

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM S-3
REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

ECHOSTAR COMMUNICATIONS CORPORATION
(Exact name of registrant as specified in its charter)

Nevada
(State or other jurisdiction
of incorporation or organization)

88-0336997
(IRS Employer
Identification No.)

5701 South Santa Fe Drive
Littleton, Colorado 80120
(303) 723-1000
(Address, including zip code, and telephone
number, including area code, of registrant's principal
executive office)

David K. Moskowitz, Esq.
Senior Vice President, General Counsel and Secretary
EchoStar Communications Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120
(303) 723-1000
(Name, address, including zip code, and telephone number,
including area code, of agent for service)

With copies to:

Raymond L. Friedlob, Esq.
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1400 Glenarm Place, Third Floor
Denver, Colorado 80202
(303) 571-1400

Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this Registration Statement.

If the only securities being registered on this form are being offered pursuant to dividend or interest reinvestment plans, please check the following box: []

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, please check the following box: [X]

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. []

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. []

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

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CALCULATION OF REGISTRATION FEE

TITLE OF EACH CLASS OF SECURITIES TO BE REGISTERED	AMOUNT TO BE REGISTERED	PROPOSED MAXIMUM OFFERING PRICE PER NOTE	PROPOSED MAXIMUM AGGREGATE OFFERING PRICE (1)	AMOUNT OF REGISTRATION FEE
4 7/8% Convertible Subordinated Notes due 2007	\$1,000,000,000	100%	\$1,000,000,000	\$264,000
Class A Common Stock, \$.01 par value (2)(3)	11,003,521	--	--	--

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- (1) Equals the aggregate principal amount of the securities being registered pursuant to Rule 457(9).
- (2) Represents the number of shares of Class A Common Stock that are issuable upon conversion of the convertible notes. Pursuant to Rule 416, the Registrant is also registering such indeterminate number of shares of Class A Common Stock as may be issuable upon conversion of the convertible notes as a result of the antidilution provisions of the convertible notes.
- (3) Pursuant to Rule 457(i), no registration fee is required for these shares..

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(a) OF THE SECURITIES ACT OF 1933 OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(a), MAY DETERMINE.

(ii)

SUBJECT TO COMPLETION, DATED MARCH 6, 2000

[IMAGE NOT AVAILABLE](R)

\$1,000,000,000

4 7/8% CONVERTIBLE SUBORDINATED NOTES DUE 2007

 This prospectus relates to the offer and sale from time to time by certain selling securityholders of our 4 7/8% Convertible Subordinated Notes due 2007 and the shares of our class A common stock into which the convertible notes are convertible. The convertible notes and shares will be sold at market prices prevailing at the time of sale or at privately negotiated prices. EchoStar will not receive any of the proceeds from the sale of the convertible notes or the shares into which they are convertible.

THE CONVERTIBLE NOTES:

- o Maturity: January 1, 2007.
- o Interest: The convertible notes will accrue interest as of the issue date which will be payable semiannually in cash on July 1 and January 1, commencing on July 1, 2000.
- o Conversion: The convertible notes are convertible into shares of our class A common stock at any time after March 2, 2000 at a conversion price of \$90.88, subject to adjustment in certain events.
- o Redemption: We can redeem the convertible notes on or after January 1, 2003. Holders of the convertible notes may also require us to redeem all or part of their convertible notes upon a change of control event.
- o Ranking: The convertible notes are general unsecured obligations ranking junior to all of our existing and future Senior Debt. The convertible notes also will effectively rank junior to all of our secured debts and to all of the existing and future debts and other liabilities of our subsidiaries. As of September 30, 1999, assuming we had completed this offering, the convertible notes would have effectively ranked junior to \$2.05 billion of indebtedness and \$628 million of other liabilities of our subsidiaries.

TRADING FORMAT:

- o The convertible notes are eligible for trading in the PORTAL market of the National Association of Securities Dealers, Inc. The convertible notes are not expected to remain eligible for trading on the PORTAL system and a trading market may not develop for the notes. EchoStar does not intend to apply for listing of the convertible notes on any securities exchange or for quotation through any automated quotation system.
- o Our common stock is traded on the Nasdaq National Market under the symbol "DISH." On February 29, 2000 the last reported sale price of our common stock on the Nasdaq National Market was \$114.00 per share

We may amend or supplement this prospectus from time to time by filing amendments or supplements as required. You should read this entire prospectus and any amendments or supplements carefully before you make your investment decision.

SEE "RISK FACTORS" BEGINNING ON PAGE 6 FOR CERTAIN RISKS YOU SHOULD CONSIDER BEFORE YOU PURCHASE ANY CONVERTIBLE NOTES OR SHARES OF CLASS A COMMON STOCK.

 Neither the SEC nor any state securities commission has approved or determined whether this prospectus is truthful or complete. Nor have they made, nor will they make, any determination as to whether anyone should buy these securities. Any representation to the contrary is a criminal offense.

Prospectus dated March 6, 2000

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YOU SHOULD RELY ONLY ON THE INFORMATION CONTAINED OR INCORPORATED BY REFERENCE IN THIS PROSPECTUS AND IN ANY ACCOMPANYING PROSPECTUS SUPPLEMENT. NO ONE HAS BEEN AUTHORIZED TO PROVIDE YOU WITH DIFFERENT INFORMATION.

THE CONVERTIBLE NOTES AND SHARES OF CLASS A COMMON STOCK INTO WHICH THEY ARE CONVERTIBLE ARE NOT BEING OFFERED IN ANY JURISDICTION WHERE THE OFFER IS NOT PERMITTED.

YOU SHOULD NOT ASSUME THAT THE INFORMATION IN THIS PROSPECTUS OR ANY PROSPECTUS SUPPLEMENT IS ACCURATE AS OF ANY DATE OTHER THAN THE DATE ON THE FRONT OF THOSE DOCUMENTS.

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and special reports, proxy statements and other information with the SEC. You may read and copy any document that we file with the SEC at the SEC's public reference room at 450 Fifth Street, N.W., Washington, D.C. Please call the SEC at 1-800-SEC-0330 for further information on the public reference rooms. Our SEC filings are also available to you free of charge at the SEC's web site at <http://www.sec.gov>.

Our common stock is traded as "National Market Securities" on the Nasdaq National Market. Material filed by us can be inspected at the offices of the National Association of Securities Dealers, Inc., Reports Section, 1735 K Street, N.W., Washington, D.C. 20006.

The SEC allows us to "incorporate by reference" the information we file with them, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be part of this prospectus, and information that we file later with the SEC will automatically update and supersede previously filed information, including information contained in this document.

We incorporate by reference the documents listed below and any future filings we will make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 until this offering has been completed:

- o Our Annual Report on Form 10-K for the year ended December 31, 1998.
- o Our Quarterly Report on Form 10-Q for the quarter ended March 31, 1999.
- o Our Quarterly Report on Form 10-Q for the quarter ended June 30, 1999.
- o Our Quarterly Report on Form 10-Q for the quarter ended September 30, 1999.
- o Our Current Reports on Form 8-K filed January 5, 1999, May 25, 1999, July 2, 1999, October 7, 1999, December 1, 1999, December 20, 1999 and February 28, 2000.
- o The description of our common stock set forth in our Registration Statement on Form 8-A filed on May 30, 1995.

You may request free copies of these filings by writing or telephoning us at our principal offices, which are located at the following address:

EchoStar Communications Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120
Attention: David K. Moskowitz, Esq.
(303) 723-1000

FORWARD-LOOKING STATEMENTS

All statements contained in this prospectus, as well as statements made in press releases and oral statements that may be made by us or by officers, directors or employees acting on our behalf, that are not statements of historical fact constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995.

Such forward-looking statements involve known or unknown risks, uncertainties and other factors that could cause our actual results to be materially different from historical results or from any future results expressed or implied by such forward-looking statements. The "Risk factors" section of this prospectus, commencing on page 6, summarizes certain of the material risks and uncertainties that could cause our actual results to differ materially. In addition to statements that explicitly describe such risks and uncertainties, readers are urged to consider statements that include the terms "believes," "belief," "expects," "plans," "anticipates," "intends" or the like to be uncertain and forward-looking. All cautionary statements made herein should be read as being applicable to all forward-looking statements wherever they appear. In this connection, investors should consider the risks described herein and should not place undue reliance on any forward-looking statements.

ECHOSTAR COMMUNICATIONS CORPORATION

We are a leading provider of direct broadcast satellite, or DBS, television services in the United States through our DISH Network business unit. We are also an international supplier of digital satellite receiver systems and a provider of other satellite services.

THE DISH NETWORK

We started offering subscription television services on the DISH Network in March 1996. As of December 31, 1999, more than 3.4 million households subscribed to DISH Network programming services. We now have five DBS satellites in orbit which enable us to provide over 500 video and audio channels, together with data services and high definition and interactive TV services, to consumers across the continental United States through the use of one small satellite dish. We believe that the DISH Network offers programming packages that have a better "price-to-value" relationship than packages currently offered by most other subscription television providers, particularly cable TV operators. As of December 31, 1999, approximately 13 million United States households subscribed to direct broadcast satellite and other direct-to-home satellite services. During 1999, more than 1.4 million net new households subscribed to our direct broadcast satellite services, an increase of 63% from 1998. We believe that there continues to be significant unsatisfied demand for high quality, reasonably priced television programming services.

ECHOSTAR TECHNOLOGIES CORPORATION

In addition to supplying EchoStar satellite receiver systems for the DISH Network, our EchoStar Technologies Corporation subsidiary supplies similar digital satellite receivers to international satellite TV service operators. Our two major customers are Via Digital, a subsidiary of Telefonica, Spain's national telephone company, and Express Vu, a subsidiary of Bell Canada, Canada's national telephone company.

SATELLITE SERVICES

Our Satellite Services business unit primarily leases capacity on our satellites to customers, including international services that broadcast foreign language programming to our subscribers, and Fortune 1000 companies that use our business television service to communicate with employees, customers and suppliers located around the United States. In addition, we are developing a wide range of Internet and high-speed data services. In mid-1999 we began offering to consumers our first of its kind DISHPlayer, which combines satellite receiver, digital VCR, gaming and Internet access capabilities all in one box. When a consumer subscribes to the WebTV service we offer in partnership with Microsoft, in addition to all of the video and audio channels we offer, the DISHPlayer receiver gives consumers e-mail and unlimited Internet access on their television.

BUSINESS STRATEGY

Our primary objective is to continue to expand our DISH Network subscriber base and to develop as an integrated, full-service satellite company. To achieve this objective, we plan to:

- o Leverage our significant share of the DBS spectrum to offer more channels than any other video provider in the United States, and by offering unique programming services that will differentiate us from our competition. These services include satellite-delivered local signals and niche and foreign language services;
- o Offer marketing promotions that will enhance our position as a leading provider of value-oriented programming services and receiver systems;
- o Continue to expand DISH Network distribution channels;
- o Develop our ETC and Satellite Services businesses; and
- o Emphasize one-stop shopping for DBS services and equipment and superior customer service.

RECENT DEVELOPMENTS

On each of July 19, 1999, and October 25, 1999, we completed two-for-one splits of our outstanding class A and class B common stock. On February 28, 2000, we announced a two-for-one stock split of our outstanding class A and class B common stock effective March 22, 2000 to shareholders of record as of the close of business on March 10, 2000. All references to shares included in this Prospectus retroactively give effect to the stock splits completed in July and October 1999, but not the announced March 22, 2000 stock split.

On February 23, 2000, we announced the construction of three new satellites. EchoStar VII and VIII are advanced, high-powered DBS satellites with spot-beam technology allowing us to offer local channels in 60 or more markets across the United States. EchoStar IX is a hybrid Ku/Ka-band satellite that may provide new opportunities for us to pursue business-to-business customers and to provide our subscribers with expanded internet, data and two-way wireless communications services. Delivery of EchoStar VII and VIII is expected in December 2001 and delivery EchoStar IX is anticipated to occur during 2002. We are currently in discussions with launch vehicle providers for these satellites.

On February 23, 2000 we announced a joint venture with OpenTV Corp. to offer our subscribers and other video platforms a low-cost, interactive digital receiver with a built-in hard disk drive that will permit viewers to record programs without video tape. Under the terms of the joint venture, OpenTV and EchoStar contributed certain intellectual property rights and we were issued 2,252,252 shares of OpenTV common stock. The shares of OpenTV common stock are subject to forfeiture if we fail to activate the OpenTV system in at least 500,000 set top boxes on or before February 23, 2003.

On February 1, 2000 we filed suit against DIRECTV and Thomson Consumer Electronics, or RCA, in the Federal District Court for the District of Colorado, alleging improper conduct in order to fend off competition. We allege that DIRECTV has demanded that certain retailers stop displaying DISH Network products and has threatened to cause economic damage to retailers who continue to offer both DIRECTV and DISH Network product lines in head-to-head competition. Further, we allege DIRECTV has acted in violation of federal and state anti-trust laws in order to protect their market share. We intend to seek all remedies, legal and equitable, which are available to us. It is too early in the litigation to make an assessment of the probable outcome.

RISK FACTORS

You should carefully consider all of the information contained in this prospectus before deciding whether to invest in the convertible notes or the shares of class A common stock issued upon their conversion and, in particular, the following factors:

RISKS PRIMARILY RELATED TO OUR BUSINESS

INCREASED SUBSCRIBER TURNOVER COULD AFFECT OUR FINANCIAL PERFORMANCE

If our churn rate increases materially, it could adversely affect our financial condition and results of operations. While we expect to be able to continue to manage churn in line with our expectations for the remainder of this year and while we are expanding our customer service department in response to our increased business, we can provide no assurance that churn will not increase in the future. In addition to churn increases reflective of our maturing subscriber base, our significant subscriber growth also fueled increased churn during 1999. The resulting subscriber increase reduced our customer service responsiveness and caused delays in installation of systems. These delays caused some customers to terminate our services. Further our litigation with the networks in Miami and other factors, including our inability to obtain retransmission consents of local network stations on or before May 29, 2000, could require us to terminate delivery of network signals to a material portion of our subscriber base, which could cause many of those subscribers to cancel their subscription to our other services. We have sent letters to some of our subscribers warning that their access to distant broadcast network channels might be terminated soon and we have terminated ABC, NBC, CBS and Fox programming to many customers. Such terminations could result in a small reduction in average monthly revenue per subscriber and could result in increased subscriber turnover.

INCREASED SUBSCRIBER ACQUISITION COSTS COULD AFFECT OUR FINANCIAL PERFORMANCE

We subsidize the cost of EchoStar receiver systems and their installation in order to attract new DISH Network subscribers. Consequently, our subscriber acquisition costs are significant. During the past several months, we have experienced an increase in subscriber acquisition costs primarily caused by our free system and free installation promotion which is anticipated to continue through at least April 30, 2000. In connection with our plans to encourage as many new subscribers as possible to be ready for the additional services that will become available at the 110 degree orbital location, and as a result of continuing competition and our plans to attempt to continue to drive rapid subscriber growth, we expect that our subscriber acquisition costs during 2000 could increase by as much as \$25 per subscriber or more on average. Our subscriber acquisition costs, both in the aggregate and on a per new subscriber activation basis, may materially increase further to the extent that we continue or expand our bounty programs, our "free system/free installation" program, or the DISH Network One-Rate Plan, or if we determine that more aggressive promotions are necessary to respond to competition, or for other reasons. Further, subscriber acquisition costs will increase in connection with the agreement to convert Superstar C-band subscribers to our DISH Network. If subscriber acquisition costs increase materially, it could adversely affect our financial condition and results of operations.

WE MAY BE UNABLE TO MANAGE RAPIDLY EXPANDING OPERATIONS

If we are unable to manage our growth effectively, it could materially adversely affect our business and results of operations. To manage our growth effectively, we must continue to develop our internal and external sales force, installation capability, customer service operations and information systems, and maintain our relationships with third party vendors. We also need to continue to expand, train and manage our employee base, and our management personnel must assume even greater levels of responsibility.

Recent significant increases in the number of new subscribers has resulted in customer service and installation delays and an increase in our subscriber churn. If we are unable to sufficiently develop our installation capability and customer service operations in a timely manner to effectively manage this growth, we may experience a decrease in subscriber growth and an increase in subscriber churn which could have a material adverse effect on our business and results of operations.

WE MAY NEED ADDITIONAL CAPITAL, WHICH MAY NOT BE AVAILABLE, IN ORDER TO CONTINUE GROWING AND INCREASE EARNINGS

Our ability to increase earnings, and the market value and liquidity of our common stock, will partly depend on our ability to continue growing our business by maintaining and increasing our subscriber base. This may require significant additional capital that we cannot be certain will be available to us.

In connection with the launch of EchoStar V and EchoStar VI, we will utilize the 110 degree orbital location to enhance revenue opportunities with new value added services for our current and future subscribers, and maintain our primary DBS service at the 119 degree orbital location. Our existing subscribers will need to upgrade their dish and receiver systems in order to take advantage of all of the services we offer. To encourage existing subscribers to upgrade their systems and remain subscribers, we are subsidizing upgrades by existing subscribers to our DISH 500 system. The cost of this program could be significant if utilized by a large number of our existing subscribers.

In connection with our plans to encourage as many new subscribers as possible to be ready for the additional services that will become available at the 110 degree orbital location, and as a result of continuing competition and our plans to attempt to continue to drive rapid subscriber growth, we expect that our subscriber acquisition costs during 2000 could increase by as much as \$25 per subscriber or more on average. Our subscriber acquisition costs, both in the aggregate and on a per new subscriber activation basis, may materially increase further to the extent that we continue to expand our bounty programs, our "free system/free installation" program, or the DISH Network One-Rate Plan, or if we determine that more aggressive promotions are necessary to respond to competition, or for other reasons. Further, subscriber acquisition costs will increase in connection with the agreement to convert Superstar C-band subscribers to our DISH Network. If subscriber acquisition costs increase materially, it could adversely affect our financial condition and results of operations.

In addition, we have conditional licenses or applications pending with the FCC for a two satellite Ku-band system, a two satellite Ka-band system, a two satellite extended Ku-band system and (through a partly owned subsidiary) a six satellite low earth orbit satellite system. We may need to raise additional funds for the foregoing purposes. Further, a number of factors, some of which are beyond our control or ability to predict, could require us to raise additional capital. These factors include, among other things, higher than expected subscriber acquisition costs or a defect in or the loss of any satellite. We cannot assure you that we will be able to raise additional capital at the time necessary or on satisfactory terms. The inability to raise sufficient capital would have a material adverse effect on our business.

IMPEDIMENTS TO RETRANSMISSION OF LOCAL AND DISTANT BROADCAST SIGNALS; OUR LOCAL AND DISTANT PROGRAMMING STRATEGY FACES UNCERTAINTY

The Copyright Act, as amended by the Satellite Home Viewer Improvement Act, permits satellite retransmission of distant network channels only to "unserved households." Whether a household qualifies as "unserved" for the purpose of eligibility to receive a distant network channel depends, in part, on whether that household can receive a signal of "Grade B intensity" as defined by the FCC. In February 1999, the FCC released a report and order on these matters. Although the FCC declined to change the values of Grade B intensity, it adopted a method for measuring it at particular households. The FCC also endorsed a method for predicting Grade B intensity at particular households. The FCC recently denied in part and granted in part our petition for reconsideration, allowing us some additional flexibility in the method for measuring Grade B intensity but denying our requests on other matters. We cannot be sure whether these methods are favorable to us or what weight, if any, the courts will give to the FCC's decision. In addition, the Satellite Home Viewer Improvement Act of 1999 could adversely affect us in several respects. The legislation prohibits us from carrying more than two distant signals for each broadcasting network and leaves the FCC's Grade B intensity standard unchanged without future legislation. While the Satellite Home Viewer Improvement Act of 1999 reduces the royalty rate that we currently pay for superstation and distant network signals, it directs the FCC to

require us to delete substantial programming (including sports programming) from these signals. These requirements may significantly hamper our ability to retransmit distant network and superstation signals.

For existing customers the new legislation also would permit hundreds of thousands of consumers to continue to receive distant network channels who would otherwise be required to be disconnected. The new law generally would not, however, permit consumers predicted to receive a signal of "Grade A" intensity to continue receiving distant network channels. As a result, we believe hundreds of thousands of consumers have or could lose access to network channels by satellite. In anticipation of passage of the legislation, and for other reasons, we recently ceased providing distant network channels to tens of thousands of customers. These turn offs, together with others, could result in a temporary material increase in subscriber turnover and a small reduction in revenue per subscriber. Further, broadcasters could seek a permanent injunction on our sales of local and distant network channels, which would have a material adverse effect on our subscriber turnover, revenue, ability to attract new subscribers, and our business operations generally. The law also instructs the FCC to enact rules that would require us to delete substantial programming from distant signals, including sports programming.

We currently offer programming broadcast by local affiliates of national television networks to over 20 major population centers in the continental United States. Although we believe that the Satellite Home Viewer Act of 1994 permitted us to retransmit the programming of a local network station back to its local market by satellite, several other parties oppose that view. The Satellite Home Viewer Improvement Act of 1999 generally gives satellite companies a statutory copyright license to retransmit local-into-local network programming subject to obtaining the retransmission consent of the local network station. If the retransmission consent is not obtained from a particular local network station on or before May 29, 2000 (the six-month anniversary of the act), we are required to cease transmission of that station's signals. We have entered into a limited number of retransmission consent agreements and are negotiating additional agreements. We cannot be certain, however, whether we will obtain retransmission consents to the extent they are required from the three major networks other than Fox's owned and operated stations or any local affiliate or that we will receive as many consents as our DBS competitor, DIRECTV. During our negotiations, some broadcasters have made certain demands for retransmission consent that they have not made of cable providers, including cash compensation demands. If we fail to receive such consents on or before May 29, 2000, we may have to turn off some viewers' access to local network stations, which could have an adverse effect on our strategy to compete with cable companies, which provide local programming. While the legislation directs the FCC to impose certain restrictions on the broadcasters' flexibility in retransmission consent negotiations, these restrictions are very limited and could be of little practical benefit to us, particularly since the FCC is not required to implement rules in this regard for one year from the passage of the legislation. Consequently, our efforts to retransmit local channels by satellite could be substantially blocked by the legislation. In sum the compulsory copyright license under the Satellite Home Viewer Improvement Act of 1999 and the retransmission consent rules of the Communications Act of 1934, as amended, may not be sufficient to permit us to implement our strategy to retransmit that programming in the most efficient and comprehensive manner.

Many other provisions of the Satellite Home Viewer Improvement Act of 1999 could adversely affect us. Among other things, the law includes the imposition of "must carry" requirements on DBS providers. The "must carry" rules generally would require that commencing in January 2002 satellite distributors carry all the local broadcast stations in areas they serve, not just the four major networks. Since we have limited capacity, the number of markets in which we can offer local programming would be reduced by the "must carry" requirement to carry large numbers of stations in each market we serve. The legislation also includes provisions which could expose us to material monetary penalties, and permanent prohibitions on the sale of all local and distant network channels, based on what could be considered even inadvertent violations of the legislation, prior law, or the FCC rules. Imposition of these penalties would have a material adverse effect on our subscriber turnover, revenue, ability to attract new subscribers, and our business operations generally. Consistent with the requirements of the Satellite Home Viewer Improvement Act of 1999, the FCC has commenced rulemakings on, among other things, (i) the requirement that broadcasters negotiate in good faith regarding retransmission consents, (ii) the requirements for satellite carriers to delete programming from certain broadcast signals, and (iii) the predictive model for determining whether a household is unserved. We cannot be sure that these proceedings will result in rules that are favorable to us.

