation in New York, New York or publish such information on the Company's website, or through such other public medium that reasonably could be expected to inform Holders of such information.

Delivery of such form of Designated Event Purchase Notice to the

Holders shall be made in the Company's name and at the Company's expense and the text of such form of Designated Event Purchase Notice shall be prepared by the Company pursuant to clause (b) of this Section.

In the event that there remain Securities outstanding after the initial Designated Event Purchase Date and Holders desire to have the Company purchase their Securities pursuant to Section 5.1(a), then the Company will comply with this Article V (including by mailing subsequent notices as described in this Section 5.1(b)); provided, however, that the Company will not be required to mail such notices and purchase such Securities more than once every 30 calendar days.

(c) A Holder may exercise its rights specified in clause (a) of this Section 5.1 upon delivery of a written notice (which shall be in substantially the form included on the reverse side of the Securities entitled "Option of Holder to Elect Purchase" hereto and which may be delivered by letter, overnight courier, hand delivery, facsimile transmission or in any other written form of the exercise of such rights (a "Designated Event Purchase Notice") to the Paying Agent at any time on or before the 20th Business Day after the date of the Company's notice of the Designated Event (subject to extension to comply with applicable law).

The Designated Event Purchase Notice delivered by a Holder shall state (i) the certificate number or numbers of the Security or Securities which the Holder shall deliver to be purchased, (ii) the portion of the Principal Amount of the Security which the Holder shall deliver to be purchased, which portion must be $1,000 or an integral multiple thereof, and (iii) that such Security shall be purchased pursuant to the terms and conditions specified in the Securities and this Indenture.

Delivery of a Security to the Paying Agent by delivery prior to, on or after the Designated Event Purchase Date (together with all necessary endorsements) at the offices of the Paying Agent is a condition to receipt by the Holder of the Designated Event Purchase Price therefor; provided, however, that such Designated Event Purchase Price shall be so paid pursuant to this Section 5.1 only if the Security so delivered to the Paying Agent shall conform in all respects to the description thereof in the related Designated Event Purchase Notice, as determined by the Company.

The Company shall purchase from the Holder thereof, pursuant to this Section 5.1, a portion of a Security if the Principal Amount of such portion is $1,000 or an integral multiple of $1,000. Provisions of the Indenture that apply to the purchase of all of a Security pursuant to Section 5.1 through Section 5.6 also apply to the purchase of such portion of such Security.

A Paying Agent shall promptly notify the Company of the receipt by it of any Designated Event Purchase Notice or written withdrawal thereof.

Delivery of such Designated Event Purchase Notice to the Company shall be made in the Holder's name and at the Holder's expense and the text of such Designated Event Purchase Notice shall be prepared by the Holder pursuant

to clause (c) of this Section.

Section 5.2 Effect of Designated Event Purchase Notice. (a) Upon receipt by the Paying Agent of the Designated Event Purchase Notice specified in Section 5.1(c), the Holder of the Security in respect of which such Designated Event Purchase Notice was given shall (unless such Designated Event Purchase Notice is withdrawn as specified in the following paragraph) thereafter be entitled to receive the Designated Event Purchase Price with respect to such Security. Such Designated Event Purchase Price shall be paid to such Holder, subject to receipt of cash by the Paying Agent, promptly following the later of (a) the Designated Event Purchase Date with respect to such Security and (b) the delivery of such Security to the Paying Agent by the Holder thereof. Securities in respect of which a Designated Event Purchase Notice has been given by the Holder thereof may not be converted pursuant to Article XII on or after the date of the delivery of such Designated Event Purchase Notice unless such Designated Event Purchase Notice has first been validly withdrawn as specified in the following paragraph.

(b) A Designated Event Purchase Notice may be withdrawn by means of a written notice (which may be delivered by letter, overnight courier, hand delivery, facsimile transmission or in any other written form) of withdrawal delivered by the Holder to the Paying Agent at any time prior to the close of business on the Business Day immediately preceding the Designated Event Purchase Date, specifying (a) the Principal Amount of the Security or portion thereof (which must be a Principal Amount of $1,000 or an integral multiple of $1,000 in excess thereof) with respect to which such notice of withdrawal is being submitted, (b) the certificate numbers of the withdrawn Securities, and (c) the Principal Amount, if any, which remains subject to the Designated Event Purchase Notice.

Section 5.3 Deposit of Designated Event Purchase Price. Prior to 10:00 a.m., New York City time, on the applicable the Designated Event Purchase Date or the Business Day following the Designated Event Purchase Date, the Company shall deposit with the Paying Agent (or if the Company or a Subsidiary or an Affiliate of either of them is acting as the Paying Agent, shall segregate and hold in trust as provided in Section 2.4) an amount of cash (in immediately available funds if deposited on such Business Day) sufficient to pay the aggregate Designated Event Purchase Price of all the Securities or portions thereof which are to be purchased as of such Designated Event Purchase Date.

If the Paying Agent holds, in accordance with the terms hereof, at 10:00 a.m., New York City time, on the applicable Designated Event Purchase Date, cash sufficient to pay the Designated Event Purchase Price of any Securities for which a Designated Event Purchase Notice has been tendered and not withdrawn pursuant to Section 5.2(b), then, on such Designated Event Purchase Date, such Securities shall cease to be outstanding and interest (inclusive of Additional Interest, if any) on such Securities shall cease to accrue, whether or not such Securities are delivered to the Paying Agent, and the rights of the Holders in respect thereof shall terminate (other than the right to receive the Designated Event Purchase Price upon delivery of such Securities).

The Company shall publicly announce the Principal Amount of Securities purchased as a result of such Designated Event on or as soon as practicable after the Designated Event Purchase Date by publishing a notice containing such information in a newspaper of general circulation in New York, New York or by publishing such information on the Company's website, or through such other public medium that reasonably could be expected to inform Holders of such information.

Section 5.4 Securities Purchased in Part. Any Security that is to be purchased only in part shall be surrendered at the office of the Paying Agent (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or such Holder's attorney duly authorized in writing) and promptly after the Designated Event Purchase Date the Company shall execute and the Trustee shall authenticate and deliver to the Holder of such Security, without charge, a new Security or Securities, of any authorized denomination or denominations as may be requested by such Holder, in aggregate Principal Amount equal to, and in exchange for, the portion of the Principal Amount of the Security so surrendered that is not purchased.

Section 5.5 Covenant to Comply with Securities Laws Upon Purchase of Securities. When complying with the provisions of Section 5.1 hereof (provided that such offer or purchase constitutes an "issuer tender offer" for purposes of Rule 13e 4 (which term, as used herein, includes any successor provision thereto) under the Exchange Act at the time of such offer or purchase), and subject to any exemptions available under applicable law, the Company shall:

(a) comply with Rule 13e-4 and Rule 14e-1 (or any successor provision) under the Exchange Act;

(b) file the related Schedule TO (or any successor schedule, form or report) under the Exchange Act; and

(c) otherwise comply with all Federal and state securities laws so as to permit the rights and obligations under this Article V to be exercised in the time and in the manner specified therein.

Section 5.6 Repayment to the Company. To the extent that the aggregate amount of cash deposited by the Company pursuant to Section 5.3 exceeds the aggregate Designated Event Purchase Price of the Securities or portions thereof which the Company is obligated to purchase as of the Designated Event Purchase Date then, promptly after the Designated Event Purchase Date, the Paying Agent shall return any such excess to the Company.

ARTICLE VI

COVENANTS

Section 6.1 Payment of Securities. The Company shall pay interest on the Securities as provided in the Securities. The Company shall promptly make

all payments in respect of the Securities on the dates and in the manner provided in the Securities or pursuant to this Indenture. The Company shall, to the fullest extent permitted by law, pay interest on overdue principal and overdue installments of interest (inclusive of Additional Interest, if any) at the rate borne by the Securities per annum (inclusive of Additional Interest, if any). All references in this Indenture or the Securities to interest shall be deemed to include Additional Interest, if any.

Payment of the principal of and interest (inclusive of Additional Interest, if any) on the Securities shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts or, subject to Section 6.10 below in Applicable Stock, as the case may be.

Subject to Section 5.1, the Company shall pay interest (inclusive of Additional Interest, if any) on the Securities to the Person in whose name the Securities are registered at the close of business on the Regular Record Date next preceding the corresponding Interest Payment Date. Any such interest (inclusive of Additional Interest, if any) not so punctually paid or duly provided for shall forthwith cease to be payable to the Holder on such Regular Record Date and may be paid (a) to the Person in whose name the Securities are registered at the close of business on a Special Record Date for the payment of such defaulted interest (inclusive of Additional Interest, if any) to be fixed by the Trustee, notice whereof shall be given to the Holders not less than 10 calendar days prior to such Special Record Date or (b) at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities may be listed, and upon such notice as may be required by such exchange.

The Holder must surrender the Securities to the Paying Agent to collect payment of principal. Payment of interest (inclusive of Additional Interest, if any) on Securities in the aggregate Principal Amount of $1,000,000 or less shall be made by check mailed to the address of the Person entitled thereto as such address appears in the Register, and payment of interest (inclusive of Additional Interest, if any) on Securities in aggregate Principal Amount in excess of $1,000,000 shall be made by wire transfer in immediately available funds at the election of such Holder.

Twenty (20) Business Days prior to the applicable Interest Payment Date, the Company shall provide the Trustee and the Holders with notice of whether it will pay interest in Common Stock or cash and the amount of cash or Applicable Stock to be so paid. If the Company elects to make any payment of or provision for interest in shares of its Applicable Stock, the shares to be delivered will be valued at 95% of the daily volume-weighted average price of the Applicable Stock for the three Trading Day period ending on the Trading Day immediately prior to the Interest Payment Date. The Company shall cause such shares to be delivered to the Holder three Business Days following the applicable Interest Payment Date.

Any issuance of shares of Applicable Stock in respect of interest shall be deemed to have been effected immediately prior to the close of business

on the applicable Interest Payment Date and the Holder in whose name any stock certificate representing shares of Applicable Stock shall be deemed to have become on the applicable Interest Payment Date the holder of record of the shares represented thereby. The Company shall not issue fractional shares of Common Stock or any scrip representing fractional shares of Common Stock upon such payment of interest. If any fractional share of Common Stock otherwise would be issuable upon the payment of or provision for interest, the Company, at its option, may either make an adjustment therefore in cash at the current market value thereof to the Holder or round the fractional shares up to the nearest whole share, provided that if such Holder holds more than one Security the number of full shares that shall be issuable upon the payment of or provision for interest shall be computed on the basis of the aggregate Principal Amount (and the aggregate interest amount payable thereon) of all of the Securities held by such Holder.

Section 6.2 SEC and Other Reports to the Trustee. (a) The Company shall ensure delivery to the Trustee within 15 calendar days after it is required to file such annual and quarterly reports, information, documents and other reports with the SEC, copies of its annual report and of the information, documents and other reports (or copies of such portions of any of the foregoing as the SEC may by rules and regulations prescribe) which the Company is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act in accordance with TIA Section 314(a). In the event the Company is at any time no longer subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, it shall continue to provide the Trustee with reports containing substantially the same information as would have been required to be filed with the SEC had the Company continued to have been subject to such reporting requirements. In such event, such reports shall be provided at the times the Company would have been required to provide reports had it continued to have been subject to such reporting requirements. The Company also shall comply with the other provisions of TIA Section 314(a). Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely conclusively on Officers' Certificates). The Trustee shall have no duty or responsibility to review such reports, information or documents.

(b) The Company intends to file the reports referred to in paragraph (a) above in this Section 6.2 hereof with the SEC in electronic form pursuant to Regulation S-T of the SEC using the SEC's Electronic Data Gathering, Analysis and Retrieval ("EDGAR") system. The Company shall notify the Trustee in the manner prescribed herein of each such filing. The Trustee is hereby authorized and directed to access the EDGAR system for purposes of retrieving the reports so filed. Compliance with the foregoing shall constitute delivery by the Company of such reports to the Trustee in compliance with the provisions of TIA Section 314(a). The Trustee shall have no duty to search for or obtain any electronic or other filings that the Company makes with the SEC, regardless of whether such filings are periodic, supplemental or otherwise. Delivery of the reports, information and documents to the Trustee pursuant to this Section 6.2(b) shall

be solely for the purposes of compliance with this Section 6.2(b) and with TIA Section 314(a). The Trustee's receipt of such reports, information and documents shall not constitute notice to it of the consent thereof or of any matter determinable from the content thereof, including the Company's compliance with any of its covenants hereunder, as to which the Trustee is entitled to rely upon Officers' Certificates.

Section 6.3 Compliance Certificate. The Company shall deliver to the Trustee within 120 calendar days after the end of each fiscal year of the Company (beginning with the fiscal year ending June 30, 2005) an Officers' Certificate, stating whether or not to the knowledge of the signers thereof, the Company is in Default in the performance and observance of any of the terms, provisions and conditions of this Indenture and if the Company shall be in Default, specifying all such Defaults and the nature and status thereof of which they may have knowledge.

Section 6.4 Further Instruments and Acts. Upon request of the Trustee, or as otherwise necessary, the Company shall execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purposes of this Indenture.

Section 6.5 Maintenance of Office or Agency of the Trustee, Registrar, Paying Agent and Conversion Agent. The Company shall maintain in the Borough of Manhattan, New York, New York, an office or agency of the Trustee, Registrar, Paying Agent and Conversion Agent where Securities may be presented or surrendered for payment, where Securities may be surrendered for registration of transfer, exchange, redemption, repurchase or conversion and where notices and demands to or upon the Company in respect of the Securities and this Indenture may be served. The office of JP Morgan Chase Bank, N.A. shall initially be such office or agency for all of the aforesaid purposes. The Company shall give prompt written notice to the Trustee of the location, and of any change in the location, of any such office or agency (other than a change in the location of the office of the Trustee). If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the address of the Trustee set forth in Section 13.2.

The Company may also from time to time designate one or more other offices or agencies where the Securities may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; provided, however, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in the Borough of Manhattan, New York, New York, for such purposes.

Section 6.6 Delivery of Information Required Under Rule 144A. At any time when the Company is not subject to Section 13 or 15(d) of the Exchange Act, upon the request of a Holder or any beneficial owner of Securities or holder or beneficial owner of Common Stock issued upon conversion thereof, the Company shall promptly furnish or cause to be furnished the information required pursuant to Rule 144A(d)(4) under the Securities Act to such Holder or any

beneficial owner of Securities or holder or beneficial owner of Common Stock, or to a prospective purchaser of any such security designated by any such holder, as the case may be, to the extent required to permit compliance by such Holder or holder with Rule 144A under the Securities Act in connection with the resale of any such security. Whether a person is a beneficial owner shall be determined by the Company to the Company's reasonable satisfaction.

Section 6.7 Waiver of Stay, Extension or Usury Laws. The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law or any usury or other law wherever enacted, now or at any time hereafter in force, which would prohibit or forgive the Company from paying all or any portion of the Principal Amount, Authorization Default Purchase Price or Designated Event Purchase Price in respect of Securities, or any interest (inclusive of Additional Interest, if any) on such amounts, as contemplated herein, or which may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it shall not hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law had been enacted.

Section 6.8 Statement by Officers as to Default. The Company shall deliver to the Trustee, as soon as practicable and in any event within five Business Days after the Company becomes aware of the occurrence of any Default or Event of Default, an Officers' Certificate setting forth the details of such Default or Event of Default and the action which the Company proposes to take with respect thereto.

Section 6.9 Share Increase. (a) As soon as possible after the initial Issue Date, the Company will use its best efforts to: (a) obtain stockholder approval for the authorization of at least 5,500,000 additional shares of its Common Stock at a special meeting of stockholders called for such purpose and (b) following the receipt of such shareholder approval, amend its certificate of incorporation to effectuate the increase in the number of authorized and unissued shares of Common Stock ((a) and (b), together, the "Share Increase"), and will provide an Officer's Certificate to the Trustee certifying that such Share Increase has been effected. In the event that the Company has not effected the Share Increase within 120 days following the initial Issue Date, Additional Interest shall accrue and become payable upon the Securities in addition to the Initial Interest Rate, at an annual rate of 1%. Such additional interest shall increase by an additional 1% per annum every thirty (30) days thereafter up to a maximum aggregate interest of 15% per annum. Upon the Company's effecting of the Share Increase, the interest rate on the Securities shall immediately return to the Initial Interest Rate (subject to the imposition of Additional Interest pursuant to the terms of the Registration Rights Agreement or for other reasons).

(b) In the event that the Share Increase has not been obtained by January 15, 2007, (an "Authorization Default") Holders shall have the right to require the Company to purchase their Notes, in whole or in part, at any time or

from time-to-time, on the terms and in the manner set forth in Article IV hereof.

Section 6.10 Issuance of Applicable Stock in Lieu of Cash Interest Payments. So long as the conditions set forth in this Section 6.10 are met, the Company may, in satisfaction of its obligations to pay interest in cash, issue Applicable Stock or a combination of cash and shares of Applicable Stock, in lieu of cash:

(a) the shares of Applicable Stock to be so issued: (1) shall not require registration under any federal securities law before such shares may be freely transferable without being subject to any transfer restrictions under the Securities Act, or if such registration is required, such registration shall be completed and shall become effective prior to the applicable Interest Payment Date; and (2) shall not require registration with, or approval of, any governmental authority under any state law or any other federal law before shares may be validly issued or delivered or if such registration is required or such approval must be obtained, such registration shall be completed or such approval shall be obtained prior to the applicable payment date;

(b) the shares of Applicable Stock are, or shall have been, approved for listing on the Nasdaq National Market or listed on another national securities exchange, in any case, prior to the applicable Interest Payment Date;

(c) all shares of Applicable Stock which may be issued in payment of interest will be issued out of authorized but unissued Applicable Stock or treasury stock and will, upon issue, be duly and validly issued and fully paid and nonassessable and free of any preemptive or similar rights, and

(d) the shares to be delivered shall be valued at 95% of the daily volume-weighted average price of the Applicable Stock for the three Trading Day period ending on the Trading Day prior to the applicable Interest Payment Date.

If any of the conditions set forth in clauses (a) through (c) of this Section 6.10 are not satisfied in accordance with the terms thereof, the interest payable shall be paid only in cash.

Section 6.11 Affiliate Transactions. The Company will not after the initial Closing Date enter into any transaction with an Affiliate, or modify any existing transaction with an Affiliate (i) unless such transaction is at prices and on terms and conditions (when taken as a whole) not less favorable to the Company, as determined in good faith by the Company's board of Directors, than could be obtained on an arms'-length basis from unrelated third parties and (ii) if the Board determines the Fair Market Value of an Affiliate transaction to be in excess of $5 million, the Board shall obtain a corroborating valuation of the property to be transferred from an independent third-party selected by the Board. The Company will not, without the consent of a majority of the Notes outstanding, transfer any intellectual property or other material asset or assets to an Affiliate.

ARTICLE VII

SUCCESSOR CORPORATION

Section 7.1 When Company May Merge or Transfer Assets. The Company shall not consolidate with or merge with or into any other person or convey, transfer, sell, lease or otherwise dispose of all or substantially all of its properties and assets to any person, unless:

(a) either (i) the Company shall be the continuing corporation or (ii) the Person (if other than the Company) formed by such consolidation or into which the Company is merged or the Person which acquires by conveyance, transfer, sale, lease or other disposition all or substantially all of the properties and assets of the Company substantially as an entirety (1) shall be organized and validly existing under the laws of the United States or any State thereof or the District of Columbia and (2) shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, in form reasonably satisfactory to the Trustee, all of the obligations of the Company under the Securities and this Indenture;

(b) immediately after giving effect to such transaction, no Default shall have occurred and be continuing; and

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

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

The successor Person formed by such consolidation or into which the Company is merged or the successor Person to which such conveyance, transfer, sale, lease or other disposition is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor had been named as the Company herein; and thereafter, except in the case of a conveyance, transfer, sale, lease or other disposition and any obligations the Company may have under a supplemental indenture, the Company shall be discharged from all obligations and covenants under this Indenture and the Securities. Subject to Section 11.6, the Company, the Trustee and the successor Person shall enter into a supplemental indenture to evidence the succession and substitution of such successor Person and such discharge and release of the Company.

ARTICLE VIII

DEFAULTS AND REMEDIES

Section 8.1 Events of Default. So long as any Securities are outstanding, each of the following shall be an "Event of Default":

(a) the Company defaults in the payment of the Principal Amount of any Security when the same becomes due and payable as therein provided or as provided in this Indenture, whether at Stated Maturity or by declaration of acceleration;

(b) the Company defaults in the payment of any accrued and unpaid interest on any Security (inclusive of Additional Interest, if any) in each case, when due and payable, and such default shall continue for a period of 30 days;

(c) the Company fails to convert any portion of the Principal Amount of any Security following the exercise by the Holder of the right to convert such Security pursuant to and in accordance with Article XII;

(d) the Company defaults in its obligation to purchase any Security, or any portion thereof, upon the exercise by the Holder of such Holder's right to require the Company to purchase such Securities pursuant to and in accordance with Articles IV or V;

(e) the Company defaults in its obligation to provide notice in the event of an Authorization Default in accordance with Section 4.1(b);

(f) the Company defaults in its obligation to provide notice in the event of a Designated Event in accordance with Section 5.1(b);

(g) there shall be a default in the performance, or breach, of any covenant or agreement of the Company under this Indenture (other than a default in the performance or breach of a covenant or agreement which is specifically dealt with in clause (a), (b), (c), (d) or (e)) and such default or breach shall continue for a period of 60 days after written notice has been given, by certified mail, (1) to the Company by the Trustee or (2) to the Company and the Trustee by the Holders of at least 25% in aggregate Principal Amount of the Securities then outstanding;

(h) there shall have occurred a default under any credit agreement, mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness of the Company or any of its Subsidiaries whether such Indebtedness now exists, or is created after the date of this Indenture, which default (i) involves the failure to pay principal of or any premium or interest on such Indebtedness in an amount in excess of $1.5 million when such Indebtedness becomes due and payable at the stated maturity thereof, and such default shall continue after any applicable grace period or (ii) results in the acceleration of such Indebtedness unpaid prior to the stated maturity thereof (without such acceleration being rescinded or annulled) and, in the case of (ii), the principal amount of such Indebtedness, together with the

principal amount of any other Indebtedness so unpaid at its stated maturity or the stated maturity of which has been so accelerated, aggregates $3 million or more;

(i) there shall be a failure by the Company or any of its Subsidiaries to pay final judgments not covered by insurance aggregating in excess of $1.5 million, which judgments are not paid, discharged or stayed for a period of 60 calendar days;

(j) the Company or any of its Subsidiaries, pursuant to or under or within the meaning of any Bankruptcy Law:

(i) commences a voluntary case or proceeding;

(ii) consents to the entry of any order for relief against it in an involuntary case or proceeding or the commencement of any case against it;

(iii) consents to the appointment of a Custodian of it or for any substantial part of its property;

(iv) makes a general assignment for the benefit of its creditors;

(v) files a petition in bankruptcy or answer or consent seeking reorganization or relief; or

(vi) consents to the filing of such petition or the appointment of or taking possession by a Custodian; or

(k) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(i) is for relief against the Company or any group of two or more of its Subsidiaries, in an involuntary case or proceeding, or adjudicates the Company or any group of two or more of its Subsidiaries, insolvent or bankrupt;

(ii) appoints a Custodian of the Company or any group of two or more of its Subsidiaries, for any substantial part of its property; or

(iii) orders the winding up or liquidation of the Company or any group of two or more of its Subsidiaries,

and such order or decree remains unstayed and in effect for 60 days.

Section 8.2 Acceleration. If an Event of Default (other than an Event of Default specified in Section 8.1(h) or Section 8.1(i) with respect to the Company) occurs and is continuing, the Trustee by notice to the Company, or the Holders of at least 25% in aggregate Principal Amount of the Securities at the time outstanding by notice to the Company and the Trustee, may declare the Principal Amount plus accrued and unpaid interest (inclusive of Additional Interest, if any) on all the Securities to be immediately due and payable. Upon

such a declaration, such accelerated amount shall be due and payable immediately.

If an Event of Default specified in Section 8.1(h) or Section 8.1(i) occurs with respect to the Company and is continuing, the Principal Amount plus accrued and unpaid interest (inclusive of Additional Interest, if any) on all the Securities shall become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holders.

The Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding, by notice to the Trustee (and without notice to any other Holder) may rescind an acceleration and its consequences if the rescission would not conflict with any judgment or decree and if all existing Events of Default have been cured or waived except nonpayment of the Principal Amount plus accrued and unpaid interest (inclusive of Additional Interest, if any) that have become due solely as a result of acceleration and if all amounts due to the Trustee under Section 9.7 have been paid. No such rescission shall affect any subsequent Default or impair any right consequent thereto.

Section 8.3 Other Remedies. If an Event of Default occurs and is continuing, the Trustee may, but shall not be obligated to, pursue any available remedy to collect the payment of the Principal Amount plus accrued and unpaid interest (inclusive of Additional Interest, if any) on the Securities or to enforce the performance of any provision of the Securities or this Indenture.

The Trustee may maintain a proceeding even if the Trustee does not possess any of the Securities or does not produce any of the Securities in the proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of, or acquiescence in, the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative.

Section 8.4 Waiver of Past Defaults. Subject to Sections 8.2, 8.7 and Section 11.2, the Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding, by notice to the Trustee (and without notice to any other Holder), may waive an existing Default and its consequences except:

(a) an Event of Default described in Section 8.1(a), Section 8.1(b) or Section 8.1(d);

(b) a Default which constitutes a failure to convert any Security in accordance with the terms of Article XII; or

(c) a Default in respect of any provision of this Indenture or the Securities, which, under Section 11.2, cannot be amended or modified without the consent of each Holder affected thereby.