TV NETWORKS OPPOSE OUR STRATEGY OF DELIVERING DISTANT NETWORK SIGNALS

The national networks and local affiliate stations recently challenged, based upon copyright infringement, PrimeTime 24's methods of selling network programming to consumers. Historically, we obtained distant broadcast network channels for distribution to our customers through PrimeTime 24. The United States District Court for the Southern District of Florida entered a nationwide permanent injunction preventing PrimeTime 24 from selling its programming to consumers unless the programming was sold in accordance with certain stipulations in the injunction. The injunction covers "distributors" as well. The plaintiffs in the Florida litigation informed us that they considered us a "distributor" for purposes of that injunction. A federal district court in North Carolina also issued an injunction against PrimeTime 24 prohibiting certain distant signal retransmissions in the Raleigh area. The Fourth Circuit Court of Appeals recently affirmed the North Carolina Court's decision. We have implemented Satellite Home Viewer Act compliance procedures which materially restrict the market for the sale of network channels by us.

In October 1998, we filed a declaratory judgment action in the United States District Court for the District of Colorado against the four major networks. We asked the court to enter a judgment declaring that our method of providing distant network programming does not violate the Satellite Home Viewer Act and hence does not infringe the networks' copyrights. In November 1998, the four major broadcast networks and their affiliate groups filed a complaint against us in federal court in Miami alleging, among other things, copyright infringement. The court combined the case that we filed in Colorado with the case in Miami and transferred it to the Miami court.

In February 1999, CBS, NBC, Fox and ABC filed a "Motion for Temporary Restraining Order, Preliminary Injunction and Contempt Finding" against DIRECTV, Inc. in Miami related to the delivery of distant network channels to DIRECTV customers by satellite. Under the terms of a settlement between DIRECTV and the networks, some DIRECTV customers were scheduled to lose access to their satellite-provided network channels by July 31, 1999, while other DIRECTV customers were to be disconnected by December 31, 1999. Subsequently, PrimeTime 24 and substantially all providers of satellite-delivered network programming other than us agreed to this cut-off schedule.

The networks are pursuing a Motion for Preliminary Injunction in the Miami Court, asking the court to enjoin us from providing network programming except under very limited circumstances. In general, the networks want us to turn off programming to our customers on the same schedule agreed to by DIRECTV.

A preliminary injunction hearing was held on September 21, 1999. The Court took the issues under advisement to consider the networks' request for an injunction, whether to hear live testimony before ruling upon the request, and whether to hear argument on why the Satellite Home Viewer Act may be unconstitutional, among other things. The Court did not say when a decision will be made, or whether an additional hearing will be necessary prior to ruling upon the networks' preliminary injunction motion.

If this case is decided against us, or a preliminary injunction is issued, significant material restrictions on the sale of distant ABC, NBC, CBS and Fox channels by us could result, including potentially a nationwide permanent prohibition on our broadcast of ABC, NBC, CBS and Fox network channels by satellite. The litigation and the new legislation discussed above, among other things, could also require us to terminate delivery of network signals to a material portion of our subscriber base, which could cause many of these subscribers to cancel their subscription to our other services. While the networks have not sought monetary damages, they have sought to recover attorney fees if they prevail. We have sent letters to some of our subscribers warning that their access to distant broadcast network channels might be terminated soon and have terminated ABC, NBC, CBS and Fox programming to many customers. Such terminations will result in a small reduction in average monthly revenue per subscriber and could result in increased subscriber turnover.

WE DEPEND ON THE CABLE ACT FOR ACCESS TO OTHERS' PROGRAMMING

Any change in the Cable Consumer Protection and Competition Act of 1992 ("Cable Act") and the FCC's rules that permit the cable industry or cable-affiliated programmers to discriminate against competing businesses, such as ours, in the sale of programming could adversely affect our ability to acquire programming at all or to acquire programming on a cost-effective basis. Under the Cable Act and the FCC's rules, cable-affiliated

programmers generally must offer programming they have developed to all multi-channel video programming distributors on non-discriminatory terms and conditions. The Cable Act and the FCC's rules also prohibit some types of exclusive programming contracts. We purchase a substantial percentage of our programming from cable-affiliated programmers. Some of these restrictions on cable-affiliated programmers will expire in 2002 unless the FCC extends the rules. While we have filed several complaints with the FCC alleging discrimination, exclusivity, or refusals to deal, we have had limited success in convincing the FCC to grant us relief. The FCC has denied or dismissed many of our complaints, and we believe has generally not shown a willingness to enforce the program access rules stringently. As a result, we may be limited in our ability to obtain access (or non-discriminatory access) to cable-affiliated programming. In addition, the FCC recently modified certain of its attribution rules that determine whether a programmer is affiliated with a cable operator and therefore subject to the program access obligations. We do not yet know the implications or impact of these modified rules.

WE EXPECT OPERATING LOSSES THROUGH AT LEAST 2000 AND CANNOT BE CERTAIN THAT WE WILL ACHIEVE OR SUSTAIN OPERATING PROFITABILITY OR POSITIVE CASH FLOW FROM OPERATING ACTIVITIES

Our financial performance will affect the market value of our common stock and convertible notes. Due to the substantial expenditures necessary to complete construction, launch and deployment of our direct broadcast satellite system and introduction of our DISH Network service to consumers, we have sustained significant losses in recent periods. If we do not have sufficient income or another source of cash, it could eventually affect our ability to service our debt and pay our other obligations. Our operating losses were \$109 million, \$224 million and \$123 million for the years ended December 31, 1996, 1997 and 1998, respectively, and \$53 million and \$186 million for the nine months ended September 30, 1998 and 1999, respectively. We had net losses of \$101 million, \$313 million and \$261 million for the years ended December 31, 1996, 1997 and 1998, respectively, and \$148 million and \$573 million for the nine months ended September 30, 1998 and 1999, respectively. Improvements in our results of operations depend largely upon our ability to increase our customer base while maintaining our price structure, effectively managing our costs and controlling subscriber turnover, which is the rate at which subscribers terminate service. We cannot assure you that we will be effective with regard to these matters. In addition, we incur significant acquisition costs to obtain DISH Network subscribers. These costs, which continue to increase, magnify the negative effects of subscriber turnover. We anticipate that we will continue to experience operating losses through at least 2000. These operating losses may continue beyond 2000.

WE FACE INTENSE COMPETITION FROM DIRECT BROADCAST SATELLITE AND OTHER SATELLITE SYSTEM OPERATORS, WHICH COULD AFFECT OUR ABILITY TO GROW AND INCREASE EARNINGS

Our ability to increase earnings will partly depend on our ability to compete in the highly competitive subscription television industry. We compete with companies offering video, audio, data, programming and entertainment services, including cable operators and other satellite operators. Many of these competitors have substantially greater financial, marketing and other resources than we have.

One competitor, DIRECTV, Inc., has launched five high powered direct broadcast satellites and has 46 direct broadcast satellite frequencies that are capable of full coverage of the continental United States. DIRECTV currently offers more than 300 channels of combined video and audio programming and, as of December 1999, had approximately 8.1 million subscribers. DIRECTV is, and will be for the foreseeable future, in an advantageous position with regard to market entry, programming, such as DIRECTV's exclusive sports programming and, possibly, volume discounts for programming offers.

In addition, two other satellite companies in the U.S., including a subsidiary of Loral Space and Communications Limited, have conditional permits for a comparatively small number of direct broadcast satellite assignments that can be used to provide service to portions of the United States.

The FCC has proposed to allocate additional expansion spectrum for direct broadcast satellite services, which could create significant additional competition in the market for subscription television services.

OUR BUSINESS RELIES ON THE INTELLECTUAL PROPERTY OF OTHERS AND WE MAY INADVERTENTLY INFRINGE THEIR PATENTS AND PROPRIETARY RIGHTS

Many entities, including some of our competitors, now have and may in the future obtain patents and other intellectual property rights that cover or affect products or services directly or indirectly related to those that we offer. In general, if a court determines that one or more of our products infringes on intellectual property held by others, we would be required to cease developing or marketing those products, to obtain licenses to develop and market those products from the holders of the intellectual property, or to redesign those products in such a way as to avoid infringing the patent claims. If a competitor holds intellectual property rights, the entity might be predisposed to exercise its right to prohibit our use of its intellectual property in our products and services at any price, thus impacting our competitive position.

We cannot assure you that we are aware of all patents and other intellectual property rights that our products may potentially infringe. In addition, patent applications in the United States are confidential until the Patent and Trademark Office issues a patent and, accordingly, we cannot evaluate the extent to which our products may infringe claims contained in pending patent applications. Further, it is often not possible to determine definitively whether a claim of infringement is valid, absent protracted litigation.

We cannot estimate the extent to which we may be required in the future to obtain licenses with respect to patents held by others and the availability and cost of any such licenses. Those costs, and their impact on net income, could potentially be material. Damages in patent infringement cases can also include a tripling of actual damages in certain cases. To the extent that we are required to pay royalties to third parties to whom we are not currently making payments, these increased costs of doing business could negatively affect our liquidity and operating results. Various parties have asserted patent and other intellectual property rights with respect to components within our direct broadcast satellite system. We cannot be certain that these persons do not own the rights they claim, that our products do not infringe on these rights, that we would be able to obtain licenses from these persons on commercially reasonable terms or, if we were unable to obtain such licenses, that we would be able to redesign our products to avoid infringement.

WE COMPETE WITH CABLE TELEVISION AND OTHER LAND-BASED SYSTEMS, WHICH COULD AFFECT OUR ABILITY TO GROW AND INCREASE EARNINGS

We encounter substantial competition in the subscription television market from cable television and other land-based systems. Cable television operators have a large, established customer base, and many cable operators have significant investments in, and access to, programming. Cable television service is currently available to more than 90% of the approximately 99 million U.S. television households, and approximately 66% of total U.S. households currently subscribe to cable. Cable television operators currently have an advantage relative to us by providing local programming and service to multiple television sets within the same household. Cable operators may also obtain a competitive advantage through bundling their analog video service with expanded digital video services delivered terrestrially or via satellite, efficient 2-way high speed data transmission, and telephone service on upgraded cable systems. For example, some cable companies now offer high speed Internet access over their upgraded fiber optic systems, and AT&T has announced that it is seeking to provide telephone service over Time Warner's cable system. As a result of these and other factors, we may not be able to continue to expand our subscriber base or compete effectively against cable television operators.

When fully deployed, new technologies could have a material adverse effect on the demand for our direct broadcast satellite services. For example, new and advanced local multi-point distribution services are still in the development stage. In addition, entities such as regional telephone companies, which are likely to have greater resources than we have, are implementing and supporting digital video compression over existing telephone lines and digital "wireless cable." Moreover, mergers, joint ventures, and alliances among franchise, wireless or private cable television operators, regional Bell operating companies and others may result in providers capable of offering bundled cable television and telecommunications services in competition with us. For instance, AT&T has acquired cable operator TCI and has entered into a definitive agreement to acquire MediaOne. We may not be able to compete successfully with existing competitors or new entrants in the market for subscription television services.

SATELLITE PROGRAMMING SIGNALS HAVE BEEN PIRATED, WHICH COULD CAUSE US TO LOSE SUBSCRIBERS AND REVENUE

The delivery of subscription programming requires the use of encryption technology to assure only those who pay can receive the programming. It is illegal to create, sell or otherwise distribute mechanisms or devices to circumvent that encryption. Theft of cable and satellite programming has been widely reported and our signal encryption has been pirated and could be further compromised in the future. We continue to respond to compromises of our encryption system with measures intended to make signal theft of our programming commercially uneconomical. We utilize a variety of tools to continue to accomplish this goal. Ultimately, if other measures are not successful, it could be necessary to replace the credit card size card that controls the security of each consumer set top box at a material cost to us. If we can not promptly correct a compromise in our encryption technology, it would adversely affect our revenue and our ability to contract for video and audio services provided by programmers.

THE REGULATORY REGIME WE OPERATE UNDER COULD CHANGE ADVERSELY

The FCC imposes different rules for "subscription" and "broadcast" services. We believe that because we offer a subscription programming service, we are not subject to many of the regulatory obligations imposed upon broadcast licensees. However, we cannot be certain whether the FCC will find in the future that we should comply with regulatory obligations as a broadcast licensee with respect to our current and future operations, and certain parties have requested that we be treated as a broadcaster. If the FCC determined that we are a broadcast licensee, the FCC may require us to comply with all regulatory obligations imposed upon broadcast licensees, which are generally subject to more burdensome regulation than subscription service providers like us.

Under a requirement of the 1992 Cable Act, the FCC recently imposed public interest requirements on direct broadcast satellite licenses, such as us, to set aside four percent of channel capacity exclusively for noncommercial programming for which we must charge programmers below-cost rates and for which we may not impose additional charges on subscribers. This could also displace programming for which we could earn commercial rates and could adversely affect our financial results. In addition, the American Distance Education Consortium, or ADEC, recently filed an informal complaint claiming that our requested rates for carrying non-commercial programming are higher than allowed by the rules, and a petition asking the FCC to declare that we may not use our EchoStar III satellite at the 61.5 degree orbital location to carry ADEC's programming, but must instead use one of our satellites at the 119 degree orbital location. The FCC released its Order in that proceeding on November 24, 1999. The FCC ruled that we may not use only EchoStar III at the 61.5 degree orbital location for all of the public interest programming that we must carry. Rather, we must, at a minimum, reserve 4% of our channels at each of our full-CONUS orbital locations exclusively for public interest programming. The FCC also deferred

decision on the reasonableness of our proposed fees pending additional submission by the parties (which have been made) and ruled that we have the right to use a third party to aid in the administration of our set-aside obligations. The FCC's determinations may further restrict our flexibility and require us to devote additional valuable full-CONUS capacity for public interest programming. In addition, the FCC, on December 17, 1999, denied our request for waiver of the public interest rules to extend the December 15, 1999 deadline by which we had to reserve capacity for noncommercial programming. While the FCC ruled that it would not initiate enforcement proceedings for violation of the requirement for the period December 16, 1999 to January 7, 2000, it also stated that it would investigate and possibly initiate enforcement proceedings for violations occurring on December 15, 1999 or after January 7, 2000. The FCC referred the matter to the Enforcement Division, which subsequently sent us a letter requesting additional information. We have submitted that information and believe we have shown that, while we were not in full compliance with the set-aside requirement on December 15, 1999, we brought our system into compliance with the rules by January 7, 2000. The enforcement division of the FCC has sent a second letter requesting additional information. There can be no assurance that the Enforcement Division will, first, agree with that view, or second, not commence enforcement proceedings.

The FCC has commenced a rulemaking which seeks to streamline and revise its rules governing direct broadcast satellite operators. This rulemaking concerns many new possible direct broadcast satellite rules. There can be no assurance about the content and effect of any new direct broadcast satellite rules passed by the FCC.

The FCC has proposed allowing non-geostationary orbit fixed satellite services to operate on a co-primary basis in the same frequency as DBS and Ku-based FSS services. If the proposal is adopted, these satellite operations could provide global high-speed data services. This would, among other things, create additional competition for satellite and other services. The FCC has also requested comment on a request that would allow a terrestrial service proposed by Northpoint Communications, Inc. ("Northpoint") to retransmit local television or other video and data services to DBS subscribers or others in the same DBS spectrum that we use throughout the United States. Northpoint has been allowed by the FCC to conduct experimental operations in Texas and Washington, D.C. Furthermore, the Satellite Home Viewer Improvement Act of 1999 requires the FCC to make a determination regarding licenses for facilities that will broadcast signals to underserved markets by using spectrum otherwise allocated to commercial use, possibly including our DBS spectrum. If Northpoint or other entities become authorized to use our spectrum, they could cause harmful and substantial interference into our service.

OUR BUSINESS DEPENDS SUBSTANTIALLY ON FCC LICENSES THAT CAN EXPIRE OR BE REVOKED OR MODIFIED

We have licenses to operate EchoStar I and EchoStar II at the 119 degree orbital location, which both expire in 2006, a license to operate EchoStar III at the 61.5 degree orbital location, which expires in 2008 and an authorization to launch and operate for 10 years EchoStar V and EchoStar VI at the 110 degree orbital location. Also, we have filed with the FCC an application for a license to operate EchoStar IV from the 148 degree orbital location as well as a request for a waiver of the requirement of serving Alaska and Hawaii from that orbital location. The state of Hawaii has requested the FCC to impose several conditions on these requested authorizations, and we have opposed many of these conditions. We cannot be sure whether the FCC will grant these requests or whether it will impose onerous conditions. Until recently, we operated EchoStar IV at the 148 degree orbital location under a special temporary authorization. Our authorization at the 148 degree orbital location requires us to construct a satellite by December 20, 2000 and to utilize all of our FCC-allocated frequencies at that location by December 20, 2002, or risk losing those frequencies that we are not using. Third parties have opposed, and we expect them to continue to oppose, some of our authorizations or pending and future requests to the FCC for extensions, waivers and approvals.

During June 1999, we received another special temporary authorization from the FCC to temporarily move our EchoStar IV satellite to the 110 degree orbital location and operate it pending the launch and successful in-orbit testing and initial operation of EchoStar V. This authorization was subject to several conditions and expired by its own terms when EchoStar V commenced commercial operation during November 1999.

In conjunction with our plan to provide local-into-local broadcast service as well as cable programming from the 110 degree orbital location, we recently moved EchoStar IV to the 119.2 degree orbital location. We have an authorization from the FCC to operate that satellite over certain frequencies at that location, and we recently received special temporary authorization to operate the satellite over additional frequencies and at the 119.35 degree orbital location (instead of the authorized 119.2 degree orbital location). Our current plans is to transition some of

the programming now on EchoStar I and II to EchoStar IV, which can provide service to Alaska and Hawaii from the orbital location. In connection with that plan, we have also petitioned the FCC to declare that we have met our due diligence obligations for the 148 degree orbital location, or alternatively to extend the December 20, 2000 milestone for that location. The State of Hawaii has opposed that request and there is no assurance that it will be granted by the FCC.

The telemetry, tracking and control operations of EchoStar I are in an area of the spectrum called the "C-band." Although the FCC granted us conditional authority to use these frequencies for telemetry, tracking and control, in January 1996 a foreign government raised an objection to EchoStar I's use of these frequencies. We cannot be certain whether that objection will subsequently require us to relinquish the use of such C-band frequencies for telemetry, tracking and control purposes. Further, EchoStar II's telemetry, tracking and control operations are in the "extended" C-band. Our authorization to use these frequencies expired on January 1, 1999. Although we have timely applied for extension of that authorization to November 2006, we cannot be sure that the FCC will grant our request. If we lose the ability to use these frequencies for controlling either satellite, we would lose the satellite. Recently, the FCC released a notice of proposed rulemaking that may prohibit future satellite operations in the "extended" C-band frequencies. The FCC also is no longer accepting earth station applications in that band. These recent developments might have negative implications for us.

All of our FCC authorizations are subject to conditions as well as to the FCC's authority to modify, cancel or revoke them. In addition, all of our authorizations for satellite systems that are not yet operational, including the license that we received from MCI WorldCom, are subject to construction and progress obligations, milestones, reporting and other requirements. The FCC has indicated that it may revoke, terminate, condition or decline to extend or renew such authorizations if we fail to comply with applicable Communications Act requirements. If we fail to file adequate reports or to demonstrate progress in the construction of our satellite systems, the FCC has stated that it may cancel our authorizations for those systems. We have not filed, or timely filed, all required reports or other filings, and some of our construction permits have expired, in connection with our authorized systems with the FCC. We cannot be certain whether or not the FCC would cancel our authorizations. While we have filed with the FCC pending requests for extensions of authorizations that have expired, we cannot be sure how the FCC will rule on these requests.

RESTRICTIVE COVENANTS UNDER OUR INDEBTEDNESS MAY LIMIT OUR ABILITY TO OPERATE OUR BUSINESS

The indentures relating to our long-term indebtedness contain restrictive covenants that may inhibit our ability to manage our business, engage in certain transactions that we believe to be beneficial to holders of common stock and the convertible notes and to react to changing market conditions. These restrictions, among other things, limit the ability of our subsidiaries to:

- o incur additional indebtedness;
- o issue preferred stock;
- o sell assets;
- o create, incur or assume liens;
- o merge, consolidate or sell assets;
- o enter into transactions with affiliates; and
- o pay dividends and make other distributions.

WE DEPEND ON OTHERS TO PRODUCE PROGRAMMING

We depend on third parties to provide us with programming services. Our programming agreements have remaining terms ranging from one to ten years and contain various renewal and cancellation provisions. We may not be able to renew these agreements on favorable terms or at all, or these agreements may be canceled prior to expiration of their original term. If we are unable to renew any of these agreements or the other parties cancel the agreements, we cannot assure you that we would be able to obtain substitute programming, or that such substitute

programming would be comparable in quality or cost to our existing programming. In particular, the cost of sports programming has been rising rapidly. Our competitors currently offer much of the same programming that we do. Our ability to compete successfully will depend on our ability to continue to obtain desirable programming and offer it attractively to our customers at competitive prices.

OUR SATELLITES ARE SUBJECT TO RISKS DURING AND AFTER LAUNCH

Satellite launches are subject to significant risks, including launch failure, which may result in incorrect orbital placement or improper commercial operation. Approximately 15% of all commercial geostationary satellite launches have resulted in a total or constructive total loss. The failure rate varies by launch vehicle and satellite manufacturer. The loss, damage or destruction of any of our satellites as a result of electrostatic storm or collision with space debris would have a material adverse effect on our business. EchoStar IV has experienced certain anomalies; see "-- Insurance coverage of our satellites is limited."

In November 1998 and 1999, certain meteoroid events occurred as the Earth's orbit passed through the particulate trail of Comet 55P (Tempel-Tuttle). Similar meteoroid events are expected to occur again in November 2000. These meteoroid events pose a potential threat to all in orbit geosynchronous satellites including our DBS satellites. While the probability that our satellites will be damaged by space debris is very small, that probability will increase by several orders of magnitude during these meteoroid events.

OUR SATELLITES HAVE MINIMUM DESIGN LIVES OF 12 YEARS, BUT COULD FAIL BEFORE THEN

Our ability to earn revenue wholly depends on the usefulness of our satellites. Each of our satellites has a limited useful life. A number of factors affect the useful lives of the satellites, including the quality of their construction, the durability of their component parts, the longevity of their station-keeping on orbit and the efficiency of the launch vehicle used. The minimum design life of each of EchoStar I, EchoStar II, EchoStar III, EchoStar IV and EchoStar V is 12 years. We can provide no assurance, however, as to the useful lives of the satellites. Anomalies EchoStar IV has experienced have reduced its useful life to less than 10 years. Our operating results would be adversely affected if the useful life of any of our other satellites were significantly shorter than 12 years. The satellite construction contracts for our satellites contain no warranties if EchoStar I, EchoStar II, EchoStar III, EchoStar IV or EchoStar V fails following launch. Additionally, moving any of these satellites, either temporarily or permanently, to another orbital location, decreases the orbital life of the satellite by up to six months per movement. Earlier this year, we temporarily moved our EchoStar IV satellite to the 110 degree orbital location, see "-- Our business depends substantially on FCC licenses that can expire or be revoked or modified."

In the event of a failure or loss of any of EchoStar I, EchoStar II or EchoStar III, we may relocate EchoStar IV and use the satellite as a replacement for the failed or lost satellite. Such a relocation would require prior FCC approval and, among other things, a showing to the FCC that EchoStar IV would not cause additional interference compared to EchoStar I, EchoStar II or EchoStar III. If we choose to use EchoStar IV in this manner, we cannot assure you that this use would not adversely affect our ability to meet the operation deadlines associated with our permits. Failure to meet those deadlines could result in the loss of such permits which would have an adverse effect on our operations.

INSURANCE COVERAGE OF OUR SATELLITES IS LIMITED

We renewed in-orbit insurance for EchoStar I, EchoStar II and EchoStar III through July 2000. The insurance policy with respect to in-orbit operation contains standard commercial satellite insurance provisions, including a material change in underwriting information clause requiring us to notify our insurers of any material change in the written underwriting information provided to the insurers or any change in any material fact or circumstance concerning our satellites insured under the policy. That notification could permit insurers to renegotiate the terms and conditions if the result is a material change in risk of loss or insurable interest. A change in the operating status of an insured satellite or any loss occurring during the policy period does not entitle the insurers to renegotiate the policy terms. Currently, our satellite insurance contains customary exclusions and does not apply to loss or damage caused by acts of war or civil insurrection, anti-satellite devices, nuclear radiation or radioactive contamination or certain willful or intentional acts designed to cause loss or failure of a satellite. There may be circumstances in which insurance will not fully reimburse us for any loss. For example, as a result of the

failure over the past two years of three transponders on EchoStar III, resulting in the loss of use of six transponders on EchoStar III, our new insurance policy for EchoStar III contains a deductible of three or six transponders, depending on the power mode that we operate in. As a result of this deductible, we are currently insured for approximately 81% of our total transponders on EchoStar III.

The EchoStar IV launch insurance policy provided for insurance of \$219.3 million covering the period from launch of the satellite on May 8, 1998 through May 8, 1999. Due to anomalies experienced by EchoStar IV during that period and the resulting pending claim for a total constructive loss, we did not obtain in-orbit insurance on EchoStar IV. Consequently, if we are unable to resolve our pending insurance claim to our satisfaction, EchoStar IV will not be insured if further losses occur in the future. In addition, insurance will not reimburse us for business interruption, loss of business, profit opportunity and similar losses that might arise from delay in the launch of any EchoStar satellite.

We have procured normal and customary launch insurance for EchoStar V. The launch insurance policy provides for insurance of \$225.0 million covering the period from launch of the satellite on September 23, 1999 through September 23, 2000. Before the policy expires, we expect to procure normal and customary in-orbit insurance but might not be able to procure that insurance at reasonable rates, or at all, if EchoStar V experiences any anomalies before that time.

WE MAY BE UNABLE TO SETTLE OUTSTANDING CLAIMS WITH INSURERS

As a result of the failure of EchoStar IV solar arrays to fully deploy and the unrelated failure of 20 transponders to date, a maximum of approximately 16 of the 44 transponders on EchoStar IV are currently available for use at this time. Due to the normal degradation of the solar arrays, the number of available transponders may further decrease over time. Based on the current data from Lockheed Martin, we expect that approximately 10 transponders will probably be available over the remaining useful life of the satellite, absent significant additional transponder problems or other failures. In addition to the transponder failures, EchoStar IV has experienced anomalies affecting its heating systems and fuel system during 1999.

In September 1998, we filed a \$219.3 million insurance claim for a constructive total loss under the launch insurance policy related to EchoStar IV. However, if we receive \$219.3 million for a constructive total loss on the satellite, the insurers would obtain the sole right to the benefits of salvage from EchoStar IV under the terms of the launch insurance policy. Although we believe we have suffered a total loss of EchoStar IV under that definition in the launch insurance policy, we intend to negotiate a settlement with the insurers to compensate us for the reduced satellite transmission capacity and allow us to retain title to the asset.

While there can be no assurance, we do not currently expect a material adverse impact on short or medium term satellite operations. Although we have not fully assessed the impairment to EchoStar IV from the transponder failures and other anomalies, we continue to believe that insurance proceeds will be sufficient to offset all write-downs of satellite assets that might ultimately be necessary because of lost functionality. However, we can provide no assurance that additional material failures will not occur, and we can provide no assurance as to the ultimate amount that may be received from the insurance claim, or that coverage will be available. We will continue to evaluate the performance of EchoStar IV and may modify our loss assessment as new events or circumstances develop.

Our satellite insurance policy for EchoStar IV consists of separate identical policies with different carriers for varying amounts which, in combination, create a total insured amount of \$219.3 million. Two of the participants in our insurance line have notified us they believe that our alleged delay in providing required insurance claim information may reduce their obligation to pay any settlement related to the claim. One carrier recently asserted it has no obligation to pay. We strongly disagree with the position taken by those insurers and continue to believe that the EchoStar IV insurance claim will be resolved in a manner satisfactory to us. However, we cannot assure you that we will receive the amount claimed or, if we do, that we will retain title to EchoStar IV with its reduced capacity. We met with our insurance carriers in November 1999 and are continuing discussions to resolve our claim.

WE MAY BECOME LIABLE IN A PENDING FEE DISPUTE

In connection with the News Corporation litigation that arose in 1997, we have a contingent fee arrangement with the attorneys who represented us in that litigation which provides for the attorneys to be paid a percentage of any net recovery obtained in the News Corporation litigation. The attorneys have asserted that they may be entitled to receive payments totaling hundreds of millions of dollars under this fee arrangement. We are vigorously contesting the attorneys' interpretation of the fee arrangement, which we believe significantly overstates the magnitude of our liability.

During mid-1999, we initiated litigation against the attorneys in the District Court, Arapahoe County, Colorado, arguing that the fee arrangement is void and unenforceable and asserting claims for breach of fiduciary duty, constructive fraud, breach of the fee arrangement, and misappropriation of trade secrets. In December 1999, the attorneys initiated an arbitration proceeding before the American Arbitration Association. Currently, we are unable to predict the outcome of arbitration or litigation regarding this fee dispute.

WE USE ONLY ONE DIGITAL BROADCAST CENTER

We rely upon a single digital broadcast center located in Cheyenne, Wyoming, for key operations for programming signals, such as reception, encryption and compression. Although we recently acquired a digital broadcast center located in Gilbert, Arizona, this digital broadcast center will require significant time and expenditures to become fully operational. If a natural or other disaster damaged the digital broadcast center in Cheyenne, Wyoming, we cannot assure you that we would be able to continue to provide programming services to our customers.

COMPLEX TECHNOLOGY USED IN OUR BUSINESS COULD FAIL OR BECOME OBSOLETE

New applications and adaptations of existing and new technology, including compression, conditional access, on screen guides and other matters, and significant software development, are integral to our direct broadcast satellite system and may, at times, not function as we expect. Technology in the satellite television industry is in a rapid and continuing state of change as new technologies develop. We cannot assure you that we and our suppliers will be able to keep pace with technological developments. In addition, delays in the delivery of components or other unforeseen problems in our direct broadcast satellite system may occur that could adversely affect performance or operation of our direct broadcast satellite system and could have an adverse effect on our business. Further, if a competitive satellite receiver technology becomes commonly accepted as the standard for satellite receivers in the United States, we would be at a significant technological disadvantage.

WE DEPEND PRIMARILY ON A SINGLE RECEIVER MANUFACTURER

SCI Technology, Inc., a high-volume contract electronics manufacturer, is the primary manufacturer of EchoStar receiver systems. JVC and VTech also manufacture some EchoStar receiver systems for use by us and other customers of EchoStar Technologies Corporation. JVC also manufactures other consumer electronics products incorporating our receiver systems. If any of these vendors are unable for any reason to produce receivers in a quantity sufficient to meet our requirements, it would impair our ability to add additional DISH Network subscribers and grow our technology business unit. Likewise, it would adversely affect our results of operations.

WE HAVE FEWER DISTRIBUTION CHANNELS THAN OUR LARGEST DIRECT BROADCAST SATELLITE COMPETITOR

We do not have manufacturing agreements or arrangements with consumer products manufacturers other than JVC, VTech and Philips, and only JVC currently manufactures consumer electronics equipment incorporating our receivers. As a result, our receivers, and consequently our programming services, are less well known to consumers than those of our largest direct satellite broadcast competitor, DIRECTV. As alleged in the litigation we commenced against DIRECTV on February 1, 2000, see "Recent Developments", we believe that the improper conduct of DIRECTV has resulted in fewer retail outlets that carry our receiver systems for sale compared to outlets that carry the DIRECTV system.

WE RELY ON KEY PERSONNEL

We believe that our future success will depend to a significant extent upon the performance of Charles W. Ergen, Chairman, Chief Executive Officer and President. The loss of Mr. Ergen could have an adverse effect on our business. We do not maintain "key man" insurance. Although all of our executives, other than executive officers, have executed agreements limiting their ability to work for or consult with competitors if they leave us, we do not have any employment agreements with any of our executive officers.

WE ARE CONTROLLED BY ONE PRINCIPAL STOCKHOLDER

Charles W. Ergen, our Chairman, Chief Executive Officer and President, currently beneficially owns approximately 52% of our total equity securities, assuming exercise of employee stock options, and possesses approximately 91% of the total voting power. Thus, Mr. Ergen has the ability to elect a majority of our directors and to control all other matters requiring the approval of our stockholders. In addition, pursuant to a voting agreement among Mr. Ergen, News Corporation and MCI WorldCom, News Corporation and MCI WorldCom have agreed to vote their shares in accordance with the recommendation of our Board of Directors for five years. For Mr. Ergen's total voting power to be reduced to below 51%, his percentage ownership of the equity securities of EchoStar would have to be reduced to below 10%.

FOREIGN OWNERSHIP RESTRICTIONS COULD AFFECT OUR BUSINESS PLAN

The Communications Act, and the FCC's implementing regulations, provide that when subsidiaries of a holding company hold certain types of FCC licenses, foreign nationals or their representatives may not own or vote more than 25% of the total equity of the holding company, except upon an FCC public interest determination. Although the FCC's International Bureau has ruled that these limitations do not apply to providers of subscription direct broadcast satellite service like us, the ruling is under challenge. Furthermore, the limitations will apply to our licenses for fixed satellite service if we hold ourselves out as a common carrier or if the FCC decides to treat us as such a carrier. The FCC has noted that we have proposed to operate one of our authorized fixed satellite service systems on a common carrier as well as a non-common carrier basis. We have recently informed the FCC that we have no common carrier plans with respect to that system.

Currently a subsidiary of News Corporation, an Australian corporation, owns approximately 7% of our total outstanding stock, having 1% of our total voting power. This ownership has increased the possibility that foreign ownership of our stock may exceed the foreign ownership limitations if they apply. In connection with the MCI WorldCom authorization that we received in connection with our transactions with News Corporation, the FCC has decided to waive any foreign ownership limitations to the extent applicable. Nevertheless, we cannot foreclose the possibility that, in light of any subsequent FCC decisions or policy changes, we may in the future need a separate FCC determination that foreign ownership in excess of any applicable limits is consistent with the public interest in order to avoid a violation of the Communications Act or the FCC's rules.

RISKS PRIMARILY RELATED TO THE CONVERTIBLE NOTES AND OUR COMMON STOCK

WE HAVE SUBSTANTIAL INDEBTEDNESS AND ARE DEPENDENT ON OUR SUBSIDIARIES' EARNINGS TO MAKE PAYMENTS ON OUR INDEBTEDNESS

We have substantial debt service requirements which make us vulnerable to changes in general economic conditions. The indentures governing our subsidiaries' debt restrict their ability to incur additional debt. Thus it is, and will continue to be, difficult for our subsidiaries to obtain additional debt if required or desired in order to implement our business strategy. Since we conduct substantially all of our operations through our subsidiaries, our ability to service our debt obligations is dependent upon the earnings of our subsidiaries and the payment of funds by our subsidiaries to us in the form of loans, dividends or other payments. We have few assets of significance other than the capital stock of our subsidiaries. Our subsidiaries are separate legal entities that have no obligation to pay any amounts due under the convertible notes. Our subsidiaries do not guarantee the payment of the convertible notes. Furthermore, our subsidiaries are not obligated to make funds available to us, and creditors of our subsidiaries will have a superior claim to our subsidiaries' assets. In addition, our subsidiaries' ability to make any payments to us will depend on their earnings, the terms of their indebtedness, business and tax considerations and

legal restrictions. The outstanding senior notes of our EchoStar DBS Corporation subsidiary, an intermediate holding company through which we conduct substantially all of our business, currently prohibit it from paying any dividends to us. We cannot assure you that any of our other subsidiaries will be able to pay dividends or otherwise distribute funds to us in an amount sufficient to pay the principal of or interest on the convertible notes. As of September 30, 1999, our subsidiaries had outstanding long-term debt (including both the current and long-term portion) of approximately \$2.05 billion and also had \$628 million of other liabilities. Our subsidiaries may incur significant indebtedness in the future. If indebtedness is issued by a subsidiary, the claims of creditors of that subsidiary would effectively rank senior to the claims of holders of the convertible notes with respect to such subsidiary's assets. Accordingly, there might be insufficient assets available to satisfy your claims as a holder of the convertible notes upon an acceleration of the maturity of the convertible notes. Our ability to meet our payment obligations will depend on the success of our business strategy, which is subject to uncertainties and contingencies beyond our control.

THE CONVERTIBLE NOTES ARE SUBORDINATED TO OTHER DEBT AND NOT SECURED BY ANY OF OUR ASSETS

The convertible notes are general unsecured obligations ranking junior to all our existing and future "Senior Debt," as that term is defined in the indenture. See "Description of convertible notes -- Definitions." In addition, the convertible notes are effectively junior to all our existing and future secured indebtedness to the extent of the value of the assets securing that indebtedness. As a result of such subordination, in the event of our bankruptcy, liquidation or reorganization or certain other events, our assets will be available to pay obligations on the convertible notes only after all of our Senior Debt and all of our secured debt, to the extent of the value of the assets securing that debt, has been paid in full. Consequently, there may not be sufficient assets remaining to pay amounts due on any or all of the convertible notes then outstanding. In addition, to the extent our assets cannot satisfy in full the secured indebtedness, the holders of the secured indebtedness would have a claim for any shortfall that would rank senior in right of payment with respect to the convertible notes, if such secured debt were "Senior Debt," or would rank equally in right of payment with the convertible notes if such secured debt were not so classified. The indenture governing the convertible notes does not prohibit or limit our or our subsidiaries' incurrence of additional debt, including Senior Debt or secured debt, and the incurrence of any such additional indebtedness could adversely affect our ability to pay our obligations on the convertible notes. As of September 30, 1999, our subsidiaries had outstanding long-term debt (including both the current and long-term portion) of approximately \$2.05 billion and also had \$628 million of other liabilities, all of which are structurally senior to the convertible notes.

FUTURE SALES OF OUR COMMON STOCK MAY DEPRESS OUR STOCK PRICE

Sales of a substantial number of our shares of class A common stock in the public market in connection with this offering, or other offerings by us, could cause the market price of our class A common stock to decline. During October 1999, we filed a registration statement registering for sale up to 34,412,464 shares of our class A common stock by News America Incorporated and MCI WorldCom Network Services, Inc. On December 2, 1999, News America Incorporated and MCI WorldCom Network Services, Inc. sold 13.8 million of these shares pursuant to an underwritten offering. In connection with that offering, News America Incorporated and MCI WorldCom Network Services, Inc. have committed not to sell any shares of class A common stock, other than those included in that offering, for a period of six months and, thereafter, only as provided in the prospectus. The sale of these shares may affect the market price of our class A common stock.

WE MAY BE UNABLE TO REPAY OR REPURCHASE THE CONVERTIBLE NOTES UPON A CHANGE OF CONTROL

There is no sinking fund with respect to the convertible notes, and the entire outstanding principal amount of the convertible notes will become due and payable at maturity. If we experience a change in control, as defined, you may require us to repurchase all or a portion of your convertible notes prior to maturity. See "Description of convertible notes -- Repurchase at the option of holders." We may not have sufficient funds or be able to arrange for additional financing to repay the convertible notes at maturity or to repurchase convertible notes tendered to us following a change in control.

Borrowing arrangements or agreements relating to other indebtedness to which we may become a party may contain restrictions on or prohibitions against our repurchase of the convertible notes. If we were prohibited

from repurchasing the convertible notes under such financing arrangements and could not obtain the necessary waivers or refinance the applicable borrowings, we would be unable to repurchase the convertible notes. Our failure to repurchase any tendered convertible notes or convertible notes due upon maturity would constitute an event of default of the convertible notes.

THERE MAY BE NO PUBLIC MARKET FOR THE CONVERTIBLE NOTES

We cannot assure you that any market for the convertible notes will develop or, if it does develop, that it will be maintained. If a trading market is established, various factors could have a material adverse effect on the trading of the convertible notes, including fluctuations in the prevailing interest rates, changes in the market for convertible securities and changes in the market price of our common stock. The convertible notes are eligible for trading in the PORTAL Market. We do not intend to apply for a listing of any of the convertible notes on any security exchange or for quotation through the Nasdaq National Market.

OUR STOCK PRICE MAY BE VOLATILE

The price at which our common stock trades may be volatile and may fluctuate substantially due to competition and changes in the subscription television industry, regulatory changes, launch and satellite failures, operating results below expectations and other factors. In addition, price and volume fluctuations in the stock market may affect market prices for our common stock for reasons unrelated to our operating performance.

THE SHARES OF COMMON STOCK RECEIVED UPON CONVERSION OF THE CONVERTIBLE NOTES HAVE LIMITED VOTING RIGHTS

Our equity securities consist of common stock and preferred stock. Our common stock has been divided into three classes with different voting rights. Holders of class A common stock, which is the class issuable upon conversion of the convertible notes, and holders of class C common stock are entitled to one vote per share on all matters submitted to a vote of stockholders. Holders of class B common stock are entitled to ten votes per share. Holders of series C preferred stock have no voting rights except as provided by law or unless dividends are in arrears. No class C common stock or other series of preferred stock is currently outstanding. However, upon a "change in control" of EchoStar, any holder of class C common stock would be entitled to ten votes per share. Holders of common stock generally vote together as single class on matters submitted to stockholders. Although the class A common stock represents approximately 48% of our total common and preferred shares outstanding, it represents only 8% of our total voting power. Holders of common stock received upon conversion of the convertible notes will therefore not be able to meaningfully participate in our affairs absent a restructuring of our capital stock or the conversion of the outstanding class B common stock into class A common stock.

WE DO NOT EXPECT TO PAY DIVIDENDS IN THE FORESEEABLE FUTURE

We have never declared or paid any cash dividends on any class of our common stock and we do not expect to declare dividends on our common stock in the foreseeable future. Payment of any future dividends will depend upon our earnings and capital requirements, restrictions in our debt facilities and other factors our Board of Directors considers appropriate. We currently intend to retain our earnings, if any, to support future growth and expansion.

RATIO OF EARNINGS TO FIXED CHARGES

	Year Ended December 31,					Nine Months Ended September 30, 1999
	1994	1995	1996	1997	1998	
Ratio of earnings to fixed charges	0.78	0.13	(0.99)	(1.34)	(0.42)	(0.99)
Deficiency of available earnings to fixed charges	\$(6,145)	\$(44,198)	\$(188,701)	\$(364,290)	\$(317,731)	\$ (309,779)

For purposes of computing the ratio of earnings to fixed charges, and the deficiency of earnings to fixed charges, earnings consist of earnings from continuing operations before income taxes, plus fixed charges. Fixed charges consist of interest incurred on all indebtedness and the imputed interest component of rental expense under non-cancelable operating leases. For the years ended December 31, 1994, 1995, 1996, 1997 and 1998 and the nine months ended September 30, 1999, earnings were insufficient to cover the fixed charges.

DESCRIPTION OF CONVERTIBLE NOTES

GENERAL

The convertible notes are issued under an indenture, dated as of December 8, 1999, to which we and U.S. Bank Trust National Association, as trustee, are parties. The following description is a summary of the material provisions of the indenture. It does not restate the indenture in its entirety. We urge you to read the indenture and the registration rights agreement because they, and not this description, define your rights as a holder of the convertible notes. Copies of the indenture and the registration rights agreement are available to you upon request.

You can find the definitions of certain terms used in this description under the subheading "Definitions." In this section of the Prospectus entitled "Description of convertible notes" when we use the terms "we," "us," "our" or similar terms, we are referring only to EchoStar Communications Corporation, the issuer of the convertible notes, and not to any of its subsidiaries.

The convertible notes will be general unsecured obligations of ours, subordinated in right and priority of payment to all of our existing and future Senior Debt as described under "-- Subordination of convertible notes" and convertible into our class A common stock as described under "-- Conversion." The indenture does not contain any financial covenants or restrictions on the payment of dividends, the incurrence of Senior Debt or issuance or repurchase of our securities. The indenture contains no covenants or other provisions to afford protection to holders of the convertible notes in the event of a highly leveraged transaction, except to the extent described under "-- Repurchase at the option of holders." The convertible notes will not be guaranteed by any of our subsidiaries.

We conduct substantially all of our operations through our subsidiaries. We are dependent upon the cash flow of our subsidiaries to meet our obligations, including our obligations under the convertible notes. As a result, the convertible notes will be effectively subordinated to all existing and future indebtedness and other liabilities and commitments of our subsidiaries with respect to the cash flow and assets of those subsidiaries.

PRINCIPAL, MATURITY AND INTEREST

We issued \$1 billion in aggregate principal amount of convertible notes. The convertible notes will mature on January 1, 2007. Interest on the convertible notes accrues at a rate of 4 7/8% per annum from the date of original issuance and is payable semiannually on July 1 and January 1, commencing on July 1, 2000. We will make each interest payment to the holders of record of the convertible notes on the immediately preceding June 15 and December 15. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months. All references herein to a payment of principal shall include any premium that may be payable.

We are required to pay special interest on the convertible notes under certain circumstances, all as further described under the caption "Registration rights." All references herein to interest on the convertible notes shall include any such special interest that may be payable and all references to a payment of principal shall include any premium that may be payable.

The convertible notes are payable both as to principal and interest on presentation of such convertible notes if in certificated form at our offices or agencies maintained for such purpose or, at our option, payment of interest may be made by check mailed to the holders of the convertible notes at their respective addresses listed in the register of holders of convertible notes or, if a holder who holds an aggregate principal amount of at least \$5.0 million of convertible notes so requests, by wire transfer of immediately available funds to an account previously specified in writing by such holder to us and the trustee. Until we designate otherwise, our office or agency will be the offices of the trustee maintained for this purpose. The convertible notes are issued in registered form, without coupons, and in denominations of \$1,000 and integral multiples of \$1,000.