When a Default is waived, it is deemed cured, but no such waiver shall extend to any subsequent or other Default or impair any consequent right. This Section 8.4 shall be in lieu of Section 316(a)1(B) of the TIA and such Section 316(a)1(B) is hereby expressly excluded from this Indenture, as

permitted by the TIA.

Section 8.5 Control by Majority. The Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture or that the Trustee determines in good faith is prejudicial to the rights of other Holders or would involve the Trustee in personal liability unless the Trustee is provided indemnity satisfactory to it. This Section 8.5 shall be in lieu of Section 316(a)1(A) of the TIA and such Section 316(a)1(A) is hereby expressly excluded from this Indenture, as permitted by the TIA.

Section 8.6 Limitation on Suits. A Holder may not pursue any remedy with respect to this Indenture or the Securities unless:

(a) the Holder gives to the Trustee written notice stating that an Event of Default is continuing;

(b) the Holders of at least 25% in aggregate Principal Amount of the Securities at the time outstanding make a written request to the Trustee to pursue the remedy;

(c) such Holder or Holders provide to the Trustee security or indemnity satisfactory to the Trustee against any loss, liability or expense;

(d) the Trustee does not comply with the request within 60 days after receipt of such notice, request and offer of security or indemnity; and

(e) the Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding do not give the Trustee a direction inconsistent with the request during such 60-day period.

A Holder may not use this Indenture to prejudice the rights of any other Holder or to obtain a preference or priority over any other Holder.

Section 8.7 Rights of Holders to Receive Payment or to Convert. Notwithstanding any other provision of this Indenture, the right of any Holder to receive payment of the Principal Amount, Authorization Default Purchase Price, Designated Event Purchase Price, or interest (inclusive of Additional Interest, if any) in respect of the Securities held by such Holder, on or after the respective due dates expressed in the Securities and in this Indenture, and to convert such Securities in accordance with Article XII, or to bring suit for the enforcement of any such payment on or after such respective dates or the right to convert, is absolute and unconditional and shall not be impaired or affected adversely without the consent of such Holder.

Section 8.8 Collection Suit by Trustee. If an Event of Default described in Section 8.1(a), Section 8.1(b) or Section 8.1(d) occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company or another obligor on the Securities for

the whole amount owing with respect to the Securities and the amounts provided for in Section 9.7.

Section 8.9 Trustee May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company or any other obligor upon the Securities or the property of the Company or of such other obligor or their creditors, the Trustee (irrespective of whether the Principal Amount, Authorization Default Purchase Price, Designated Event Purchase Price or interest (inclusive of Additional Interest, if any) in respect of the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Company for the payment of any such amount) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the Principal Amount, Authorization Default Purchase Price, Designated Event Purchase Price, or interest (inclusive of Additional Interest, if any) and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel or any other amounts due the Trustee under Section 9.7) and of the Holders allowed in such judicial proceeding, and

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

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

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

Section 8.10 Priorities. If the Trustee collects any money pursuant to this Article VIII, it shall pay out the money in the following order:

FIRST: to the Trustee, the Paying Agent, Registrar or Conversion Agent for amounts due under Section 9.7;

SECOND: to Holders for amounts due and unpaid on the Securities for the Principal Amount, Authorization Default Purchase Price, Designated Event Purchase Price or interest (inclusive of Additional Interest, if any) as the

case may be, ratably, without preference or priority of any kind, according to such amounts due and payable on the Securities; and

THIRD: the balance, if any, to the Company.

The Trustee may fix a record date and payment date for any payment to Holders pursuant to this Section 8.10. At least 10 calendar days prior to such record date, the Trustee shall mail to each Holder and the Company a notice that states the record date, the payment date and the amount to be paid.

Section 8.11 Undertaking for Costs. 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, a court in its discretion may require the filing by any party litigant (other than the Trustee) in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 8.11 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 8.7 or a suit by Holders of more than 10% in aggregate Principal Amount of the Securities at the time outstanding. This Section 8.11 shall be in lieu of Section 315(e) of the TIA and such Section 315(e) is hereby expressly excluded from this Indenture, as permitted by the TIA.

ARTICLE IX

TRUSTEE

Section 9.1 Duties of Trustee. (a) If an Event of Default has occurred and is continuing, the Trustee shall exercise the rights and powers vested in it by this Indenture and use the same degree of care and skill in its exercise of those rights and powers as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

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

(i) the Trustee need perform only those duties that are specifically set forth in this Indenture and no others; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture, 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 examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture, but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein.

This Section 9.1(b) shall be in lieu of Section 315(a) of the TIA and such

Section 315(a) is hereby expressly excluded from this Indenture, as permitted by the TIA.

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

(i) this clause (c) does not limit the effect of clause (b) of this Section 9.1;

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

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 8.5.

Subparagraphs (c)(i), (ii) and (iii) shall be in lieu of Sections 315(d)(1), 315(d)(2) and 315(d)(3) of the TIA, respectively, and such Sections 315(d)(1), 315(d)(2) and 315(d)(3) are hereby expressly excluded from this Indenture, as permitted by the TIA.

(d) The Trustee may refuse to perform any duty or exercise any right or power or extend or risk its own funds or otherwise incur any financial liability unless it receives indemnity reasonably satisfactory to it against any loss, liability or expense.

(e) Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee (acting in any capacity hereunder) shall be under no liability for interest on any money received by it hereunder unless otherwise agreed in writing with the Company.

(f) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(g) In no event shall the Trustee be responsible or liable for special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

Section 9.2 Rights of Trustee. Subject to its duties and responsibilities under the TIA:

(a) the Trustee may conclusively rely and shall be protected in

acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document (whether in original or facsimile form) believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, conclusively rely upon an Officers' Certificate;

(c) 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 by it hereunder;

(d) the Trustee shall not be liable for any action taken, suffered, or omitted to be taken by it in good faith which it reasonably believes to be authorized or within its rights or powers conferred under this Indenture;

(e) the Trustee may consult with counsel selected by it and any advice or Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or suffered or omitted by it hereunder in good faith and in reliance on such advice or Opinion of Counsel;

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

(g) any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution;

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

(i) the Trustee shall not be deemed to have notice of any Default or

Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Securities and this Indenture;

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

(k) the Trustee may request that the Company deliver an Officers' Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officers' Certificate may be signed by any person authorized to sign an Officers' Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded.

Section 9.3 Individual Rights of Trustee. The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee. Any Paying Agent, Registrar, Conversion Agent or co-registrar may do the same with like rights. However, the Trustee must comply with Section 9.10 and Section 9.11.

Section 9.4 Trustee's Disclaimer. The Trustee makes no representation as to the validity or adequacy of this Indenture or the Securities, it shall not be accountable for the Company's use or application of the proceeds from the Securities, it shall not be responsible for any statement in any registration statement for the Securities under the Securities Act or in any offering document for the Securities, this Indenture or the Securities (other than its certificate of authentication), or the determination as to which beneficial owners are entitled to receive any notices hereunder.

Section 9.5 Notice of Defaults. If a Default occurs and if it is known to the Trustee, the Trustee shall give to each Holder notice of the Default within 90 calendar days after it occurs or, if later, within 15 calendar days after it is known to the Trustee, unless such Default shall have been cured or waived before the giving of such notice. Notwithstanding the preceding sentence, except in the case of a Default described in Section 8.1(a), Section 8.1(b) or Section 8.1(d), the Trustee may withhold the notice if and so long as the Responsible Officer in good faith determines that withholding the notice is in the interest of the Holders. The preceding sentence shall be in lieu of the proviso to Section 315(b) of the TIA and such proviso is hereby expressly excluded from this Indenture, as permitted by the TIA.

Section 9.6 Reports by Trustee to Holders. Within 60 days after each May 15 beginning with the May 15 following the date of this Indenture, the Trustee shall mail to each Holder a brief report dated as of such May 15 that complies with TIA Section 313(a), if required by such Section 313(a). The Trustee also shall comply with TIA Section 313(b).

A copy of each report at the time of its mailing to Holders shall be filed with the SEC and each securities exchange, if any, on which the Securities are listed. The Company agrees to notify the Trustee promptly whenever the Securities become listed on any securities exchange and of any delisting thereof.

Section 9.7 Compensation and Indemnity. The Company agrees to:

(a) pay to the Trustee, Registrar, Paying Agent and Conversion Agent from time to time such compensation as the Company and the Trustee, Registrar, Paying Agent and/or Conversion Agent shall from time to time agree in writing for all services rendered by it hereunder (which compensation shall not be limited (to the extent permitted by law) by any provision of law in regard to the compensation of a trustee of an express trust);

(b) reimburse the Trustee, Registrar, Paying Agent and Conversion Agent upon their request for all expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the compensation and the reasonable expenses, advances and disbursements of its agents and counsel), except any such expense, disbursement or advance as shall be determined to have been caused by such party's own negligence or willful misconduct; and

(c) fully indemnify the Trustee, Registrar, Paying Agent and Conversion Agent or any predecessor Trustee, Registrar, Paying Agent and Conversion Agent and their agents for, and to hold them harmless against, any and all loss, damage, claim, liability, cost or expense (including attorney's fees and expenses, and taxes (other than taxes based upon, measured by or determined by the income of the applicable Trustee, Registrar, Paying Agent or Conversion Agent)) incurred without negligence or willful misconduct on their part, arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending against any claim (whether asserted by the Company or any Holder or any other person) or liability in connection with the exercise or performance of any of their powers or duties hereunder, or in connection with enforcing the provisions of this Section 9.7.

With regard to its indemnification rights under Section 9.7(c) where the Company has assumed the defense in any action or proceeding, the Trustee, Registrar, Paying Agent and Conversion Agent shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the Company shall pay the reasonable fees and expenses of such separate counsel; provided, however, that the Trustee may only employ separate counsel at the expense of the Company if in the judgment of the Trustee (i) a conflict of interest exists by reason of common representation or (ii) there are legal defenses available to the Trustee that are different from or are in addition to those available to the Company or if all parties commonly represented do not agree as to the action (or inaction) of counsel.

To secure the Company's payment obligations in this Section 9.7, the Trustee shall have a lien prior to the Securities on all money or property held

or collected by the Trustee, except that held in trust to pay the Principal Amount, Authorization Default Purchase Price, Designated Event Purchase Price or interest (inclusive of Additional Interest, if any) as the case may be, on particular Securities.

The Company's payment obligations pursuant to this Section 9.7 shall survive the discharge of this Indenture and the resignation or removal of the Trustee. When the Trustee incurs expenses after the occurrence of a Default specified in Section 8.1(i) or Section 8.1(j), the expenses including the reasonable charges and expenses of its counsel, are intended to constitute expenses of administration under any Bankruptcy Law.

Section 9.8 Replacement of Trustee. The Trustee may resign by so notifying the Company; provided, however, that no such resignation shall be effective until a successor Trustee has accepted its appointment pursuant to this Section 9.8. The Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding may remove the Trustee by so notifying the Trustee and the Company. The Company shall remove the Trustee if:

(a) the Trustee fails to comply with Section 9.10;

(b) the Trustee is adjudged bankrupt or insolvent;

(c) a receiver or public officer takes charge of the Trustee or its property; or

(d) the Trustee otherwise becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company shall promptly appoint, by resolution of its Board of Directors, a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company satisfactory in form and substance to the retiring Trustee and the Company. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, upon payment of all the retiring Trustee's fees and expenses then due and payable and subject to the lien provided for in Section 9.7.

If a successor Trustee does not take office within 30 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company or the Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding may petition at the expense of the Company any court of competent jurisdiction at the expense of the Company for the appointment of a successor Trustee.

If the Trustee fails to comply with Section 9.10, any Holder may

petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

Section 9.9 Successor Trustee by Merger. If the Trustee consolidates with, merges or converts into, or transfers all or substantially all its corporate trust business or assets to, another corporation, the resulting, surviving or transferee corporation without any further act shall be the successor Trustee.

Section 9.10 Eligibility; Disqualification. The Trustee shall at all times satisfy the requirements of TIA Sections 310(a)(1) and 310(b). The Trustee (or its parent holding company) shall have a combined capital and surplus of at least $50,000,000 as set forth in its most recent published annual report of condition. Nothing contained herein shall prevent the Trustee from filing with the Commission the application referred to in the penultimate paragraph of TIA Section 310(b).

Section 9.11 Preferential Collection of Claims Against Company. The Trustee shall comply with TIA Section 311(a), excluding any creditor relationship listed in TIA Section 311(b). A Trustee who has resigned or been removed shall be subject to TIA Section 311(a) to the extent indicated therein.

ARTICLE X

DISCHARGE OF INDENTURE

Section 10.1 Discharge of Liability on Securities. When (i) the Company delivers to the Trustee all outstanding Securities (other than Securities replaced or repaid pursuant to Section 2.7) for cancellation or (ii) all outstanding Securities have become due and payable (whether at the Stated Maturity or upon acceleration, or on any Acceleration Default Purchase Date, or on any Designated Event Purchase Date, or upon conversion) and the Company deposits with the Paying Agent or Conversion Agent cash or Applicable Stock sufficient to pay all amounts due and owing on all outstanding Securities (other than Securities replaced pursuant to Section 2.7), and if in either case the Company pays all other sums payable hereunder by the Company, then this Indenture shall, subject to Section 9.7, cease to be of further effect. The Trustee shall join in the execution of a document prepared by the Company acknowledging satisfaction and discharge of this Indenture on demand of the Company accompanied by an Officers' Certificate and Opinion of Counsel and at the cost and expense of the Company.

Section 10.2 Repayment to the Company. The Trustee and the Paying Agent shall return to the Company upon written request any cash or securities held by them for the payment of any amount with respect to the Securities that remains unclaimed for two years, subject to applicable unclaimed property law. After return to the Company, Holders entitled to the cash or securities must look to the Company for payment as general creditors unless an applicable abandoned property law designates another person and the Trustee and the Paying Agent shall have no further liability to the Holders with respect to such cash or securities for that period commencing after the return thereof.

ARTICLE XI

AMENDMENTS

Section 11.1 Without Consent of Holders. The Company and the Trustee may amend this Indenture or the Securities without the consent of any Holder to:

(a) add to the covenants of the Company for the benefit of the Holders of Securities;

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

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

(d) provide for the assumption of the Company's obligations to the Holders of Securities in the case of a merger, consolidation, conveyance, transfer, sale, lease or other disposition pursuant to Article VII;

(e) increase the Conversion Rate; provided, however, that such increase in the Conversion Rate shall not adversely affect the interests of the Holders of Securities (after taking into account tax and other consequences of such increase);

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

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

(h) cure any ambiguity, correct or supplement any provision herein which may be inconsistent with any other provision herein or which is otherwise defective, or to make any other provisions with respect to matters or questions arising under this Indenture which the Company may deem necessary or desirable and which shall not be inconsistent with the provisions of this Indenture; provided, however, that such action pursuant to this clause (g) does not, in the good faith opinion of the Board of Directors of the Company (as evidenced by a Board Resolution), adversely affect the interests of the Holders of Securities in any material respect;

(i) evidence the succession of another Person to the Company or any other obligor upon the Securities, and the assumption by any such successor of the covenants of the Company or such obligor herein and in the Securities, in each case in compliance with the provisions of this Indenture;

(j) evidence and provide the acceptance of the appointment of a successor trustee hereunder; and

(k) add or modify any other provisions herein with respect to matters or questions arising hereunder which the Company and the Trustee may deem necessary or desirable and which shall not adversely affect the interests of the Holders of Securities, including, without limitation, to provide for the issuance of Physical Securities, if necessary, and their transfer and exchange between Global Securities, if necessary.

Section 11.2 With Consent of Holders. Except as provided below in this Section 11.2, this Indenture or the Securities may be amended, modified or supplemented, and noncompliance in any particular instance with any provision of this Indenture or the Securities may be waived, in each case (i) with the written consent or affirmative vote of the Holders of at least a majority of the Principal Amount of the Securities at the time outstanding or (ii) by the adoption of a resolution at a meeting of Holders of the Securities at which a quorum is present, by the Holders of a majority in aggregate Principal Amount of the securities at that time outstanding.

Without the written consent or the affirmative vote of each Holder of Securities affected thereby, an amendment or waiver under this Section 11.2 may not:

(a) change the maturity of the Principal Amount of, or the payment date of any installment of interest (inclusive of Additional Interest, if any) on, any Security;

(b) reduce the Principal Amount of, or interest (inclusive of Additional Interest, if any), on, or Authorization Default Purchase Price of, or Designated Event Purchase Price of, any Security;

(c) change the currency of payment of Principal Amount of, or interest (inclusive of Additional Interest, if any), on, or the Authorization Default Purchase Price of, or the Designated Event Purchase Price of, any Security from U.S. Dollars;

(d) impair or adversely affect the rate of accrual of interest (inclusive of Additional Interest, if any), on any Security, or the manner of calculation thereof;

(e) impair the right of any Holder to institute suit for the enforcement of any payment or with respect to, or conversion of, any Security;

(f) impair or adversely affect the conversion rights of the Holder of the Securities as provided in Article XII;

(g) impair or adversely affect the purchase rights of the Holders of the Securities as provided in Articles IV and V;

(h) reduce the percentage of the Principal Amount of the outstanding

Securities the written consent or affirmative vote of whose Holders is required for any such supplemental indenture;

(i) reduce the percentage of the Principal Amount of the outstanding Securities the written consent or affirmative vote of whose Holders is required for any waiver of any past Default provided for in this Indenture; or

(j) waive any matter set forth in Section 8.4(a), Section 8.4(b) or Section 8.4(c).

It shall not be necessary for the consent of the Holders under this Section 11.2 to approve the particular form of any proposed amendment, but it shall be sufficient if such consent approves the substance thereof.

After an amendment under this Section 11.2 becomes effective, the Company shall mail to each Holder a notice briefly describing the amendment.

Nothing contained in this Section 11.2 shall impair the ability of the Company and the Trustee to amend this Indenture or the Securities without the consent of any Holder to provide for the assumption of the Company's obligations to the Holders of Securities in the case of a merger, consolidation, conveyance, transfer, sale, lease or other disposition pursuant to Article VII.

Section 11.3 Compliance with Trust Indenture Act. Every supplemental indenture executed pursuant to this Article shall comply with the TIA.

Section 11.4 Revocation and Effect of Consents, Waivers and Actions. Until an amendment, waiver or other action by Holders becomes effective, a consent thereto by a Holder of a Security hereunder is a continuing consent by the Holder and every subsequent Holder of that Security or portion of the Security that evidences the same obligation as the consenting Holder's Security, even if notation of the consent, waiver or action is not made on the Security. However, any such Holder or subsequent Holder may revoke the consent, waiver or action as to such Holder's Security or portion of the Security if the Trustee receives the notice of revocation before the date the amendment, waiver or action becomes effective. After an amendment, waiver or action becomes effective, it shall bind every Holder.

Section 11.5 Notation on or Exchange of Securities. Securities authenticated and delivered after the execution of any supplemental indenture pursuant to this Article XI may, and shall if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Securities so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for outstanding Securities.

Section 11.6 Trustee to Sign Supplemental Indentures. The Trustee shall sign any supplemental indenture authorized pursuant to this Article XI if the amendment contained therein does not adversely affect the rights, duties,

liabilities or immunities of the Trustee. If it does, the Trustee may, but need not, sign such supplemental indenture. In signing such supplemental indenture the Trustee shall receive, and (subject to the provisions of Section 9.1) shall be fully protected in relying upon, an Officers' Certificate and an Opinion of Counsel stating that such amendment is authorized or permitted by this Indenture.

Section 11.7 Effect of Supplemental Indentures. Upon the execution of any supplemental indenture under this Article, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

ARTICLE XII

CONVERSION

Section 12.1 Conversion Right. (a) At any time prior to the Stated Maturity subject to and upon compliance with the provisions of this Article XII, a Holder of a Security shall have the right, at such Holder's option, to convert all or any portion (if the portion to be converted is $1,000 or an integral multiple of $1,000) of such Security into Common Stock at the Conversion Price then in effect, subject to adjustment as specified herein; provided, however, that prior to the Share Increase, any conversion of the Securities will be on a first come, first served basis to the extent the Company has Common Stock authorized and reserved for such conversion. If prior to the Share Increase, the Conversion Agent receives on one day requests for conversion of Notes that in the aggregate exceed the number of shares of Common Stock available for conversion on the conversion date, the Company shall allot the available shares on a pro rata basis to those Holders tendering on such day, which calculation shall be a conclusive and final apportionment of the available shares of Common Stock among the among the Holders tendering Notes for conversion on such day.

(b) In the event that the Current Stock Price for at least 20 Trading Days in any consecutive 30 Trading Day period (which 30-Trading Day period begins after the date of the Share Increase and while a Registration Statement (as defined in the Registration Rights Agreement) is effective and available for all Registrable Securities held by Notice Holders (each as defined in the Registration Rights Agreement)), including on such 30th Trading Day, exceeds 150% of the Conversion Price in effect on such 30th Trading Day, the Company may elect to convert Securities, in whole or in part, into shares of Common Stock on or prior to the Trading Day preceding the Stated Maturity.

Section 12.2 Conversion Procedures; Conversion Rate; Fractional Shares. (a) Each Security shall be convertible at the office of the Conversion Agent into validly issued, fully paid and nonassessable shares of Common Stock (calculated to the nearest 1/10,000th of a share). The Company shall deliver to such Holder a number of shares of Common Stock equal to (1) the aggregate original Principal Amount of Securities to be converted plus any accrued and unpaid interest (inclusive of Additional Interest, if any) thereon as set forth

in Section 6.1, divided by 1,000, multiplied by (2) the Conversion Rate.

The Conversion Agent shall notify the Company when it receives a Conversion Notice. The Company shall determine the number of shares of Common Stock that the Holder that submitted the Conversion Notice is entitled to receive upon surrender of the Securities covered by that Conversion Notice. A certificate for the number of full shares of Common Stock into which the Securities are converted (and cash in lieu of fractional shares) shall be delivered to such Holder, assuming all of the other requirements have been satisfied by such Holder, as soon as practicable after receipt of a Conversion Notice.

No cash payment of accrued and unpaid interest or Additional Interest shall be paid by the Company on a converted Security, except as described in Section 2.1 and 12.9. Accrued and unpaid interest (inclusive of Additional Interest, if any), shall be deemed to be paid in full with the shares of Common Stock issued upon conversion, rather than deemed cancelled, extinguished or forfeited.

In the event of a Designated Event, if a Holder has submitted any or all of its Securities for repurchase, a Holder's conversion rights on the Securities so subject to repurchase shall expire at 5:00 p.m., New York City time, on the Business Day immediately preceding the Designated Event Purchase Date. Notwithstanding the foregoing, a Security in respect of which a Holder has delivered a Designated Event Purchase Notice exercising such Holder's right to require the Company to repurchase such Security may be converted only if such Designated Event Purchase Notice is withdrawn in accordance with Section 5.2(b) prior to 5:00 p.m., New York City time, on the Business Day immediately preceding the Designated Event Purchase Date.

(b) Before any Holder shall be entitled to convert its Securities into Common Stock, such Holder shall surrender such Securities, duly endorsed to the Company or in blank, at the office of the Conversion Agent, and shall give written notice to the Company at said office or place in the form of the Conversion Notice attached to the Security (the "Conversion Notice") that such Holder elects to convert the same and shall state in writing therein the Principal Amount of Securities to be converted (in whole or in part so long as the Principal Amount to be converted is in multiples of $1,000 Principal Amount) and the name or names (with addresses) in which such Holder wishes the certificate or certificates for Common Stock to be issued.

Before any such conversion, a Holder also shall pay all funds required, if any, relating to interest (inclusive of Additional Interest, if any), on the Securities, as provided in Section 2.1, and all taxes or duties, if any, as provided in Section 12.8.

If more than one Security shall be surrendered for conversion at one time by the same Holder, the number of full shares of Common Stock that shall be deliverable upon conversion shall be computed on the basis of the aggregate Principal Amount of the Securities (or specified portions thereof to the extent permitted thereby) so surrendered.

If Common Stock to be issued upon conversion of a Restricted Security are to be issued in the name of a Person other than the Holder of such Restricted Security, such Holder shall deliver to the Conversion Agent a certification in substantially the form set forth in a Transfer Certificate dated the date of surrender of such Restricted Security and signed by such Holder, as to compliance with the restrictions on transfer applicable to such Restricted Security. The Company shall not be required to issue Common Stock upon conversion of any such Restricted Security to a Person other than the Holder if such Restricted Security is not so accompanied by a properly completed certification, and the Registrar shall not be required to register Common Stock upon conversion of any such Restricted Security in the name of a Person other than the Holder if such Restricted Security is not so accompanied by a properly completed certification.

(c) A Security shall be deemed to have been converted immediately prior to 5:00 p.m., New York City time, on the date on which all of the conversion requirements set forth in Section 12.2(b) have been satisfied, and the person or persons entitled to receive the Common Stock issuable upon such conversion shall be treated for all purposes as the record Holder or Holders of such Common Stock as of 5:00 p.m., New York City time, on such date.

(d) In case any Security shall be surrendered for partial conversion, the Company shall execute and the Trustee shall authenticate and deliver to or upon the written order of the Holder of the Security so surrendered, without charge to such Holder (subject to the provisions of Section 12.8), a new Security or Securities in authorized denominations in an aggregate Principal Amount equal to the unconverted portion of the surrendered Securities.

Section 12.3 Adjustment of Conversion Rate. The Conversion Rate 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 Securities are outstanding, pay a dividend or make a distribution in Common Stock to all holders of its outstanding Common Stock, then the Conversion Rate in effect immediately prior to the close of business on the Record Date fixed for the determination of stockholders entitled to receive such dividend or other distribution shall be adjusted so that the Holder of any Security thereafter surrendered for conversion shall be entitled to receive that number of shares of Common Stock which it would have received had such Security been converted immediately prior to the happening of such event as well as such additional shares it would have received as a result of such event. Such adjustment shall become effective immediately prior to the opening of business on the day following the Record Date fixed for such determination. If any dividend or distribution of the type described in this Section 12.3(a) is declared but not so paid or made, the Conversion Rate shall again be adjusted to the Conversion Rate which would then be in effect if such dividend or distribution had not been declared.

(b) If the Company at any time on or after the Issuance Date subdivides (by any stock split, stock dividend, recapitalization or otherwise)

outstanding Shares into a greater number of shares, the Conversion Price in effect immediately prior to such subdivision will be proportionately reduced. If the Company at any time on or after the Issuance Date combines (by combination, reverse stock split or otherwise) its outstanding Shares into a smaller number of shares, the Conversion Price in effect immediately prior to such combination will be proportionately increased.

(c) In case the Company shall, at any time or from time to time while any of the Securities are outstanding, issue rights or warrants for a period expiring within 60 days (other than any rights or warrants referred to in Section 12.3(d)) to all holders of its outstanding Common Stock entitling them to subscribe for or purchase Common Stock (or securities convertible into or exchangeable or exercisable for Common Stock), at a price per share of Common Stock (or having a conversion, exchange or exercise price per share of Common Stock) less than the Closing Sale Price of the Common Stock on the Business Day immediately preceding the date of announcement of such issuance (treating the conversion, exchange or exercise price per share of Common Stock of the securities convertible, exchangeable or exercisable into Common Stock as equal to (x) the sum of (i) the price for a unit of the security convertible into or exchangeable or exercisable for Common Stock and (ii) any additional consideration initially payable upon the conversion of or exchange or exercise for such security into Common Stock divided by (y) the number of shares of Common Stock initially underlying such convertible, exchangeable or exercisable security), then the Conversion Rate shall be adjusted by multiplying the Conversion Rate in effect at the opening of business on the date after such date of announcement by a fraction:

(i) the numerator of which shall be the number of shares of Common Stock outstanding at the close of business on the date of announcement, plus the total number of additional shares of Common Stock so offered for subscription or purchase (or into which the convertible, exchangeable or exercisable securities so offered are convertible, exchangeable or exercisable); and

(ii) the denominator of which shall be the number of shares of Common Stock outstanding on the close of business on the date of announcement, plus the number of shares of Common Stock (or convertible, exchangeable or exercisable securities) which the aggregate offering price of the total number of shares of Common Stock (or convertible, exchangeable or exercisable securities) so offered for subscription or purchase (or the aggregate conversion, exchange or exercise price of the convertible, exchangeable or exercisable securities so offered) would purchase at such Closing Sale Price of the Common Stock.

Such adjustment shall become effective immediately prior to the opening of business on the day following the Record Date for such determination. To the extent that shares of Common Stock (or securities convertible, exchangeable or exercisable into shares of Common Stock) are not delivered pursuant to such rights or warrants, upon the expiration or termination of such rights or warrants, the Conversion Rate shall be readjusted to the Conversion Rate which would then be in effect had the adjustments made upon the issuance of

such rights or warrants been made on the basis of the delivery of only the number of shares of Common Stock (or securities convertible, exchangeable or exercisable into shares of Common Stock) actually delivered. In the event that such rights or warrants are not so issued, the Conversion Rate shall again be adjusted to be the Conversion Rate which would then be in effect if the Record Date fixed for the determination of stockholders entitled to receive such rights or warrants had not been fixed. In determining whether any rights or warrants entitle the holders to subscribe for or purchase shares of Common Stock at less than such Closing Sale Price, and in determining the aggregate offering price of such shares of Common Stock, there shall be taken into account any consideration received for such rights or warrants, the value of such consideration if other than cash, to be determined by the Board of Directors.

(d) (i) In case the Company shall, at any time or from time to time while any of the Securities are outstanding, by dividend or otherwise, distribute to all holders of its outstanding shares of Common Stock (including any such distribution made in connection with a consolidation or merger in which the Company is the continuing corporation and the shares of Common Stock are not changed or exchanged), shares of its capital stock, evidences of its Indebtedness or other assets, including securities, but excluding (i) dividends or distributions of Common Stock referred to in Section 12.3(a), (ii) any rights or warrants referred to in Section 12.3(c), (iii) dividends and distributions paid exclusively in cash referred to in Section 12.3(e) and (iv) dividends and distributions of stock, securities or other property or assets (including cash) in connection with the reclassification, change, merger, consolidation, statutory share exchange, combination, sale or conveyance to which Section 12.4 applies (such capital stock, evidence of its indebtedness, other assets or securities being distributed hereinafter in this Section 12.3(d) called the "distributed assets"), then, in each such case, subject to paragraphs (D) and (E) of this Section 12.3(d), the Conversion Rate shall be adjusted by multiplying the Conversion Rate in effect immediately prior to the close of business on the Record Date with respect to such distribution by a fraction:

(A) the numerator of which shall be the Current Market Price; and

(B) the denominator of which shall be such Current Market Price of the Common Stock, less the Fair Market Value on such date of the portion of the distributed assets so distributed applicable to one share of Common Stock (determined on the basis of the number of shares of Common Stock outstanding on the Record Date) on such date.

Such adjustment shall become effective immediately prior to the opening of business on the day following the Record Date for such distribution. In the event that such dividend or distribution is not so paid or made, the Conversion Rate shall again be adjusted to be the Conversion Rate which would then be in effect if such dividend or distribution had not been declared.

(ii) If the Board of Directors determines the Fair Market Value of any distribution for purposes of this Section 12.3(d) by reference to the

actual or when issued trading market for any distributed assets comprising all or part of such distribution, it must in doing so consider the prices in such market over the same period (the "Reference Period") used in computing the Current Market Price pursuant to Section 12.3(g) to the extent possible, unless the Board of Directors determines in good faith that determining the Fair Market Value during the Reference Period would not be in the best interest of the Holders.

(iii) In the event any such distribution consists of shares of capital stock of, or similar equity interests in, one or more of the Company's Subsidiaries (a "Spin Off"), the Fair Market Value of the securities to be distributed shall equal the average of the Closing Sale Prices of such securities on the principal securities market on which such securities are traded for the five consecutive Trading Days commencing on and including the sixth Trading Day of those securities after the effectiveness of the Spin Off, and the Current Market Price shall be measured for the same period. In the event, however, that an underwritten initial public offering of the securities in the Spin Off occurs simultaneously with the Spin Off, Fair Market Value of the securities distributed in the Spin Off shall mean the initial public offering price of such securities and the Current Market Price shall mean the Closing Sale Price for the Common Stock on the same Trading Day.

(iv) Rights or warrants distributed by the Company to all holders of its outstanding shares of Common Stock entitling them to subscribe for or purchase shares of Equity Interest (either initially or under certain circumstances), which rights or warrants, until the occurrence of a specified event or events ("Trigger Event"), (x) are deemed to be transferred with such Common Stock, (y) are not exercisable and (z) are also issued in respect of future issuances of Common Stock shall be deemed not to have been distributed for purposes of this Section 12.3(d) (and no adjustment to the Conversion Rate under this Section 12.3(d) shall be required) until the occurrence of the earliest Trigger Event. If such right or warrant is subject to subsequent events, upon the occurrence of which such right or warrant shall become exercisable to purchase different distributed assets, evidences of indebtedness or other assets, or entitle the holder to purchase a different number or amount of the foregoing or to purchase any of the foregoing at a different purchase price, then the occurrence of each such event shall be deemed to be the date of issuance and Record Date with respect to a new right or warrant (and a termination or expiration of the existing right or warrant without exercise by the holder thereof). In addition, in the event of any distribution (or deemed distribution) of rights or warrants, or any Trigger Event or other event (of the type described in the preceding sentence) with respect thereto, that resulted in an adjustment to the Conversion Rate under this Section 12.3(d):

(A) in the case of any such rights or warrants which shall all have been redeemed or purchased without exercise by any holders thereof, the Conversion Rate shall be readjusted upon such final redemption or purchase to give effect to such distribution or

Trigger Event, as the case may be, as though it were a cash distribution, equal to the per share redemption or Purchase Price received by a holder of Common Stock with respect to such rights or warrants (assuming such holder had retained such rights or warrants), made to all holders of Common Stock as of the date of such redemption or purchase; and

(B) in the case of such rights or warrants which shall have expired or been terminated without exercise, the Conversion Rate shall be readjusted as if such rights and warrants had never been issued.

(v) For purposes of this Section 12.3(d) and Section 12.3(a), Section 12.3(b) and Section 12.3(c), any dividend or distribution to which this Section 12.3(d) is applicable that also includes (x) Common Stock, (y) a subdivision or combination of Common Stock to which Section 12.3(b) applies or (z) rights or warrants to subscribe for or purchase Common Stock to which Section 12.3(c) applies (or any combination thereof), shall be deemed instead to be:

(A) a dividend or distribution of the evidences of indebtedness, assets, shares of capital stock, rights or warrants, other than such Common Stock, such subdivision or combination or such rights or warrants to which Section 12.3(a), Section 12.3(b) and Section 12.3(c) apply, respectively (and any Conversion Rate adjustment required by this Section 12.3(d) with respect to such dividend or distribution shall then be made), immediately followed by

(B) a dividend or distribution of such Common Stock, such subdivision or combination or such rights or warrants (and any further Conversion Rate adjustment required by Section 12.3(a), Section 12.3(b) and Section 12.3(c) with respect to such dividend or distribution shall then be made), except:

(1) the Record Date of such dividend or distribution shall be substituted as (i) "the date fixed for the determination of stockholders entitled to receive such dividend or other distribution," "Record Date fixed for such determinations" and "Record Date" within the meaning of Section 12.3(a), (ii) "the day upon which such subdivision or combination becomes effective" within the meaning of Section 12.3(b), and (iii) as "the Record Date fixed for the determination of the stockholders entitled to receive such rights or warrants" and such "Record Date" within the meaning of Section 12.3(c); and

(2) any reduction or increase in the number of shares of Common Stock resulting from such subdivision or combination shall be disregarded in connection with such dividend or distribution.

(e) In case the Company shall, at any time or from time to time after the initial Issue Date while any of the Securities are outstanding, by dividend or otherwise, distribute to all holders of its outstanding shares of Common Stock, cash (including any quarterly cash dividends, but excluding any cash that is distributed upon a reclassification, change, merger, consolidation, statutory share exchange, combination, sale or conveyance to which Section 12.4 applies or as part of a distribution referred to in Section 12.3(d)), then, and in each case, immediately after the close of business on such date, the Conversion Rate shall be adjusted by multiplying the Conversion Rate in effect immediately prior to the close of business of such Record Date by a fraction:

(i) the numerator of which shall be equal to the Current Market Price on such date; and

(ii) the denominator of which shall be equal to the Current Market Price on the Record Date, less an amount equal to the quotient of (x) the aggregate amount of such cash distribution and (y) the number of shares of Common Stock outstanding on the Record Date.

Such adjustment shall become effective immediately prior to the opening of business on the day following the Record Date for such distribution. In the event that such distribution is not so made, the Conversion Rate shall again be adjusted to be the Conversion Rate which would then be in effect if such distribution had not been declared.

(f) In case a tender offer or exchange offer (other than as part of a stock option exchange offer) made by the Company or any of its Subsidiaries for all or any portion of the Common Stock shall expire, then and in each such case, immediately prior to the opening of business on the day after the date of the last time (the "Expiration Time") tenders or exchanges could have been made pursuant to such tender offer or exchange offer, the Conversion Rate shall be adjusted so that the same shall equal the rate determined by multiplying the Conversion Rate in effect immediately prior to the close of business on the date of the Expiration Time by a fraction:

(i) the numerator of which shall be the sum of (x) the product of (i) the number of shares of Common Stock outstanding (excluding any tendered or exchanged shares) at the Expiration Time and (ii) the Current Market Price of the Common Stock at the Expiration Time, and (y) the Fair Market Value of the aggregate consideration payable to stockholders based on acceptance (up to any maximum specified in the terms of the tender offer or exchange offer) of all shares validly tendered and not withdrawn as of the Expiration Time; and

(ii) the denominator of which shall be the product of the number of shares of Common Stock outstanding (including any tendered or exchanged shares) at the Expiration Time and the Current Market Price of the Common Stock at the Expiration Time.

Such adjustment (if any) shall become effective immediately prior to

the opening of business on the day following the Expiration Time. In the event that the Company is obligated to purchase shares pursuant to any such tender offer or exchange offer, but the Company is permanently prevented by applicable law from effecting any such purchases or all or a portion of such purchases are rescinded, the Conversion Rate shall again be adjusted to be the Conversion Rate which would then be in effect if such (or such portion of the) tender offer or exchange offer had not been made. If the application of this Section 12.3(e) to any tender offer or exchange offer would result in a decrease in the Conversion Rate, no adjustment shall be made for such tender offer under this Section 12.3(e).

To the extent the Company has a rights plan in effect upon the conversion of the Securities, if Holders of the Securities exercising the right of conversion attaching after the date the rights separate from the underlying Common Stock are not entitled to receive the rights that would otherwise be attributable to the Common Stock received upon conversion, the Conversion Rate shall be adjusted as though the rights were being distributed to holders of Common Stock on the date of such separation. If such an adjustment is made and the rights are later redeemed, invalidated or terminated, then a corresponding reversing adjustment shall be made to the Conversion Rate on an equitable basis.

(g) In case the Company shall, at any time or from time to time while any of the Securities are outstanding, issue or sell any shares of Common Stock, Options or Convertible Securities (including the issuance or sale of Shares owned or held by or for the account of the Company, but excluding Exempted Issuances defined below) for a consideration per share less than a price (the "Applicable Price") equal to the Conversion Price in effect immediately prior to such time, then immediately after such issue or sale, the Conversion Price then in effect shall be reduced to an amount equal to such consideration per share. For purposes of determining the adjusted Conversion Price under this Section 12.3(g), the following shall be applicable:

(i) If the Company grants or sells any Options (as defined below) and the lowest price per share for which one Share is issuable upon the exercise of any such Option or upon conversion, exchange or exercise of any Convertible Securities (as defined below) issuable upon exercise of such Option is less than the Applicable Price, then such Share shall be deemed to be outstanding and to have been issued and sold by the Company at the time of the granting or sale of such Option for such price per share. For purposes of this Section 12.3(g)(i) the "lowest price per share for which one Share is issuable upon the exercise of any such Option or upon conversion, exchange or exercise of any Convertible Securities issuable upon exercise of such Option" shall be equal to the sum of the lowest amounts of consideration (if any) received or receivable by the Company with respect to any one Share upon granting or sale of the Option, upon exercise of the Option and upon conversion, exchange or exercise of any Convertible Security issuable upon exercise of such Option. No further adjustment of the Conversion Price shall be made upon the actual issuance of such Share or of such Convertible Securities upon the exercise of such Options or upon the actual issuance of such Share upon conversion, exchange or exercise of such Convertible Securities.

(ii) If the Company issues or sells any Convertible Securities and the lowest price per share for which one Share is issuable upon such conversion, exchange or exercise thereof is less than the Applicable Price, then such Share shall be deemed to be outstanding and to have been issued and sold by the Company at the time of the issuance or sale of such Convertible Securities for such price per share. For the purposes of this Section 12.3(g)(ii), the "lowest price per share for which one Share is issuable upon such conversion, exchange or exercise" shall be equal to the sum of the lowest amounts of consideration (if any) received or receivable by the Company with respect to any one Share upon the issuance or sale of the Convertible Security and upon the conversion, exchange or exercise of such Convertible Security. No further adjustment of the Conversion Price shall be made upon the actual issuance of such Share upon conversion, exchange or exercise of such Convertible Securities, and if any such issue or sale of such Convertible Securities is made upon exercise of any Options for which adjustment of the Conversion Price had been or are to be made pursuant to other provisions of this Section 12.3(g), then no further adjustment of the Conversion Price shall be made by reason of such issue or sale.

(iii) If the purchase, exchange or exercise price provided for in any Options, the additional consideration, if any, payable upon the issue, conversion, exchange or exercise of any Convertible Securities, or the rate at which any Options or Convertible Securities are convertible into or exchangeable or exercisable for Shares changes at any time, then the Conversion Price in effect at the time of such change shall be adjusted to the Conversion Price that would have been in effect at such time had such Options or Convertible Securities provided for such changed purchase, exchange or exercise price, additional consideration or changed conversion rate, as the case may be, at the time initially granted, issued or sold. For purposes of this Section 12.3(g)(iii), if the terms of any Option or Convertible Security that was outstanding as of the Issuance Date are changed in the manner described in the immediately preceding sentence, then such Option or Convertible Security and the Shares deemed issuable upon exercise, conversion or exchange thereof shall be deemed to have been issued as of the date of such change. (iv) In case any Options are issued in connection with the issue or sale of other securities of the Company, together comprising one integrated transaction or series of related transactions, (A) the Options will be deemed to have been issued for a consideration equal to the greater of $0.01 and the specific aggregate consideration, if any, allocated to such Options (in either case, the "Option Consideration") and, for purposes of applying the provisions of this Section 2(f), the Option Consideration shall be allocated pro rata among all the shares of Common Stock issuable upon exercise of such Options to determine the consideration per share of Common Stock, and (B) the other securities will be deemed to have been issued for an aggregate consideration equal to the aggregate consideration received by the Company for the Options and other securities (determined as provided below), less the sum of (1) the Black-Scholes Value (as defined below) of such Options and (2) the Option Consideration. If any Shares, Options or Convertible

Securities are issued or sold or deemed to have been issued or sold for cash, the consideration received therefor will be deemed to be the net amount received by the Company therefor. If any Shares, Options or Convertible Securities are issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Company will be the fair value of such consideration, except where such consideration received by the Company consists of marketable securities, in which case the amount of consideration received by the Company will be the daily volume-weighted average price of the Applicable Stock for the three Trading Day period ending on the Trading Day prior to the date of receipt of such securities. If any Shares, Options or Convertible Securities are issued to the owners of the non-surviving entity in connection with any merger in which the Company is the surviving entity, the amount of consideration therefor will be deemed to be the fair value of such portion of the net assets and business of the non-surviving entity as is attributable to such Shares, Options or Convertible Securities, as the case may be. The fair value of any consideration other than cash or securities will be determined jointly by the Company and the holders of Notes representing at least a majority of the aggregate principal amount of the Notes then outstanding. If such parties are unable to reach agreement within ten (10) days after the occurrence of an event requiring valuation (the "Valuation Event"), the fair value of such consideration will be determined within five (5) Business Days after the tenth (10th) day following the Valuation Event by an independent, reputable appraiser jointly selected by the Company and the holders representing at least a majority of the aggregate principal amount of the Notes then outstanding. The determination of such appraiser shall be final and binding upon all parties absent error, and the fees and expenses of such appraiser shall be borne by the Company.

(v) If the Company takes a record of the holders of Shares for the purpose of entitling them (1) to receive a dividend or other distribution payable in Shares, Options or in Convertible Securities or (2) to subscribe for or purchase Shares, Options or Convertible Securities, then such record date will be deemed to be the date of the issue or sale of the Shares deemed to have been issued or sold upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

(vi) For purposes of this Section 12.3(g), the following terms have the respective meanings set forth below:

(A) "Approved Stock Plan" means any employee benefit plan that has been approved by the Board of Directors and stockholders of the Company prior to the Closing Date pursuant to which the Company's securities may be issued to any employee, officer or director for services provided to the Company.

(B) "Black-Scholes Value" of any Options shall mean the sum of the amounts resulting from applying the Black-Scholes pricing model to each such Option, which calculation is made with the following

inputs: (i) the "option striking price" being equal to the lowest exercise price possible under the terms of such Option on the date of the issuance of such Option (the "Valuation Date"), (ii) the "interest rate" being equal to the interest rate on one-year United States Treasury Bills issued most recently prior to the Valuation Date (or if such rate is not available, such equivalent rate agreed to by the Company and the holders of Notes representing at least a majority of the principal amount then outstanding), (iii) the "time until option expiration" being the time from the Valuation Date until the expiration date of such Option, (iv) the "current stock price" being equal to the daily volume-weighted average price of the Applicable Stock for the three Trading Day period ending on the Trading Day prior to the Valuation Date, (v) the "volatility" being the 100-day historical volatility of the Common Stock as of the Valuation Date (as reported by the Bloomberg "HVT" screen), and (vi) the "dividend rate" being equal to zero. Within three (3) Business Days after the Valuation Date, each of the Company and the holder of this Note shall deliver to the other a written calculation of its determination of the Black-Scholes Value of the Options. If the holder and the Company are unable to agree upon the calculation of the Black-Scholes Value of the Options within five (5) Business Days of the Valuation Date, then the Company shall submit via facsimile the disputed calculation to an investment banking firm (jointly selected by the Company and the holders of Notes representing at least a majority of the principal amount then outstanding) within seven (7) Business Days of the Valuation Date. The Company shall cause such investment banking firm to perform the calculations and notify the company and the Holder of the results no later than ten (10) Business Days after the Valuation Date. Such investment banking firm's calculation of the Black-Scholes Value of the Options shall be deemed conclusive absent error. The Company shall bear the fees and expenses of such investment banking firm for providing such calculation.

(C) "Convertible Securities" means any stock or securities (other than Options and Exempted Issuances) directly or indirectly convertible into or exchangeable or exercisable for Shares.

(D) "Exempted Issuances" shall mean: (i) the issuance or grant of equity securities of the Company to officers or employees of the Company or any subsidiary thereof pursuant to any management equity rights plan or other equity-based employee benefits plan or arrangement that has been duly authorized by the Company's Board of Directors or a committee thereof; and (ii) the issuance of shares of Common Stock in connection with the conversion of the Notes or exercise of the Warrants.

(E) "Options" means (other than Exempted Issuances) any rights, warrants or options to subscribe for or purchase Shares or Convertible Securities.

(h) In case the Company shall, at any time or from time to time while any of the Securities are outstanding, issue or sell any Options or Convertible Securities that are convertible into or exchangeable or exercisable for Common Stock at a price that varies or may vary with the market price of the Common Stock, including by way of one or more resets to a fixed price or increases in the number of shares of Common Stock issued or issuable, or at a price that upon the passage of time or the occurrence of certain events automatically is reduced or is adjusted or may be reduced or adjusted, whether or not based on a formulation of the then current market price of the Common Stock (each of the formulations, reductions or adjustment provisions for such variable price being herein referred to as a "Variable Price"), then the Company shall provide written notice thereof via facsimile and overnight courier to the Holder ("Variable Notice") on the date of issuance of such Convertible Securities or Options. From and after the date the Company issues any such Convertible Securities or Options with a Variable Price, the Holder shall have the right, but not the obligation, in its sole discretion to substitute the Variable Price for the Conversion Price upon conversion of any Security, or portion thereof, by designating in the Conversion Notice delivered upon conversion of such Security that, solely for purposes of such conversion, the Holder is relying on the Variable Price rather than the Conversion Price then in effect. The Holder's election to rely on a Variable Price for a particular conversion of Security shall not obligate the Holder to rely on a Variable Price for any future conversions of Notes.

(i) If any event occurs of the type contemplated by the provisions of this Section 12.3 but not expressly provided for by such provisions (including the granting of stock appreciation rights, phantom stock rights or other rights with equity features), then the Company's Board of Directors will make an appropriate adjustment in the Conversion Price so as to protect the rights of the Holder. Notwithstanding anything to the contrary contained in this Section 12.3, in no event shall the Conversion Price be reduced below the par value of the Common Stock.

(j) Promptly upon any adjustment of the Conversion Price, the Company will give written notice thereof to the Holder, setting forth in reasonable detail, and certifying, the calculation of such adjustment.

(k) For purposes of this Article XII, the following terms shall have the meanings indicated:

"Current Market Price" on any date means the average of the daily Closing Sale Prices per share of Common Stock for the ten consecutive Trading Days immediately prior to such date; provided, however, that if:

(i) the "ex" date (as hereinafter defined) for any event (other than the issuance or distribution requiring such computation) that requires an adjustment to the Conversion Rate pursuant to Section 12.3(a), Section 12.3(b), Section 12.3(c), Section 12.3(d), Section 12.3(e) or Section 12.3(f) occurs during such ten consecutive Trading Days, the Closing Sale Price for each Trading Day prior to the "ex" date for such other event shall be adjusted by multiplying such Closing Sale Price by the same

fraction by which the Conversion Rate is so required to be adjusted as a result of such other event;

(ii) the "ex" date for any event (other than the issuance or distribution requiring such computation) that requires an adjustment to the Conversion Rate pursuant to Section 12.3(a), Section 12.3(b), Section 12.3(c), Section 12.3(d), Section 12.3(e) or Section 12.3(f) occurs on or after the "ex" date for the issuance or distribution requiring such computation and prior to the day in question, the Closing Sale Price for each Trading Day on and after the "ex" date for such other event shall be adjusted by multiplying such Closing Sale Price by the reciprocal of the fraction by which the Conversion Rate is so required to be adjusted as a result of such other event; and

(iii) the "ex" date for the issuance or distribution requiring such computation is prior to the day in question, after taking into account any adjustment required pursuant to clause (i) or (ii) of this proviso, the Closing Sale Price for each Trading Day on or after such "ex" date shall be adjusted by adding thereto the amount of any cash and the Fair Market Value (as determined by the Board of Directors in a manner consistent with any determination of such value for purposes of Section 12.3(d), Section 12.3(e) or Section 12.3(f)) of the evidences of Indebtedness, shares of capital stock or assets being distributed applicable to one share of Common Stock as of the close of business on the day before such "ex" date.