CONVERSION

The holder of any convertible note has the right, exercisable at any time after March 2, 2000 and prior to maturity, to convert the principal amount thereof (or any portion thereof that is an integral multiple of \$1,000) into shares of our class A common stock at a conversion price of \$90.88 per share, subject to adjustment as described

below (the "Conversion Price"), except that if a convertible note is called for redemption, the conversion right will terminate at the close of business on the business day immediately preceding the date fixed for redemption.

If any convertible notes are converted during the period after any record date but before the next interest payment date, interest on such convertible notes will be paid on the next interest payment date, notwithstanding such conversion, to the holder of record on the record date of those convertible notes. Any convertible notes that are, however, delivered to us for conversion after any record date but before the next interest payment date must, except as described in the next sentence, be accompanied by a payment equal to the interest payable on such interest payment date on the principal amount of convertible notes being converted. We will not require the payment to us described in the preceding sentence if, during that period between a record date and the next interest payment date, a conversion occurs on or after the date that we have issued a redemption notice and prior to the date of redemption. If any convertible notes are converted after an interest payment date but on or before the next record date, no interest will be paid on those notes. No fractional shares will be issued upon conversion, but a cash adjustment will be made for any fractional shares.

The conversion price is subject to adjustment upon the occurrence of certain events, including:

- (1) the issuance of shares of common stock as a dividend or distribution on our common stock;
- (2) the subdivision or combination of our outstanding common stock;
- (3) the issuance to substantially all holders of our common stock of rights or warrants to subscribe for or purchase common stock (or securities convertible into class A common stock) at a price per share less than the then current market price per share, as defined;
- (4) the distribution of shares of our capital stock (other than common stock), evidences of indebtedness or other assets (excluding dividends in cash, except as described in paragraph 5 below) to all holders of our common stock;
- (5) the distribution, by dividend or otherwise, of cash to all holders of our common stock in an aggregate amount that, together with the aggregate of any other distributions of cash that did not trigger a Conversion Price adjustment to all holders of our common stock within the 12 months preceding the date fixed for determining the stockholders entitled to such distribution and all Excess Payments in respect of each tender offer or other negotiated transaction by us or any of our subsidiaries for our common stock concluded within the preceding 12 months not triggering a Conversion Price adjustment, exceeds 15% of the product of the current market price per share (determined as set forth below) on the date fixed for the determination of stockholders entitled to receive such distribution times the number of shares of our common stock outstanding on that date;
- (6) payment of an Excess Payment in respect of a tender offer or other negotiated transaction by us or any of our subsidiaries for our common stock, if the aggregate amount of such Excess Payment, together with the aggregate amount of cash distributions made within the preceding 12 months not triggering a Conversion Price adjustment and all Excess Payments in respect of each tender offer or other negotiated transaction by us or any of our subsidiaries for our common stock concluded within the preceding 12 months not triggering a Conversion Price adjustment, exceeds 15% of the product of the current market price per share on the expiration of such tender offer or the consummation of such other negotiated transaction, as the case may be, times the number of shares of our common stock outstanding on that date; and
- (7) the distribution to substantially all holders of our common stock of rights or warrants to subscribe for securities (other than those referred to in paragraph 3 above). In the event of a distribution to substantially all holders of our common stock of rights to subscribe for additional shares of our capital stock (other than those referred to in paragraph 3 above), we may, instead of making any adjustment in the Conversion Price, make proper provision so that each holder of a convertible note who converts that convertible note after the record date for such distribution and prior to the

expiration or redemption of such rights will be entitled to receive upon such conversion, in addition to shares of common stock, an appropriate number of such rights. No adjustment of the Conversion Price will be made until cumulative adjustments amount to one percent or more of the Conversion Price as last adjusted.

If we reclassify or change our outstanding common stock, or consolidate with or merge into or transfer or lease all or substantially all of our assets to any person, or are a party to a merger that reclassifies or changes our outstanding common stock, the convertible notes will become convertible into the kind and amount of securities, cash or other assets which the holders of the convertible notes would have owned immediately after the transaction if the holders had converted their convertible notes immediately before the effective date of the transaction.

The indenture also provides that if rights, warrants or options expire unexercised, the Conversion Price shall be readjusted to take into account the actual number of such warrants, rights or options, which were exercised.

In the indenture, the "current market price" per share of common stock on any date means the average of the daily market prices for the shorter of (i) ten consecutive business days ending on the last full trading day on the exchange or market referred to in determining such daily market prices prior to the time of determination (as defined in the indenture) or (ii) the period commencing on the date next succeeding the first public announcement of the issuance of such rights or warrants or such distribution through such last full trading day prior to the time of determination.

We are permitted to make such reductions in the Conversion Price as we, in our discretion, determine to be advisable in order that any stock dividend, subdivision of shares, distribution of rights to purchase stock or securities or distribution of securities convertible into or exchangeable for stock which we make to our stockholders will not be taxable to the recipients.

SUBORDINATION OF CONVERTIBLE NOTES

The convertible notes are subordinate in right and priority of payment to all of our existing and future Senior Debt. The indenture does not restrict the amount of Senior Debt or other indebtedness that we or any of our subsidiaries may incur. As of September 30, 1999, the convertible notes effectively rank junior to \$2.05 billion of indebtedness and \$628 million of other liabilities of our subsidiaries. Currently, we do not have any debt outstanding other than indebtedness of our subsidiaries, trade debt and the indebtedness represented by the convertible notes.

The payment of the principal of, interest on or any other amounts due on the convertible notes is subordinated in right and priority of payment to the prior payment in full of all of our Senior Debt. No payment on account of principal of, redemption of, interest on or any other amounts due on the convertible notes, including, without limitation, any payments on the Change of Control Offer, and no redemption, purchase or other acquisition of the convertible notes may be made unless (i) full payment of amounts then due on all Senior Debt have been made or duly provided for under the terms of the instrument governing such Senior Debt, and (ii) at the time for, or immediately after giving effect to, any such payment, redemption, purchase or other acquisition, there shall not exist under any Senior Debt or any agreement pursuant to which any Senior Debt has been issued, any default which shall not have been cured or waived and which shall have resulted in the full amount of such Senior Debt being declared due and payable. In addition, the indenture will provide that if we and the trustee are notified by any of the holders of any issue of Senior Debt (the "Payment Blockage Notice") that a default has occurred giving the holders of such Senior Debt the right to accelerate the maturity thereof, no payment on account of principal, redemption, interest, special interest, if any, or any other amounts due on the convertible notes and no purchase, redemption or other acquisition of the convertible notes will be made for the period (the "Payment Blockage Period") commencing on the date notice is received and ending on the earlier of (A) the date on which such event of default shall have been cured or waived or (B) 180 days from the date notice is received. Notwithstanding the foregoing, only one Payment Blockage Notice with respect to the same event of default or any other events of default existing and unknown to the person giving such notice at the time of such notice on the same issue of Senior Debt may be given during any period of 360 consecutive days unless such event of default or such other events of default have been cured or waived for a period of not less than 90 consecutive days. No new Payment Blockage Period may be commenced by

the holders of Senior Debt during any period of 360 consecutive days unless all events of default which triggered the preceding Payment Blockage Period have been cured or waived.

Upon any distribution of our assets in connection with any dissolution, winding-up, liquidation or reorganization or acceleration of the principal amount due on the convertible notes because of any event of default, all Senior Debt must be paid in full before the holders of the convertible notes are entitled to any payments whatsoever.

As a result of these subordination provisions, in the event of our insolvency, holders of the convertible notes may recover ratably less than our general creditors.

If the payment of the convertible notes is accelerated because of an event of default, we or the trustee shall promptly notify the holders of Senior Debt or the trustee(s) for such Senior Debt of the acceleration. We may not pay the convertible notes until five days after such holders or trustee(s) of Senior Debt receive notice of such acceleration and, thereafter, may pay the convertible notes only if the subordination provisions of the indenture otherwise permit payment at that time.

If the trustee or any holder of convertible notes receives any payment or distribution of our assets of any kind in contravention of any of the terms of the indenture, whether in cash, property or securities, including, without limitation by way of set-off or otherwise, in respect of the convertible notes before all Senior Debt is paid in full, then such payment or distribution will be held by the recipient in trust for the benefit of holders of Senior Debt, and will be immediately paid over or delivered to the holders of Senior Debt or their representative or representatives to the extent necessary to make payment in full of all Senior Debt remaining unpaid, after giving effect to any concurrent payment or distribution, or provision therefor, to or for the holder of Senior Debt.

We are the exclusive obligors on the convertible notes. Since our operations are conducted substantially through our subsidiaries, our ability to service debt, including the convertible notes, is dependent upon the earnings of our subsidiaries and the distribution of those earnings to, or upon loans or other payments of funds by those subsidiaries to, us. The payment of dividends to us and the making of loans and advances to us by our subsidiaries may be subject to statutory or contractual restrictions, will be dependent upon the earnings of those subsidiaries and may be subject to various business considerations. The outstanding senior notes of our EchoStar DBS Corporation subsidiary, an intermediate holding company through which we conduct substantially all of our business, currently prohibit it from paying any dividends to us.

Any right that we have to receive assets of any of our subsidiaries upon their liquidation or reorganization (and the consequent right of the holders of the convertible notes to participate in those assets) will be effectively subordinated to the claims of that subsidiary's creditors (including trade creditors), except to the extent that we ourselves are recognized as a creditor of such subsidiary, in which case our claims would still be subordinate to any security interests in the assets of such subsidiary and any indebtedness of such subsidiary senior to that held by us.

The indenture will not limit the amount of additional indebtedness, including Senior Debt, which we can create, incur, assume or guarantee, nor will the indenture limit the amount of indebtedness and other liabilities which any subsidiary can create, incur, assume or guarantee.

OPTIONAL REDEMPTION

We may not redeem the convertible notes prior to January 1, 2003. Thereafter, the convertible notes are subject to redemption at our option, in whole or in part, upon not less than 30 nor more than 60 days' notice, at the redemption prices set forth below, expressed as percentages of principal amount plus accrued and unpaid interest thereon, in each case, to the applicable redemption date, if redeemed during the twelve-month period beginning on January 1 of the years indicated below:

YEAR ----	Percentage -----
2003	102.786%
2004	102.089
2005	101.393
2006	100.696
2007	100.000

MANDATORY REDEMPTION AND REPURCHASE

We are not required to make mandatory redemption or sinking fund payments with respect to the convertible notes. We are, however, required to make a Change of Control Offer with respect to a repurchase of the convertible notes under the circumstances described under the caption "Repurchase at the option of holders."

REPURCHASE AT THE OPTION OF HOLDERS

If a Change of Control occurs, each holder of convertible notes will have the right to require us to repurchase all or any part of that holder's convertible notes equal to \$1,000 or an integral multiple of \$1,000, pursuant to the Change of Control Offer at a purchase price equal to 101% of the principal amount, plus accrued and unpaid interest, if any, as of the date of purchase. The payment will be referred to as the Change of Control Payment. Within 40 days following any Change of Control, we will mail a notice to each holder, stating:

- (1) that the Change of Control Offer is being made pursuant to the covenant entitled "Change of Control" and that all convertible notes tendered will be accepted for payment;
- (2) the purchase price and the purchase date, which shall be no earlier than 30 days nor later than 40 days from the date such notice is mailed. This date is referred to as the Change of Control Payment Date;
- (3) that interest will continue to accrue on any convertible notes not tendered, as provided in the convertible notes;
- (4) that, unless we default in the payment of the Change of Control Payment, with respect to all convertible notes accepted for payment pursuant to the Change of Control Offer, interest will cease to accrue after the Change of Control Payment Date;
- (5) that holders electing to have any convertible notes purchased pursuant to a Change of Control Offer will be required to surrender the convertible notes, with the form entitled Option of Holder to Elect Purchase on the reverse of the convertible notes completed, to the paying agent at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date;
- (6) that holders will be entitled to withdraw their election if the paying agent receives, not later than the close of business on the second Business Day preceding the Change of Control Payment Date, a telegram, telex, facsimile transmission or letter stating the name of the holder, the principal amount of convertible notes delivered for purchase, and a statement that the holder is withdrawing the election to have such convertible notes purchased; and
- (7) that holders whose convertible notes are being purchased only in part will be issued new convertible notes equal in principal amount to the unpurchased portion of the convertible notes surrendered, which unpurchased portion must be equal to \$1,000 in principal amount.

We will comply with the requirements of Rules 13e-4 and 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the convertible notes in connection with a Change of Control.

On the Change of Control Payment Date, we will, to the extent lawful,

- (1) accept for payment convertible notes or portions of convertible notes tendered pursuant to the Change of Control Offer;
- (2) deposit with the paying agent an amount equal to the Change of Control Payment in respect of all convertible notes or portions of convertible notes so tendered; and
- (3) deliver or cause to be delivered to the trustee the convertible notes so accepted together with an Officers' Certificate stating the convertible notes or portions of convertible notes that have been tendered.

The paying agent shall promptly mail to each holder of convertible notes so accepted, or, if a holder requests, wire transfer immediately available funds to an account previously specified in writing by the holder to us and the paying agent, payment in an amount equal to the purchase price for such convertible notes. The trustee shall promptly authenticate and mail to each holder a new convertible note equal in principal amount to any unpurchased portion of the convertible notes surrendered, if any; provided that each new convertible note shall be in a principal amount of \$1,000 or an integral multiple of \$1,000. We will publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

Except as described above with respect to a Change of Control, the indenture does not contain any other provision that permits the holders of the convertible notes to require that we repurchase or redeem the convertible notes in the event of a takeover, recapitalization or similar restructuring. The Change of Control Offer requirement of the convertible notes may, in certain circumstances, make more difficult or discourage a takeover, and, thus, the removal of incumbent management. Management has not entered into any agreement or plan involving a Change of Control, although it is possible that we could decide to do so in the future. Subject to the limitations discussed below, we could, in the future, enter into various transactions including acquisitions, refinancings or other recapitalizations, that would not constitute a Change of Control under the indenture, but that could increase the amount of indebtedness outstanding at such time or otherwise affect our capital structure or credit ratings.

Our ability to pay cash to the holders of convertible notes pursuant to a Change of Control Offer may be limited by our then existing financial resources. See "Risk factors." Any future credit facilities or other agreements relating to our or our subsidiaries' indebtedness may contain prohibitions or restrictions on our ability to effect a Change of Control Payment or may also require a similar offer to which we or our subsidiaries may be required to allocate resources, such as with EchoStar DBS Corporation's outstanding senior notes. If a Change of Control occurs at a time when such prohibitions or restrictions are in effect, we could seek the consent of our lenders to the purchase of convertible notes and other indebtedness containing change of control provisions or could attempt to refinance the borrowings that contain such prohibitions or restrictions. If we do not obtain such consents or repay such borrowings, we will be effectively prohibited from purchasing the convertible notes. In such case, our failure to purchase tendered convertible notes would constitute an event of default under the indenture. Moreover, the events that constitute a Change of Control under the indenture may constitute events of default under our future debt instruments or credit agreements of us or our subsidiaries. Such events of default may permit the lenders under those debt instruments or credit agreements to accelerate the debt and, if the debt is not paid or repurchased, to enforce their security interests in what may be all or substantially all of the assets of our subsidiaries. Therefore, our ability to raise cash to repay or repurchase the convertible notes may be limited.

"Change of Control" means

- (a) any transaction or series of transactions (including, without limitation, a tender offer, merger or consolidation) the result of which is that the Principal and his Related Parties or an entity controlled by the Principal and his Related Parties (and not controlled by any person other than the Principal or his Related Parties) (i) sell, transfer or otherwise dispose of more than 50% of the total Equity Interests in us beneficially owned (as defined in Rule 13(d)(3) under the Exchange Act, but without including any Equity Interests which may be deemed to be owned solely by reason of the existence of any voting arrangements), by such persons on the date of the indenture (as adjusted for stock splits and dividends and other distributions payable in Equity Interests) or (ii) do not have the voting power to elect at least a majority of our Board of Directors;

- (b) the first day on which a majority of the members of our Board of Directors are not Continuing Directors; or
- (c) the sale, lease or transfer of all or substantially all of our assets to any "Person" or "group," within the meaning of Section 13(d)(3) and 14(d)(2) of the Exchange Act or any successor provision to either of the foregoing, including any group acting for the purpose of acquiring, holding or disposing of securities within the meaning of Rule 13d-5(b)(1) under the Exchange Act, other than the Principal and his Related Parties.

"Principal" means Charles W. Ergen.

"Related Party" means, with respect to the Principal, (a) the spouse and each immediate family member of the Principal and (b) each trust, corporation, partnership or other entity of which the Principal beneficially holds an 80% or more controlling interest.

SELECTION AND NOTICE

If less than all of the convertible notes are to be redeemed at any time, selection of convertible notes for redemption will be made by the trustee in compliance with the requirements of any securities exchange on which the convertible notes are listed. In the absence of any requirements of any securities exchange or if the convertible notes are not listed, selection of the convertible note to be redeemed will be made on a pro rata basis, provided that no convertible notes of \$1,000 or less may be redeemed in part. Notice of redemption will be mailed by first class mail at least 30 but not more than 60 days before the redemption date to each holder of convertible notes to be redeemed at its registered address. If any convertible note is to be redeemed in part only, the notice of redemption that relates to that convertible note shall state the portion of the principal amount thereof to be redeemed. A new convertible note in principal amount equal to the unredeemed portion thereof will be issued in the name of the holder thereof upon cancellation of the original convertible note. On and after the redemption date, interest ceases to accrue on convertible notes or portions of them called for redemption.

COVENANTS

SALE OF ASSETS

The indenture provides that we may not sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of our properties or assets in any one or more related transactions to another corporation, person or entity unless:

- o The entity or person to which such sale, assignment, transfer, lease, conveyance or other disposition shall have been made is a corporation organized or existing under the laws of the United States, any state thereof or the District of Columbia;

- o The entity or person to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made assumes all obligations pursuant to a supplemental indenture, in a form reasonably satisfactory to the trustee, under the convertible notes and the indenture; and

- o Immediately after such transaction no default or event of default exists.

LIMITATION ON STATUS AS INVESTMENT COMPANY

The indenture provides that we will not, and will not permit any subsidiary to, conduct our or its business in a fashion that would cause us to be required to register as an "investment company" (as that term is defined in the Investment Company Act of 1940, as amended).

REPORTS

Whether or not required by the rules and regulations of the SEC, so long as any convertible notes are outstanding, we will file with the SEC and furnish to the holders of convertible notes all quarterly and annual financial information required to be contained in a filing with the SEC on Forms 10-Q and 10-K, including a

"Management's Discussion and Analysis of Financial Condition and Results of Operations" and, with respect to the annual information only, a report by our certified independent accountants, in each case, as required by the rules and regulations of the SEC as in effect on the issuance date.

EVENTS OF DEFAULT AND REMEDIES

The indenture provides that each of the following constitutes an event of default:

- (1) default for 30 days in the payment when due of interest on the convertible notes;
- (2) a default in the payment of principal of any convertible note when due at its stated maturity, upon optional redemption, in connection with a Repurchase Offer, upon declaration, or otherwise;
- (3) our failure to comply for 30 days after notice with any of our obligations under the covenants described under "Repurchase at the option of holders" and "Sale of assets" (in each case, other than a failure to purchase convertible notes in connection with a Repurchase Offer);
- (4) our failure for 60 days after notice to comply with certain other covenants and agreements contained in the indenture or the convertible notes;
- (5) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by us or any of our subsidiaries that is a "significant subsidiary" or any group of two or more subsidiaries that, taken as a whole, would constitute a significant subsidiary, or the payment of which is guaranteed by us or any of our subsidiaries that is a significant subsidiary or any group of two or more subsidiaries that, taken as a whole, would constitute a significant subsidiary, whether such Indebtedness or guarantee now exists, or is created after the issuance date, which default
 - (1) is caused by a failure to pay when due principal or interest on such Indebtedness within the grace period provided in such Indebtedness, which payment default continues beyond any applicable grace period; or
 - (2) results in the acceleration of such Indebtedness prior to its express maturity; and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a payment default or the maturity of which has been so accelerated, aggregates \$50.0 million or more;
- (6) failure by us or any subsidiary of ours that is a significant subsidiary or any group of two or more subsidiaries that, taken as a whole, would constitute a significant subsidiary to pay final judgments for the payment of money (other than any judgment as to which a reputable insurance company has accepted liability subject to customary terms) aggregating in excess of \$50.0 million, which judgments are not paid, wired, discharged or stayed within 60 days after their entry;
- (7) certain events of bankruptcy or insolvency with respect to us or any subsidiary of ours that is a significant subsidiary or any group of two or more subsidiaries that, taken as a whole, would constitute a significant subsidiary; and
- (8) the approval by our shareholders of any merger, amalgamation or consolidation by us (whether or not we are the surviving corporation) and whether or not such merger, amalgamation or consolidation is in one or more related transactions if, (i) the successor corporation, person or entity (A) does not assume all the obligations, pursuant to a supplemental indenture in a form reasonably satisfactory to the trustee, under the convertible notes and the indenture (to the extent any such supplemental indenture may be necessary, in the opinion of the trustee, to evidence our continuing obligations under the indenture) and (B) is not a corporation, person or entity organized or existing under the laws of the United States, any state thereof or the District of Columbia or (ii) immediately after the transaction, any default or event of default exists.

If any event of default occurs and is continuing, the trustee or the holders of at least 25% in principal amount of the then outstanding convertible notes may declare all the convertible notes to be due and payable immediately, subject to the provisions limiting payment described in "--Subordination." Notwithstanding the foregoing, if a default occurs from (i) the events described in paragraph 8 above regarding merger, amalgamation or consolidation or (ii) certain events of bankruptcy or insolvency, with respect to us or any significant subsidiary, all outstanding convertible notes will become due and payable without further action or notice. Holders of the convertible notes may not enforce the indenture or the convertible notes except as provided in the indenture. Subject to certain limitations, holders of a majority in principal amount of the then outstanding convertible notes may direct the trustee in its exercise of any trust or power. The trustee may withhold from holders of the convertible notes notice of any continuing default or event of default, except a default or event of default relating to the payment of principal or interest, if it determines that withholding notice is in their interest.

If the convertible notes are accelerated because an event of default has occurred and is continuing as a result of the acceleration of any Indebtedness described in paragraph 5 above, the acceleration shall be automatically annulled if:

o the holders of any, Indebtedness described in such paragraph 5, above, have rescinded the declaration of acceleration in respect of such Indebtedness within 30 days after the date of such declaration;

o the annulment of the acceleration of the convertible notes would not conflict with any judgment or decree of a court of competent jurisdiction; and

o all existing events of default, except for nonpayment of principal of or interest on the convertible notes that became due solely because of the acceleration of the convertible notes, have been cured or waived.

The holders of a majority in aggregate principal amount of the then outstanding convertible notes by notice to the trustee may on behalf of all of the holders waive any existing default or event of default and its consequences under the indenture except a continuing default or event of default in the payment of interest on or the principal of the convertible notes.

We are required to deliver to the trustee annually a statement regarding compliance with the indenture, and we are required, upon becoming aware of any default or event of default, to deliver to the trustee a statement specifying that default or event of default.

NO PERSONAL LIABILITY OF DIRECTORS, OFFICERS, EMPLOYEES AND SHAREHOLDERS

No director, officer, employee, incorporator or shareholder of ours, as such, shall have any liability for any of our obligations under the convertible notes or the indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each holder of the convertible notes by accepting a convertible note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the convertible notes. Such waiver may not be effective to waive liabilities under the federal securities laws, and it is the view of the SEC that a waiver of such liabilities is against public policy.