For purposes of any computation under Section 12.3(e), if the "ex" date for any event (other than the tender offer requiring such computation) that requires an adjustment to the Conversion Rate pursuant to Section 12.3(a), Section 12.3(b), Section 12.3(c), Section 12.3(d), Section 12.3(e) or Section 12.3(f) occurs on or after the Expiration Time for the tender or exchange offer requiring such computation and prior to the day in question, the Closing Sale Price for each Trading Day on and after the "ex" date for such other event shall be adjusted by multiplying such Closing Sale Price by the reciprocal of the fraction by which the Conversion Rate is so required to be adjusted as a result of such other event. For purposes of this paragraph, the term "ex" date, when used:

(i) with respect to any issuance or distribution, means the first date on which the Common Stock trade regular way on the relevant exchange or in the relevant market from which the Closing Sale Price was obtained without the right to receive such issuance or distribution;

(ii) with respect to any subdivision or combination of Common Stock, means the first date on which the Common Stock trade regular way on such exchange or in such market after the time at which such subdivision or combination becomes effective; and

(iii) with respect to any tender offer or exchange offer, means the first date on which the Common Stock trade regular way on such exchange or in such market after the Expiration Time of such offer.

Notwithstanding the foregoing, whenever successive adjustments to the Conversion Rate are called for pursuant to this Section 12.3, such adjustments shall be made to the Current Market Price as may be necessary or appropriate to effectuate the intent of this Section 12.3 and to avoid unjust or inequitable results as determined in good faith by the Board of Directors.

"Fair Market Value" means the amount which a willing buyer would pay a willing seller in an arm's-length transaction (as determined by the Board of Directors, whose determination shall be made in good faith and, absent manifest error, shall be final and binding on Holders of the Securities, provided, however, if the Board determines Fair Market Value to be in excess of $5 million, the Board shall obtain a corroborating valuation of the property in question from an appropriate independent third-party selected by the Board.).

"Record Date" means, with respect to any dividend, distribution or other transaction or event in which the holders of Common Stock have the right to receive any cash, securities or other property or in which the Common Stock (or other applicable security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of stockholders entitled to receive such cash, securities or other property (whether such date is fixed by the Board of Directors or by statute, contract or otherwise).

(l) The Company shall be entitled to make such additional adjustments in the Conversion Rate, in addition to those required by Section 12.3(a), Section 12.3(b), Section 12.3(c), Section 12.3(d), Section 12.3(e) or Section 12.3(f) if the Board of Directors determines that it is advisable, subject to compliance with Nasdaq Marketplace Rule 4350(i), in order that any dividend or distribution of Common Stock, any subdivision, reclassification or combination of Common Stock or any issuance of rights or warrants referred to above shall not be taxable to the holders of Common Stock for United States Federal income tax purposes.

(m) To the extent permitted by applicable law, the Company may, from time to time, increase the Conversion Rate by any amount for any period of time if such period is at least 20 calendar days, the increase is irrevocable during the period and the Board of Directors, in good faith and absent manifest error, determines that such increase would be in the best interest of the Company, subject to compliance with Nasdaq Marketplace Rule 4350(i). Whenever the Conversion Rate is increased pursuant to the preceding sentence, the Company shall mail to the Trustee and each Holder at the address of such Holder as it appears in the register of the Securities maintained by the Registrar, at least 15 calendar days prior to the date the increased Conversion Rate takes effect, a notice of the increase stating the increased Conversion Rate and the period during which it shall be in effect.

(n) In any case in which this Section 12.3 shall require that any adjustment be made effective as of or retroactively immediately following a Record Date, the Company may elect to defer (but only for five Trading Days following the filing of the notice referred to in Section 12.5) issuing to the

Holder of any Securities converted after such Record Date the Common Stock issuable upon such conversion over and above the Common Stock issuable upon such conversion on the basis of the Conversion Rate prior to adjustment; provided, however, that the Company shall deliver to such Holder a due bill or other appropriate instrument evidencing such Holder's right to receive such additional Common Stock upon the occurrence of the event requiring such adjustment.

(o) All calculations under this Section 12.3 shall be made to the nearest cent or one hundredth of a share, with one-half cent and 0.005 of a share, respectively, being rounded upward. Notwithstanding any other provision of this Section 12.3, the Company shall not be required to make any adjustment of the Conversion Rate unless such adjustment would require an increase or decrease of at least 1% in the Conversion Rate as last adjusted. Any lesser adjustment shall be carried forward and shall be made at the time of and together with the next subsequent adjustment which, together with any adjustment or adjustments so carried forward, shall amount to an increase or decrease of at least 1% in the Conversion Rate as last adjusted. Any adjustments under this Section 12.3 shall be made successively whenever an event requiring such an adjustment occurs.

(p) In the event that at any time, as a result of an adjustment made pursuant to this Section 12.3, the Holder of any Securities thereafter surrendered for conversion shall become entitled to receive any shares of stock of the Company other than Common Stock into which the Securities originally were convertible, the Conversion Rate of such other shares so receivable upon conversion of any such Security shall be subject to adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions with respect to Common Stock contained in subparagraphs (a) through (j) of this Section 12.3, and the provision of Section 12.1, Section 12.2 and Section 12.4 through Section 12.9 with respect to the Common Stock shall apply on like or similar terms to any such other shares and the determination of the Board of Directors as to any such adjustment shall be conclusive.

(q) No adjustment shall be made pursuant to this Section 12.3 if (i) the effect thereof would be to reduce the Conversion Price below the par value (if any) of the Common Stock or (ii) any dividend, distribution or issuance that would otherwise give rise to an adjustment pursuant to this Section 12.3 is made or paid to the Holders of the Securities.

(r) In the event any adjustment is made to the Conversion Price or the Conversion Rate pursuant to this Section 12.3, the Company shall promptly calculate the adjustment and notify the Conversion Agent of such change.

Section 12.4 Consolidation or Merger of the Company. If any of the following events occurs, namely:

(a) any reclassification or change of the outstanding shares of Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination);

(b) any merger, consolidation, statutory share exchange or combination of the Company with another corporation as a result of which holders of Common Stock shall be entitled to receive stock, securities or other property or assets (including cash) with respect to or in exchange for such Common Stock; or

(c) any sale or conveyance of the properties and assets of the Company as, or substantially as, an entirety to any other corporation as a result of which holders of Common Stock shall be entitled to receive stock, securities or other property or assets (including cash) with respect to or in exchange for such Common Stock;

the Company or the successor or purchasing corporation, as the case may be, shall execute with the Trustee a supplemental indenture (which shall comply with the Trust Indenture Act as in force at the date of execution of such supplemental indenture, if such supplemental indenture is then required to so comply) providing that such Securities shall be convertible into the kind and amount of shares of stock and other securities or property or assets (including cash) which such Holder would have been entitled to receive upon such reclassification, change, merger, consolidation, statutory share exchange, combination, sale or conveyance had such Securities been converted into Common Stock immediately prior to such reclassification, change, merger, consolidation, statutory share exchange, combination, sale or conveyance assuming such holder of Common Stock did not exercise its rights of election, if any, as to the kind or amount of securities, cash or other property receivable upon such merger, consolidation, statutory share exchange, sale or conveyance (provided, that if the kind or amount of securities, cash or other property receivable upon such merger, consolidation, statutory share exchange, sale or conveyance is not the same for each share of Common Stock in respect of which such rights of election shall not have been exercised ("Non Electing Share"), then for the purposes of this Section 12.4, the kind and amount of securities, cash or other property receivable upon such merger, consolidation, statutory share exchange, sale or conveyance for each Non Electing Share shall be deemed to be the kind and amount so receivable per share by a plurality of the Non Electing Shares). Such supplemental indenture shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Article XII. If, in the case of any such reclassification, change, merger, consolidation, statutory share exchange, combination, sale or conveyance, the stock or other securities and assets receivable thereupon by a holder of Common Stock includes shares of stock or other securities and assets of a corporation other than the successor or purchasing corporation, as the case may be, in such reclassification, change, merger, consolidation, statutory share exchange, combination, sale or conveyance, then such supplemental indenture shall also be executed by such other corporation and shall contain such additional provisions to protect the interests of the Holders of the Securities as the Board of Directors shall reasonably consider necessary by reason of the foregoing.

The Company shall cause notice of the execution of such supplemental indenture to be mailed to each Holder, at the address of such Holder as it appears on the register of the Securities maintained by the Registrar, within 20 days after execution thereof. Failure to deliver such notice shall not affect

the legality or validity of such supplemental indenture.

The above provisions of this Section 12.4 shall similarly apply to successive reclassifications, mergers, consolidations, statutory share exchanges, combinations, sales and conveyances.

If this Section 12.4 applies to any event or occurrence, Section 12.3 shall not apply.

Section 12.5 Notice of Adjustment. Whenever an adjustment in the Conversion Rate with respect to the Securities is required:

(a) the Company shall forthwith place on file with the Trustee and any Conversion Agent for such securities a certificate of the Chief Financial Officer of the Company, stating the adjusted Conversion Rate determined as provided herein and setting forth in reasonable detail such facts as shall be necessary to show the reason for and the manner of computing such adjustment; and

(b) a notice stating that the Conversion Rate has been adjusted and setting forth the adjusted Conversion Rate shall forthwith be given by the Company or, at the Company's request, by the Trustee in the name and at the expense of the Company, to each Holder in the manner provided in Section 13.2. Any notice so given shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice.

Section 12.6 Notice in Certain Events. In case of:

(a) a consolidation or merger to which the Company is a party and for which approval of any stockholders of the Company is required, or of the sale or conveyance to another Person or entity or group of Persons or entities acting in concert as a partnership, limited partnership, syndicate or other group (within the meaning of Rule 13d 3 under the Exchange Act) of all or substantially all of the property and assets of the Company; or

(b) the voluntary or involuntary dissolution, liquidation or winding up of the Company; or

(c) any action triggering an adjustment of the Conversion Rate referred to in clause (x) or (y) below;

then, in each case, the Company shall cause to be filed with the Trustee and the Conversion Agent, and shall cause to be given, to the Holders of the Securities in the manner provided in Section 13.2, at least 15 days prior to the applicable date hereinafter specified, a notice stating:

(x) the date on which a record is to be taken for the purpose of any distribution or grant of rights or warrants triggering an adjustment to the Conversion Rate pursuant to this Article XII, or, if a record is not to be taken, the date as of which the holders of record of Common Stock entitled to such distribution, rights or warrants are to be determined; or

(y) the date on which any reclassification, consolidation, merger, sale, conveyance, dissolution, liquidation or winding up triggering an adjustment to the Conversion Rate pursuant to this Article XII is expected to become effective, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities or other property deliverable upon such reclassification, consolidation, merger, sale, conveyance, dissolution, liquidation or winding up.

Failure to give such notice or any defect therein shall not affect the legality or validity of the proceedings described in Section 12.6(a), Section 12.6(b) or Section 12.6(c).

Section 12.7 Company to Reserve Stock: Registration; Listing. (a) Following the Share Increase, the Company shall, from time to time as may be necessary, reserve and keep available, free from preemptive rights, out of its authorized but unissued Common Stock, for the purpose of effecting the conversion of the Securities and payment of interest and Additional Interest through the Stated Maturity of the Securities, such number of its duly authorized Common Stock as shall from time to time be sufficient to effect the conversion of all Securities then outstanding into, or such interest and Additional Interest payments by, such Common Stock at any time (assuming that, at the time of the computation of such number of Common Stock, all such Securities would be held by a single Holder). Notwithstanding the preceding sentence, prior to the Share Increase, the Company shall be required to reserve and keep available all authorized and unissued Shares of Common Stock as of the Issue Date for the purpose of effecting the conversion of the Securities or any such interest or Additional Interest payment. The Company covenants that all Common Stock which may be issued upon conversion of Securities or payment of interest or Additional Interest shall upon issue be validly issued, fully paid and nonassessable and free from all liens and charges and, except as provided in Section 12.8, taxes with respect to the issue thereof.

(b) If any Common Stock which would be issuable upon conversion of Securities hereunder require registration with or approval of any governmental authority before such shares or securities may be issued upon such conversion and, after issuance, may be freely tradable without being subject to transfer restrictions, the Company shall use its best efforts to cause such shares or securities to be duly registered or approved, as the case may be. The Company further covenants that so long as the Common Stock shall be quoted on the Nasdaq National Market system, the Company shall use its reasonable best efforts, if permitted by the rules of the Nasdaq National Market system, to keep so quoted all Common Stock issuable upon conversion of the Securities, and the Company shall use its reasonable best efforts to list or obtain approval for the quotation of the Common Stock to be delivered upon conversion of the Securities prior to such delivery upon any other national securities exchange or quotation system upon which the outstanding Common Stock is listed or quoted at the time of such delivery.

Section 12.8 Taxes on Conversion. The issue of stock certificates on

conversion of Securities shall be made without charge to the converting Holder for any documentary, stamp or similar issue or transfer taxes in respect of the issue thereof, and the Company shall pay any and all documentary, stamp or similar issue or transfer taxes that may be payable in respect of the issue or delivery of Common Stock on conversion of Securities pursuant hereto. The Company shall not, however, be required to pay any such tax which may be payable in respect of any transfer involved in the issue or delivery of Common Stock or the portion, if any, of the Securities which are not so converted in a name other than that in which the Securities so converted were registered, and no such issue or delivery shall be made unless and until the Person requesting such issue has paid to the Company the amount of such tax or has established to the satisfaction of the Company that such tax has been paid.

Section 12.9 Conversion After Regular Record Date. Except as provided in Section 2.1 above, the Holder of Securities shall not be entitled after the conversion of Securities to receive any accrued and unpaid interest or Additional Interest, if any, on such converted Securities.

Except as provided in Section 12.2(a) and this Section 12.9, no payment or adjustment shall be made in respect of dividends or distributions on the Common Stock issued upon conversion or accrued and unpaid interest (inclusive of Additional Interest, if any), on a converted Security.

Section 12.10 Company Determination Final. Any determination that the Company or the Board of Directors must make pursuant to this Article XII shall be conclusive if made in good faith and in accordance with the provisions of this Article, absent manifest error, and set forth in a Board Resolution.

Section 12.11 Responsibility of Trustee for Conversion Provisions. The Trustee has no duty to determine when an adjustment under this Article XII should be made, how it should be made or what it should be. The Trustee makes no representation as to the validity or value of any securities or assets issued upon conversion of Securities. The Trustee shall not be responsible for any failure of the Company to comply with this Article XII. Each Conversion Agent other than the Company shall have the same protection under this Section 12.11 as the Trustee.

The rights, privileges, protections, immunities and benefits given to the Trustee under this Indenture including, without limitation, its rights to be indemnified, are extended to, and shall be enforceable by, other than the Company, the Trustee in each of its capacities hereunder, and each Paying Agent, Registrar or Conversion Agent, other than the Company, acting hereunder.

Section 12.12 Unconditional Right of Holders to Convert. Notwithstanding any other provision in this Indenture, the Holder of any Security shall have the right, which is absolute and unconditional, to convert its Security in accordance with this Article XII and to bring an action against the Company for the enforcement of any such right to convert, and such rights shall not be impaired or affected without the consent of such Holder.

Section 12.13 Interest Make-Whole Premium. (a) The Holder of any

Securities shall be entitled to receive on the date of conversion of such Securities a payment equal to the amount of accrued and unpaid interest (based on the Initial Interest Rate), less interest actually paid or provided for, up to and including such date of conversion, on such converted Securities measured from the initial Issue Date, through and including May 1, 2008 (the "Make-Whole Premium"). The Company may at its option pay the Make-Whole Premium in (1) cash, (2) shares of Common Stock or (3) a combination thereof, subject to the conditions for issuance of Applicable Stock in lieu of cash set forth in Section 6.10; provided that, if any portion of such payment is made in Common Stock, such Common Stock shall be valued as follows:

(b) If the conversion is at the Company's option, and the Company chooses to make such payment in shares of Common Stock, the Common Stock shall be valued at the greater of (i) 150% of the Conversion Price or (ii) 95% of the daily volume weighted average price of the Common Stock for the three Trading Day period beginning on and including the Trading Day prior to the conversion date, to and including the Trading Day following the conversion date.

(c) If the conversion is at the Holder's option, and the Company chooses to make such payment in shares of Common Stock, the Common Stock shall be valued at the greater of (i) the Current Stock Price at Issuance; and (ii) 95% of the daily volume weighted average price of the Common Stock for the three Trading Day period beginning on and including the Trading Day prior to the conversion date, to and including the Trading Day following the conversion date.

Section 12.14 Covenant as to Common Stock. The Company covenants that all shares of Common Stock which may be issued upon conversion of Securities will upon issuance be validly issued, fully paid and nonassessable and that the Company will pay all taxes, liens and charges with respect to the issuance thereof, except (1) as provided in Section 12.8 or (2) with respect to any liens or charges created by or imposed upon such Common Stock by the Holder of the Security or Securities to be converted.

Section 12.15 Conversion Limitation. The Company shall not effect any conversion of a Note held by a Holder, and no Holder shall have the right to convert any portion of any such Note, to the extent that after giving effect to such conversion, such Holder (together with the Holder's Affiliates) would beneficially own in excess of 4.99% of the number of shares of Common Stock outstanding immediately after giving effect to such conversion (the "Conversion Limitation").

By written notice to the Company in accordance with Section 13.2, any Holder may increase or decrease the Conversion Limitation applicable to such Holder to any percentage specified in such notice; provided, that any increase will not be effective until the 61st day after such notice is delivered to the Company. The Company shall promptly notify the Conversion Agent of any notice received from a Holder pursuant to this Section 12.15 and of any change to such Holder's Conversion Limitation.

ARTICLE XIII

MISCELLANEOUS

Section 13.1 Trust Indenture Act Controls. If any provision of this Indenture limits, qualifies, or conflicts with the duties imposed by TIA Section 318(c), such section of the TIA shall control. If any provision of this Indenture expressly modifies or excludes any provision of the TIA that may be so modified or excluded, the Indenture provision so modifying or excluding such provision of the TIA shall be deemed to apply.

Section 13.2 Notices. Any request, demand, authorization, notice, waiver, consent or communication shall be in writing and delivered in person (including by commercial courier services) or mailed by first class mail, postage prepaid, addressed as follows or transmitted by facsimile transmission (confirmed by guaranteed overnight courier) to the following facsimile numbers:

if to the Company:

IMMUNOMEDICS, INC.
300 American Road
Morris Plains, New Jersey 07950
Attention: Gerard Gorman
Facsimile No.: (973) 605-8282

if to the Trustee:

Law Debenture Trust Company of New York
767 Third Avenue, 31st Floor
New York, New York 10017
Attention: Corporate Trust Administration
Facsimile No.: (212) 750-1361

if to the Registrar, Paying Agent, or Conversion Agent:

JPMorgan Chase Bank, N.A.
4 New York Plaza, 15th Floor
New York, New York 10004
Attention: Worldwide Securities Services
Facsimile No.: (212) 623-6167

The Company or the Trustee by notice given to the other in the manner provided above may designate additional or different addresses for subsequent notices or communications.

Any notice or communication given to a Holder shall be mailed to the Holder, by first class mail, postage prepaid, at the Holder's address as it appears on the registration books of the Registrar and shall be sufficiently given if so mailed within the time prescribed.

Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is mailed in the manner provided above, it is duly

given, whether or not received by the addressee.

If the Company mails a notice or communication to the Holders, it shall mail a copy to the Trustee and each Registrar, Paying Agent, Conversion Agent, or co registrar.

If the Company mails a notice to the Trustee, it shall mail a copy to the Registrar, Paying Agent, and Conversion Agent.

Section 13.3 Communication by Holders with Other Holders. Holders may communicate pursuant to TIA Section 312(b) with other Holders with respect to their rights under this Indenture or the Securities. The Company, the Trustee, the Registrar, the Paying Agent, the Conversion Agent and anyone else shall have the protection of TIA Section 312(c).

Section 13.4 Certificate and Opinion as to Conditions Precedent. Upon any request or application by the Company to the Trustee to take any action under this Indenture (except in connection with the original issuance of Securities), the Company shall furnish to the Trustee:

(a) an Officers' Certificate stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(b) an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

Section 13.5 Statements Required in Certificate or Opinion. Each Officers' Certificate or Opinion of Counsel with respect to compliance with a covenant or condition provided for in this Indenture shall include:

(a) a statement that each person making such Officers' Certificate or Opinion of Counsel has read such covenant or condition;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such Officers' Certificate or Opinion of Counsel are based;

(c) a statement that, in the opinion of each such person, he has made such examination or investigation as is necessary to enable such person to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(d) a statement that, in the opinion of such person, such covenant or condition has been complied with.

In giving such Opinion of Counsel, counsel may rely as to factual matters on an Officer's Certificate or on certificates of public officials.

Section 13.6 Separability Clause. In case any provision in this Indenture or in the Securities shall be invalid, illegal or unenforceable, the

validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 13.7 Rules by Trustee, Paying Agent, Conversion Agent, Registrar. The Trustee may make reasonable rules for action by or a meeting of Holders. The Registrar, the Conversion Agent and the Paying Agent may make reasonable rules for their functions.

Section 13.8 Legal Holidays. If any specified date (including a date for giving notice) is a Legal Holiday, the action shall be taken on the next succeeding day that is not a Legal Holiday, and, if the action to be taken on such date is a payment in respect of the Securities, no interest, if any, shall accrue for the intervening period.

Section 13.9 Governing Law; Submission to Jurisdiction; Service of Process. This Indenture shall be governed by, and construed in accordance with, the laws of the State of New York without giving effect to the conflict of laws principles thereof.

The Company submits to the non-exclusive jurisdiction of the courts of the State of New York and the courts of the United States of America, in each case located in the Borough of Manhattan, New York, New York over any suit, action or proceeding arising under or in connection with this Indenture or the transactions contemplated hereby or the Securities. The Company waives any objection that it may have to the venue of any suit, action or proceeding arising under or in connection with this Indenture or the transactions contemplated hereby or the Securities in the courts of the State of New York or the courts of the United States of America, in each case located in the Borough of Manhattan, New York, New York, or that such suit, action or proceeding brought in the courts of the State of New York or the courts of the United States of America, in each case located in the Borough of Manhattan, New York, New York, was brought in an inconvenient court and agrees not to plead or claim the same.

The Company agrees that service of all writs, process and summonses in any suit, action or proceeding arising under or in connection with this Indenture or the transactions contemplated thereby or the Securities against the Company in any court of the State of New York or any United States Federal court, in each case, sitting in the Borough of Manhattan, New York, New York, may be made upon CT Corporation System at 111 Eighth Avenue, New York, New York 10011, whom the Company irrevocably appoints as its authorized agent for service of process. The Company represents and warrants that CT Corporation System has agreed to act as the Company's agent for service of process. The Company agrees that such appointment shall be irrevocable until the irrevocable appointment by the Company of a successor in New York, New York as its authorized agent for such purpose and the acceptance of such appointment by such successor. The Company further agrees to take any and all action, including the filing of any and all documents and instruments that may be necessary to continue such appointment in full force and effect as aforesaid. If CT Corporation System shall cease to act as the agent for service of process for the Company, the Company shall appoint without delay, another such agent and provide prompt

written notice to the Trustee of such appointment.

Section 13.10 Successors. All agreements of the Company in this Indenture and the Securities shall bind its successor. All agreements of the Trustee in this Indenture shall bind its successor.

Section 13.11 Multiple Originals. The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. One signed copy is enough to prove this Indenture.

* * * *

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NYLIB1 708685.13 SIGNATURE PAGE TO INDENTURE

IN WITNESS WHEREOF, the undersigned, being duly authorized, have executed this Indenture on behalf of the respective parties hereto as of the date first above written.

IMMUNOMEDICS, INC.

By:

Name:
Title:

Law Debenture Trust Company of New York
As Trustee

By:

Name:
Title:

JPMorgan Chase Bank, N.A.
As Registrar, Paying Agent and
Conversion Agent

By:

Name:
Title:

EXHIBIT A

[FORM OF FACE OF SECURITY]

THIS SECURITY IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE REFERRED TO HEREIN. THIS GLOBAL SECURITY MAY NOT BE EXCHANGED OR TRANSFERRED, IN WHOLE OR IN PART, FOR A SECURITY REGISTERED IN THE NAME OF ANY PERSON OTHER THAN DTC OR A NOMINEE THEREOF, EXCEPT IN THE LIMITED CIRCUMSTANCES SET FORTH IN THE INDENTURE. BENEFICIAL INTERESTS IN THIS GLOBAL SECURITY MAY NOT BE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE INDENTURE.

THIS SECURITY (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION, AND THIS SECURITY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THIS SECURITY IS HEREBY NOTIFIED THAT THE SELLER OF THIS SECURITY MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER.

BY ACQUISITION HEREOF, THE HOLDER:

(1) REPRESENTS THAT IT IS (A) A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT; OR (B) AN INSTITUTIONAL "ACCREDITED INVESTOR" AS DEFINED IN RULE 501(A)(1), (2), (3) OR (7) UNDER THE SECURITIES ACT OF 1933;

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

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

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

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

THIS SECURITY IS ISSUED WITH ORIGINAL ISSUE DISCOUNT FOR PURPOSES OF SECTIONS 1271, 1272 AND 1273 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. THE ISSUE PRICE OF THIS SECURITY IS $1,000 PER PRINCIPAL AMOUNT OF $1,000 AT MATURITY. THE ISSUE DATE OF THIS SECURITY IS April 29, 2005. THE YIELD-TO-MATURITY OF THIS SECURITY IS 5% PER ANNUM, COMPOUNDED SEMI-ANNUALLY.

THE HOLDER OF THIS SECURITY IS ENTITLED TO THE BENEFITS OF A REGISTRATION RIGHTS AGREEMENT (AS SUCH TERM IS DEFINED IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF) AND, BY ITS ACCEPTANCE HEREOF, AGREES TO BE BOUND BY AND TO COMPLY WITH THE PROVISIONS OF SUCH REGISTRATION RIGHTS AGREEMENT.(1)

AT THE INITIAL SALE OF SECURITIES, A PORTION OF THE PROCEEDS OF THE SALE OF THE SECURITIES WILL BE DEPOSITED INTO ESCROW PURSUANT TO AN ESCROW AGREEMENT DATED THE DATE THEREOF BETWEEN THE COMPANY AND JPMORGAN CHASE BANK, AS ESCROW AGENT. SUCH ESCROW AGREEMENT PROVIDES FOR THE RELEASE OF SUCH ESCROWED FUNDS PURSUANT ITS TERMS.