UNCLAIMED MONEY; PRESCRIPTION

If money deposited with the trustee or paying agent for the payment of principal or interest remains unclaimed for two years, the trustee and the paying agent shall pay the money back to us at our written request. After that, holders of convertible notes entitled to the money must look to us for payment unless an abandoned property law designates another person and all liability of the trustee and the paying agent shall cease. Other than as described in this paragraph, the indenture does not provide for any prescription period for the payment of interest and principal on the convertible notes.

BOOK-ENTRY, DELIVERY AND FORM

The convertible notes were sold to qualified institutional buyers in reliance on Rule 144A ("Rule 144A Notes"). Convertible notes were also sold to a limited number of accredited investors in transactions exempt from registration under the Securities Act ("Accredited Investor Notes"). Except as set forth below, convertible notes were issued in registered, global form in minimum denominations of \$1,000 (subject to a minimum initial purchase amount of \$100,000 in the case of Accredited Investor Notes) and integral multiples of \$1,000 in excess thereof.

Rule 144A Notes initially will be represented by one or more convertible notes in registered global form without interest coupons (collectively, the "Global Notes"). The Global Notes will be deposited upon issuance with the trustee as custodian for The Depository Trust Company ("DTC"), in New York, New York, and registered in the name of DTC or its nominee, in each case for credit to an account of a direct or indirect participant in DTC as described below.

Except as set forth below, the Global Notes may be transferred, in whole and not in part, only to another nominee of DTC or to a successor of DTC or its nominee. Beneficial interests in the Global Notes may not be exchanged for convertible notes in certificated form except in the limited circumstances described below. See "--Exchange of global notes for certificated notes." Except in the limited circumstances described below, owners of beneficial interests in the Global Notes will not be entitled to receive physical delivery of convertible notes in certificated form.

Accredited Investor Notes will be issued only in registered, certificated (i.e., non-global) form without interest coupons. Accredited Investor Notes may not be exchanged for beneficial interests in any Global Note except in the limited circumstances described below. See "Exchange of certificated notes for global notes."

Rule 144A Notes (including beneficial interests in the Global Notes) and Accredited Investor Notes will be subject to certain restrictions on transfer and will bear a restrictive legend as described under "Notice to investors." In addition, transfers of beneficial interests in the Global Notes will be subject to the applicable rules and procedures of DTC and its direct or indirect participants, which may change from time to time.

DEPOSITORY PROCEDURES

The following description of the operations and procedures of DTC are provided solely as a matter of convenience. These operations and procedures are solely within the control of the respective settlement systems and are subject to changes by them. We take no responsibility for these operations and procedures and urge investors to contact the system or their participants directly to discuss these matters.

DTC has advised us that DTC is a limited-purpose trust company created to hold securities for its participating organizations (collectively, the "Participants") and to facilitate the clearance and settlement of transactions in those securities between Participants through electronic book-entry changes in accounts of its Participants. The Participants include securities brokers and dealers (including the initial purchasers), banks, trust companies, clearing corporations and certain other organizations. Access to DTC's system is also available to other entities such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a Participant, either directly or indirectly (collectively, the "Indirect Participants"). Persons who are not Participants may beneficially own securities held by or on behalf of DTC only through the Participants or the Indirect Participants. The ownership interests in, and transfers of ownership interests in, each security held by or on behalf of DTC are recorded on the records of the Participants and Indirect Participants.

DTC has also advised us that, pursuant to procedures established by it:

- (1) upon deposit of the Global Notes, DTC will credit the accounts of Participants designated by the initial purchasers with portions of the principal amount of the Global Notes; and
- (2) ownership of these interests in the Global Notes will be shown on, and the transfer of ownership thereof will be effected only through, records maintained by DTC (with respect to the Participants) or by the Participants and the Indirect Participants (with respect to other owners of beneficial interest in the Global Notes).

Investors in the Global Notes who are Participants in DTC's system may hold their interests therein directly through DTC. Investors in the Global Notes who are not Participants may hold their interests therein indirectly through organizations which are Participants in such system. All interests in a Global Note are subject to the procedures and requirements of DTC. The laws of some states require that certain persons take physical delivery in definitive form of securities that they own. Consequently, the ability to transfer beneficial interests in a Global Note to such persons will be limited to that extent. Because DTC can act only on behalf of Participants, which in turn act on behalf of Indirect Participants, the ability of a person having beneficial interests in a Global Note to pledge such interests to persons that do not participate in the DTC system, or otherwise take actions in respect of such interests, may be affected by the lack of a physical certificate evidencing such interests.

EXCEPT AS DESCRIBED BELOW, OWNERS OF INTERESTS IN THE GLOBAL NOTES WILL NOT HAVE CONVERTIBLE NOTES REGISTERED IN THEIR NAMES, WILL NOT RECEIVE PHYSICAL DELIVERY OF CONVERTIBLE NOTES IN CERTIFICATED FORM AND WILL NOT BE CONSIDERED THE REGISTERED OWNERS OR "HOLDERS" THEREOF UNDER THE INDENTURE FOR ANY PURPOSE.

Payments in respect of the principal and interest, of, premium, and special interest, if any, and interest on a Global Note registered in the name of DTC or its nominee will be payable to DTC in its capacity as the registered holder under the indenture. Under the terms of the indenture, we and the trustee will treat the persons in whose names the convertible notes, including the Global Notes, are registered as the owners thereof for the purpose of receiving payments and for all other purposes. Consequently, neither we, the trustee, nor any agent of ours or the trustee has or will have any responsibility or liability for:

- o any aspect of DTC's records or any Participant's or Indirect Participant's records relating to or payments made on account of beneficial ownership interest in the Global Notes or for maintaining, supervising or reviewing any of DTC's records or any Participant's or Indirect Participant's records relating to the beneficial ownership interests in the Global Notes; or

- o any other matter relating to the actions and practices of DTC or any of its Participants or Indirect Participants.

DTC has advised us that its current practice, upon receipt of any payment in respect of securities such as the convertible notes (including principal and interest), is to credit the accounts of the relevant Participants with the payment on the payment date unless DTC has reason to believe it will not receive payment on such payment date. Each relevant Participant is credited with an amount proportionate to its beneficial ownership of an interest in the principal amount of the relevant security as shown on the records of DTC. Payments by the Participants and the Indirect Participants to the beneficial owners of convertible notes will be governed by standing instructions and customary practices and will be the responsibility of the Participants or the Indirect Participants and will not be the responsibility of DTC, the trustee or EchoStar. Neither we nor the trustee will be liable for any delay by DTC or any of its Participants in identifying the beneficial owners of the convertible notes, and we and the trustee may conclusively rely on and will be protected in relying on instructions from DTC or its nominee for all purposes.

Subject to the transfer restrictions set forth under "Notice to investors," transfers between Participants in DTC will be effected in accordance with DTC's procedures, and will be settled in same-day funds.

DTC has advised us that it will take any action permitted to be taken by a holder of convertible notes only at the direction of one or more Participants to whose account DTC has credited the interests in the Global Notes and only in respect of such portion of the aggregate principal amount of the convertible notes as to which such Participant or Participants has or have given such direction. However, if there is an event of default under the convertible notes, DTC reserves the right to exchange the Global Notes for legended convertible notes in certificated form, and to distribute such convertible notes to its Participants.

EXCHANGE OF GLOBAL NOTES FOR CERTIFICATED NOTES

A Global Note is exchangeable for definitive convertible notes in registered certificated form ("Certificated Notes") if:

- (1) DTC (a) notifies us that it is unwilling or unable to continue as depository for the Global Notes and we fail to appoint a successor depository or (b) has ceased to be a clearing agency registered under the Exchange Act;
- (2) we, at our option, notify the trustee in writing that we elect to cause the issuance of the Certificated Notes; or
- (3) there shall have occurred and be continuing a default or event of default with respect to the convertible notes.

In addition, beneficial interests in a Global Note may be exchanged for Certificated Notes upon prior written notice given to the trustee by or on behalf of DTC in accordance with the indenture. In all cases, Certificated Notes delivered in exchange for any Global Note or beneficial interests in Global Notes will be registered in the names, and issued in any approved denominations, requested by or on behalf of the depository (in accordance with its customary procedures) and will bear the restrictive legend referred to in "Notice to investors," unless that legend is not required by applicable law.

EXCHANGE OF ACCREDITED INVESTOR NOTES FOR GLOBAL NOTES

Accredited Investor Notes, which will be issued in certificated form, may not be exchanged for beneficial interests in a global note unless such exchange occurs in connection with a transfer of such Accredited Investor Notes and the transferor first delivers to the trustee a written certificate (in the form provided in the indenture) to the effect that such transfer will comply with the appropriate transfer restrictions applicable to such convertible notes. See "Notice to investors."

SAME DAY SETTLEMENT AND PAYMENT

We will make payments in respect of the convertible notes represented by the global notes (including principal, premium, if any, and interest and special interest, if any) by wire transfer of immediately available funds to the accounts specified by the Global Note Holder. We will make all payments of principal, interest, premium and special interest, if any, with respect to Certificated Notes by wire transfer of immediately available funds to the accounts specified by the Holders thereof or, if no such account is specified or permitted to be specified, by mailing a check to each such Holder's registered address. The convertible notes represented by the Global Notes are expected to be eligible to trade in the PORTAL market and to trade in DTC's Same-Day Funds Settlement System, and any permitted secondary market trading activity in such convertible notes will, therefore, be required by DTC to be settled in immediately available funds. We expect that secondary trading in any Certificated Notes will also be settled in immediately available funds.

TRANSFER AND EXCHANGE

A holder may transfer or exchange interests in the convertible notes in accordance with procedures described in "Book-entry; delivery and form." The registrar and the trustee may require a holder, among other things, to furnish appropriate endorsements and transfer documents and we may require a holder to pay any taxes and fees required by law or permitted by the indenture. We are not required to transfer or exchange any convertible note selected for redemption. Also, we are not required to transfer or exchange any convertible note for a period of 15 days before a selection of convertible notes to be redeemed.

The registered holder of a convertible note will be treated as the owner of it for all purposes.

AMENDMENT, SUPPLEMENT AND WAIVER

Except as provided in the next succeeding paragraph, the indenture or the convertible notes may be amended or supplemented with the consent of the holders of at least a majority in aggregate principal amount of the then outstanding convertible notes, as applicable, including consents obtained in connection with a tender offer or exchange offer for the convertible notes, and any existing default or compliance with any provision of the indenture or the convertible notes may be waived with the consent of the holders of a majority in aggregate principal amount

of then outstanding convertible notes, including consents obtained in connection with a tender offer or exchange offer for the convertible notes.

Without the consent of each holder affected, an amendment or waiver may not:

- o reduce the amount of convertible notes whose holders must consent to an amendment, supplement or waiver;

- o reduce the principal of or change the fixed maturity of any convertible note or alter the provisions with respect to the redemption of the convertible notes, except for repurchases of the convertible notes pursuant to the covenant described above under the caption "-- Repurchase at the option of holders;"

- o reduce the rate of or change the time for payment or accrual of interest on any convertible note;

- o waive a default in the payment of principal of or interest on any convertible notes, except a rescission of acceleration of the convertible notes by the holders of at least a majority in aggregate principal amount of the convertible notes and a waiver of the payment default that resulted from such acceleration;

- o make any convertible note payable in money other than that stated in the convertible notes;

- o make any change in the provisions of the indenture relating to waivers of past defaults or the rights of holders of convertible notes to receive payments of principal of or interest on the convertible notes;

- o waive a redemption payment with respect to any convertible note;

- o impair the right to convert the convertible notes into common stock;

- o modify the conversion or subordination provision of the indenture in a manner adverse to the holders of the convertible notes; or

- o make any change in the foregoing amendment and waiver provisions.

Notwithstanding the foregoing, without the consent of any holder of convertible notes, we and the trustee may amend or supplement the indenture or the convertible notes to cure any ambiguity, defect or inconsistency, to provide for uncertificated convertible notes in addition to or in place of certificated convertible notes, to provide for the assumption of our obligations to holders of the convertible notes in the case of a merger or consolidation or certain transfers or leases, to make any change that would provide any additional rights or benefits to the holders of the convertible notes or that does not adversely affect the legal rights under the indenture of any such holder, or to comply with requirements of the SEC in order to maintain the qualification of the indenture under the Trust Indenture Act.

GOVERNING LAW AND JUDGMENTS

The convertible notes and the indenture will be governed exclusively by and construed in accordance with the laws of the State of New York without giving effect to applicable principles of conflicts of laws to the extent that the application of the law of another jurisdiction would be required thereby.

We will submit to the jurisdiction of the United States federal and New York state courts located in the borough of Manhattan, City and State of New York for purposes of all legal actions and proceedings instituted in connection with the convertible notes and indenture.

CONCERNING THE TRUSTEE

The indenture contains limitations on the rights of the trustee, should it become a creditor of ours, to obtain payment of claims in certain cases, or to realize on certain property received in respect of any such claim as security or otherwise. The trustee may engage in other transactions; however, if it acquires any conflicting interest it must eliminate that conflict within 90 days, apply to the SEC for permission to continue or resign.

The holders of the majority in aggregate principal amount of the then outstanding convertible notes have the right to direct the time, method and place of conducting any proceeding for exercising any remedy available to the trustee under the indenture, subject to certain exceptions. The indenture provides that in case an event of default shall occur, which shall not be cured or waived, the trustee is required, in the exercise of its power, to use the degree of care of a prudent man in the conduct of his own affairs. Subject to such provisions, the trustee is under no obligation to exercise any of its rights or powers under the indenture at the request of any holder of convertible notes, unless the holder shall have offered to the trustee security and indemnity satisfactory to it against any loss, liability or expense.

DEFINITIONS

The following are selected defined terms used in the indenture. Reference is made to the indenture for a full definition of all terms, as well as certain other terms used in this description of the convertible notes for which no definition is provided.

"Capital Stock" means any and all shares, interests, participations, rights or other equivalents, however designated, of corporate stock, including, without limitation, partnership interests.

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

- (a) was a member of such Board of Directors on the date of the indenture; or
- (b) was nominated for election or elected to such Board of Directors with the affirmative vote of a majority of the Continuing Directors who were members of such Board at the time of such nomination or election or was nominated for election or elected by the Principal and his Related Parties.

"Equity Interests" means Capital Stock and all warrants, options or other rights to acquire Capital Stock, but excluding any Indebtedness that is convertible into, or exchangeable for, Capital Stock.

"Excess Payment" means the excess of (A) the aggregate of the cash and value of other consideration paid by us or any of our subsidiaries with respect to shares of ours acquired in a tender offer or other negotiated transaction over (B) the market value of such acquired shares after giving effect to the completion of a tender offer or other negotiated transaction.

"Exchange Rate Contract" means, with respect to any Person, any currency swap agreements, forward exchange rate agreements, foreign currency futures or options, exchange rate collar agreements exchange rate insurance and other agreements or arrangements, or combination thereof, the principal purpose of which is to provide protection against fluctuations in currency exchange rates. An Exchange Rate Contract may also include an Interest Rate Agreement.

"GAAP" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as approved by a significant segment of the accounting profession, which are in effect on the issuance date and are applied on a consistent basis.

"Guarantee" means a guarantee, other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner, including, without limitation, letters of credit and reimbursement agreements in respect thereof, of all or any part of any Indebtedness.

"Indebtedness" means, with respect to any Person, any indebtedness of such Person, whether or not contingent, in respect of borrowed money or evidenced by bonds, notes, debentures or similar instruments or letters of credit, of reimbursement agreements in respect thereof, or representing the balance deferred and unpaid of the purchase price of any property (which purchase price is due more than six months after the placing into service or delivery of such property) including pursuant to capital leases and sale-and-leaseback transactions, or representing any hedging obligations under an Exchange Rate Contract or an Interest Rate Agreement, except any such balance that constitutes an accrued expense or trade payable, if and to the extent any of the foregoing indebtedness, other than obligations under an Exchange Rate Contract or an Interest Rate Agreement, would appear as a liability upon a balance sheet of such Person prepared in accordance with GAAP, and also includes, to the extent not otherwise included, the Guarantee of items which would be included within this definition. The amount of any Indebtedness outstanding as of any date shall be the accreted value thereof, in the case of any Indebtedness issued with original issue discount. Indebtedness shall not include liabilities for taxes of any kind.

"Interest Rate Agreement" means, with respect to any person, any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement or other similar agreement the principal purpose of which is to protect the Party indicated therein against fluctuations in interest rates.

"Issuance Date" means the date on which the convertible notes are first authenticated and issued.

"Repurchase Offer" means a Change of Control Offer.

"Senior Debt" means the principal of, interest on and other amounts due on (i) our Indebtedness, whether outstanding on the date of the indenture or thereafter created incurred, assumed or guaranteed by us, for money borrowed from banks or other financial institutions; (ii) our Indebtedness, whether outstanding on the date of the indenture or thereafter created incurred, assumed or guaranteed by us; (iii) our Indebtedness under interest rate swaps, caps or similar hedging agreements and foreign exchange contracts, currency swaps or similar agreements: unless, in the instrument creating or evidencing or pursuant to which Indebtedness under (i) or (ii) is outstanding, it is expressly provided that such Indebtedness is not senior in right of payment to the convertible notes. Senior Debt includes, with respect to the obligations described in clauses (i) and (ii) above, interest accruing, pursuant to the terms of such Senior Debt, on or after the filing of any petition in bankruptcy or for reorganization relating to us, whether or not post-filing interest is allowed in such proceeding, at the rate specified in the instrument governing the relevant obligation. Notwithstanding anything to the contrary in the foregoing, Senior Debt shall not include: (a) Indebtedness of or amounts owed by us for compensation to employees, or for goods or materials purchased in the ordinary course of business, or for services; and (b) Indebtedness which we owe to any of our subsidiaries.

"Significant Subsidiary" means any subsidiary of ours which is a "significant subsidiary" as defined in Rule 1-02(v) of Regulation S-X under the Securities Act and the Exchange Act, as such Regulation is in effect on the date of the indenture.

REGISTRATION RIGHTS

The following summary of the registration rights provided in the registration rights agreement and the convertible notes is not complete. You should refer to the registration rights agreement and the convertible notes for a full description of the registration rights that apply to the convertible notes.

Pursuant to a registration rights agreement we have agreed for the benefit of the holders of the convertible notes, that (i) we will, at our cost, within 90 days after the closing of the sale of the convertible notes (the "Closing"), file a shelf registration statement (the "Shelf Registration Statement") with the SEC with respect to resales of the convertible notes and the common stock issuable upon conversion thereof, (ii) we will use our best efforts to cause such Shelf Registration Statement to be declared effective by the SEC within 270 days after the Closing, and (iii) we will use our best efforts to keep such Shelf Registration Statement continuously effective under the Securities Act until, subject to certain exceptions specified in the registration rights agreement, the second anniversary of the date of the Closing. We will be permitted to suspend use of the prospectus that is part of the Shelf Registration Statement during certain periods of time and in certain circumstances relating to pending corporate developments and public filings with the SEC and similar events. If (a) we fail to file the Shelf Registration Statement required by the registration rights agreement on or before 90 days after closing, (b) such Shelf Registration Statement is not declared effective by the SEC on or prior to 270 days after closing (the "Effectiveness Target Date") or (c) the Shelf Registration Statement is effective but thereafter ceases to be effective or usable in connection with resales of Transfer Restricted Securities (as defined below) during the periods specified in the registration rights agreement (each such event referred to in clauses (a) through (c) above a "Registration Default"), then we will pay special interest to each holder of convertible notes, with respect to the first 90 consecutive-day period immediately following the occurrence of such Registration Default, an amount equal to an increase in the annual interest on the convertible notes of 0.25% and with respect to each subsequent 90 consecutive-day period, an amount equal to an increase in the annual interest rate on the convertible notes of 0.25% until all Registration Defaults have been cured up to a maximum increase in the annual rate of interest on the convertible notes equal to 1.0%. All accrued special interest will be paid by us on each subsequent interest payment date in cash. Such payment will be made to the holder of the Global Notes by wire transfer of immediately available funds or by federal funds check and to holders of Certificated Notes, if any, by wire transfer to the accounts specified by them (to the extent permitted under the indenture) or by mailing checks to their registered addresses if no such accounts have been specified by them. Following the cure of all Registration Defaults, the accrual of special interest will cease.

For purposes of the foregoing, "Transfer Restricted Securities" means each convertible note and the common stock issuable upon conversion thereof until (i) the date on which such convertible note or the common stock issuable upon conversion thereof has been effectively registered under the Securities Act and disposed of in accordance with the Shelf Registration Statement, (ii) the date on which such convertible note or the common stock issuable upon conversion thereof is distributed to the public pursuant to Rule 144(k) under the Securities Act (or any similar provision then in effect) or is saleable pursuant to Rule 144(k) under the Act or (iii) the date on which such convertible note or the common stock issuable upon the conversion thereof ceases to be outstanding.

If the Company expects to file and obtain the effectiveness of a Shelf Registration Statement within 30 days of the effective date of the Registration Rights Agreement (an "Expedited Filing"), it shall (x) mail, as promptly as reasonably practicable after the effective date of the Registration Rights Agreement to the holders of Transfer Restricted Securities, a Notice and Questionnaire, in substantially the form attached hereto as Appendix A (a "Notice and Questionnaire"), with a response deadline of 30 days from the date of such notice (the "Expedited Filing Questionnaire Deadline"), and (y) as promptly as practicable after the response deadline but in any event no later than 30 days thereafter, prepare a prospectus supplement (and if required file an amendment or a supplement to the Shelf Registration Statement) or take such other measures, if any, as are necessary to include in the Shelf Registration Statement the Transfer Restricted Securities of Electing Holders (as defined below). If the Company does not intend to make an Expedited Filing, it shall mail the Notice and Questionnaire to the holders of Transfer Restricted Securities not less than 20 business days prior to the time the Company intends in good faith to have the Shelf Registration Statement declared effective (the "Effective Time"). No holder of Transfer Restricted Securities shall be entitled to be named as a selling security holder in the Shelf Registration Statement as of the effective time of such Shelf Registration Statement (or in the first prospectus supplement filed thereafter in the case of the

Expedited Filing), and no holder of Transfer Restricted Securities shall be entitled to use the prospectus forming a part thereof for offers and resales of Transfer Restricted Securities at any time, unless such Holder has returned a completed and signed Notice and Questionnaire to the Company by the deadline for response set forth therein.

The Company shall not be required to take any action to name such holder as a selling securityholder in the Shelf Registration Statement until such holder has returned a completed and signed Notice and Questionnaire to the Company. Following its receipt of such Notice and Questionnaire, the Company will as promptly as possible, but not prior to the next required amendment or supplement to the Shelf Registration Statement, include the Transfer Restricted Securities covered thereby in the Shelf Registration Statement (if not previously included). The term "Electing Holder" shall mean any holder of Transfer Restricted Securities that has returned a completed and signed Notice and Questionnaire to the Company in accordance with the preceding two paragraphs.

We will provide to each registered holder of convertible notes, or the common stock issuable upon conversion of the convertible notes, who is named in the prospectus and who so requests in writing, copies of the prospectus which will be a part of such Shelf Registration Statement, notify each such holder when such Shelf Registration Statement for the convertible notes or the common stock issuable upon conversion of the convertible notes has become effective and take certain other actions as required to permit unrestricted resales of the convertible notes or the common stock issuable upon conversion of the convertible notes. A holder of the convertible notes or the common stock issuable upon conversion of the convertible notes that sells such securities pursuant to a Shelf Registration Statement generally will be required to be named as a selling securityholder in the related prospectus and to deliver a prospectus to purchasers, will be subject to certain of the civil liability provisions under the Securities Act in connection with such sales and will be bound by the provisions of the registration rights agreement which are applicable to such holder, including certain indemnification and contribution rights and obligations.

Upon the initial sale of convertible notes or common stock issuable upon conversion of the convertible notes, each selling holder will be required to deliver a notice of such sale to the trustee and us. The notice will, among other things, identify the sale as a transfer pursuant to the Shelf Registration Statement, certify that the prospectus delivery requirements, if any, of the Securities Act have been complied with, and certify that the selling holder and the aggregate principal amount of securities owned by such holder are identified in the related prospectus in accordance with the applicable rules and regulations under the Securities Act.

DESCRIPTION OF OUR CAPITAL STOCK

GENERAL

Our authorized capital stock currently consists of:

o 1,600,000,000 shares of common stock, of which 800,000,000 shares are designated class A common stock, 400,000,000 shares are designated class B common stock and 400,000,000 shares are designated class C common stock; and

o 20,000,000 shares of preferred stock, including 2,300,000 shares of 6 3/4% Series C cumulative convertible preferred stock.

As of February 11, 2000, 113,948,160 shares of class A common stock were issued and outstanding and held of record by 4,476 stockholders, 119,217,604 shares of class B common stock were issued and outstanding and held of record by Charles W. Ergen, our Chairman, Chief Executive Officer and President, and no shares of class C common stock were issued and outstanding. As of February 11, 2000, 443,563 shares of Series C preferred stock were issued and outstanding. All outstanding shares of the class A common stock and class B common stock are fully paid and nonassessable. A summary of the powers, preferences and rights of the shares of each class of common stock and each series of preferred stock is described below.

The transfer agent for our capital stock, including the class A common stock, is American Securities Transfer & Trust, Inc.

On each of July 19, 1999 and October 25, 1999, we completed two-for-one splits of our outstanding class A and class B common stock.

CLASS A COMMON STOCK

Each holder of class A common stock is entitled to one vote for each share owned of record on all matters submitted to a vote of stockholders. Except as otherwise required by law, the class A common stock votes together with the class B common stock and the class C common stock on all matters submitted to a vote of stockholders. Subject to the preferential rights of any outstanding series of preferred stock and to any restrictions on the payment of dividends imposed under the terms of our indebtedness, the holders of class A common stock are entitled to such dividends as may be declared from time to time by our Board of Directors from legally available funds and, together with the holders of the class B common stock, are entitled, after payment of all prior claims, to receive pro rata all of our assets upon a liquidation. Holders of class A common stock have no redemption, conversion or preemptive rights.

CLASS B COMMON STOCK

Each holder of class B common stock is entitled to ten votes for each share of class B common stock on all matters submitted to a vote of stockholders. Except as otherwise required by law, the class B common stock votes together with the class A common stock and the class C common stock on all matters submitted to a vote of the stockholders. Each share of class B common stock is convertible, at the option of the holder, into one share of class A common stock. The conversion ratio is subject to adjustment from time to time upon the occurrence of certain events, including: (i) dividends or distributions on class A common stock payable in class A common stock or certain other capital stock; (ii) subdivisions, combinations or certain reclassifications of class A common stock; and (iii) issuances of rights, warrants or options to purchase class A common stock at a price per share less than the fair market value of the class A common stock. Each share of class B common stock is entitled to receive dividends and distributions upon liquidation on a basis equivalent to that of the class A common stock and class C common stock.

CLASS C COMMON STOCK

Each holder of class C common stock is entitled to one vote for each share of class C common stock on all matters submitted to a vote of stockholders. Except as otherwise required by law, the class C common stock votes together with class A common stock and the class B common stock on all matters submitted to a vote of stockholders. Each share of class C common stock is convertible into class A common stock on the same terms as

the class B common stock. Each share of class C common stock is entitled to receive dividends and distributions upon liquidation on a basis equivalent to that of the class A common stock and class B common stock. Upon a change of control of our company, each holder of outstanding shares of class C common stock is entitled to cast ten votes for each share of class C common stock held by such holder. We do not currently intend to issue any shares of class C common stock. Under current National Association of Securities Dealers rules, we are not able to issue class C common stock so long as the class A common stock is quoted on the Nasdaq National Market.

PREFERRED STOCK

Our Board of Directors is authorized to divide the preferred stock into series and, with respect to each series, to determine the preferences and rights and the qualifications, limitations or restrictions of the series, including the dividend rights, conversion rights, voting rights, redemption rights and terms, liquidation preferences, sinking fund provisions, the number of shares constituting the series and the designation of such series. Our Board of Directors may, without stockholder approval, issue additional preferred stock of existing or new series with voting and other rights that could adversely affect the voting power of the holders of common stock and could have certain anti-takeover effects.

SERIES C PREFERRED STOCK

As of February 11, 2000, holders of an aggregate of approximately 1.9 million shares of the Company's 6 3/4% Series C cumulative convertible preferred stock had converted their shares into approximately 15 million shares of class A common stock.

Holders of the Series C preferred stock were entitled to a quarterly cash payment of \$0.844 per share through November 1, 1999, which was funded from a deposit account created when the Series C preferred stock was issued. Dividends began to accrue on the Series C preferred stock on November 2, 1999, and holders of the Series C preferred stock are entitled to receive cumulative dividends at an annual rate of 6 3/4% of the liquidation preference, payable quarterly in arrears, commencing February 1, 2000. Dividends may, at our option, be paid in cash or by delivery of shares of class A common stock. The Series C preferred stock is redeemable at any time on or after November 1, 2000, in whole or in part, at our option, in cash or by delivery of class A common stock at specified redemption premiums.

Upon any change of control, if the market value of our class A common stock is less than the conversion price, holders of Series C preferred stock would have a one time option to convert all of their outstanding shares into shares of class A common stock at an adjusted conversion price equal to the greater of the market value as of the change of control date and 66.67% of the market value as of the date of the initial offering of the Series C preferred stock. In lieu of issuing the shares of class A common stock issuable upon conversion in the event of a change of control, we may, at our option, make a cash payment equal to the market value of such class A common stock otherwise issuable.

The Series C preferred stock is convertible at any time, unless previously redeemed, at the option of the holder thereof, into that number of whole shares of class A common stock as is equal to the liquidation preference divided by a conversion price of \$6 3/32 subject to adjustment under certain circumstances.

The Series C preferred stock ranks senior to the class A common stock and senior or pari passu with other existing and future offerings of preferred stock in right of payment. Holders of the Series C preferred stock have no voting rights with respect to general corporate matters except as provided by law or upon certain dividend arrearages. The affirmative vote or consent of holders of at least 66 2/3% of the outstanding Series C preferred stock is required for the issuance of any class or series of our stock (or security convertible into our stock) ranking senior to or pari passu with the Series C preferred stock as to dividends or liquidation rights (other than additional shares of Series B preferred stock or certain pari passu securities with an aggregate liquidation preference not to exceed \$100 million) and for amendments to our articles of incorporation that would affect adversely the rights of holders of the Series C preferred stock.

LIMITATION OF LIABILITY AND INDEMNIFICATION MATTERS

Our articles of incorporation provide that our directors are not personally liable to us or our stockholders for monetary damages for any breach of fiduciary duty as a director, except in certain cases where liability is mandated by Nevada corporate law. The provision has no effect on any non-monetary remedies that may be available to us or our stockholders and does not relieve us or our directors from complying with federal or state securities laws. Our articles of incorporation and by-laws provide for indemnification, to the fullest extent permitted by Nevada corporate law, of any person who is or was involved in any manner in any investigation, claim or other proceeding by reason of the fact that such person is or was a director or officer of our company, or is or was serving at our request as a director or officer of another corporation, against all expenses and liabilities actually and reasonably incurred by such person in connection with the investigation, claim or other proceeding. However, no indemnification may be made for any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of such person's duty to us.

NEVADA LAW AND LIMITATIONS ON CHANGES IN CONTROL

The Nevada Revised Statutes prevent an "interested stockholders" defined generally as a person owning 10% or more of a corporation's outstanding voting stock, from engaging in a "combination" with a publicly-held Nevada corporation for three years following the date such person became an interested stockholder unless, before such person became an interested stockholder, the board of directors of the corporation approved the transaction in which the interested stockholder became an interested stockholder or approves the combination.

The provisions authorizing our Board of Directors to issue preferred stock without stockholder approval and the provisions of the Nevada Revised Statutes relating to combinations with interested stockholders could have the effect of delaying, deferring or preventing a change in our control or the removal of our existing management. Each of the indentures relating to the senior notes of EchoStar DBS Corporation (one of our wholly-owned subsidiaries) also contains provisions with respect to a change of control. The series C preferred stock certificate of designation also contains certain change of control provisions.

Charles W. Ergen, our Chairman, President and Chief Executive Officer, owns 119,217,604 shares of class B common stock, which constitute all of the outstanding class B shares. These shares are transferable to other persons, subject to securities laws limitations. If Mr. Ergen transferred a substantial portion of his shares of class B common stock, a change in control of EchoStar would result and Mr. Ergen would receive any premium paid for control of our company. In addition, any such change in control would result in an obligation on the part of EchoStar DBS Corporation, our wholly-owned subsidiary, to offer to purchase at a premium all of its outstanding senior notes.

SUMMARY OF CERTAIN FEDERAL INCOME TAX CONSIDERATIONS

The following discussion summarizes certain United States federal income tax considerations that may be relevant to the purchase, ownership and disposition of the convertible notes and the class A common stock into which the convertible notes may be converted, but does not purport to be a complete analysis of all the potential tax considerations relating thereto. This summary deals only with holders that will hold convertible notes and class A common stock as capital assets and does not address tax considerations applicable to investors that may be subject to special tax rules such as dealers in securities, financial institutions, insurance companies, tax-exempt entities, persons holding the convertible notes as part of a hedging or conversion transaction, a straddle or a constructive sale, persons whose functional currency is not the United States dollar, and holders of convertible notes that did not acquire the convertible notes in the initial distribution thereof at their original issue price. In addition, this discussion does not consider the effect of any estate, gift or other tax laws.

As used in this summary:

- o A "United States Holder" means a beneficial owner of the convertible notes or the class A common stock into which the convertible notes may be converted, who or that:
 - o is a citizen or resident of the United States;
 - o is a corporation or other entity taxable as a corporation created or organized in or under the laws of the United States or political subdivision thereof;
 - o is an estate the income of which is subject to U.S. federal income taxation regardless of its source; or
 - o is a trust if (a) a U.S. court is able to exercise supervision over the administration of the trust and one or more U.S. fiduciaries have authority to control all substantial decisions of the trust, or (b) the trust has a valid election in effect under applicable U.S. treasury regulations to be treated as a United States Person;
- o A "Foreign Holder" is a beneficial owner of convertible notes or class A common stock that is not a United States Holder;
- o "Code" means the U.S. Internal Revenue Code of 1986, as amended to date;
- o "IRS" means the U.S. Internal Revenue Service.

THE DISCUSSION OF THE UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS BELOW IS BASED ON CURRENTLY EXISTING PROVISIONS OF THE CODE, THE APPLICABLE TREASURY REGULATIONS PROMULGATED AND PROPOSED UNDER THE CODE, JUDICIAL DECISIONS AND ADMINISTRATIVE INTERPRETATIONS, ALL OF WHICH ARE SUBJECT TO CHANGE, POSSIBLY ON A RETROACTIVE BASIS. BECAUSE INDIVIDUAL CIRCUMSTANCES MAY DIFFER YOU ARE STRONGLY URGED TO CONSULT YOUR TAX ADVISOR WITH RESPECT TO YOUR PARTICULAR TAX SITUATION AND THE PARTICULAR TAX EFFECTS OF ANY STATE, LOCAL NON-UNITED STATES OR OTHER TAX LAWS AND POSSIBLE CHANGES IN THE TAX LAWS.

UNITED STATES HOLDER

CONVERTIBLE NOTES

Stated interest. A United States Holder will be required to include in gross income the stated interest on a convertible note at the time that such interest accrues or is received, in accordance with the United States Holder's regular method of accounting for federal income tax purposes.

Sale, exchange or redemption of the convertible notes. A United States Holder's tax basis in a convertible note will be its cost. A United States Holder generally will recognize gain or loss on the sale, exchange or retirement (including a redemption by us) of a convertible note in an amount equal to the difference between the

amount of cash plus the net fair market value of any property received, other than any such amount received in respect to accrued interest (which will be taxable as such if not previously included in income), and the United States Holder's tax basis in the convertible note. Gain or loss recognized on the sale, exchange or retirement of a convertible note generally will be a capital gain or loss. In the case of a non-corporate United States Holder, the federal tax rate applicable to capital gains will depend upon the United States Holder's holding period for the convertible notes, with a preferential rate available for convertible notes held for more than one year, and upon the United States Holder's marginal tax rate for ordinary income. The deductibility of capital losses is subject to limitations.

CONVERSION OF THE CONVERTIBLE NOTES

A United States Holder generally will not recognize any income, gain, or loss upon conversion of a convertible note into class A common stock (except with respect to cash received in lieu of a fractional share of class A common stock). Such United States Holder's basis in the class A common stock received on conversion of a convertible note will be the same as such United States Holder's tax basis in the convertible note at the time of conversion (reduced by any basis allocable to a fractional share interest as described below), and the holding period for the class A common stock received on conversion will include the holding period of the convertible note converted.

Cash received in lieu of a fractional share of class A common stock will be treated as a payment in exchange for the fractional share interest in the class A common stock. Accordingly, the receipt of cash in lieu of a fractional share of class A common stock will generally result in capital gain or loss (measured by the difference between the cash received for the fractional share and the holder's basis in the fractional share).

CONSTRUCTIVE DIVIDENDS

The conversion price of the convertible notes is subject to adjustment under specified circumstances. Under Section 305 of the Code and applicable treasury regulations, adjustments or the failure to make adjustments to the Conversion Price of the convertible notes may result in a taxable constructive dividend to United States Holders, resulting in ordinary income to the extent of our earnings and profits, if, and to the extent that, the adjustments in the Conversion Price increase the proportionate interest of a United States Holder of a convertible note in our fully diluted stock, class A common stock, whether or not the United States Holder ever converts the convertible notes into our class A common stock.

DIVIDENDS ON CLASS A COMMON STOCK

Dividends paid on class A common stock generally will be includible in the income of a United States Holder as ordinary income to the extent of our current or accumulated earnings and profits. Subject to certain limitations, a corporate taxpayer holder of class A common stock that receives dividends thereon generally will be eligible for a dividends-received deduction equal to 70% of the dividends received.

SALE, EXCHANGE OR REDEMPTION OF CLASS A COMMON STOCK

Upon the sale, exchange or redemption of class A common stock, a United States Holder generally will recognize capital gain or loss equal to the difference between the amount realized on the sale, exchange or redemption and the United States Holder's adjusted basis in the class A common stock. In the case of a non-corporate United States Holder, the federal tax rate applicable to capital gains will depend upon the United States Holder's holding period for the class A common stock, with a preferential rate available for class A common stock held for more than one year, and upon the holder's marginal tax rate for ordinary income. The deductibility of capital loss is subject to limitations.

FOREIGN HOLDERS

CONVERTIBLE NOTES

Stated Interest. Payments of interest on a convertible note to a Foreign Holder will not be subject to United States federal withholding tax provided that:

o the holder does not actually or constructively own 10% or more of the total combined voting power of all classes of our stock entitled to vote (treating, for such purpose, convertible notes held by a holder as having been converted into our class A common stock);

o the holder is not a controlled foreign corporation that is related to us through stock ownership; and

o either (a) the beneficial owner of the convertible note, under penalties of perjury, provides us or our agent with its name and address and certifies that it is not a United States person or (b) a securities clearing organization, bank, or other financial institution that holds customers' securities in the ordinary course of its trade or business (a "financial institution") certifies to us or our agent, under penalties of perjury, that such a statement has been received from the beneficial owner by it or another financial institution and furnishes to us or our agent a copy thereof.

For purposes of this summary, we refer to this exemption from U.S. federal withholding tax as the "Portfolio Interest Exemption." Under United States treasury regulations, which generally are effective for payments made after December 31, 2000, subject to certain transition rules, the certification under penalties of perjury described above may also be provided by a qualified intermediary on behalf of one or more beneficial owners or other intermediaries, provided that such intermediary has entered into a withholding agreement with the IRS and certain other conditions are met.

The gross amount of payments to a Foreign Holder of interest that does not qualify for the Portfolio Interest Exemption and that is not effectively connected to a United States trade or business will be subject to United States federal withholding tax at the rate of 30%, unless a United States income tax treaty applies to reduce or eliminate withholding.

A Foreign Holder will generally be subject to tax in the same manner as a United States Holder with respect to payments of interest if such payments are effectively connected with the conduct of a trade or business by the Foreign Holder in the United States and, if an applicable tax treaty so provides, such gain is attributable to an office or other fixed place of business maintained in the United States by the Foreign Holder. Such effectively connected income received by a Foreign Holder, which is a corporation, may in certain circumstances be subject to an additional "branch profits tax" at a 30% rate or, if applicable, a lower treaty rate.

To claim the benefit of a tax treaty or to claim exemption from withholding because the income is effectively connected with a U.S. trade or business, the Foreign Holder must provide a properly executed Form 1001 or 4224, as applicable, prior to the payment of interest. These forms must be periodically updated. United States treasury regulations, which generally are effective for payments made after December 31, 2000, subject to certain transition rules, require Foreign Holders or, under certain circumstances, a qualified intermediary to file a withholding certificate with our withholding agent to obtain the benefit of an applicable tax treaty providing for a lower rate of withholding tax. Such certificate must contain, among other information, the name and address of the Foreign Holder.

Foreign Holders should consult their own tax advisors regarding applicable income tax treaties, which may provide different rules.

Sale, exchange or redemption of the convertible notes. A Foreign Holder generally will not be subject to United States federal income tax or withholding tax on gain realized on the sale or exchange of convertible notes unless (1) the holder is an individual who was present in the United States for 183 days or more during the taxable year, and certain other conditions are met, (2) the gain is effectively connected with the conduct of a trade or business of the holder in the United States and, if an applicable tax treaty so provides, such gain is attributable to an office or other fixed place of business maintained in the United States by such holder or (3) EchoStar is or has been a "United States real property holding corporation" (a "USRPHC") within a specified time period, as described below under "-- Sale, exchange or redemption of class A common stock," and the holder owns or has owned (actually or constructively) more than 5% of the total value of the convertible notes at any time during the shorter of the five-year period preceding the date of the disposition or the holder's holding period (in which case the gain will be treated as effectively connected income as described in (2)). In the case of (2), such effectively connected

income received by a Foreign Holder which is a corporation may in certain circumstances be subject to an additional "branch profits tax" at a 30% rate or, if applicable, a lower treaty rate. Additionally, in the case of (3), it is possible that a Foreign Holder that initially owns 5% or less of the total value of the convertible notes may subsequently be considered to own more than 5% of the total value of the convertible notes due to other holders' conversion of convertible notes into class A common stock. Regardless of whether a disposition of any convertible note is taxable to the seller pursuant to the rules regarding USRPHCs, the withholding requirements of Section 1445 of the Code generally will not be applicable to a purchaser of the convertible notes or a financial intermediary involved in any such transaction.

CONVERSION OF THE CONVERTIBLE NOTES

In general, no United States federal income tax or withholding tax will be imposed upon the conversion of a convertible note into class A common stock by a Foreign Holder except (1) to the extent the class A common stock is considered attributable to accrued interest not previously included in income, which may be taxable under the rules set forth in "Foreign Holders -- Stated Interest," (2) with respect to the receipt of cash in lieu of fractional shares by Foreign Holders upon conversion of a convertible note, in each case where either the conditions described in (1) or (2) above under "Foreign Holders -- Sale, exchange or redemption of the convertible notes" is satisfied or (3) we are a United States real property holding corporation as discussed below, the holder owns or has owned (actually or constructively) more than 5% of the value of the convertible notes at any time during the shorter of the five-year period preceding the date of conversion of the holder's holding period, and certain other conditions apply. For purposes of (3), it is possible that a Foreign Holder that initially owns 5% or less of the total value of the convertible notes may subsequently be considered to own more than 5% of the total value of the convertible notes due to other holders' conversion of convertible notes into class A common stock. Regardless of whether a conversion of any convertible note is taxable to the seller pursuant to the rules regarding USRPHCs, the withholding requirements of Section 1445 of the Code generally will not be applied to us or a financial intermediary involved in any such transaction.

SALE, EXCHANGE OR REDEMPTION OF CLASS A COMMON STOCK

A Foreign Holder will generally not be subject to United States federal income tax or withholding tax on the sale or exchange of class A common stock unless either of the conditions described in (1) or (2) above under "Foreign Holders -- Sale, exchange or redemption of the convertible notes" is satisfied or EchoStar is or has been a United States real property holding corporation, or a USRPHC, as defined above, for United States federal income tax purposes at any time within the shorter of the five-year period preceding such disposition or such Foreign Holder's holding period. We do not believe we are, nor do we believe we have ever been a USRPHC. Further, we do not expect in the foreseeable future to become a USRPHC. If the Company is, or becomes, a USRPHC, so long as the class A common stock continues to be regularly traded on an established securities market within the meaning of Section 897(c)(3) of the Code, only a Foreign Holder who holds or held directly, indirectly or constructively, at any time during the shorter of the five-year period preceding the date of disposition or the holder's holding period, more than 5% of the class A common stock will be subject to U.S. federal income tax on the disposition of the class A common stock. For purposes of the ownership test described above, a Foreign Holder of convertible notes will be considered as constructively owning the class A common stock into which such notes are convertible. Regardless of whether a disposition of class A common stock is taxable to the seller pursuant to the rules regarding USRPHCs, the withholding requirements of Section 1445 of the Code generally will not be applicable to a purchaser of the class A common stock or a financial intermediary involved in any such transaction.

DISTRIBUTIONS ON CLASS A COMMON STOCK

Distributions by us with respect to the class A common stock that are treated as dividends paid or deemed paid (including a deemed distribution on the convertible notes or class A common stock as described above under "United States Holders -- Constructive dividends") to a Foreign Holder, excluding dividends that are effectively connected with the conduct of a trade or business in the United States by such Holder which are taxable as described below, will be subject to United States federal withholding tax at a 30% rate, or lower rate provided under any applicable income tax treaty. Except to the extent that an applicable tax treaty otherwise provides, a Foreign Holder will be subject to tax in the same manner as a United States Holder on dividends paid or deemed paid that are effectively connected with the conduct of a trade or business in the United States by the Foreign Holder. If such Foreign Holder is a foreign corporation, it may in certain circumstances also be subject to a United States "branch profits tax" on such effectively connected income at a 30% rate or such lower rate as may be specified by an applicable income tax treaty. Even though such effectively connected dividends are subject to income tax, and may be subject to the branch profits tax, they will not be subject to U.S. withholding tax if the Foreign Holder delivers IRS Form 4224 to the payor.