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(1) All but the first and fourth paragraphs of this legend should be included only if the Security is a Transfer Restricted Security.

IMMUNOMEDICS, INC.

5% Senior Convertible Notes due 2008

CUSIP No. ____

No. ___

IMMUNOMEDICS, INC., a Delaware corporation (the "Company," which term shall include any successor corporation under the Indenture referred to on the reverse hereof), promises to pay to _____, or registered assigns, the principal amount of _____ Dollars ($_____) on May 1, 2008, and to pay interest thereon from April 28, 2005 or from the most recent Interest Payment Date to which interest has been paid or duly provided for, on May 1 and November 1 in each year (each, an "Interest Payment Date"), commencing on November 1, 2005, at the rate of 5.0% per annum, until the principal hereof is paid or made available for payment at May 1, 2008 or upon acceleration, or until such date on which the Securities are converted or purchased as provided herein, and at the rate of 5.0% per annum on any overdue principal and on any overdue installment of interest (inclusive of Additional Interest, if any). The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date shall, as provided in the Indenture (as hereinafter defined), be paid to the Person in whose name this Security (or one or more predecessor Securities) is registered at the close of business on the regular record date for such interest, which shall be the April 15 or October 15 (whether or not a Business Day), as the case may be, next preceding the corresponding Interest Payment Date (a "Regular Record Date"). Any such interest (inclusive of Additional Interest, if any), not so punctually paid or duly provided for shall forthwith cease to be payable to the Holder on such Regular Record Date and may be paid (a) to the Person in whose name this Security (or one or more predecessor Securities) is registered at the close of business on a special record date for the payment of such defaulted interest to be fixed by the Trustee (a "Special Record Date"), notice whereof shall be given to Holders not less than 10 calendar days prior to such Special Record Date, or (b) at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities may be listed, and upon such notice as may be required by such exchange, all as more fully provided in the Indenture.

The Company may elect, solely at the Company's option, to pay interest in shares of the Company's Common Stock subject to Sections 2.1, 6.1 and 6.10. If the Company elects to make any payment of interest in shares of Common Stock, the shares to be delivered shall be valued at 95% of the daily volume-weighted average price of the Applicable Stock for the three Trading Day period ending on the Trading Day prior to the applicable Interest Payment Date.

Reference is hereby made to the further provisions of this Security set forth on the reverse side of this Security, which further provisions shall for all purposes have the same effect as if set forth at this place.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

Dated: IMMUNOMEDICS, INC.

By:_____
Name:_____
Title:_____

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Securities referred to in the within mentioned Indenture.

Dated:

Law Debenture Trust Company of New York,
as Trustee

By: _____

[FORM OF REVERSE OF SECURITY]

5% Senior Convertible Notes due 2008

This Security is one of a duly authorized issue of 5% Senior Convertible Notes due 2008 (the "Securities") of IMMUNOMEDICS, INC., a Delaware corporation (including any successor corporation under the Indenture hereinafter referred to, the "Company"), issued under an Indenture, dated as of April 29, 2005 (the "Indenture"), among the Company and Law Debenture Trust Company of New York, as Trustee (the "Trustee"), and JPMorgan Chase Bank, N.A. as Registrar (the "Registrar"), Paying Agent (the "Paying Agent"), and Conversion Agent (the "Conversion Agent"). The terms of the Security include those stated in the Indenture, those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended ("TIA"), and those set forth in this Security. This Security is subject to all such terms, and Holders are referred to the Indenture and the TIA for a statement of all such terms. To the extent permitted by applicable law, in the event of any inconsistency between the terms of this Security and the terms of the Indenture, the terms of the Indenture shall control. Capitalized terms used but not defined herein have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. Interest.

Interest on the Securities shall be computed (i) for any full semi-annual period for which a particular Interest Rate is applicable, on the basis of a 360-day year of twelve 30-day months and (ii) for any period for which a particular Interest Rate is applicable shorter than a full semiannual period for which interest is calculated, on the basis of a 30-day month and, for such periods of less than a month, the actual number of days elapsed over a 30-day month.

If the Holder elects to require the Company to purchase this

Security pursuant to Sections 5 or 6 of this Security, on a date that is after the Regular Record Date and on or before the corresponding Interest Payment Date, interest (inclusive of Additional Interest, if any), accrued and unpaid hereon to, but excluding, the applicable Designated Event Purchase Date shall be paid to the same Holder to whom the Company pays the principal of this Security.

A Holder of any Security at the close of business on a Regular Record Date shall be entitled to receive interest (including Additional Interest, if any) on such Security on the corresponding Interest Payment Date. A Holder of any Security which is converted after the close of business on a Regular Record Date and prior to the corresponding Interest Payment Date (other than any Security whose Maturity is prior to such Interest Payment Date) shall be entitled to receive interest (including Additional Interest, if any) on the Principal Amount of such Security, notwithstanding the conversion of such Security prior to such Interest Payment Date. However, any such Holder which surrenders any such Security for conversion during the period between the close of business on such Regular Record Date and ending with the opening of business on the corresponding Interest Payment Date shall be required to pay the Company an amount equal to the interest (including Additional Interest, if any) on the Principal Amount of such Security so converted, which is payable by the Company to such Holder on such Interest Payment Date, at the time such Holder surrenders such Security for conversion. Notwithstanding the foregoing, any such Holder which surrenders for conversion any Security which has been called for conversion by the Company, and which shall be settled in whole or in part in cash, on a date that is after a Record Date but prior to the corresponding Interest Payment Date in a notice of conversion given by the Company pursuant to Section 12.1(b) of the Indenture shall be entitled to receive (and retain) such interest (including Additional Interest, if any) and need not pay the Company an amount equal to the interest (including Additional Interest, if any) on the Principal Amount of such Security so converted at the time such Holder surrenders such Security for conversion.

Any reference herein to interest accrued or payable as of any date shall include any Additional Interest accrued or payable on such date as provided in the Registration Rights Agreement.

Except as provided in Section 2.1 of the Indenture, the Holder of Securities shall not be entitled to receive any accrued and unpaid interest or Additional Interest, if any after the conversion of such Securities.

Except as provided in Section 12.2(a) and Section 12.9 of the Indenture, no payment or adjustment shall be made in respect of dividends or distributions on the Common Stock issued upon conversion or accrued and unpaid interest (inclusive of Additional Interest, if any), on a converted Security.

The Holder shall be entitled to receive on the date of conversion of such Securities a payment equal to the amount of accrued and unpaid interest (based on the Initial Interest Rate), less interest actually paid or provided for, up to and including such date of conversion, on such converted Securities measured from April 28, 2005, through and including May 1, 2008. The Company may at its option pay such Make-Whole Premium in (1) cash, (2) shares of Common

Stock or (3) a combination thereof; provided that, if any portion of such payment is made in Common Stock, it must comply with the conditions set forth in Section 6.10 of the Indenture, and such Common Stock shall be valued as set forth in Section 12.13 of the Indenture.

2. Method of Payment.

Payment of the principal of and interest (inclusive of Additional Interest, if any) on the Securities shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts, subject to the conditions set forth in Section 6.10 of the Indenture, or in Applicable Stock, as the case may be. The Holder must surrender the Securities to the Paying Agent to collect payment of principal. If the Company elects not to pay interest in shares of the Company's Common Stock, payment of interest (inclusive of Additional Interest, if any), on Securities shall be made by check mailed to the address of the Person entitled thereto as such address appears in the Register and payment of interest (inclusive of Additional Interest, if any) on Securities in aggregate principal amount in excess of $1,000,000 shall be made by wire transfer in immediately available funds at the election of such Holder.

3. Paying Agent, Registrar, Conversion Agent.

Initially, JPMorgan Chase Bank, N.A. shall act as Paying Agent, Registrar and Conversion Agent. The Company may appoint and change any Paying Agent, Registrar and Conversion Agent without notice, other than notice to the Trustee; provided that the Company shall maintain at least one Paying Agent in Borough of Manhattan, New York, New York, which shall initially be an office or agency of the Paying Agent. The Company or any of its Subsidiaries or any of their Affiliates may act as Paying Agent, Registrar or Conversion Agent.

4. Indenture.

The Securities are general unsecured obligations of the Company limited to $46,000,000 aggregate principal amount.

5. Share Increase.

As soon as possible after the Issue Date, the Company will use its best efforts to: (a) obtain stockholder approval for the authorization of at least 4,710,000 additional shares of its Common Stock at a special meeting of stockholders called for such purpose and (b) following the receipt of such shareholder approval, amend its certificate of incorporation to effectuate the increase in the number of authorized and unissued shares of Common Stock ((a) and (b) together, the "Share Increase"), and will provide an Officer's Certificate to the Trustee certifying that such Share Increase has been effected. In the event that the Company has not effected the Share Increase within 120 days following the initial Issue Date, Additional Interest shall accrue and become payable upon the Securities in addition to the Initial Interest Rate, at an annual rate of 1%. Such additional interest shall increase by an additional 1% per annum every thirty (30) days thereafter up to a maximum

aggregate interest of 15% per annum. Upon the Company's effecting of the Share Increase, the interest rate on the Securities shall immediately return to the Initial Interest Rate (subject to the imposition of Additional Interest pursuant to the terms of the Registration Rights Agreement or for other reasons).

In the event that the Share Increase has not been obtained by January 15, 2007, Holders shall have the right to require the Company to purchase their Notes, in whole or in part, at any time or from time-to-time, on the terms and in the manner set forth in Article IV of the Indenture.

6. Purchase by the Company Upon a Designated Event.

Subject to the terms and conditions of the Indenture, the Company shall become obligated to purchase, at the option of the Holder, all or any portion of the Securities held by such Holder upon a Designated Event in integral multiples of $1,000 at the Designated Event Purchase Price in cash. To exercise such right, a Holder shall deliver to the Paying Agent a Designated Event Purchase Notice containing the information set forth in the Indenture at any time on or before the 20th Business Day after the date of the Company's notice of the Designated Event (subject to extension to comply with applicable law), and shall deliver the Securities to the Paying Agent as set forth in the Indenture.

Holders have the right to withdraw any Designated Event Purchase Notice by delivering to the Paying Agent a written notice of withdrawal in accordance with the provisions of the Indenture.

If cash sufficient to pay the Designated Event Purchase Price of all Securities or portions thereof to be purchased on the Designated Event Purchase Date is deposited with the Paying Agent, at 10:00 a.m., New York City time, on the Designated Event Purchase Date, such Securities shall cease to be outstanding and interest (inclusive of Additional Interest, if any) on such Securities shall cease to accrue and the Holder thereof shall have no other rights as such other than the right to receive the Designated Event Purchase Price upon surrender of such Security.

7. Conversion.

Subject to and in compliance with the provisions of the Indenture (including, without limitation, the conditions to conversion of this Security set forth in Section 12.1 thereof), a Holder is entitled, (i) at such Holder's option or (ii) at the Company's option if the conditions set forth in Section 12.1(b) of the Indenture have been satisfied, to convert the Holder's Security (or any portion of the principal amount thereof that is $1,000 or an integral multiple $1,000), into fully paid and nonassessable shares of Common Stock at the Conversion Rate in effect on the date of conversion.

A Security in respect of which a Holder has delivered a Designated Event Purchase Notice exercising the right of such Holder to require the Company to purchase such Security may be converted only if such Designated Event Purchase Notice is withdrawn in accordance with the terms of the Indenture.

To surrender a Security for conversion, a Holder must (1) surrender the Security to the Conversion Agent, (2) complete and manually sign the conversion notice below (or complete and manually sign a facsimile of such notice) and deliver such notice to the Conversion Agent, (3) if required by the Conversion Agent, furnish appropriate endorsements and transfer documents and (4) pay all funds required, if any, relating to interest (inclusive of Additional Interest, if any) and any transfer or similar tax or duty, if required.

No fractional share of Common Stock shall be issued upon conversion of any Security. Instead, the Company shall pay a cash adjustment as provided in the Indenture.

No payment or adjustment shall be made for accrued and unpaid interest (inclusive of Additional Interest, if any) or dividends on the Common Stock, except as provided in the Indenture.

If the Company (i) is a party to a consolidation, merger or binding share exchange (ii) reclassifies the Common Stock or (iii) conveys, transfers or leases its properties and assets substantially as an entirety to any Person, the right to convert a Security into shares of Common Stock may be changed into a right to convert it into securities, cash or other assets of the Company or such other Person, in each case in accordance with the Indenture.

8. Denominations; Transfer; Exchange.

The Securities are in fully registered form, without coupons, in denominations of $1,000 of principal amount and integral multiples of $1,000. A Holder may transfer or exchange Securities in accordance with the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and to pay any taxes and fees required by law or permitted by the Indenture.

9. Persons Deemed Owners.

The registered Holder of this Security may be treated as the owner of this Security for all purposes.

10. Unclaimed Money or Securities.

The Trustee and the Paying Agent shall return to the Company upon written request any cash or securities held by them for the payment of any amount with respect to the Securities that remains unclaimed for two years, subject to applicable unclaimed property law. After return to the Company, Holders entitled to the money or securities must look to the Company for payment as general creditors unless an applicable abandoned property law designates another person.

11. Amendment; Waiver.

Subject to Article 11 of the Indenture, (i) the Indenture or the Securities may be amended by the Holders holding not less than a majority in aggregate principal amount of the outstanding Securities by written consent or by affirmative vote at a meeting of Holders at which a quorum is present and (ii) certain Defaults may be waived with the written consent or affirmative vote of the Holders of a majority in aggregate principal amount of the outstanding Securities.

Without the consent of any Holder, the Company and the Trustee may amend the Indenture or the Securities to:

(a) add to the covenants of the Company for the benefit of the Holders of Securities;

(b) surrender any right or power conferred upon the Company in the Indenture;

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

(d) provide for the assumption of the Company's obligations to the Holders of Securities in the case of a merger, consolidation, conveyance, transfer, sale, lease or other disposition pursuant to Article VII of the Indenture;

(e) increase the Conversion Rate; provided, however, that such increase in the Conversion Rate shall not adversely affect the interests of the Holders of Securities (after taking into account tax and other consequences of such increase);

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

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

(h) cure any ambiguity, correct or supplement any provision in the Indenture which may be inconsistent with any other provision therein or which is otherwise defective, or to make any other provisions with respect to matters or questions arising under the Indenture which the Company may deem necessary or desirable and which shall not be inconsistent with the provisions of the Indenture; provided, however, that such action pursuant to this clause does not, in the good faith opinion of the Board of Directors of the Company (as evidenced by a Board Resolution) and the Trustee, adversely affect the interests of the Holders of Securities in any material respect;

(i) evidence the succession of another Person to the Company or any other obligor upon the Securities, and the assumption by any such successor of the covenants of the Company or such obligor herein and in the Securities, in each case in compliance with the provisions of the Indenture;

(j) evidence and provide the acceptance of the appointment of a successor trustee thereunder; and

(k) add or modify any other provisions in the Indenture with respect to matters or questions arising thereunder which the Company and the Trustee may deem necessary or desirable and which shall not adversely affect the interests of the Holders of Securities, including, without limitation, to provide for the issuance of Physical Securities, if necessary, and their transfer and exchange between Global Securities, if necessary.

12. Defaults and Remedies.

If any Event of Default other than as a result of certain events of bankruptcy, insolvency or reorganization of the Company or its Subsidiaries occurs and is continuing, the principal of all the Securities may be declared due and payable in the manner and with the effect provided in the Indenture. If an Event of Default occurs as a result of certain events of bankruptcy, insolvency or reorganization of the Company or its Subsidiaries, the principal of all the Securities shall become due and payable immediately without any declaration or other act on the part of the Trustee or any Holder, all as and to the extent provided in the Indenture.

13. Trustee Dealings with the Company.

Subject to certain limitations imposed by the TIA, the Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Securities and may otherwise deal with and collect obligations owed to it by the Company or its Affiliates and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee.

14. Calculations in Respect of Securities.

The Company or its agents shall be responsible for making all calculations called for under the Securities including, but not limited to, determination of the Current Market Price, Current Stock Price and Closing Sale Price of the Applicable Stock, the number of shares of Applicable Stock and/or the amount of cash issuable or payable upon conversion and the amounts of interest and Additional Interest, if any, on the Securities. Any calculations made in good faith and without manifest error shall be final and binding on Holders of the Securities. The Company or its agents shall be required to deliver to the Trustee a schedule of its calculations and the Trustee shall be entitled to conclusively rely upon the accuracy of such calculations without independent verification.

15. Authentication.

This Security shall not be valid until an authorized signatory of the Trustee signs, manually or by facsimile, the Trustee's Certificate of Authentication on the other side of this Security.

16. Abbreviations.

Customary abbreviations may be used in the name of a Holder or an assignee, such as TEN COM (=tenants in common), TEN ENT (=tenants by the entireties), JT TEN (=joint tenants with right of survivorship and not as tenants in common), CUST (=custodian), and U/G/M/A (=Uniform Gift to Minors Act).

17. INDENTURE TO CONTROL; GOVERNING LAW.

IN THE CASE OF ANY CONFLICT BETWEEN THE PROVISIONS OF THIS SECURITY AND THE INDENTURE, THE PROVISIONS OF THE INDENTURE SHALL CONTROL. THE INDENTURE AND THIS SECURITY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

The Company shall furnish to any Holder upon written request and without charge a copy of the Indenture which has in it the text of this Security in larger type. Requests may be made to:

IMMUNOMEDICS, INC.
300 American Road
Morris Plains, New Jersey 07950
Attention: Chief Financial Officer
Facsimile No.: (973) 605-8282

18. Registration Rights.

The Holders of the Securities are entitled to the benefits of a Registration Rights Agreement, dated as of April 27, 2005, between the Company and the Purchasers named on Exhibit A thereto, including the receipt of Additional Interest upon a registration default (as defined in such agreement).

19. Escrow

On the initial Issue Date, the Company deposited into escrow approximately $14,300,000 million (the "Escrow Property") pursuant to an Escrow Agreement dated as of April 27, 2005 between the Company and JPMorgan Chase Bank, N.A., as Escrow Agent (the "Escrow Agreement"). Escrow Property may be released to the Company pursuant to the terms of the Escrow Agreement.

ASSIGNMENT FORM

To assign this Security, fill in the form below:

I or we assign and transfer this Security to

_____

(Insert assignee's soc. sec. or tax ID no.)

_____

_____

_____

_____

_____(Print or type assignee's name, address and zip code)

and irrevocably appoint _____ agent to transfer this Security on the books of the Company. The agent may substitute another to act for him.

Your Signature(s):

Date: _____ _____

(Sign exactly as your name(s) appears on the other side of this Security)

Signature Guaranteed

_____

Participant in a Recognized Signature Guarantee Medallion Program

By:_____

Authorized Signatory

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(2) This certificate should only be included if this Security is a Transfer Restricted Security.

OPTION OF HOLDER TO ELECT PURCHASE

To: Paying Agent

Copy to: Immunomedics, Inc.

If you wish to have this Security purchased by the Company pursuant to Article IV (Purchase at the Option of Holders Upon an Authorization Default) of the Indenture, check the box: [ ].

If you wish to have this Security purchased by the Company pursuant to Article V (Purchase at the Option of Holders Upon a Designated Event) of the Indenture, check the box: [ ].

If you wish to have a portion of this Security purchased by the Company pursuant to Article IV or V of the Indenture state the amount (in Principal Amount): $ _____.

The certificate numbers of the Securities to be delivered for purchase are: _____.

Any purchase of Securities pursuant hereto shall be pursuant to the terms and conditions specified in the Indenture.

Your Signature(s):

Date: _____ _____
(Sign exactly as your name(s) appears on the other side of this Security)

Signature Guaranteed

_____
Participant in a Recognized Signature
Guarantee Medallion Program

By:_____
Authorized Signatory

CONVERSION NOTICE

To: Conversion Agent

Copy to: Immunomedics, Inc.

To convert this Security into Common Stock of the Company, check the box .

To convert only part of this Security, state the principal amount to be converted (which must be $1,000 or an integral multiple of $1,000): _____.

Please check one:

[ ] I certify that neither I nor any other Person shall become a 10% Stockholder upon satisfaction by the Company of the Conversion Obligation underlying this Conversion Notice in Common Stock.

[ ] I do not certify that neither I nor any other Person shall become a 10%

Stockholder upon satisfaction by the Company of the Conversion Obligation underlying this Conversion Notice in Common Stock.

"10% Stockholder" means a Person that owns, directly or indirectly, applying the provisions of Section 958(a) of the Internal Revenue Code of 1986, as amended (the "Code"), or by attribution, applying the provisions of Section 958(b) of the Code, 10% or more of the outstanding shares of Common Stock.

If you want the stock certificate made out in another person's name fill in the form below:

_____

(Insert assignee's soc. sec. or tax ID no.)

_____

_____

_____

_____

(Print or type assignee's name, address and zip code)

Your Signature(s):

Date: _____ _____

(Sign exactly as your name(s) appears on the other side of this Security)

Signature Guaranteed

_____

Participant in a Recognized Signature Guarantee Medallion Program

By:_____

Authorized Signatory

TRANSFER CERTIFICATE (2)

Re: 5% Senior Convertible Notes due 2008
(the "Securities") of Immunomedics, Inc. (the "Company")

This certificate relates to $_____ principal amount of Securities owned in definitive form by _____ (the "Transferor").

The Transferor has requested a Registrar or the Trustee to exchange or register the transfer of such Securities.

In connection with such request and in respect of each such Security, the Transferor does hereby certify that the Transferor is familiar

with transfer restrictions relating to the Securities as provided in Section 2.6 and Section 2.13 of the Indenture dated as of April 29, 2005 between the Company and Law Debenture Trust Company of New York, as Trustee (the "Indenture"), and the transfer of such Security is being made pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "Securities Act") (check applicable box), or the transfer or exchange, as the case may be, of such Security does not require registration under the Securities Act because (check applicable box):

[ ] Such Security is being transferred to the Company or a Subsidiary; or

[ ] Such Security is being transferred to a Qualified Institutional Buyer in compliance with Rule 144A under the Securities Act; or

[ ] Such Security is being transferred pursuant to and in compliance with an exemption from the registration requirements under the Securities Act in accordance with Rule 144 (or any successor thereto) ("Rule 144") under the Securities Act; or

[ ] Such Security is being transferred to an institutional investor that is an "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act) that has transferred a letter making certain representations, warranties and agreements relating to restrictions on transfer and an opinion of counsel to American Stock Transfer and Trust Company as transfer agent (or any successor transfer agent, as applicable) that such transfer is in compliance with the Securities Act; or

[ ] Such Security is being transferred pursuant to an effective registration statement under the Securities Act; or

[ ] Such Security is being acquired for the Transferor's own account, without transfer.

Date: _____ _____

Signature(s) of Transferor

(If the registered owner is a corporation, partnership or fiduciary, the title of the person signing on behalf of such registered owner must be stated.)

Signature Guaranteed

_____

Participant in a Recognized Signature
Guarantee Medallion Program

By:_____

Authorized Signatory

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(2) This certificate should only be included if this Security is a Transfer Restricted Security.

EXHIBIT B

FORM OF CERTIFICATE TO BE DELIVERED BY
TRANSFEREE IN CONNECTION WITH TRANSFERS
TO INSTITUTIONAL ACCREDITED INVESTORS

[Date]

JPMorgan Chase Bank, N.A.
4 New York Plaza, 15th Floor
New York, New York 10004
Attention: Institutional Trust Services

American Stock Transfer and Trust Company,
as Transfer Agent

Re: Immunomedics, Inc.

Ladies and Gentlemen:

In connection with the undersigned's proposed purchase of $_____ aggregate principal amount of 5% Senior Convertible Notes due 2008 (the "Notes") of Immunomedics, Inc. (the "Company") or _____ shares of Common Stock of the Company issued upon conversion of the Notes, par value $.01 per share (the "Common Stock" and, together with the Notes, the "Securities"), the undersigned confirms, represents and warrants that:

(1) The undersigned is an institutional "accredited investor" within the meaning of Rule 501(a)(1), (2), (3) or (7) under the Securities Act of 1933, as amended (the "Securities Act") (an "Institutional Accredited Investor").

(2) (A) Any purchase of the Securities by the undersigned shall be for the undersigned's own account or for the account of one or more other Institutional Accredited Investors or as fiduciary for the account of one or more trusts, each of which is an "accredited investor" within the meaning of Rule 501(a)(7) under the Securities Act and for each of which the undersigned exercises sole investment discretion or (B) the undersigned is a "bank," within the meaning of Section 3(a)(2) of the Securities Act, or a "savings and loan association" or other institution described in Section 3(a)(5)(A) of the Securities Act that is acquiring

the Securities as fiduciary for the account of one or more institutions for which the undersigned exercises sold investment discretion.

(3) The undersigned has such knowledge and experience in financial and business matters that the undersigned is capable of evaluating the merits and risks of its investment in the Securities, and the undersigned and any accounts for which it is acting is each able to bear the economic risk of its or their investment.

(4) The undersigned has been given an opportunity to ask questions and receive answers concerning the terms and conditions of the Securities and to obtain any additional information which the Company possesses or can acquire without reasonable effort or expense that is necessary to verify the accuracy of the information furnished.

(5) The undersigned is not acquiring the Securities with a view to distribution thereof or with any present intention of offering or selling any Securities, except as permitted below; provided that the disposition of the undersigned's property and the property of any accounts for which the undersigned is acting as fiduciary shall remain at all times within the undersigned's control.