Under current United States treasury regulations, dividends paid to an address in a foreign country are presumed to be paid to a resident of that country, unless the payor has knowledge to the contrary, for purposes of the withholding discussed above, and under the current interpretation of United States treasury regulations, for purposes of determining the applicability of a tax treaty rate. Under United States treasury regulations which generally are effective for payments made after December 31, 2000, subject to certain transition rules, however, a Foreign Holder of class A common stock who wishes to claim the benefit of an applicable treaty rate would be required to satisfy applicable certification requirements. In addition, under current United States treasury regulations, in the case of class A common stock held by a foreign partnership, or other fiscally transparent entities, the certification requirement would generally be applied to the partners of the partnership and the partnership would be required to provide certain information, including a United States taxpayer identification number. The treasury regulations also provide look-through rules for tiered partnerships.

INFORMATION REPORTING AND BACKUP WITHHOLDING

In general, information reporting requirements will apply to payments of principal, premium, if any, and interest on a convertible note, dividends on class A common stock, and payments of the proceeds of the sale of a convertible note or class A common stock to certain non-corporate United States Holders, and a 31% backup withholding tax may apply to such payment if the United States Holder (1) fails to furnish or certify his correct taxpayer identification number to the payer in the manner required, (2) is notified by the IRS that he has failed to report payments of interest or dividends properly or (3) under certain circumstances, fails to certify that he has not been notified by the IRS that he is subject to backup withholding for failure to report interest or dividend payments.

Information reporting requirements will apply to payments of interest or dividends to Foreign Holders where such interest or dividends are subject to withholding or are exempt from United States withholding tax pursuant to a tax treaty, or where such interest is exempt from United States tax under the Portfolio Interest Exemption discussed above. Copies of these information returns may also be made available under the provisions of a specific treaty or agreement to the tax authorities of the country in which the Foreign Holder resides.

Treasury regulations provide that backup withholding and information reporting will not apply to payments of principal on the convertible notes by the Company to a Foreign Holder if the Foreign Holder certifies as to its status as a Foreign Holder under penalties of perjury or otherwise establishes an exemption (provided that neither the Company nor its paying agent has actual knowledge that the holder is a United States person or that the conditions of any other exemption are not, in fact, satisfied).

The payment of the proceeds from the disposition of convertible notes or class A common stock to or through the United States office of any broker, United States or foreign, will be subject to information reporting and possible backup withholding unless the owner certifies as to its non-United States status under penalty of perjury or otherwise establishes an exemption, provided that the broker does not have actual knowledge that the holder is a United States person or that the conditions of any other exemption are not, in fact, satisfied. The payment of the proceeds from the disposition of a convertible note or class A common stock to or through a non-United States

office of a non-United States broker that is not a United States related person will not be subject to information reporting or backup withholding. For this purpose, a "United States related person" is:

- o a "controlled foreign corporation" for United States federal income tax purposes; or

- o a foreign person 50% or more of whose gross income from all sources for the three-year period ending with the close of its taxable year preceding the payment, or for such part of the period that the broker has been in existence, is derived from activities that are effectively connected with the conduct of a United States trade or business.

In the case of the payment of proceeds from the disposition of convertible notes or class A common stock to or through a non-United States office of a broker that is either a United States person or a United States related person, treasury regulations require information reporting on the payment unless the broker has documentary evidence in its files that the owner is a Foreign Holder and the broker has no knowledge to the contrary.

Any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against such holder's United States federal income tax liability provided the required information is furnished to the IRS.

United States treasury regulations, which generally are effective for payments made after December 31, 2000, subject to certain transition rules, will generally expand the circumstances under which information reporting and backup withholding may apply. Holders of convertible notes should consult their tax advisors regarding the application of the information and reporting and backup withholding rules, including such treasury regulations.

THE ABOVE SUMMARY DOES NOT DISCUSS ALL ASPECTS OF U.S. FEDERAL INCOME TAXATION THAT MAY BE RELEVANT TO A PARTICULAR HOLDER OF CONVERTIBLE NOTES IN LIGHT OF HIS, HER OR ITS PARTICULAR CIRCUMSTANCES AND INCOME TAX SITUATION. EACH HOLDER OF CONVERTIBLE NOTES SHOULD CONSULT HIS, HER OR ITS TAX ADVISOR AS TO THE SPECIFIC TAX CONSEQUENCES TO THE HOLDER OF THE OWNERSHIP AND DISPOSITION OF THE CONVERTIBLE NOTES INCLUDING THE APPLICATION AND EFFECT OF STATE, LOCAL, FOREIGN AND OTHER TAX LAWS, OR SUBSEQUENT REVISIONS OF THESE TAX LAWS.

SELLING SECURITYHOLDERS

The convertible notes were originally issued by EchoStar and sold by the initial purchasers in transactions not requiring registration under the Securities Act or applicable state securities laws. The initial purchasers of the convertible notes offered and sold the convertible notes to persons they reasonably believed to be qualified institutional buyers in reliance on Rule 144A under the Securities Act and to a limited number of other "accredited investors" (as defined in Rule 501(a)(1), (2) or (7) of the Securities Act). Selling securityholders, which includes their transferees, pledgees or donees and their successors, may from time to time offer and sell pursuant to this prospectus any or all of the convertible notes or shares of class A common stock into which they are convertible.

The following table provides information, as of the date of this prospectus, regarding the principal amount of the convertible notes and shares of class A common stock beneficially owned that may be offered and sold by each selling securityholder. The information is based upon information provided to us by each selling securityholder. The selling securityholders may have sold, transferred or otherwise disposed of all or any portion of their convertible notes or acquired additional convertible notes since the date on which they provided information to us. Any of the foregoing would have been pursuant to transactions not requiring registration under the Securities Act or applicable state securities laws.

Because the selling securityholders may offer all or some portion of the convertible notes and shares of class A common stock into which they are convertible, we cannot estimate the amount of convertible notes or the number of shares of class A common stock that will be held by the selling securityholders upon termination of such sales.

NAME	PRINCIPAL AMOUNT OF CONVERTIBLE NOTES BENEFICIALLY OWNED AND OFFERED HEREBY (1)	SHARES OF CLASS A COMMON STOCK OWNED PRIOR TO THE OFFERING (1)(2)	SHARES OF CLASS A COMMON STOCK OFFERED HEREBY (2)
1976 Distribution Trust FBO Aerin Lauder/Zinterhofer	\$ 13,000		143
1976 Distribution Trust FBO Jane A. Lauder	\$ 13,000		143
AIG/National Union Fire Ins.	\$ 680,000		7,482
Allstate Life Insurance Co.	\$ 2,500,000		27,509
Aloha Airlines Non-Pilots Pension Trust	\$ 180,000		1,981
Aloha Airlines Pilots Retirement Trust	\$ 100,000		1,100
Alta Partners	\$10,000,000		110,035
Argent Classic Convertible Arbitrage Fund (Bermuda) L.P.	\$16,000,000		176,056
Aristeia Trading, LLC	\$ 1,750,000		19,256
Aristeia International, LLC	\$ 3,250,000		35,761
Arkansas PERS	\$ 1,560,000		17,165
Arkansas Teachers Retirement System	\$ 4,289,000		47,194
Baptist Health of South Florida	\$ 287,000		3,158

NAME	PRINCIPAL AMOUNT OF CONVERTIBLE NOTES BENEFICIALLY OWNED AND OFFERED HEREBY (1)	SHARES OF CLASS A COMMON STOCK OWNED PRIOR TO THE OFFERING (1)(2)	SHARES OF CLASS A COMMON STOCK OFFERED HEREBY (2)
Bancroft Convertible Fund, Inc.	\$ 1,000,000		11,004
Bank Austria Cayman Island, Ltd.	\$ 5,000,000		55,018
Bank of America Securities, LLC	\$ 10,650,000		117,188
Bankers Trust, Trustee for Daimler Chrysler Corp. Emp. #1 Pension Plan Ltd. 4/1/89	\$ 6,000,000		66,021
BBT Fund, L.P.	\$ 4,000,000		44,014
Bear, Stearns & Co., Inc.	\$ 5,500,000		60,519
Black Diamond Offshore, Ltd.	\$ 1,183,000		13,017
BNP Arbitrage SNC	\$ 10,150,000		111,686
Boston Museum of Fine Arts	\$ 195,000		2,146
BVI Social Security Board	\$ 33,000		363
C&H Sugar Company, Inc.	\$ 285,000		3,136
Calpers	\$ 12,000,000		132,042
Canyon Value Realization (Cayman) Ltdt	\$ 13,900,000		152,949
Christian Science Trustees for Gifts and Endowments	\$ 365,000		4,016
Chrysler Corporation Master Retirement Trust*	\$ 7,150,000		78,675
City University of New York	\$ 82,000		902
Conseco Direct Life	\$ 1,150,000		12,654
Cova Bond-Debenture Fund	\$ 1,500,000		16,505
Delaware PERS	\$ 1,415,000		15,570
Delphi Foundation, Inc.	\$ 32,000		352
Delta Air Lines Master Trust*	\$ 3,565,000		39,228
Deutsche Bank Securities, Inc.	\$ 110,018,000		1,210,585
Donaldson Lufkin & Jenrette	\$ 33,000,000		363,116
Double Black Diamond Offshore, LDC	\$ 3,187,000		35,068
Ellsworth Convertible Growth and Income Fund, Inc.	\$ 1,000,000		11,004
Engineers Joint Pension Fund	\$ 589,000		6,481

NAME	PRINCIPAL AMOUNT OF CONVERTIBLE NOTES BENEFICIALLY OWNED AND OFFERED HEREBY (1)	SHARES OF CLASS A COMMON STOCK OWNED PRIOR TO THE OFFERING (1)(2)	SHARES OF CLASS A COMMON STOCK OFFERED HEREBY (2)
Fidelity Advisor Series II: Fidelity Advisor Strategic Income Fund	\$ 600,000		6,602
Fidelity Financial Trust: Fidelity Convertible Securities Fund	\$ 21,000,000		231,074
Fidelity Fixed-Income Trust: Fidelity High Income Fund	\$ 10,240,000		112,676
Fidelity Management Trust Company on behalf of accounts managed by it	\$ 5,330,000		58,649
Fidelity Puritan Trust: Fidelity Puritan Fund	\$ 30,000,000		330,106
Fidelity School Street Trust: Fidelity Strategic Income Fund	\$ 80,000		880
Fiduciary Trust Intl.	\$ 250,000		2,751
Forest Alternatives Strategies Fund II, LP Series A5I	\$ 350,000		3,851
Forest Alternatives Strategies Fund II, LP Series A5M	\$ 225,000		2,476
Forest Fulcrum Fund LP	\$ 2,250,000		24,758
Forest Global Convertible Fund Series A-5	\$ 9,025,000		99,307
Forest Performance Fund, LP	\$ 1,000,000		11,004
Forrestal Funding Master Trust	\$ 5,000,000		55,018
Franklin & Marshall	\$ 450,000		4,952
Fuji U.S. Income Open	\$ 1,000,000		11,004
General Motors Employees Global Group Pension Trust	\$ 6,032,000		66,373
General Motors Foundation, Inc.	\$ 328,000		3,609
Grable Foundation	\$ 121,000		1,331
Grace Brothers Limited	\$ 2,500,000		27,509
Grady Hospital	\$ 123,000		1,353
Granville Capital Corporation	\$ 20,500,000		225,572
Hawaiian Airlines Employees Pension Plan-IAM	\$ 155,000		1,706

NAME	PRINCIPAL AMOUNT OF CONVERTIBLE NOTES BENEFICIALLY OWNED AND OFFERED HEREBY (1)	SHARES OF CLASS A COMMON STOCK OWNED PRIOR TO THE OFFERING (1)(2)	SHARES OF CLASS A COMMON STOCK OFFERED HEREBY (2)
Hawaiian Airlines Pension Plan for Salaried Employees	\$ 40,000		440
Hawaiian Airlines Pilots Retirement Plan	\$ 240,000		2,641
HBK Master Fund, L.P.	\$ 58,750,000		646,457
Highbridge International, LLC	\$ 16,290,000		179,247
ICI American Holdings Trust	\$ 680,000		7,482
Island Holdings	\$ 30,000		330
JMG Capital Partners, LP	\$ 1,000,000		11,004
JMG Convertible Investments, LP	\$ 11,750,000		129,291
KD Offshore Fund CV	\$ 500,000		5,502
Kellner DiLeo & Co.	\$ 500,000		5,502
LB Series Fund Inc. High Yield Portfolio	\$ 4,250,000		46,765
LB Series Fund Inc. Income Portfolio	\$ 1,400,000		15,405
Liberty View Funds, L.P.	\$ 1,500,000		16,505
Lincoln National Convertible Securities Fund	\$ 2,500,000		27,509
Lipper Convertibles, LP	\$ 8,000,000		88,028
Lipper Offshore Convertibles, LP	\$ 2,000,000		22,007
LLT, Limited	\$ 550,000		6,052
Local Initiatives Support Corporation	\$ 51,000		561
Lord Abbett & Co Investment Trust - High Yield Fund	\$ 250,000		2,751
Lord Abbett & Co Oxford Fund	\$ 1,500,000		16,505
Lord Abbett Bond Debenture Fund	\$ 13,050,000		143,596
Lutheran Brotherhood High Yield Fund	\$ 1,500,000		16,505
Lutheran Brotherhood Income Fund	\$ 900,000		9,903
Lyxor Master Fund	\$ 1,250,000		13,754
Mainstay Convertible Fund	\$ 2,650,000		29,159
Maryland Retirement System	\$ 1,777,000		19,553

NAME	PRINCIPAL AMOUNT OF CONVERTIBLE NOTES BENEFICIALLY OWNED AND OFFERED HEREBY (1)	SHARES OF CLASS A COMMON STOCK OWNED PRIOR TO THE OFFERING (1)(2)	SHARES OF CLASS A COMMON STOCK OFFERED HEREBY (2)
Mass Mutual Corporate Investors	\$ 400,000		4,401
Mass Mutual High Yield Partners II, LLC	\$ 3,200,000		35,211
Mass Mutual Participation Investors	\$ 240,000		2,641
Massachusetts Mutual Life Insurance	\$ 3,200,000		35,211
Merrill Lynch Convertible Fund, Inc.	\$ 600,000		6,602
Merrill Lynch Insurance Group	\$ 292,000		3,213
Morgan Stanley Dean Witter Income Builder Fund	\$ 5,000,000		55,018
Morgan Stanley Dean Witter Variable Income Builder Fund	\$ 1,400,000		15,405
Motors Insurance Corporation	\$ 1,608,000		17,694
Motion Picture Industry Health Plan - Active Member Fund*	\$ 930,000		10,233
Motion Picture Industry Health Plan - Retiree Member Fund*	\$ 465,000		5,117
Museum of Fine Arts, Boston	\$ 140,000		1,540
Nalco Chemical Company	\$ 310,000		3,411
New Hampshire Retirement System	\$ 810,000		8,913
New Orleans Fire Fighters	\$ 130,000		1,430
New York Life Insurance Company	\$ 18,000,000		198,063
New York Life Insurance and Annuity Corporation	\$ 2,000,000		22,007
Nicholas Appelgate Convertible Fund	\$ 1,206,000		13,270
Nomura Securities International Inc.	\$ 2,750,000		30,260
Northwest Mutual Life Insurance Co.	\$ 6,000,000		66,021
Occidental Petroleum	\$ 220,000		2,421
OCM Convertible Trust*	\$ 4,350,000		47,865
OCM Convertible Limited Partnership*	\$ 230,000		2,531
Ohio BWC	\$ 151,000		1,662

NAME	PRINCIPAL AMOUNT OF CONVERTIBLE NOTES BENEFICIALLY OWNED AND OFFERED HEREBY (1)	SHARES OF CLASS A COMMON STOCK OWNED PRIOR TO THE OFFERING (1)(2)	SHARES OF CLASS A COMMON STOCK OFFERED HEREBY (2)
Palladin Securities	\$ 1,550,000		17,055
Parker-Hannifin Corporation	\$ 270,000		2,971
Partner Reinsurance Company, Ltd.*	\$ 1,280,000		14,085
Penn Treaty Network American Insurance Co.	\$ 400,000		4,401
PGEP III, LLC	\$ 1,150,000		12,654
Physicians Life	\$ 458,000		5,040
Pilgrim Convertible Fund	\$ 5,256,000		57,835
Pro Mutual	\$ 510,000		5,612
Putnam Asset Allocation Funds-Balanced Portfolio	\$ 800,000		8,803
Putnam Asset Allocation Funds- Conservative Portfolio	\$ 500,000		5,502
Putnam Balanced Retirement Fund	\$ 260,000		2,861
Putnam Convertible Income-Growth Trust	\$ 11,000,000		121,039
Putnam Convertible Opportunity and Income Trust	\$ 380,000		4,181
Quattro Fund Ltd.	\$ 1,000,000		11,004
Queen's Health Plan	\$ 60,000		660
Ramius Securities, LLC	\$ 2,500,000		27,509
Saar Holdings CDO Limited	\$ 1,850,000		20,357
San Diego City Retirement	\$ 1,186,000		13,050
San Diego County Convertible	\$ 3,422,000		37,654
SG-Cowen Securities	\$ 14,000,000		154,049
Shell Pension Trust	\$ 172,000		1,893
Southport Management Partners, L.P.	\$ 600,000		6,602
Southport Partners International, Ltd.	\$ 1,200,000		13,204
Starvest Combined Portfolio	\$ 935,000		10,288

NAME	PRINCIPAL AMOUNT OF CONVERTIBLE NOTES BENEFICIALLY OWNED AND OFFERED HEREBY (1)	SHARES OF CLASS A COMMON STOCK OWNED PRIOR TO THE OFFERING (1)(2)	SHARES OF CLASS A COMMON STOCK OFFERED HEREBY (2)
State of Connecticut Combined Investment Funds*	\$ 9,510,000		104,643
State of Oregon Equity	\$ 6,900,000		75,924
State of Oregon/SAIF Corporation	\$ 8,450,000		92,980
State Employees' Retirement Fund of the State of Delaware*	\$ 4,005,000		44,069
State Street Bank Custodian for GE Pension Trust	\$ 3,150,000		34,661
Summer Hill Equity Income LLC	\$ 135,000		1,485
STI Capital Management	\$ 3,500,000		38,512
Sylvan IMA Ltd	\$ 1,800,000		19,806
TQA Master Plus Fund, Ltd.	\$ 5,400,000		59,419
The TCW Group, Inc.	\$ 22,725,000		250,055
University of Rochester	\$ 130,000		1,430
Value Line Convertible Fund, Inc.	\$ 1,000,000		11,004
Value Realization Fund, LP	\$ 11,225,000		123,515
Value Realization Fund B, LP	\$ 800,000		8,803
Vanguard Convertible Securities Fund, Inc.*	\$ 7,015,000		77,190
Variable Insurance Products Fund: High Income Portfolio	\$ 2,000,000		22,007
Variable Insurance Products Fund III: Balanced Portfolio	\$ 100,000		1,100
Wake Forest University	\$ 1,437,000		15,812
White River Securities, LLC	\$ 5,500,000		60,519
Worldwide Transactions, Ltd.	\$ 280,000		3,081
Writers Guild-Industry Health Fund	\$ 360,000		3,961
Zeneca Holdings Pension Trust	\$ 650,000		7,152
Other current and future holders of convertible notes (3)	\$ 276,519,000		3,042,683
TOTALS	\$1,000,000,000		11,003,521

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- (1) Includes shares of class A common stock into which the notes are convertible.
- (2) Assumes a conversion price of \$90.88 per share and the payment of cash in lieu of fractional shares.
- (3) Information concerning other selling securityholders, including current holders of convertible notes for which we have not received information regarding their holdings of convertible notes and class A common stock, will be included in supplements to this prospectus, if required. For purposes of this table, we have assumed that such holders do not beneficially own any other shares of class A common stock, other than the shares issuable upon conversion of the convertible notes.

None of the selling securityholders has had any material relationship with EchoStar or its affiliates within the past three years.

Information concerning the selling securityholders may change from time to time and any such changed information will be set forth in supplements to this prospectus if and when necessary. In addition, the conversion price of the convertible notes may be adjusted under certain circumstances which will change the number of shares of class A common stock received upon their conversion.

PLAN OF DISTRIBUTION

The selling securityholders and their successors (which term includes their transferees, pledgees or donees of their successors) may sell the convertible notes and the class A common stock into which they are convertible directly to purchasers or through underwriters, broker-dealers or agents, who may receive compensation in the form of discounts, concessions or commissions from the selling securityholders or the purchasers (which discounts, concessions or commissions as to any particular underwriter, broker-dealer or agent may be in excess of those customary in the types of transactions involved).

The convertible notes and the class A common stock into which they are convertible may be sold in one or more transactions at fixed prices, at prevailing market prices at the time of sale, at prices related to such prevailing market prices, at varying prices determined at the time of sale, or at negotiated prices. Such sales may be effected in transactions (which may involve crosses or block transactions) (1) on any national securities exchange or quotation service on which the notes or the class A common stock may be listed or quoted at the time of sale, (2) in the over-the-counter market, (3) in transactions otherwise than on such exchanges or services or in the over-the-counter market, (4) through the writing of options (whether such options are listed on an options exchange or otherwise), or (5) through the settlement of short sales. In connection with the sale of the convertible notes and the class A common stock received upon their conversion or otherwise, the selling securityholders may enter into hedging transactions with broker-dealers or other financial institutions which may in turn engage in short sales of the notes or the class A common stock, into which they are convertible and deliver these securities to close out such short positions, or loan or pledge the notes or the class A common stock into which they are convertible to broker-dealers that in turn may sell these securities.

The aggregate proceeds to the selling securityholders from the sale of the convertible notes or class A common stock into which they are convertible offered by them hereby will be the purchase price of such notes or common stock less discounts and commissions, if any. Each of the selling securityholders reserves the right to accept and, together with their agents from time to time, to reject, in whole or in part, any proposed purchase of notes or common stock to be made directly or through agents. We will not receive any of the proceeds from this offering.

Our outstanding class A common stock is listed for trading on Nasdaq National Market. We do not intend to list the convertible notes for trading on any national securities exchange or on the Nasdaq National market and can give no assurance about the development of any trading market for the notes.

In order to comply with the securities laws of some states, if applicable, the convertible notes and class A common stock into which they are convertible may be sold in such jurisdictions only through registered or licensed brokers or dealers. In addition, in some states the convertible notes and class A common stock into which they are convertible may not be sold unless they have been registered or qualified for sale or an exemption from registration or qualification requirements is available and is complied with.

The selling securityholders and any underwriters, broker-dealers or agents that participate in the sale of the notes and common stock into which they are convertible may be "underwriters" within the meaning of Section 2(11) of the Securities Act. Any discounts, commissions, concessions or profit they earn on any resale or the shares may be underwriting discounts and commissions under the Securities Act. Selling securityholders who are "underwriters" within the meaning of Section 2(11) of the Securities Act will be subject to the prospectus delivery requirements of the Securities Act. The selling securityholders have acknowledged that they understand their obligations to comply with the provisions of the Exchange Act and the rules thereunder relating to stock manipulation, particularly Regulation M, and have agreed that they will not engage in any transaction in violation of such provisions.