(6) The undersigned understands that the Securities have not been registered under the Securities Act or any applicable state securities laws.

(7) The undersigned agrees, on its own behalf and on behalf of each account for which the undersigned acquires any Securities, that if in the future the undersigned decides to resell or otherwise transfer such Securities within two years after the original issuance of the Notes, such Securities may be resold or otherwise transferred only:

(A) to the Company or any subsidiary thereof;

(B) with respect to Notes only, to a person which is a "qualified institutional buyer" (as defined in Rule 144A under the Securities Act) in compliance with Rule 144A under the Securities Act;

(C) pursuant to the exemption from registration provided by Rule 144 under the Securities Act (if available);

(D) pursuant to an exemption from registration under the Securities Act to an Institutional Accredited Investor that prior to such transfer, furnishes to you (and the Trustee or the Transfer Agent, as the case may be) a signed letter substantially in the form of this letter, a transfer certificate substantially in the form provided in the Indenture and an opinion of counsel; or

(E) pursuant to a registration statement which has been declared effective under the Securities Act and continues to be

effective at the time of such transfer.

The undersigned further agrees to provide to any person purchasing any of the Securities from us a notice advising such purchaser that resales of the Securities are restricted as stated herein.

(8) The undersigned understands that, on any proposed resale of any Securities, the undersigned shall be required to furnish to the Trustee or the Transfer Agent, as the case may be, and the Company such certifications, legal opinions and other information as you and the Company may reasonably require to confirm that the proposed sale complies with the foregoing restrictions. The undersigned further understands that the Securities purchased by the undersigned shall be certificated securities and shall bear a legend to the foregoing effect.

Each of the Company, the Trustee or the Transfer Agent, as the case may be, and the initial purchasers of the Securities are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

(Signature must conform in all respects to the name of the holder as specified on the face of this Note and must bear a signature guarantee by a member firm of a registered national securities exchange, a member of the National Association of Securities Dealers, Inc., a participant in the Security Transfer Agents Medallion Program or the Stock Exchange Medallion Program, or by a commercial bank or trust company having an office or correspondent in the United States)

By:_____
Name:
Title:
Address:

EXHIBIT C

FORM OF RESTRICTIVE LEGEND FOR
COMMON STOCK ISSUED UPON CONVERSION

THIS SECURITY IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE REFERRED TO HEREIN. THIS GLOBAL SECURITY MAY NOT BE EXCHANGED OR TRANSFERRED, IN WHOLE OR IN PART, FOR A SECURITY REGISTERED IN THE NAME OF ANY PERSON OTHER THAN DTC OR A NOMINEE THEREOF, EXCEPT IN THE LIMITED CIRCUMSTANCES SET FORTH IN THE INDENTURE. BENEFICIAL INTERESTS IN THIS

GLOBAL SECURITY MAY NOT BE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE INDENTURE.

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

BY ACQUISITION HEREOF, THE HOLDER:

(1) REPRESENTS THAT IT IS (A) A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT, OR (B) AN INSTITUTIONAL "ACCREDITED INVESTOR" AS DEFINED IN RULE 501(a)(1), (2), (3) OR (7) UNDER THE SECURITIES ACT;

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

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

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

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

REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, THIS LEGEND WILL BE REMOVED UPON THE EARLIER OF THE TRANSFER OF THE SECURITY EVIDENCED HEREBY PURSUANT TO CLAUSE 3(D) ABOVE OR THE EXPIRATION OF TWO YEARS FROM THE ORIGINAL ISSUANCE OF THE SECURITY EVIDENCED HEREBY.

Exhibit 10.1

IMMUNOMEDICS, INC.

5% Senior Convertible Notes Due 2008

PURCHASE AGREEMENT

April 27, 2005

IMMUNOMEDICS, INC., a Delaware corporation (the "Company"), hereby confirms its agreement with _____ (the "Purchaser") as set forth below.

1. Notes. The Company proposes to issue and sell to the Purchaser $_____ principal amount of its 5% Senior Convertible Notes Due 2008 (the "Firm Notes") and Warrants (the "Firm Warrants" and, together with the Firm Notes, the "Firm Securities") entitling the holder thereof to exercise such Warrants to purchase up to ___ shares of common stock, par value $0.01, of the Company (the "Common Stock"). In addition, the Company proposes to grant to the Purchaser an option to purchase up to an additional $____ principal amount of its 5% Senior Convertible Notes due 2008 (the "Option Notes" and, together with the Firm Notes, the "Notes") and Warrants to purchase an additional [_____] shares of Common Stock (the "Option Warrants" and, together with the Firm Warrants, the "Warrants"). The Notes and Warrants together are referred to herein as the "Securities" and the Option Notes and Option Warrants together are referred to herein as the "Option Securities". The Notes are to be issued under an indenture (the "Indenture") to be dated as of the Closing Date (as defined below) by and between the Company and Law Debenture Trust Company of New York, as trustee (the "Trustee"). The Warrants are to be issued pursuant to a warrant agreement, to be dated the Closing Date, between the Company and JPMorgan Chase Bank, N.A., as warrant agent (the Warrant Agreement). This Agreement, the other Purchase Agreements dated the date hereof entered into among the Company and the other Purchasers named therein (the "Other Purchase Agreements"), the lock-up agreements contemplated by this Agreement, the registration rights agreement, to be dated the Closing Date, by and between the Purchaser and the Company (the "Registration Rights Agreement"), the escrow agreement between the Company and JPMorgan Chase Bank, N.A., as escrow agent, to be dated on or about the Closing Date (the "Escrow Agreement"), the Warrant Agreement, and the Indenture (with the Notes and the Warrants included therein) are hereinafter collectively referred to as the "Transaction Documents" and the transactions contemplated herein and therein are hereinafter referred to as the "Transactions".

The Company has prepared a Private Placement Memorandum dated April 27, 2005 and will prepare supplements to such Private Placement Memorandum, if required, setting forth information concerning the Company, the Notes, the Warrants, the Transaction Documents and certain other matters (the "Private Placement Memorandum").

The sale of the Notes and the Warrants to the Purchaser will be made without registration of the Notes or the Warrants under the Securities Act of 1933, as amended (the "Securities Act"), in reliance upon certain exemptions from the registration requirements of the Securities Act.

The Company will issue a minimum of $35 million and a maximum of $46 million in aggregate principal amount of Notes and Warrants to purchase up to approximately 3,600,000 shares. The Company intends to either (i) use up to $10 million of such proceeds to repay or repurchase a corresponding principal amount of its outstanding 3.25% Convertible Senior Notes due 2006 or (ii) exchange up to $10 million of the Notes for up to a corresponding amount of its outstanding 3.25% Convertible Senior Notes due 2006.

2. Representations and Warranties and Covenants of the Company. The Company represents and warrants to, and agrees with, the Purchaser that, except as otherwise disclosed in the Company's Annual Report on Form 10-K (the "Company Annual Report") most recently filed with the Securities and Exchange Commission (the "SEC") and all subsequently filed reports or documents filed prior to the date hereof (collectively with the Company Annual Report, the "Exchange Act Reports"):

(a) The Private Placement Memorandum, and Exchange Act Reports that have been, or will be, filed by the Company with the SEC or sent to shareholders pursuant to the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as of their respective dates and as of the Closing Date, do not and will not include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were or will be made, not misleading. Such documents, when filed with the SEC, as applicable did, or will, conform in all material respects to the requirements of the Exchange Act and the rules and regulations of the SEC thereunder.

(b) The Company has no direct or indirect subsidiaries other than those subsidiaries (the "Subsidiaries") listed on Schedule 2 hereto.

(c) Each of the Company and the Subsidiaries has been duly incorporated and each is validly existing as a corporation in good standing under the laws of the jurisdiction in which it is chartered or organized, is duly qualified to do business as a foreign corporation and each is in good standing under the laws of each jurisdiction where it owns or leases material properties or conducts business, except in such jurisdictions in which the failure to so qualify, in the aggregate, would not have a Material Adverse Effect. "Material Adverse Effect" as used in this Purchase Agreement shall mean a material adverse effect on (i) the business, operations, properties, assets, liabilities, net worth, or financial condition of the Company and the Subsidiaries, taken as a whole, or (ii) the ability of the Company to perform any of its obligations under the Transaction Documents, the Notes or the Warrants or to consummate the Transactions.

(d) Neither the Company nor any of the Subsidiaries is (i) in

violation of its charter or by-laws or (ii) in breach or violation of any of the terms or provisions of, or with the giving of notice or lapse of time, or both, would be in default under, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of the Subsidiaries is a party or by which it or any of them or any of their respective properties is bound, or any applicable law or statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company, the Subsidiaries or any of their respective properties, except for violations and defaults which individually or in the aggregate would not have a Material Adverse Effect with respect to clause (ii) of this paragraph.

(e) Each of the Company and the Subsidiaries owns, possesses or has obtained all licenses, permits, certificates, consents, orders, approvals and other authorizations from, and has made all declarations and filings with, all federal, state, local and other governmental authorities, all self-regulatory organizations and all courts and other tribunals, domestic or foreign, necessary to own or lease, as the case may be, and to operate the properties and to carry on the business of the Company and its Subsidiaries as is currently conducted and each of them is in full force and effect, except in each case where the failure to obtain licenses, permits, certificates, consents, orders, approvals and other authorizations, or to make all declarations and filings, would not, individually or in the aggregate, have a Material Adverse Effect, and none of the Company or the Subsidiaries has received any notice relating to revocation or modification of any such license, permit, certificate, consent, order, approval or other authorization, except where such revocation or modification would not, individually or in the aggregate, have a Material Adverse Effect.

(f) The authorized capital stock of the Company consists of 70,000,000 shares of Common Stock, and 10,000,000 shares of preferred stock, par value $0.01 per share. As of March 31, 2005, (i) 54,073,059 shares of Common Stock were issued and outstanding, (ii) no shares of preferred stock are issued and outstanding, (iii) 1,642,036 shares of Common Stock were reserved for issuance upon conversion of the Company's 3.25% Convertible Senior Notes due 2006, and (iv) 6,790,875 shares of Common Stock were reserved for issuance upon exercise of Company options under the Company's 1992 and 2002 Stock Option Plans (the "Stock Option Plans"). All of the issued shares of capital stock of the Company have been duly authorized and validly issued, are fully paid and nonassessable. The Company is not in violation of or subject to any preemptive or similar right that does or will entitle any person, upon the issuance or sale of any security, to acquire from the Company or any Subsidiary any other security of the Company or any Subsidiary or any security convertible into, or exercisable or exchangeable for ay other such security, except for such rights as may have been fully satisfied or waived.

(g) Except as set forth in the Private Placement Memorandum and except with respect to the rights contained in the Registration Rights Agreement, there are no contracts, agreements or other documents between the Company and any person granting such person the right to require the Company to file a registration statement under the Securities Act with respect to any securities of the Company owned or to be owned, directly or indirectly, by such person.

(h) The issued shares of capital stock of each Subsidiary have been duly authorized and validly issued, are fully paid and nonassessable and are owned of record and beneficially by the Company, either directly or through wholly owned subsidiaries, free and clear of any pledge, lien, encumbrance, security interest, restriction on voting or transfer, preemptive rights or other defect in title or any claim of any third party.

(i) Subject to receipt of shareholder approval for the Share Increase (as defined below), the shares of Common Stock of the Company issuable upon conversion of, or in satisfaction of the obligation to make certain interest payments on, the Notes (the "Note Shares") and issuable on exercise of the Warrants (the "Warrant Shares" and, together with the Note Shares, the "Shares") will be duly and validly issued, fully paid and nonassessable and not subject to preemptive or similar rights, and such Shares will be issued in compliance with all applicable federal and state securities laws, when issued, sold and delivered in accordance with the terms of the Notes and the Warrants, as the case may be. The Company currently has 8,915,000 shares of its Common Stock available for issuance, including upon conversion and exercise of the Securities, and, following the Share Increase, will reserve an additional 5,500,000 shares of its Common Stock for issuance upon conversion and exercise of the Securities.

(j) No Subsidiary is prohibited, directly or indirectly, from paying any dividends to the Company, from making any other distribution on such Subsidiary's capital stock, from repaying to the Company any loans or advances to such Subsidiary from the Company or from transferring any of such Subsidiary's property or assets to the Company or any other Subsidiary.

(k) Other than as set forth in paragraph (f) above, there are no outstanding (i) securities or obligations of the Company convertible into or exchangeable for any capital stock of the Company, (ii) warrants, rights or options to subscribe for or purchase from the Company any such capital stock or any such convertible or exchangeable securities or obligations, or (iii) obligations of the Company to issue such shares, any such convertible or exchangeable securities or obligations, or any such warrants, rights or options.

(l) Other than the Company's Common Stock, there are no outstanding securities of the Company registered under the Exchange Act, or listed on a national securities exchange or quoted in a U.S. automated inter-dealer quotation system.

(m) The consolidated financial statements (including the notes thereto) included in the Exchange Act Reports fairly present the financial position of the Company and its consolidated subsidiaries and the results of operations as of the dates and for the periods specified therein; since the date of the latest of such financial statements, there has been no change nor any development or event involving a prospective change which will have or would reasonably be expected to have a Material Adverse Effect; such financial statements have been prepared in accordance with generally accepted accounting principles in the United States applied on a consistent basis.

(n) Since the date of the latest audited financial statements included in the Exchange Act Reports, (i) the Company and each of the Subsidiaries has not incurred any material liability or obligation, direct or contingent, nor has the Company or any Subsidiary entered into any material transaction not in the ordinary course of business; (ii) the Company has not purchased any of its outstanding capital stock, nor declared, paid or otherwise made any dividend or distribution of any kind on its capital stock; and (iii) there has not been any material change in the capital stock, short-term debt or long-term debt of the Company and each of the Subsidiaries.

(o) The Company and each of the Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurances that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(p) The Company is in compliance in all material respects with the Sarbanes-Oxley Act of 2002.

(q) Ernst & Young LLP (the "Company Accountants"), who have certified the financial statements of the Company and whose report is incorporated by reference in the Private Placement Memorandum are independent public accountants; and the Company Accountants, whose report is incorporated by reference in the Private Placement Memorandum were independent accountants as required by the Exchange Act during the periods covered by the financial statements on which they reported.

(r) The Company has all necessary power and authority to execute and deliver this Agreement and each of the other Transaction Documents, and to perform its obligations hereunder and thereunder, to issue the Notes and the Warrants, and subject to the Share Increase, the Shares, and to consummate the other Transactions. The Transaction Documents and the Private Placement Memorandum have been duly authorized by all necessary corporate action of the Company and, when the Transaction Documents have been duly executed and delivered by the Company and the other party or parties thereto, will constitute legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, subject, as to the enforcement of remedies, to general equity principles and to applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally from time to time in effect, and except as rights to indemnity and contribution may be limited by federal or state securities laws.

(s) The Notes have been duly authorized by all necessary corporate action for issuance and sale pursuant to this Agreement and, when executed, authenticated, issued and delivered in the manner provided for in the Indenture

and sold and paid for as provided in this Agreement, the Notes will constitute legal, valid and binding obligations of the Company and enforceable against the Company in accordance with their terms, subject, as to the enforcement of remedies, to general equity principles and to applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors rights generally from time to time in effect.

(t) The Indenture meets the requirements for qualification and, upon the effectiveness of the Exchange Offer Registration Statement, will be qualified, under the Trust Indenture Act of 1939, as amended, and the rules and regulations of the Commission thereunder (collectively, the "Trust Indenture Act"); and each of the Transaction Documents will conform, when executed and delivered, in all material respects to the description thereof contained in the Private Placement Memorandum.

(u) The Warrants have been duly authorized by all necessary corporate action for issuance and sale pursuant to this Agreement and when executed, countersigned, issued and delivered in the manner provided for in the Warrant Agreement and sold and paid for as provided in this Agreement, the Warrants will constitute legal, valid and binding obligations of the Company and enforceable against the Company in accordance with their terms, subject, as to the enforcement of remedies, to general equity principles and to applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors rights generally from time to time in effect.

(v) The issuance, offering and sale of the Notes and the Warrants to the Purchaser by the Company, pursuant to this Agreement, and the compliance by the Company with the other provisions of the Transaction Documents herein and therein set forth do not and will not (i) require the consent, approval, authorization, order, registration or qualification of, or filing with, any governmental authority or court, or body or arbitrator having jurisdiction over the Company or any other third party, other than with respect to the Share Increase, or (ii) conflict with, result in a breach or violation of, or constitute a default under, (A) any indenture, mortgage, deed of trust, lease or other agreement or instrument to which the Company and its subsidiaries are a party or by which the Company or any of its properties is bound, (B) subject to the receipt of shareholder approval for the Share Increase, the charter or by-laws of the Company, (C) any material statute, rule or regulation of any governmental authority applicable to the Company or any of its properties or assets, or (D) any judgment, order or decree of any government, government instrumentality, agency, body or court having jurisdiction over the Company, its subsidiaries or any of their properties or assets.

(w) No legal or governmental proceedings or investigations are pending to which the Company or any of its subsidiaries is a party or to which the property of the Company or any of its subsidiaries is subject, and no such proceedings or investigations have been threatened against the Company or any of its subsidiaries in writing or with respect to any of its properties, except in each case for such proceedings or investigations that, if the subject of an unfavorable decision, ruling or finding, would not, singly or in the aggregate, result in a Material Adverse Effect.

(x) Neither the Company nor any of the Subsidiaries owns any "margin securities" as that term is defined in Regulation U of the Board of Governors of the Federal Reserve System (the "Federal Reserve Board"), and none of the proceeds of the sale of the Notes will be used, directly or indirectly, for the purpose of purchasing or carrying any margin security, for the purpose of reducing or retiring any indebtedness which was originally incurred to purchase or carry any margin security or for any other purpose which might cause any of the Notes to be considered a "purpose credit" within the meanings of Regulation T, U or X of the Federal Reserve Board.

(y) No relationship, direct or indirect, exists between or among the Company or any of the Subsidiaries, on the one hand, and the directors, officers, shareholders, customers or suppliers of the Company or any of the Subsidiaries on the other hand, that relates to the Transactions and that would be required by the Securities Act to be described in a prospectus were the Notes being issued and sold in a public offering, that is not set forth in the Company's Exchange Act Reports.

(z) The fair saleable value of the assets of the Company exceeds the amount that will be required to be paid on or in respect of its existing debts and other known liabilities (including known contingent liabilities) as they mature; the Company does not intend to, and does not believe that it will, incur debts beyond its ability to pay such debts as they mature; and upon the issuance of the Notes, the fair salable value of the assets of the Company will exceed the amount that will be required to be paid on or in respect of its existing debts and other liabilities (including known contingent liabilities) as they mature.

(aa) Subsequent to the Company's most recently filed Annual Report on Form 10-K, neither the Company nor any of the Subsidiaries has sustained any material loss or interference with their respective businesses or properties from fire, flood, hurricane, accident or other calamity, whether or not covered by insurance, or from any labor dispute or any legal or governmental proceeding and there shall not have been any material adverse change, or any development involving a prospective material adverse change, in the business, operations, properties, assets, liabilities, net worth or financial condition of the Company and the Subsidiaries, taken as a whole.

(bb) Other than for collateral pledged to Fleet National Bank pursuant to a certain pledge agreement dated May 27, 2003, the Company and each of the Subsidiaries have good and marketable title in fee simple to all items of real property and marketable title to all personal property owned by each of them, free and clear of any pledge, lien, encumbrance, security interest or other defect or claim of any third party, except such as do not materially and adversely affect the value of such property and do not interfere with the use made or proposed to be made of such property by the Company or such Subsidiaries, and any real property and buildings leased by the Company or such Subsidiaries are held under valid, subsisting and enforceable leases, with such exceptions as are not material and do not interfere with the use made or proposed to be made of such property and buildings by the Company or such

Subsidiaries.

(cc) ERISA:

(i) Definitions:

"Code" means the United States Internal Revenue Code of 1986, as amended, and the regulations promulgated and the rulings issued thereunder.

"ERISA" means the United States Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated and rulings issued thereunder.

"ERISA Affiliate," means each trade or business (whether or not incorporated) that would be treated together with the Company as a single employer under Title IV or Section 302 of ERISA or Section 412 of the Code.

"ERISA Event" means (i) the occurrence of a "reportable event" described in Section 4043 of ERISA (other than an event with respect to which the 30 day notice requirement has been waived), or (ii) the provision or filing of a notice of intent to terminate a Plan (other than in a standard termination within the meaning of Section 4041 of ERISA) or the treatment of a Plan amendment as a distress termination under Section 4041 of ERISA, or (iii) the institution of proceedings to terminate a Plan by the PBGC, or (iv) the existence of any "accumulated funding deficiency" or "liquidity shortfall" (within the meaning of Section 302 of ERISA or Section 412 of the Code), whether or not waived, or the filing of an application pursuant to Section 412(e) of the Code or Section 304 of ERISA for any extension of an amortization period, or (v) the receipt of notice by the Company or any ERISA Affiliate that any Multiemployer Plan may be terminated, partitioned or reorganized or that any Multiple Employer Plan may be terminated, or (vi) the occurrence of any transaction or event which might reasonably be expected to constitute grounds for the imposition of liability under ERISA.

"Multiemployer Plan" means a "multiemployer plan" as defined in Section 4001(a)(3) of ERISA.

"Multiple Employer Plan" means an employee benefit plan described in Section 4063 of ERISA.

"Plan" means an employee benefit plan (within the meaning of Section 3(3) of ERISA) other than a Multiemployer Plan, sponsored or maintained by the Company or any of its ERISA Affiliates, or with respect to which the Company or any of its ERISA Affiliates could be subject to any liability under Title IV or Section 302 of ERISA or Section 412 of the Code.

"Underfunding" means, with respect to any Plan subject to Title IV of ERISA, the excess, if any, of the "projected benefit obligations"

(within the meaning of Statement of Financial Accounting Standards 87) under such Plan (determined using the actuarial assumptions used for purposes of calculating funding requirements in the most recent actuarial report for such plan) over the fair market value of the assets held under the Plan.

(ii) No "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) or ERISA Event has occurred or is reasonably expected to occur with respect to any Plan which could reasonably be expected to have a Material Adverse Effect; the Company, its ERISA Affiliates and each such Plan is in compliance in all material respects with applicable law, including ERISA and the Code; the Company and each of its ERISA Affiliates have not incurred and do not expect to incur liability under Title IV of ERISA with respect to the termination, or withdrawal from, any Plan or Multiemployer Plan for which the Company or any of the Subsidiaries would have any liability; and each Plan that is intended to be qualified under Section 401(a) of the Code has filed for or received a favorable determination letter from the Internal Revenue Service and has not been amended in any way that could reasonably be expected to cause the loss of such qualification. No Underfunding exists with respect to any Plan.

(iii) None of the Company or any of its ERISA Affiliates contributes to or has any obligation to contribute to any Multiemployer Plans and Multiple Employer Plans.

(iv) No labor dispute with the employees of the Company and any of the Subsidiaries exists or is threatened or imminent which could result in a Material Adverse Effect.

(dd) The Company and each of the Subsidiaries own or otherwise possess the right to use all patents, trademarks, service marks, trade names and copyrights, all applications and registrations for each of the foregoing, and all other proprietary rights and confidential information used in the conduct of their respective businesses as currently conducted; and neither the Company nor any of the Subsidiaries has received any notice, or is otherwise aware, of any infringement of or conflict with the rights of any third party with respect to any of the foregoing which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would result in a Material Adverse Effect. All material licenses pursuant to which the Company or any Subsidiary uses intellectual property owned by a third party or permits a third party to use the intellectual property of the Company or any Subsidiary are in full force and effect, except as would not result in a Material Adverse Effect.

(ee) The Company and each of the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts and with such deductibles as are prudent and customary in the businesses in which they are engaged; neither the Company nor any such Subsidiary has been refused any insurance coverage sought or applied for; and neither the Company nor any such Subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such

coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not have a Material Adverse Effect.

(ff) Environmental Matters:

(i) The Company and each of the Subsidiaries are and have been in compliance with all applicable laws, statutes, ordinances, rules, regulations, orders, judgments, decisions, decrees, standards, and requirements ("Legal Requirements") relating to: human health and safety; pollution; management, disposal or release of any chemical substance, product or waste; and protection, cleanup, remediation or corrective action relating to the environment or natural resources ("Environmental Law");

(ii) The Company and each of the Subsidiaries have obtained and are in compliance with the conditions of all permits, authorizations, licenses, approvals, authorizations, and variances necessary under any Environmental Law for the continued conduct in the manner now conducted of the business of the Company and each of such Subsidiaries ("Environmental Permits");

(iii) There are no past or present conditions or circumstances, including but not limited to pending changes in any Environmental Law or Environmental Permit, that are likely to interfere with the conduct of the business of the Company and each of the Subsidiaries in the manner now conducted or which would interfere with compliance with any Environmental Law or Environmental Permit; and

(iv) There are no past or present conditions or circumstances at, or arising out of, the business, assets and properties the Company and each of the Subsidiaries or any formerly leased, operated or owned businesses, assets or properties of the Company and any of the Subsidiaries, including but not limited to on-site or off-site disposal or release of any chemical substance, product or waste, which may give rise to: (i) liabilities or obligations for any cleanup, remediation or corrective action under any Environmental Law, (ii) claims arising under any Environmental Law for personal injury, property damage, or damage to natural resources, (iii) liabilities or obligations incurred by the Company and the Subsidiaries to comply with any Environmental Law, or (iv) fines or penalties arising under any Environmental Law;

except for any noncompliance or conditions or circumstances that, singly or in the aggregate, would not result in a Material Adverse Effect.

(gg) The Company and each of the Subsidiaries have filed all federal and state, and material foreign and local, tax returns that are required to be filed or have requested extensions thereof and have paid all taxes required to be paid by them and any other assessment, fine or penalty levied against them, to the extent that any of the foregoing is due and payable, except for any such assessment, fine or penalty that is currently being contested in good faith and

for which the Company retains adequate reserves. There is no action, suit, proceeding, investigation, audit or claim now pending or, to the Company's knowledge, threatened by any authority regarding any taxes relating to the Company or any Subsidiary which, when considered individually or in the aggregate, would result in a Material Adverse Effect.

(hh) Neither the Company nor any of the Subsidiaries is, or immediately after the sale of the Securities and the application of the proceeds from such sale will be, an "investment company" or a company "controlled by" an "investment company", within the meaning of the Investment Company Act of 1940, as amended (the "Investment Company Act"), and the rules and regulations of the SEC thereunder, without taking account of any exemption under the Investment Company Act arising out of the number of holders of the securities of the Company.

(ii) Neither the Company nor any of the Subsidiaries is a "holding company" or a "subsidiary company" of a holding company or its "affiliate" within the meaning of the Public Utility Holding Company Act of 1934, as amended.

(jj) Neither the Company nor, to its knowledge, any of its Affiliates, nor to its knowledge any person acting on its or their behalf, has, directly or indirectly, made offers or sales of any security, or solicited offers to buy any security, under circumstances that would require the registration of either of the Securities or the Shares under the Securities Act. As used in this Purchase Agreement, "Affiliate" means, with respect to any specified person, any other person that, directly or indirectly, is in control of, is controlled by, or is under common control with such specified person. For purposes of this definition, control of a person means the power, direct or indirect, to direct or cause the direction of the management and policies of such person whether by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

(kk) Neither the Company, nor to its knowledge any of its Affiliates, nor to its knowledge any person acting on its or their behalf has engaged in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with any offer or sale of the Securities in the United States.

(ll) Neither the Company, nor to its knowledge any of its Affiliates, nor to its knowledge any person acting on its or their behalf has engaged in any directed selling efforts with respect to the Securities, and each of them has complied with the offering restrictions requirement of Regulation S under the Securities Act ("Regulation S"). Terms used in this paragraph have the meanings given to them by Regulation S.

(mm) Neither Immunomedics, B.U. (Netherlands) nor Immunomedics GmbH (Germany) has any indebtedness except for trade debt incurred in the ordinary course of business.

(nn) Neither the Company nor to its knowledge any of its Affiliates

(as defined in Rule 501(b) of Regulation D under the Securities Act ("Regulation D")) has taken, directly or indirectly, any action designed to cause or result in, or which has constituted or which might reasonably be expected to cause or result in, stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities or the Shares; nor has the Company or any Affiliate of the Company paid or agreed to pay to any person any compensation for soliciting another to purchase any securities of the Company (except as contemplated by this Agreement).

(oo) Assuming the accuracy of the representations and warranties of the Purchaser in Section 4 hereof and compliance by the Purchaser with the procedures set forth in Section 4 hereof, it is not necessary in connection with the offer, sale and delivery of the Securities to the Purchaser in the manner contemplated by this Agreement to register any of the Securities or the Shares under the Securities Act or to qualify the Indenture under the Trust Indenture Act of 1939, as amended.

(pp) The Company has not provided to the Purchaser any material non-public information or other information which, according to applicable law, rule or regulation, was required to have been disclosed publicly by the Company but which has not been so disclosed, other than the material terms and conditions of the transactions contemplated by this Agreement, which such terms and conditions shall be publicly disclosed on the date hereof.

(qq) Other than the Placement Agency Agreement dated the date hereof among the Company and Lazard Freres & Co. LLC and C.E. Unterberg, Towbin, LLC (the "Placement Agents") and the Letter Agreement dated June 28, 2004 between the Company and RBC Capital Markets Corporation, there are no contracts, agreements or understandings between the Company and any person that would give rise to a valid claim against the Company for a brokerage commission, finder's fee or other like payment in connection with the transactions contemplated by this Agreement, or to the Company's knowledge, any arrangements, agreements, understandings, payments or issuance with respect to the Company or any of its officers, directors, stockholders, partners, employees, the Subsidiaries or Affiliates that may affect the compensation as determined by the NASD.

(rr) None of the Company or any of its Affiliates has directly or indirectly sold, offered for sale, solicited offers to buy or otherwise negotiated in respect of any "security" (as defined in the Securities Act) which is, or would be, integrated with the issuance and sale, as applicable, of any of the Securities or the Shares in a manner that would require the registration under the Securities Act of any of the Securities or the Shares. The Company has no intention of making, and will not make, an offer or sale of such securities, for a period of six months after the date of the Agreements, which would be required to be integrated into this offering in a manner that would require the registration under the Securities Act of any of the Securities or the Shares, except for the offering of Securities as contemplated by this Agreement, the other Purchase Agreements and the Registration Rights Agreement. As used in this paragraph, the terms "offer" and "sale" have the meanings specified in Section 2(a)(3) of the Securities Act.

(ss) Neither the Company nor any Subsidiary, nor any director, officer, agent, employee or other person acting on behalf of the Company or any Subsidiary has, in the course of acting for, or on behalf of, the Company: (i) directly or indirectly used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expenses relating to political activity; (ii) directly or indirectly made any direct or indirect unlawful payment to any foreign or domestic government or party official or employee from corporate funds; (iii) violated or is in violation of any provision of the U.S. Foreign Corrupt Practices Act of 1977, as amended, or any similar treaties of the United States; or (iv) directly or indirectly made any bribe, rebate, payoff, influence payment, kickback or other unlawful payment to any foreign or domestic government or party official or employee.

Each certificate signed by any officer of the Company and delivered to the Purchaser or its counsel shall be deemed to be a representation and warranty by the Company to the Purchaser as to the matters covered thereby.

The Company has not entered, and will not enter, into any arrangement or agreement with respect to the distribution of the Securities, except for this Agreement, the Other Purchase Agreements and the Registration Rights Agreement, and the Company agrees not to enter into any such arrangement or agreement.

3. Purchase, Sale and Delivery of the Notes and the Warrants.

(a) On the basis of the representations, warranties, agreements and covenants herein contained and subject to the terms and conditions herein set forth, the Company agrees to issue and sell $_____ principal amount of Firm Notes, Firm Warrants to purchase [_____] shares of Common Stock, and the Purchaser agrees to purchase (the "Purchase") from the Company $_____ principal amount of Firm Notes and Firm Warrants to purchase [_____] shares of Common Stock.

(b) At the closing of the Purchase, Securities issued and sold to QIBs (as defined below) will be issued in global, registered form and Securities issued to Institutional Accredited Investors (as defined below) will be issued in registered form, in each case, in such denomination or denominations and registered in such name or names as the Purchaser shall request upon notice to the Company at least 48 hours prior to the Closing Date, as the case may be, as instructed by the Purchaser. Each Security shall be delivered by or on behalf of the Company to the Trustee, against payment by the Purchaser of the purchase price therefor by wire transfer in same-day funds (the "Wired Funds") to the account of the Company. The closing of the Purchase shall be made at the offices of Cadwalader, Wickersham & Taft LLP, One World Financial Center, New York, New York 10281, at 10:00 a.m. (New York time), on April 29, 2005, or at such other place, time or date as the Purchaser and the Company may agree, such time and date of delivery against payment being herein referred to as the "First Closing Date". The Purchaser shall on April 28, 2005 wire funds to the Escrow Account to purchase the Securities on the First Closing Date. The Company shall, upon receipt of the Purchaser's written consent, authorize the Escrow Agent to release the Purchaser's Wired Funds for the Closing. In the event the Closing

does not occur as provided herein, the Company will direct the Escrow Agent to within three Business Days of the termination of this Agreement to return to the Purchaser the amount tendered.

(c) In addition, the Company grants to the Purchaser an option to purchase up to $__ principal amount of Option Notes and Option Warrants to purchase up to [_____] shares of Common Stock. Such option is exercisable as provided in this Section 3. The option will expire 120 days after the First Closing Date and may be exercised in whole or in part from time to time by written notice being given to the Company and to the Placement Agents by the Purchaser. Such notice shall set forth the aggregate principal amount and/or number of Option Securities as to which the option is being exercised, the names in which the Option Securities are to be registered, the denominations in which the Option Securities are to be issued and the date and time, as determined by the Purchaser, when the Option Securities are to be delivered; provided, however, that this date and time shall not be earlier than the First Closing Date nor earlier than the second business day after the date on which the option shall have been exercised nor later than the fifth business day after the date on which the option shall have been exercised. The Option Notes shall accrue interest as of the First Closing Date, and the purchase price of the Option Notes shall be increased to include accrued interest from the First Closing Date to the date prior to the date of issuance. The date and time the Option Notes are delivered are sometimes referred to as an "Option Closing Date" and the First Closing Date and any Option Closing Date are sometimes each referred to as a "Closing Date".

(d) Closing of and payment for the Option Securities shall be made at the place specified in paragraph (b) of this Section 3 (or at such other place as shall be determined by agreement between the Purchaser and the Company) at 10:00 a.m., New York City time, on such Option Closing Date. On such Option Closing Date, the Company shall deliver or cause to be delivered the certificates representing the Option Securities to the Purchaser against payment to or upon the order of the Company of the purchase price by wire transfer in immediately available funds. Upon Closing, the Option Securities shall be registered in such names and in such denominations as the Purchaser shall request in the aforesaid written notice. For the purpose of expediting the checking and packaging of the certificates for the Option Securities, the Company shall make the certificates representing the Option Securities available for inspection by the Purchaser in New York, New York, not later than 2:00 p.m., New York City time, on the business day prior to such Option Closing Date.

4. Offering of the Notes and the Warrants and the Purchaser's Representations, Warranties and Covenants. The Purchaser represents and warrants to and agrees with the Company that:

(a) Due Authorization. All required corporate action on the part of the Purchaser, its officers, directors and stockholders necessary for the authorization, execution and delivery of, and the performance of all obligations of the Purchaser under this Purchase Agreement has been taken prior to the date hereof. This Purchase Agreement shall constitute valid and binding obligations of the Purchaser, enforceable in accordance with its terms, subject to the

limitations of enforcement of remedies applicable to bankruptcy, insolvency, moratorium, reorganization and similar laws affecting creditors' rights generally and to general principles of equity.

(b) Investment. The Purchaser is acquiring the Securities for investment for its own account, and not with a view to, or for resale in connection with, any distribution thereof, and it has no present intention of selling or distributing any such Securities; provided, however, that by making this representation, the Purchaser does not agree to hold any of the Securities for any minimum or other specific term and reserves the right to dispose of the Securities at any time in accordance with or pursuant to an effective registration statement under the Securities Act or an exemption under the Securities Act. The Purchaser understands that the Securities have not been registered under the Securities Act, any state security or "Blue Sky" laws, or any foreign securities laws.

(c) No Public Market. The Purchaser understands that no public market now exists in the United States for the Securities and that the Company at this time has no intention to create such a market.

(d) Investor Qualification. The Purchaser is either (i) a "Qualified Institutional Buyer" or "QIB" as defined in Rule 144A under the Securities Act or (ii) an institutional investor that is an "Accredited Investor" as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act, an "Institutional Accredited Investor". The Purchaser represents and warrants to the Company that: (i) the Purchaser is knowledgeable, sophisticated and experienced in making, and is qualified to make, decisions with respect to investments in securities representing an investment decision like that involved in the purchase of the Securities, and has requested, received, reviewed and considered all information it deems relevant in making an informed decision to purchase the Securities; (ii) the Purchaser is acquiring the Securities in the ordinary course of its business and for its own account for investment only and with no present intention of distributing any of such Securities or any arrangement or understanding with any other persons regarding the distribution of such Securities (this representation and warranty not limiting the Purchaser's right to sell pursuant to the Registration Rights Agreement); (iii) the Purchaser has, in connection with its decision to purchase the Securities, relied solely upon the Private Placement Memorandum, and the representations and warranties of the Company contained herein; (iv) the Purchaser, or its representatives, if any, have been furnished with, or have had access to, all materials relating to the business, finances and operations of the Company (including all reports filed with the Commission) and materials relating to the offer and sale of the Securities which have been requested by such Purchaser, if any; such Purchaser, or its representatives, if any, have been afforded the opportunity to ask questions of the Company; and neither such inquiries nor any other due diligence investigations conducted by the Purchaser, or its representatives, if any, shall modify, amend or affect the Purchaser's right to rely on the Company's representations and warranties contained in Section 2 above; and (v) the Purchaser understands that its investment in the Securities involves a significant degree of risk including a risk of total loss of Purchaser's investment, and the Purchaser is fully aware of and understands all the risk

factors related to the Purchaser's purchase of the Securities, including, but not limited to, those set forth under the caption "Risk Factors" in the Private Placement Memorandum.

(e) Institutional Accredited Investors. Each Purchaser that is an Institutional Accredited Investor has submitted to the Company a complete and executed "Investment Letter" in the form attached hereto as Exhibit A. The Institutional Accredited Investor hereby certifies that it is an "Institutional Accredited Investor", as that term is defined under as defined in Rules 501(a)(1), (2), (3) or (7) under the Securities Act and all information which the Institutional Accredited Investor has provided to the Company in the Investment Letter is correct and complete as of the date set forth thereon.

(f) Transfer of the Securities and the Shares.

(i) The Purchaser understands and acknowledges that the Securities are being offered in transactions not involving any public offering within the meaning of the Securities Act, that the Securities and the Shares have not been registered under the Securities Act or any other securities laws. If in the future the Purchaser decides to resell, pledge or otherwise transfer any Securities that it purchases hereunder or Shares issuable upon conversion or exercise of the Securities, as the case may be, those Securities or Shares, absent an effective registration statement under the Securities Act, may be resold, pledged or transferred only (a) pursuant to an exemption from registration under the Securities Act provided by Rule 144 thereunder (if available) or (b) pursuant to another applicable exemption from the registration requirements of the Securities Act, and in each of cases (a) and (b), in accordance with any applicable securities laws of the states and other jurisdictions of the United States. The Purchaser will, and each subsequent holder of any of such Securities or Shares that it purchases in this offering is required to, notify any subsequent purchaser of such Securities or Shares from it or subsequent holders, as applicable, of the resale restrictions referred to in (i) above.

(ii) The Purchaser understands that the Securities are being offered in transactions not involving any public offering within the meaning of the Securities Act, that the Securities have not been and, except as provided in the Registration Rights Agreement (with respect to the Notes and the Shares) will not be registered under the Securities Act. If in the future, the Purchaser decides to offer, resell, pledge or otherwise transfer any of the Securities or Shares, such Securities or Shares may be offered, resold, pledged or otherwise transferred only (a) in the United States to a person whom the seller reasonably believes is a Qualified Institutional Buyer in a transaction meeting the requirements of Rule 144A under the Securities Act ("Rule 144A"), (b) pursuant to an exemption from registration under the Securities Act provided by Rule 144 thereunder (if available), (c) to an Institutional Accredited Investor in a transaction exempt from the registration requirements of the Securities Act, or (d) pursuant to an effective registration statement under the Securities Act, in each of cases (a) through (d) in accordance with any applicable

securities laws of the states and other jurisdictions of the United States. The Purchaser will, and each subsequent holder is required to, notify any subsequent purchaser of the Notes from it of the resale restrictions referred to in (1) above.

(iii) The Purchaser understands that Shares issued prior to the effectiveness of the Registration Statement will bear a legend to the following effect unless the Company determines otherwise in compliance with applicable law:

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

BY ACQUISITION HEREOF, THE HOLDER:

(1) REPRESENTS THAT IT IS (A) A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT, OR (B) AN INSTITUTIONAL "ACCREDITED INVESTOR" AS DEFINED IN RULE 501(a)(1), (2), (3) OR (7) UNDER THE SECURITIES ACT;

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

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

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

IN CONNECTION WITH ANY TRANSFER OF THE SECURITY EVIDENCED HEREBY WITHIN TWO YEARS AFTER THE ORIGINAL ISSUANCE OF SUCH SECURITY (OTHER THAN A TRANSFER PURSUANT TO CLAUSE 3(D) ABOVE), THE HOLDER MUST CHECK THE APPROPRIATE BOX SET FORTH ON THE REVERSE HEREOF RELATING TO THE MANNER OF

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

(iv) The Purchaser understands that the Notes will bear a legend to the following effect unless the Company determines otherwise in compliance with applicable law:

THIS SECURITY (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION, AND THIS SECURITY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THIS SECURITY IS HEREBY NOTIFIED THAT THE SELLER OF THIS SECURITY MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER.

BY ACQUISITION HEREOF, THE HOLDER:

(1) REPRESENTS THAT IT IS (A) A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT; OR (B) AN INSTITUTIONAL "ACCREDITED INVESTOR" AS DEFINED IN RULE 501(A)(1), (2), (3) OR (7) UNDER THE SECURITIES ACT OF 1933;

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

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

(4) AGREES THAT IT WILL DELIVER TO EACH PERSON TO WHOM THE SECURITY

EVIDENCED HEREBY IS TRANSFERRED (OTHER THAN A TRANSFER PURSUANT TO CLAUSE 3(E) ABOVE) A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND.

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

THIS SECURITY IS ISSUED WITH ORIGINAL ISSUE DISCOUNT FOR PURPOSES OF SECTIONS 1271, 1272 AND 1273 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. THE ISSUE PRICE OF THIS SECURITY IS $1,000 PER PRINCIPAL AMOUNT OF $1,000 AT MATURITY. THE ISSUE DATE OF THIS SECURITY IS APRIL 29, 2005. THE YIELD-TO-MATURITY OF THIS SECURITY IS 5% PER ANNUM, COMPOUNDED SEMI-ANNUALLY.

THE HOLDER OF THIS SECURITY IS ENTITLED TO THE BENEFITS OF A REGISTRATION RIGHTS AGREEMENT (AS SUCH TERM IS DEFINED IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF) AND, BY ITS ACCEPTANCE HEREOF, AGREES TO BE BOUND BY AND TO COMPLY WITH THE PROVISIONS OF SUCH REGISTRATION RIGHTS AGREEMENT.

AT THE INITIAL SALE OF SECURITIES, A PORTION OF THE PROCEEDS OF THE SALE OF THE SECURITIES WILL BE DEPOSITED INTO ESCROW PURSUANT TO AN ESCROW AGREEMENT DATED THE DATE THEREOF BETWEEN THE COMPANY AND JPMORGAN CHASE BANK, AS ESCROW AGENT. SUCH ESCROW AGREEMENT PROVIDES FOR THE RELEASE OF SUCH ESCROWED FUNDS PURSUANT ITS TERMS.

(v) The Purchaser understands that no United States federal or state agency or any other government or governmental agency has passed upon or made any recommendation or endorsement of the Securities or the fairness or suitability of the investment in the Securities nor have such authorities passed upon or endorsed the merits of the offering of the Securities.

(vi) The Purchaser acknowledges that the Company and others will rely upon the truth and accuracy of the foregoing acknowledgements, representations and agreements. The Purchaser agrees that if any of the acknowledgements, representations or agreements the Purchaser is deemed to have been made by its purchase of Note Shares or Notes is no longer accurate, it shall promptly notify the Company. If the Purchaser is

purchasing Shares or Notes as a fiduciary or agent for one or more investor accounts, the Purchaser represents that it has sole investment discretion with respect to each of those accounts and full power to make the above acknowledgements, representations and agreements on behalf of each account.

(g) Regulation M Compliance. Neither the Purchaser nor any of its Affiliates will take, directly or indirectly, any action designed to cause or result in, or which has constituted or which might reasonably be expected to cause or result in, stabilization or manipulation of the price of any security of the Company or any hedging transaction with regard to the securities of the Company or the economic interest in such securities through hedging arrangements, derivative transactions or otherwise, where such transaction or arrangement is in violation of Regulation M under the Exchange Act.

5. Additional Covenants of the Company. The Company covenants and agrees with the Purchaser that:

(a) The Company will arrange for the qualification of the Securities for sale by the Purchaser under the laws of such jurisdictions as the Purchaser may designate and will maintain such qualifications in effect so long as required for the sale of the Securities by the Purchaser; provided, however, that the Company will not be required to qualify to do business in any jurisdiction in which it is not then so qualified, to file any general consent to service of process or to take any other action which would subject it to general service of process or to taxation in any such jurisdiction where it is not then so subject. The Company will promptly advise the Purchaser of the receipt by the Company of any notification with respect to the suspension of the qualification of the Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose.

(b) The Company will do and perform all things reasonably required to be done and performed by it under the Transaction Documents prior to or after the Closing Date and to satisfy all conditions precedent on its part to the obligations of the Purchaser to purchase and accept delivery of the Securities.

(c) None of the Company or any of its Affiliates, nor any person acting on its or their behalf (other than the Purchaser or any of its Affiliates, as to whom the Company expresses no opinion), will, directly or indirectly, make offers or sales of any security, or solicit offers to buy any security, under circumstances that would require the immediate registration of the Securities under the Securities Act except as contemplated by the Registration Rights Agreement. The Company has no intention of making, and will not make, an offer or sale of such securities, for a period of six months after the date of this Agreement, except for the offering of Securities as contemplated by this Agreement, the Other Purchase Agreements and the Registration Rights Agreement. As used in this paragraph, the terms "offer" and "sale" have the meanings specified in Section 2(a)(3) of the Securities Act.

(d) None of the Company or any of its Affiliates, nor any person acting on its or their behalf will engage in any form of general solicitation or

general advertising (within the meaning of Regulation D) in connection with any offer or sale of the Securities.

(e) So long as any of the Securities are "restricted securities" within the meaning of Rule 144(a)(3) under the Securities Act, at any time that the Company is not then subject to Section 13 or 15(d) of the Exchange Act, the Company will provide at its expense to each holder of the Securities and to each prospective purchaser (as designated by such holder) of the Securities, upon the request of such holder or prospective purchaser, any information required to be provided by Rule 144A(d)(4) under the Securities Act. This covenant is intended to be for the benefit of the holders, and the prospective purchasers designated by such holders from time to time, of the Securities.

(f) The Company will apply the net proceeds from the sale of the Securities (i) to repay at maturity or repurchase prior to maturity its existing 3.25% Convertible Senior Notes due 2006 or exchange $10 million of the Notes for its outstanding 3.25% Convertible Senior Notes due 2006 and (ii) in combination with currently available funds, to fund its ongoing business operations and other general corporate purposes, including, its research and clinical development programs (including clinical trials in the United States and elsewhere), repaying existing indebtedness or other borrowings and working capital.

(g) Prior to Closing, the Company shall cause the directors and executive officers of the Company set forth on Schedule 1 hereto to enter into lock-up agreements, in the form attached hereto as Exhibit C, pursuant to which such directors and officers agree, for the longer of 120 days from the date of the First Closing or the date on which a registration statement for the registration of the Notes and the Shares is declared effective by the Securities and Exchange Commission, not to offer, sell, contract to sell, pledge, grant any option to purchase, make any short sale or otherwise dispose of, any of their shares of Common Stock of the Company.

(h) For the longer of 120 days from the date hereof or when the Notes/ Shares are registered (the "Lock-Up Period"), the Company will not, directly or indirectly, (1) announce an offering of, or file a registration statement with the Commission relating to, equity securities of the Company (other than the offering and registration contemplated by this Agreement) or offer for sale, sell, pledge or otherwise dispose of (or enter into any transaction or device which is designed to, or could be expected to, result in the disposition or purchase by any person at any time in the future of) any shares of Common Stock or securities convertible into or exchangeable for shares of Common Stock other than the Notes, Note Shares and shares of Common Stock to be issued in the ordinary course under the Company's employee benefit plans, qualified stock option plans or other employee compensation plans existing, on the date hereof or pursuant to currently outstanding options, warrants or rights), or sell or grant options, warrants or rights with respect to any shares of Common Stock, securities convertible into or exchangeable for Common Stock or substantially similar securities (other than the grant of options, warrants or rights that are currently authorized pursuant to option plans existing on the date hereof), or (2) enter into any swap or other derivatives transaction that

transfers to another, in whole or in part, any of the economic benefits or risks of ownership of such shares of Common Stock, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of Common Stock or other securities, in cash or otherwise. Notwithstanding anything to the contrary contained herein, the Company may during the Lock-Up Period, in the discretion of the Company's Board of Directors, issue or grant Common Stock, Options or Convertible Securities to non-Affiliate third-parties in connection with commercial licensing arrangements or for bona fide services.

(i) The Company agrees to allow any party that has signed an agreement to purchase the Securities from the Purchaser reasonable access to senior executives of the Company for purposes of due diligence investigation of the Company.

(j) The Company agrees that it will enter into the same form of Agreement with each of the Purchasers and that it will not provide more favorable representations, warranties, covenants, agreements or conditions to any Purchaser without giving the same benefits to the Purchaser.

(k) Neither the Company nor any of its Affiliates will take, directly or indirectly, any action designed to cause or result in, or which has constituted or which might reasonably be expected to cause or result in, stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities.

(l) The Company and the Subsidiaries will conduct its or their operations in a manner that will not subject the Company or any of the Subsidiaries to registration as an investment company under the Investment Company Act.

(m) Neither the Company, nor any of its Affiliates, nor any person acting on its or their behalf will engage in any directed selling efforts with respect to the Securities, and each of them will comply with the offering restrictions requirement of Regulation S. Terms used in this paragraph have the meanings given them by Regulation S.

(n) Each Note will bear a legend substantially to the following effect until such legend shall no longer be necessary or advisable because the Notes are no longer subject to the restrictions on transfer described therein:

> THIS SECURITY (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION, AND THIS SECURITY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THIS SECURITY IS HEREBY NOTIFIED THAT THE SELLER OF THIS SECURITY MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER.
>
> BY ACQUISITION HEREOF, THE HOLDER:

(1) REPRESENTS THAT IT IS (A) A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT; OR (B) AN INSTITUTIONAL "ACCREDITED INVESTOR" AS DEFINED IN RULE 501(A)(1), (2), (3) OR (7) UNDER THE SECURITIES ACT OF 1933;

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

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

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

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

THIS SECURITY IS ISSUED WITH ORIGINAL ISSUE DISCOUNT FOR PURPOSES OF SECTIONS 1271, 1272 AND 1273 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. THE ISSUE PRICE OF THIS SECURITY IS $1,000 PER PRINCIPAL AMOUNT OF $1,000 AT MATURITY. THE ISSUE DATE OF THIS SECURITY IS APRIL 29, 2005. THE YIELD-TO-MATURITY OF THIS SECURITY IS 5% PER ANNUM, COMPOUNDED SEMI-ANNUALLY.

THE HOLDER OF THIS SECURITY IS ENTITLED TO THE BENEFITS OF A REGISTRATION RIGHTS AGREEMENT AND AN ESCROW AGREEMENT (AS SUCH TERMS ARE DEFINED IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF) AND, BY ITS ACCEPTANCE HEREOF, AGREES TO BE BOUND BY AND TO COMPLY WITH THE PROVISIONS OF SUCH REGISTRATION RIGHTS AGREEMENT AND AN ESCROW AGREEMENT.

(o) The Company will use its best efforts to obtain stockholder approval for the authorization of at least 5,500,000 additional shares of its Common Stock, (the "Share Increase") at a special meeting of stockholders called for such purpose. In the event that the Company has not received such shareholder approval within 120 days following the First Closing Date, additional interest shall accrue on the Notes on the terms, and in the manner set forth in the Indenture under which the Notes are issued. In the event that the Share Increase has not been obtained by January 15, 2007, Purchaser shall have the right to put their Notes to the Company, in whole or in part, on the terms and in the manner set forth in the Indenture under which the Notes are issued.

(p) The Company will use its best efforts to obtain prior to the Closing Date, an accountants' comfort letter from Ernst & Young, LLP (i) confirming that they are a registered public accounting firm within the meaning of the Securities Act and are in compliance with the applicable requirements relating to the qualification of accountants under Rule 2-01 of Regulation S-X of the Commission and (ii) stating, as of the date hereof (or, with respect to matters involving changes or developments since the respective dates as of which specified financial information is given in the Private Placement Memorandum, as of a date not more than five days prior to the date hereof), the conclusions and findings of such firm with respect to the financial information and other matters ordinarily covered by accountants' "comfort letters" to initial purchasers in Rule 144A underwritten offerings.

(q) Other than issuances of Option Securities, if the Company proposes to issue additional securities of the Company, the Company shall deliver to each Holder a written notice (the "Preemptive Rights Notice") of such proposed issuance at least ten (10) days prior to the date of the proposed issuance, which notice shall include (i) the proposed issuance date, (ii) the material terms and conditions of the securities proposed to be issued and (iii) the estimated issue price per security. Each Holder shall have the option, exercisable within five days following delivery of the Preemptive Rights Notice by delivery of written notice to the Company, to subscribe for not more than such Holder's Percentage Interest of the securities to be issued at the price per security set forth in the Preemptive Rights Notice and on terms not materially less beneficial to the purchaser than those set forth in the Preemptive Rights Notice. For purposes of this Section 5(q), a Holder's Percentage Interest means the percentage of the Company's equity determined by dividing the sum of the principal amount of the Holder's Notes (on an as if converted to Common Stock basis) plus Warrants (on an as if exercised basis) by the number of shares of the Company outstanding on a fully-diluted basis (fully-diluted basis includes all issued and outstanding Common Stock and shares underlying issued and outstanding options, warrants, convertible securities and the like).

Notwithstanding the foregoing, if the Company's Board of Directors determines that time is of the essence in connection with any such issuance, the Company may complete such issuance prior to offering the Holders the preemptive rights set forth in this Section 5(q); provided that following the exercise of such preemptive rights in accordance with this Section 5(q), (i) any purchasers will be required to sell securities so issued to any Holder exercising its rights hereunder as is required to give each such Holder the benefit of the rights contained herein or (ii) the Company shall issue such additional securities to any Holder exercising its rights as is required to give each such Holder the benefit of the rights contained herein.

This Sections 5(q) shall not apply to (i) the issuance or grant of equity securities of the Company to officers or employees of the Company or any subsidiary thereof pursuant to any management equity rights plan or other equity-based employee benefits plan or arrangement that has been duly authorized by the Company's Board of Directors or a committee thereof; (ii) the issuance or sale of equity securities of the Company in connection with third-party commercial licensing arrangements or for bona fide services provided to the Company (other than to or by an Affiliate of the Company) that has been duly authorized by the Company's Board of Directors; (iii) the issuance or sale of equity securities of the Company in connection with an acquisition of an entity or business (other than an Affiliate of the Company) that has been duly authorized by the Company's Board of Directors; (iv) the issuance of shares of Common Stock in connection with the conversion or exercise of securities that have been issued in accordance with this Section 5(q); and (v) the issuance of securities pursuant to a registered public offering.

6. Expenses. All costs and expenses incurred in connection with this Purchase Agreement and the consummation of the Transactions shall be paid by the party incurring such expenses, including all costs and expenses incident to the fees and disbursements of the counsel, the accountants, or any other experts or advisors retained by such party. Notwithstanding the forgoing, the Company will reimburse Highbridge Capital Management for legal fees and expenses of one Purchaser's counsel not to exceed $25,000 in the aggregate.

7. Conditions to the Purchaser's Obligations. The obligations of the Purchaser to purchase and pay for the Securities at the Closing shall be subject to the accuracy of the representations and warranties of the Company in Section 2 hereof, in each case as of the date hereof and as of the Closing Date, as if made on and as of the Closing Date, to the accuracy of the statements of the Company's officers made pursuant to the provisions hereof, to the performance by the Company of its covenants and agreements hereunder and to the following additional conditions:

(a) The Company shall have delivered all Transaction Documents, including the lock-up agreements contemplated by this agreement, the comfort letter from Ernst & Young, LLP, and the customary certifications reasonably required to confirm that the proposed sale complies with applicable restrictions.

(b) The Purchaser shall have received an opinion, dated the Closing Date, of Cadwalader, Wickersham & Taft LLP, counsel for the Company, to the effect set forth in Exhibit B hereto and containing reasonable and customary assumptions and qualifications and otherwise in form and substance satisfactory to the Purchaser.

(c) The Purchaser shall have received a certificate, dated the Closing Date, of an Executive Officer of the Company certifying: (i) that the representations and warranties of the Company in this Agreement are true and correct as if made on and as of the Closing Date, (ii) that the Company has performed all covenants and agreements and satisfied all conditions on its part to be performed or satisfied at or prior to the Closing Date; and (iii) since the date of this Purchase Agreement, there has not been any state of facts, change, development, effect, condition or occurrence that, individually or in the aggregate, has had or would reasonably be expected to have, a Material Adverse Effect on the Company.

8. Indemnification.

(a) The Company hereby agrees to indemnify and hold harmless the Purchaser and each person, if any, who controls the Purchaser within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act against any losses, claims, damages or liabilities, joint or several, to which such Purchaser or such controlling person may become subject under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon:

(i) any untrue statement or alleged untrue statement of any material fact made herein or in any other Transaction Document; or

(ii) the breach of any covenant or agreement made herein or in any other Transaction Document,

and will reimburse the Purchaser and each such controlling person for any legal or other expenses reasonably incurred by the Purchaser or such controlling person in connection with investigating, defending against or appearing as a third-party witness in connection with any such loss, claim, damage, liability or action. This indemnity agreement will be in addition to any liability which the Company may otherwise have. The Company will not, without the prior written consent of the Purchaser, settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action, suit or proceeding in respect of which indemnification may be sought hereunder (whether or not the Purchaser or any person who controls the Purchaser within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act is a party to such claim, action, suit or proceeding), unless such settlement, compromise or consent includes an unconditional release of the Purchaser and such controlling persons from all liability arising out of such claim, action, suit or proceeding.

(b) The Purchaser will indemnify and hold harmless the Company and each person, if any, who controls the Company within the meaning of Section 15

of the Securities Act or Section 20 of the Exchange Act against any losses, claims, damages or liabilities to which the Company or such controlling person may become subject under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any violation of the securities laws in connection with the Purchaser's breach of any representation, warranty or covenant of the Purchaser set forth in Section 4 of this Agreement.

(c) Promptly after receipt by an indemnified party under this Section 8 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under this Section 8, notify the indemnifying party of the commencement thereof; but the omission so to notify the indemnifying party will not relieve it from any liability which it may have to any indemnified party otherwise than under this Section 8. In case any such action is brought against any indemnified party, and it notifies the indemnifying party of the commencement thereof, the indemnifying party will be entitled to participate therein and, to the extent that it may wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party; provided, however, that if the defendants in any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that there may be one or more legal defenses available to it and/or other indemnified parties which are different from, inconsistent with, or additional to those available to the indemnifying party, the indemnifying party shall not have the right to direct the defense of such action on behalf of such indemnified party or parties and such indemnified party or parties shall have the right to select separate counsel to defend such action on behalf of such indemnified party or parties. After notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof and approval by such indemnified party of counsel appointed to defend such action, the indemnifying party will not be liable to such indemnified party under this Section 8 for any legal or other expenses, other than reasonable costs of investigation, subsequently incurred by such indemnified party in connection with the defense thereof, unless (i) the indemnified party shall have employed separate counsel in accordance with the proviso to the next preceding sentence or (ii) the indemnifying party does not promptly retain counsel reasonably satisfactory to the indemnified party or (iii) the indemnifying party has authorized the employment of counsel for the indemnified party at the expense of the indemnifying party. After such notice from the indemnifying party to such indemnified party, the indemnifying party will not be liable for the costs and expenses of any settlement of such action effected by such indemnified party without the written consent of the indemnifying party.

9. Survival. The respective representations, warranties, agreements, covenants, indemnities and other statements of the Company and the Purchaser set forth in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement shall remain in full force and effect for a period on one year following the Closing Date, regardless of (i) any investigation made by or on behalf of the Company, any of its officers or directors, the Purchaser or any controlling person referred to in Section 8 hereof and (ii) delivery of and

payment for the Securities. The respective agreements, covenants, indemnities and other statements set forth in Sections 6 and 8 hereof shall remain in full force and effect, regardless of any termination or cancellation of this Agreement.

10. Notices. All communications hereunder shall be in writing and, if sent to the Purchaser, shall be delivered or sent by mail, telex or facsimile transmission and confirmed in writing to:

Purchaser
[address]
Telephone:
Facsimile:

and if sent to the Company, shall be delivered or sent by mail, telex or facsimile transmission and confirmed in writing to the Company at:

Immunomedics, Inc.
300 American Road
Morris Plains, New Jersey 07950
Attn: Gerard Gorman, Chief Financial Officer
Telephone: (973) 605-8200
Facsimile: (973) 605-8282

with a copy to:

Cadwalader, Wickersham & Taft LLP
One World Financial Center
New York, NY 10281
Attn: Gerald A. Eppner, Esq.
Telephone: (212) 504-6286
Facsimile: (212) 504-6666

11. Successors. This Agreement shall inure to the benefit of and shall be binding upon the Purchaser and the Company and their respective successors and legal representatives, and nothing expressed or mentioned in this Agreement is intended or shall be construed to give any other person any legal or equitable right, remedy or claim under or in respect of this Agreement, or any provisions herein contained, this Agreement and all conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of such persons and for the benefit of no other person except that (i) the indemnities of the Company contained in Section 8 of this Agreement shall also be for the benefit of any person or persons who control the Purchaser within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act and any subsequent holder of the Notes and (ii) Purchaser may assign all of its rights under this Agreement with respect to the Option to any person.

12. GOVERNING LAW. THE VALIDITY AND INTERPRETATION OF THIS AGREEMENT, AND THE TERMS AND CONDITIONS SET FORTH HEREIN, SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK.

13. Consent to Jurisdiction, Service of Process and Waiver of Trial by Jury.

(a) All judicial proceedings arising out of or relating to this Agreement may be brought in any state or federal court of competent jurisdiction in the State of New York.

(b) Each party agrees that any service of process or other legal summons in connection with any Proceeding may be served on it by mailing a copy thereof by registered mail, or a form of mail substantially equivalent thereto, postage prepaid, addressed to the served party at its address as provided for in Section 11 hereof. Nothing in this section shall affect the right of the parties to serve process in any other manner permitted by law.

(c) EACH PARTY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

14. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

15. Reliance by Placement Agents. The parties agree that Lazard Freres & Co. LLC and C.E. Unterberg, Towbin, LLC, as Placement Agents in respect of the offering, sale and purchase of the Securities, may rely on the agreements, representations and warranties of the parties contained in this Agreement as if such agreements, representations and warranties were made directly to the Placement Agents on the Closing Date.

If the foregoing correctly sets forth our understanding, please indicate your acceptance thereof in the space provided below for that purpose, whereupon this letter shall constitute an agreement binding the Company and the Purchaser.

Very truly yours,

IMMUNOMEDICS, INC.

By: _____
Cynthia L. Sullivan
President and Chief Executive Officer

The foregoing Agreement is hereby confirmed and accepted as of the date first above written.

[PURCHASER]

By:

Name:

Title:

Exhibit 99.1

-INSERT LOGO-

Immunomedics Inc. Completes $35 Million Senior Convertible Notes and Warrant Offering

Morris Plains, NJ, April 27, 2005 - Immunomedics, Inc. (Nasdaq: IMMU) today announced the closing of a $35 million financing of its 5% Senior Convertible Notes due 2008 and common stock warrants. The notes and warrants were sold to qualified institutional investors and institutional accredited investors. Each purchaser received a warrant to purchase 381.97 shares of common stock for each $1,000 of principal amount notes purchased and was granted a 120 day option to purchase up to an additional 20% of principal notes and warrants at the offering price plus accrued interest based on their initial purchase. The warrants are exercisable commencing on the effective date of the share increase described below until the third anniversary of the initial closing date at $2.98per share of common stock, or approximately 125% of our current common stock price.

Interest on the notes is payable semi-annually in arrears and, at the discretion of the company, is payable in cash or in shares of company common stock. Holders of the notes may at their election at any time, as well asthe company may, subject to certain market performance targets, cause the holders to convert the notes into shares of common stock prior to the maturity date. If the notes are converted prior to the third anniversary of the issue date, the holder will be entitled to interest through the third anniversary. At term, the notes and any accrued interest are payable in the company's discretion in cash, common stock or any combination. The initial conversion price of the notes is 110% of the average stock price for the three trading days preceding the notes' issue date. The company will use some of the proceeds of the offering to cancel at closing $5 million of its 3.25% Convertible Notes due 2006 and will convert the $5 million balance of its outstanding 3.25% Convertible Notes due 2006 into 5% Senior Convertible Notes due 2008.

"This financing maximizes our options at an important stage of our development. The funds raised will enable us to move forward independently with registration trials for our lead product, epratuzamab, in moderate to severe lupus, cover general working capital purposes and, redeem our outstanding 3.25% Convertible Notes due January 2006." commented Gerard G. Gorman, Vice President, Finance and Chief Financial Officer. "At the same time and without delaying our trial, we continue to hold discussions with potential partners for epratuzamab in all indications with the aim of securing the best possible agreement for our product and for our shareholders." he added.

"Our goal is to expeditiously bring to market a product that can help improve the quality of life for lupus patients. The details of our protocols have been finalized with the Food and Drug Administration (FDA), European Medicines Evalaution Agency (EMEA), and our principal clinical investigators, and we are on schedule to initiate two pivotal phase III clinical trials in the first half

of this calendar year. These trials will further evaluate the safety and efficacy of epratuzumab in the treatment of patients with moderate to severe lupus, a pervasive disease that is in great need of new therapy options," commented Cynthia L. Sullivan, President and Chief Executive Officer. "We are pleased with the support our investors have demonstrated by providing the company with this financing to further our overall growth strategy as we continue to seek and evaluate potential strategic relationships," she added.

As soon as practicable, the company intends to call a special meeting of its stockholders to request a 40 million share increase to its authorized common stock to include 7.43 million additional shares required for conversion of all of the notes and exercise of all of the warrants. The company had available at closing approximately 8.92 million shares of unrestricted authorized common stock including the shares formerly reserved for conversion of the company's 3.25% Convertible Notes due 2006 which it has reserved for the conversion of the notes; at the initial conversion rate, the company requires approximately 16.35 million, or 7.43 million additional shares of unrestricted authorized common stock. Under the terms of the indenture pursuant to which the notes were issued, the company is required within 120 days of issue to obtain shareholder approval to increase the company's authorized common stock by not less than 7.43 million shares or be subject to successive monthly increases in the interest rate, subject to a cap.

Mr. Gorman added, "The share increase above the required amount is necessary to allow the company flexibility to utilize stock to assist in funding the its continued operations and expansion plans, including joint ventures, licensing arrangements, acquisitions and the development of certain strategic relationships, as well as to pay interest on the notes if the company so elects. While the company has no current plans to affect any specific business transaction with the additional shares, in the event it does affect any such transaction, shares will only be issued upon approval by the company's board exercising its fiduciary duties. Additional stockholder consent may also be required for any future issuance."

Under the terms of the indenture the company is also required to escrow approximately $12.3 million of the note proceeds until it obtains shareholder approval and files an amended certificate of incorporation reflecting at least the required share increase. If the company does not within 210 days of issue complete the required share increase, the holders will have the right to require the company to repurchase the notes.

The notes have not been registered under the Securities Act of 1933, as amended, or any state securities laws, and may not be offered or sold in the United States absent registration or an applicable exemption from registration requirements. Holders of the notes and common stock issuable upon conversion of the notes may register their securities pursuant to a registration statement that the company will use its best efforts to file within 120 days and cause to be effective within 180 days of issue. Interest on the notes is subject to successive monthly increases, subject to a cap, if the registration statement covering the notes and the shares is not filed or effective as the company has agreed.

Immunomedics is a biopharmaceutical company focused on the development of monoclonal, antibody-based products for the targeted treatment of cancer, autoimmune and other serious diseases. We have developed a number of advanced proprietary technologies that allow us to create humanized antibodies that can be used either alone in unlabeled or "naked" form, or conjugated with radioactive isotopes, chemotherapeutics or toxins, in each case to create highly targeted agents. Using these technologies, we have built a pipeline of therapeutic product candidates that utilize several different mechanisms of action. We believe that our portfolio of intellectual property, which includes approximately 90 issued patents in the United States, and more than 250 other issued patents worldwide, protects our product candidates and technologies.

Lazard Freres & Co. LLC, investment banker to the company, was the placement agent in this financing.

This release, in addition to historical information, contains forward-looking statements made pursuant to the Private Securities Litigation Reform Act of 1995. Such statements, including statements regarding clinical trials, out-licensing arrangements, and capital raising activities, involve significant risks and uncertainties and actual results could differ materially from those expressed or implied herein. Factors that could cause such differences include, but are not limited to, risks associated with new product development (including clinical trials outcome and regulatory requirements/actions), competitive risks to marketed products and availability of financing and other sources of capital, as well as the risks discussed in the company's Annual Report on Form 10-K for the fiscal year ended June 30, 2004. The company is not under any obligation, and the company expressly disclaims any obligation, to update or alter any forward-looking statements, whether as a result of new information, future events or otherwise.

Immunomedics, Inc. will file a proxy statement with the SEC concerning the share increase. INVESTORS ARE URGED TO READ THE PROXY STATEMENT WHEN IT BECOMES AVAILABLE AND ANY OTHER RELEVANT DOCUMENTS FILED WITH THE SEC BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION. Investors will be able to obtain the documents free of charge at the website maintained by the SEC at www.sec.gov. In addition, investors may obtain documents filed with the SEC by Immunomedics, Inc. free of charge by requesting them in writing from Immunomedics, Inc. at 300 American Road, Morris Plains, NJ 07950, Attention: Investor Relations, or by telephone at (973) 605-8200.

Company Contact: Chau Cheng, Associate Director, Investor Relations & Business Analysis, (973) 605-8200, extension 123. Visit the company's web site at http://www.immunomedics.com.

EXHIBIT 99.2

IMMUNOMEDICS COMPLETES $37 MILLION FINANCING

Morris Plains, NJ, April 29, 2005 - Immunomedics, Inc. (Nasdaq: IMMU) today announced that it closed a private placement of its 5% Senior Convertible Notes due 2008 and common stock warrants, which raised a total of $37.675 million. The notes and warrants were sold to qualified institutional buyers and institutional accredited investors. Lazard Freres & Co. LLC, investment banker to the company, served as lead placement agent with C.E. Unterberg, Towbin as co-placement agent.

"This financing comes at an important stage of our development. The funds will allow us to maximize our options as we prepare for pivotal trials of our lead product candidate, epratuzumab, in lupus patients. We can now dedicate substantial efforts toward the lupus trials independently, while at the same time we discuss support with potential global licensing partners. Information on this financing is available in the Investor Relations section on our website in a "Frequently Asked Questions format," commented Gerard G. Gorman, Vice President, Finance and Chief Financial Officer.

"Our goal is to bring to market as quickly as possible a product that potentially can help improve the quality of life for lupus patients. The details of our protocols have been finalized with the U.S. Food and Drug Administration (FDA), the European Medicines Evaluations Agency (EMEA), and our principal clinical investigators, and we believe we are on schedule to initiate two pivotal phase III clinical trials in the first half of 2005. These trials will further evaluate the safety and efficacy of epratuzumab for the treatment of patients with moderate to severe lupus, a pervasive and often fatal disease that is in great need of new therapy options," said Cynthia L. Sullivan, President and Chief Executive Officer. "We are pleased with the support our investors have demonstrated by providing the funds necessary to further our overall growth strategy as we continue to evaluate potential strategic partnerships," she added.

The notes mature three years from the date of issuance, are convertible into company common stock at an initial conversion rate of $2.62 per share and bear interest at the rate of 5% per annum. If a note is converted or cancelled prior to maturity, the holder will be paid on the date of conversion or cancellation any interest that would have otherwise been earned during the three-year term. For each $1,000 principal amount of notes purchased, purchasers were granted a warrant to purchase approximately 76.39 shares of common stock. The warrants may be exercised only after the share increase described below, expire three years from the initial closing date and will be exercisable at $2.98 per share.

In addition to the funds raised in the offering, purchasers of the notes and warrants were granted an option to purchase up to an additional 20% principal amount of notes and warrants during the 120 day period following the closing

which could result in additional gross proceeds to the Company of up to $7.535 million.

The notes and warrants have not been registered under the Securities Act of 1933, as amended, or any state securities laws, and may not be offered or sold in the United States absent registration or an applicable exemption from registration requirements. Holders of the notes, warrants and common stock issuable upon conversion of the notes or exercise of the warrants may register their securities pursuant to a registration statement that the Company agreed to use its best efforts to file within 120 days and cause to be effective within 180 days of issue.

As soon as practicable, the Company intends to call a special meeting of its stockholders to request a 40 million share increase to its authorized common stock to include approximately 8.35 million additional shares required for conversion of all of the notes and exercise of all of the warrants issued at the initial closing. The Company had available at closing approximately 8.92 million shares of unrestricted authorized common stock, including shares formerly reserved for conversion of the Company's 3.25% Convertible Notes due 2006, which it will reserve for the conversion of the notes; at the initial conversion rate, the Company requires approximately 17.27 million, or 8.35 million additional shares of unrestricted authorized common stock to convert the notes and permit the exercise of warrants issued in the initial closing (the Company may require shares for conversion of notes or exercise of options if investors exercise the 20% option described above). Under the terms of the indenture pursuant to which the notes were issued, the Company is required within 120 days of the initial closing to obtain shareholder approval to increase the Company's authorized common stock by not less than 5.5 million shares or be subject to successive monthly increases in the interest rate, subject to a cap.

Immunomedics is a biopharmaceutical company focused on the development of monoclonal, antibody-based products for the targeted treatment of cancer, autoimmune and other serious diseases. It has developed a number of advanced proprietary technologies that allow the creation of humanized antibodies that can be used either alone in unlabeled or "naked" form, or conjugated with radioactive isotopes, chemotherapeutics or toxins, in each case to create highly targeted agents. Using these technologies, the company has built a pipeline of therapeutic product candidates that utilize several different mechanisms of action. Its portfolio of intellectual property is protected by approximately 90 issued patents in the United States, and more than 250 other issued patents worldwide.

This release, in addition to historical information, contains forward-looking statements made pursuant to the Private Securities Litigation Reform Act of 1995. Such statements, including statements regarding clinical trials, out-licensing arrangements, and capital raising activities, involve significant risks and uncertainties and actual results could differ materially from those expressed or implied herein. Factors that could cause such differences include, but are not limited to, risks associated with new product development (including clinical trials outcome and regulatory requirements/actions), competitive risks to marketed products and availability of financing and other sources of capital,

as well as the risks discussed in the company's Annual Report on Form 10-K for the fiscal year ended June 30, 2004. The company is not under any obligation, and the company expressly disclaims any obligation, to update or alter any forward-looking statements, whether as a result of new information, future events or otherwise.

Immunomedics, Inc. will file a proxy statement with the SEC concerning the share increase described above. INVESTORS ARE URGED TO READ THE PROXY STATEMENT WHEN IT BECOMES AVAILABLE AND ANY OTHER RELEVANT DOCUMENTS FILED WITH THE SEC BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION. Investors will be able to obtain the documents free of charge at the website maintained by the SEC at www.sec.gov. In addition, investors may obtain documents filed with the SEC by Immunomedics, Inc. free of charge by requesting them in writing from Immunomedics, Inc. at 300 American Road, Morris Plains, NJ 07950, Attention: Investor Relations, or by telephone at (973) 605-8200.

Company Contact: Chau Cheng, Associate Director, Investor Relations & Business Analysis, (973) 605-8200, extension 123. Visit the company's web site at http://www.immunomedics.com.