In addition, any securities covered by this prospectus which qualify for sale pursuant to Rule 144 or Rule 144A of the Securities Act may be sold under Rule 144 or Rule 144A rather than pursuant to this prospectus. A selling securityholder may not sell any convertible notes or class A common stock described herein and may not transfer, devise or gift such securities by other means not described in this prospectus.

To the extent required, the specific convertible notes or shares of class A common stock to be sold, the names of the selling securityholders, the respective purchase prices and public offering prices, the names of any agent, dealer or underwriter, and any applicable commissions or discounts with respect to a particular offer will be set forth in an accompanying prospectus supplement or, if appropriate, a post-effective amendment to the registration statement of which this prospectus is a part.

LEGAL MATTERS

Friedlob Sanderson Raskin Paulson & Tourtillott, LLC, Denver, Colorado, will pass on the validity of the convertible notes and the class A common stock issuable upon their conversion. Mr. Friedlob, a member of the firm, is also a member of our Board of Directors and currently owns options to acquire 14,000 shares of class A common stock. Friedlob Sanderson Raskin Paulson & Tourtillott, LLC will rely on an opinion of Hale Lane Peek Dennison Howard and Anderson, Reno, Nevada, as to matters of Nevada law.

EXPERTS

The audited financial statements incorporated by reference in this Prospectus have been audited by Arthur Andersen LLP, independent public accountants, as indicated in their report with respect thereto and are included herein in reliance upon the authority of such firm as experts in giving said report.

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March 7, 2000

[IMAGE NOT AVAILABLE](R)

\$1,000,000,000
47/8% Convertible Subordinated Notes Due 2007

PROSPECTUS

We have not authorized any dealer, salesperson or other person to give you written information other than this prospectus or to make representations as to matters not stated in the prospectus. You must not rely on unauthorized information. This prospectus is not an offer to sell these securities or our solicitation of your offer to buy the securities in any jurisdiction where that would not be permitted. The information contained in this prospectus is correct only as of the date of this prospectus, regardless of the time of the delivery of this prospectus or any sale of these securities.

PART II
INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 14. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION

The following table sets forth the costs and expenses, other than any underwriting discounts and commissions, payable by the registrant in connection with the sale of the securities being registered. All amounts are estimates except the SEC registration fee. All of the costs and expenses other than the NASDAQ Fee will be borne by the selling shareholders on a pro rata basis, based on the number of shares originally requested to be included in this registration statement.

SEC registration fee	\$264,000
NASDAQ Fee	--
Legal fees and expenses	30,000
Accounting fees and expenses	7,500
Printing fees	1,500
Transfer agent fees	50
Miscellaneous	950

Total	\$304,000
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ITEM 15. INDEMNIFICATION OF DIRECTORS AND OFFICERS

Chapter 78.7502(1) of the Nevada Revised Statutes allows EchoStar to indemnify any person made or threatened to be made a party to any action (except an action by or in the right of EchoStar, a "derivative action"), by reason of the fact that he is or was a director, officer, employee or agent of EchoStar, or is or was serving at the request of EchoStar as a director, officer, employee or agent of another corporation, against expenses including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with the action, suit or proceeding if he acted in a good faith manner which he reasonably believed to be in or not opposed to the best interests of EchoStar and, with respect to any criminal proceeding, had no reasonable cause to believe that his conduct was unlawful. Under chapter 78.7502(2), a similar standard of care applies to derivative actions, except that indemnification is limited solely to expenses (including attorneys' fees) incurred in connection with the defense or settlement of the action and court approval of the indemnification is required where the person seeking indemnification has been found liable to EchoStar. In addition, Chapter 78.751(2) allows EchoStar to advance payment of indemnifiable expenses prior to final disposition of the proceeding in question. Decisions as to the payment of indemnification are made by a majority of the Board of Directors at a meeting at which a quorum of disinterested directors is present, or by written opinion of special legal counsel, or by the stockholders.

Provisions relating to liability and indemnification of officers and directors of EchoStar for acts by such officers and directors are contained in Article IX of the Amended and Restated Articles of Incorporation of EchoStar and Article IX of EchoStar's by-laws. These provisions state, among other things, that, consistent with and to the extent allowable under Nevada law, and upon the decision of a disinterested majority of EchoStar's Board of Directors, or a written opinion of outside legal counsel, or EchoStar's stockholders: (1) EchoStar shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal (other than an action by or in the right of EchoStar) by reason of the fact that he is or was a director, officer, employee, fiduciary or agent of EchoStar, or is or was serving at the request of EchoStar as director, officer, employee, fiduciary or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, if he conducted himself in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of EchoStar, and with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful; and (2) EchoStar shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of EchoStar to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee, fiduciary or agent of EchoStar, or is or was serving at the request of EchoStar as a director, officer, employee or agent of another corporation, partnership, joint venture, trust,

employee benefit plan or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of EchoStar, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to EchoStar unless and only to the extent that the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

ITEM 16. EXHIBITS

- 4.1 Indenture, dated as of December 8, 1999, between EchoStar Communications Corporation and U.S. Bank Trust National Association, as trustee, including the form of 47/8% Convertible Subordinated Note Due 2007 attached as Exhibit A thereto
- 4.2 Registration Rights Agreement, dated as of December 8, 1999, by and among EchoStar Communications Corporation and the initial purchasers
- 5.1 Opinion of Hale Lane Peek Dennison Howard and Anderson
- 5.2 Opinion of Friedlob Sanderson Raskin Paulson & Tourtillott, LLC
- 12.1 Computation of Ratio of Earnings to Fixed Charges
- 23.1 Consent of Arthur Andersen LLP
- 23.2 Consent of Hale Lane Peek Dennison Howard and Anderson (included in Exhibit 5.1)
- 23.3 Consent of Friedlob Sanderson Raskin Paulson & Tourtillott, LLC (included in Exhibit 5.2)
- 24.1 Power of Attorney (included on page II-4 of this registration statement)
- 25.1 Form T-1 Statement of Eligibility of U.S. Bank Trust National Association to act as trustee under the Indenture

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ITEM 17. UNDERTAKINGS

The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in this registration statement or any material change to such information in this registration statement;

provided, however, that paragraphs (1)(i) and (1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the 1933 Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) For purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(5) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

(6) To file an application for the purpose of determining the eligibility of the trustee to act under ss. 310 of the Trust Indenture Act in accordance with the rules and regulations prescribed by the Commission under ss. 305(b)(2) of the Act.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Littleton, State of Colorado on March 7, 2000.

ECHOSTAR COMMUNICATIONS CORPORATION

By: /s/ David K. Moskowitz

 David K. Moskowitz
 Senior Vice President, General
 Counsel, Secretary and Director

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Charles W. Ergen, Steven B. Schaver and David K. Moskowitz, and each of them, his attorney-in-fact, for him in any and all capacities, to sign any amendments to this registration statement, and any related registration statement filed pursuant to Rule 462(b), and to file the same, with exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that said attorney-in-fact, or his substitute, may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated:

Signature -----	Title -----	Date -----
/s/ Charles W. Ergen ----- Charles W. Ergen	Chief Executive Officer, President and Director (Principal Executive Officer)	March 7, 2000
/s/ Steven B. Schaver ----- Steven B. Schaver	Chief Financial Officer (Principal Financial Officer)	March 7, 2000
/s/ James DeFranco ----- James DeFranco	Director	March 7, 2000
/s/ David K. Moskowitz ----- David K. Moskowitz	Director	March 7, 2000
/s/ Raymond L. Friedlob ----- Raymond L. Friedlob	Director	March 7, 2000
/s/ O. Nolan Daines ----- O. Nolan Daines	Director	March 7, 2000

INDEX TO EXHIBITS

Number -----	Title -----
4.1	Indenture, dated as of December 8, 1999, between EchoStar Communications Corporation and U.S. Bank Trust National Association, as trustee, including the form of 47/8% Convertible Subordinated Note Due 2007 attached as Exhibit A thereto
4.2	Registration Rights Agreement, dated as of December 8, 1999, by and among EchoStar Communications Corporation and the initial purchasers
5.1	Opinion of Hale Lane Peek Dennison Howard and Anderson
5.2	Opinion of Friedlob Sanderson Raskin Paulson & Tourtillott, LLC
12.1	Computation of Ratio of Earnings to Fixed Charges
23.1	Consent of Arthur Andersen LLP
23.2	Consent of Hale Lane Peek Dennison Howard and Anderson (included in Exhibit 5.1)
23.3	Consent of Friedlob Sanderson Raskin Paulson & Tourtillott, LLC (included in Exhibit 5.2)
24.1	Power of Attorney (included on page II-4 of this registration statement)
25.1	Form T-1 Statement of Eligibility of U.S. Bank Trust National Association to act as trustee under the Indenture

EXECUTION COPY

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ECHOSTAR COMMUNICATIONS CORPORATION

\$1,000,000,000

4 7/8% CONVERTIBLE SUBORDINATED NOTES DUE 2007

INDENTURE

Dated as of December 8, 1999

U.S. Bank Trust National Association

as Trustee

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INDENTURE, dated as of December 8, 1999, between EchoStar Communications Corporation, a Nevada corporation (the "COMPANY"), and U.S. Bank Trust National Association, a national banking association, as trustee (the "TRUSTEE").

Each party agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders (as defined in Section 1.01 hereof) of the Company's 4 7/8% Convertible Subordinated Notes due 2007 (the "NOTES"):

ARTICLE I.

SECTION 1.01. DEFINITIONS.

"AFFILIATE" of any specified Person means any other Person directly indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlling," "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise; provided, however, that beneficial ownership of 10% or more of the voting securities of a Person shall be deemed to be control.

"AGENT" means any Registrar, Paying Agent or Conversion Agent.

"BOARD OF DIRECTORS" means the Board of Directors of the Company or any authorized committee of the Board of Directors.

"BOARD RESOLUTION" means a duly authorized resolution of the Board of Directors.

"BUSINESS DAY" means any day that is not a Legal Holiday.

"CAPITAL STOCK" means any and all shares, interests, participations, rights or other equivalents, however designated, of corporate stock, including, without limitation, partnership interests.

"CHANGE OF CONTROL" means (a) any transaction or series of transactions (including, without limitation, a tender offer, merger or consolidation) the result of which is that the Principal and his Related Parties or an entity controlled by the Principal and his Related Parties (and not controlled by any person other than the Principal or his Related Parties) (i) sell, transfer or otherwise dispose of more than 50% of the total Equity Interests in the Company beneficially owned (as defined in Rule 13(d)(3) under the Exchange Act but without including any Equity Interests which may be deemed to be owned solely by reason of the existence of any voting arrangements), by such persons on the date hereof (as adjusted for stock splits and dividends and other distributions payable in Equity Interests) or (ii) do not have the voting power to elect at least a majority of the Board of Directors; (b) the first day on which a majority of the members of the Board of Directors are not Continuing Directors; or (c) the sale, lease or transfer of all or substantially all of our assets to any "Person" or "group", within the meaning of Section 13(d)(3) and 14(d)(2) of the Exchange Act or any successor provision to either of the foregoing, including any group acting for the purpose of acquiring, holding or disposing of securities within the meaning of Rule 13d-5(b)(1) under the Exchange Act other than the Principal and his Related Parties.

"COMMON STOCK" means the Class A common stock, par value \$0.01 per share, of the Company as the same exists at the date of the execution of this Indenture or as such stock may be constituted from time to time.

"COMPANY" means the party named as such above until a successor replaces it in accordance with Article VII and thereafter means the successor.

"CONTINUING DIRECTOR" means, as of any date of determination, any member of the Board of Directors who: (a) was a member of such Board of Directors on the date hereof; or (b) was nominated for election or elected to such Board of Directors with the affirmative vote of a majority of the Continuing Directors who were members of such Board at the time of such nomination or election or was nominated for election or elected by the Principal and his Related Parties.

"DAILY MARKET PRICE" means the price of a share of Common Stock on the relevant date, determined (a) on the basis of the last reported sale price regular way of the Common Stock as reported on the Nasdaq National Market (the "NNM"), or if the Common Stock is not then listed on the NNM, as reported on such national securities exchange upon which the Common Stock is listed, or (b) if there is no such reported sale on the day in question, on the basis of the average of the closing bid and asked quotations regular way as so reported, or (c) if the Common Stock is not listed on the NNM or on any national securities exchange, on the basis of the average of the high bid and low asked quotations regular way on the day in question in the over-the-counter market as reported by the National Association of Securities Dealers Automated Quotation System, or if not so quoted, as reported by National Quotation Bureau, Incorporated, or a similar organization.

"DEFAULT" means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

"DEPOSITARY" shall mean The Depository Trust Company, its nominees and their respective successors.

"EQUITY INTERESTS" means Capital Stock and all warrants, options or other rights to acquire Capital Stock, but excluding any Indebtedness that is convertible into, or exchangeable for Capital Stock.

"EXCESS PAYMENT" means the excess of (A) the aggregate of the cash and value of other consideration paid by the Company or any of its Subsidiaries with respect to shares of the Company acquired in a tender offer or other negotiated transaction over (B) the market value of each such acquired shares after giving effect to the completion of a tender offer or other negotiated transaction.

"EXCHANGE ACT" means the Securities Exchange Act of 1934, as amended.

"EXCHANGE RATE CONTRACT" means, with respect to any Person, any currency swap agreements, forward exchange rate agreements, foreign currency futures or options, exchange rate collar agreements, exchange rate insurance and other agreements or arrangements, or combination thereof, the principal purpose of which is to provide protection against fluctuations in currency exchange rates. An Exchange Rate Contract may also include an Interest Rate Agreement.

"GAAP" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such

other statements by such other entity as approved by a significant segment of the accounting profession, which are in effect on the Issuance Date and are applied on a consistent basis.

"GUARANTEE" means a guarantee, other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner, including, without limitation, letters of credit and reimbursement agreements in respect thereof, of all or any part of any Indebtedness.

"HOLDER" means a Person in whose name a Note is registered in the register referred to in Section 2.03.

"INDEBTEDNESS" means, with respect to any Person, any indebtedness of such Person, whether or not contingent, in respect of borrowed money or evidenced by bonds, notes, debentures or similar instruments or letters of credit, or reimbursement agreements in respect thereof, or representing the balance deferred and unpaid of the purchase price of any property (which purchase price is due more than six months after the placing into service or delivery of such property) including pursuant to capital leases and sale-and-leaseback transactions, or representing any hedging obligations under an Exchange Rate Contract or an Interest Rate Agreement, except any such balance that constitutes an accrued expense or trade payable, if and to the extent any of the foregoing indebtedness, other than obligations under an Exchange Rate Contract or an Interest Rate Agreement, would appear as a liability upon a balance sheet of such Person prepared in accordance with GAAP, and also includes, to the extent not otherwise included, the Guarantee of items which would be included within this definition. The amount of any Indebtedness outstanding as of any date shall be the accreted value thereof, in the case of any Indebtedness issued with original issue discount. Indebtedness shall not include liabilities for taxes of any kind.

"INDENTURE" means this Indenture, as amended from time to time.

"INITIAL PURCHASERS" means Donaldson, Lufkin & Jenrette Securities Corporation, Banc of America Securities LLC, Bear, Stearns & Co. Inc., Lehman Brothers Inc., ING Barings Furman Selz LLC and CIBC World Markets Corp.

"INTEREST RATE AGREEMENT" means, with respect to any Person, any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement or other similar agreement the principal purpose of which is to protect the party indicated therein against fluctuations in interest rates.

"ISSUANCE DATE" means the date on which the Notes are first authenticated and issued.

"NOTES" has the meaning set forth in the preamble hereto.

"OBLIGATIONS" means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

"OFFICERS' CERTIFICATE" means a certificate of the Company signed by two Officers, one of whom must be the Chairman of the Board, the President, the Treasurer or a Vice President of the Company.

"OPINION OF COUNSEL" means a written opinion from legal counsel who is reasonably acceptable to the Trustee. The counsel may be an employee of or counsel to the Company or the Trustee.

"PERSON" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

"PURCHASE AGREEMENT" means the Purchase Agreement, dated as of December 2, 1999, among the Company and the Initial Purchasers.

"PRINCIPAL" means Charles W. Ergen.

"REGISTRATION DEFAULT" has the meaning set forth in Section 2 of the Notes.

"REGISTRATION RIGHTS AGREEMENT" means the Registration Rights Agreement relating to the Notes and the underlying Common Stock, dated December 8, 1999, among the Company and the Initial Purchasers party thereto.

"RELATED PARTY" means, with respect to the Principal, (a) the spouse and each immediate family member of the Principal and (b) each trust, corporation, partnership or other entity of which the Principal beneficially holds an 80% or more controlling interest.

"SEC" means the Securities and Exchange Commission.

"SECURITIES ACT" means the Securities Act of 1933, as amended.

"SENIOR DEBT" means the principal of, interest on and other amounts due on (i) Indebtedness of the Company, whether outstanding on the date hereof or thereafter created, incurred, assumed or guaranteed by the Company, for money borrowed from banks or other financial institutions; (ii) Indebtedness of the Company, whether outstanding on the date hereof or thereafter created, incurred, assumed or guaranteed by the Company; and (iii) Indebtedness of the Company under interest rate swaps, caps or similar hedging agreements and foreign exchange contracts, currency swaps or similar agreements: unless, in the instrument creating or evidencing or pursuant to which Indebtedness under (i) or (ii) is outstanding, it is expressly provided that such Indebtedness is not senior in right of payment to the Notes. Senior Debt includes, with respect to the obligations described in clauses (i) and (ii) above, interest accruing, pursuant to the terms of such Senior Debt, on or after the filing of any petition in bankruptcy or for reorganization relating to the Company, whether or not post-filing interest is allowed in such proceeding, at the rate specified in the instrument governing the relevant obligation. Notwithstanding anything to the contrary in the foregoing, Senior Debt shall not include: (a) Indebtedness of or amounts owed by the Company for compensation to employees, or for goods or materials purchased in the ordinary course of business, or for services; and (b) Indebtedness of the Company to a Subsidiary of the Company.

"SHELF REGISTRATION STATEMENT" shall have the meaning set forth in the Registration Rights Agreement.

"SIGNIFICANT SUBSIDIARY" means any Subsidiary of the Company which is a "significant subsidiary" as defined in Rule 1-02(v) of Regulation S-X under the Securities Act and the Exchange Act, as such Regulation is in effect on the date hereof.

"SPECIAL INTEREST" has the meaning set forth in Section 2 of the Notes.

"SUBSIDIARY" means any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled, without regard to the occurrence of any contingency, to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by any Person or one or more of the other Subsidiaries of that Person or a combination thereof.

"TIA" means the Trust Indenture Act of 1939 (15 U.S. Code (Sections) 77aaa-77bbb) as in effect on the date of execution of this Indenture.

"TRUSTEE" means the party named as such above until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor.

"TRUST OFFICER" means the Chairman of the Board, the President or any other officer or assistant officer of the Trustee assigned by the Trustee to administer its corporate trust matters.

SECTION 1.02. OTHER DEFINITIONS.

TERM -----	DEFINED IN SECTION -----
"ACCREDITED INVESTOR RESTRICTED NOTES".....	2.01
"AGENT MEMBER".....	2.01
"BANKRUPTCY LAW".....	8.01
"CEDEL".....	2.01
"CHANGE OF CONTROL PAYMENT".....	4.07
"COMMENCEMENT DATE".....	3.09
"CONVERSION AGENT".....	2.03
"CONVERSION DATE".....	5.02
"CONVERSION PRICE".....	5.01
"CONVERSION SHARES".....	5.06
"CUSTODIAN".....	8.01
"DISTRIBUTION DATE".....	5.06
"DISTRIBUTION RECORD DATE".....	5.06
"EUROCLEAR".....	2.01
"EVENT OF DEFAULT".....	8.01
"GLOBAL NOTE".....	2.01
"LEGAL HOLIDAY".....	12.07
"OFFER AMOUNT".....	3.09
"OFFICER".....	12.11
"PAYING AGENT".....	2.03
"PAYMENT BLOCKAGE NOTICE".....	6.02
"PAYMENT BLOCKAGE PERIOD".....	6.02
"PAYMENT DEFAULT".....	8.01
"PURCHASE DATE".....	3.09
"PURCHASE OFFER".....	3.09
"QIBS".....	2.01
"REGULATION S".....	2.01
"REGULATION S GLOBAL NOTE".....	2.01
"REGISTRAR".....	2.03
"RESTRICTED NOTES".....	2.01

TERM -----	DEFINED IN SECTION -----
"RIGHTS".....	5.06
"RULE 144A".....	2.01
"RULE 144A GLOBAL NOTE".....	2.01
"TENDER PAYMENT DATE"	5.06
"TENDER PERIOD".....	3.09

SECTION 1.03. INCORPORATION BY REFERENCE OF TRUST INDENTURE ACT.

Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture.

The following TIA terms used in this Indenture have the following meanings:

"INDENTURE SECURITIES" means the Notes;

"INDENTURE SECURITY HOLDER" means a Holder of a Note;

"INDENTURE TO BE QUALIFIED" means this Indenture;

"INDENTURE TRUSTEE" or "institutional trustee" means the Trustee; and

"OBLIGOR" on the Notes means the Company or any other obligor on the Notes.

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

SECTION 1.04. 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 GAAP consistently applied;

(c) "OR" is not exclusive;

(d) words in the singular include the plural, and in the plural include the singular;

(e) provisions apply to successive events and transactions;

(f) references to sections of or rules under the Securities Act shall be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time; and

(g) a reference to "\$" or U.S. Dollars is to United States dollars.

ARTICLE II.
THE NOTES

SECTION 2.01. FORM AND DATING.

(a) General.

The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto, which is hereby incorporated by reference and expressly made a part of this Indenture. The Notes may have notations, legends or endorsements required by law, stock exchange rule, agreements to which the Company is subject, if any, or usage (provided that any such notation, legend or endorsement is in a form acceptable to the Company). The Company shall furnish any such legend not contained in Exhibit A to the Trustee in writing. Each Note shall be dated the date of its authentication. The Notes shall be in denominations of \$1,000 and integral multiples thereof. The terms and provisions of the Notes set forth in Exhibit A are part of this Indenture and to the extent applicable, the Company and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

(b) Global Notes.

The Notes are being offered and sold by the Company pursuant to the Purchase Agreement.

Notes transferred in reliance on Regulation S under the Securities Act ("REGULATION S"), as provided in Section 2.06(a)(ii) hereof, shall be issued in the form of one or more permanent Global Notes in definitive, fully registered form without interest coupons with the Global Notes Legend and Restricted Notes Legend set forth in Exhibit A hereto (the "REGULATION S GLOBAL NOTE"), which shall be deposited on behalf of the transferee of the Notes represented thereby with the Trustee, as custodian, for the Depositary, and registered in the name of the Depositary or the nominee of the Depositary for the accounts of designated agents holding on behalf of the Euroclear System ("EUROCLEAR") or Cedelbank ("CEDEL"), duly executed by the Company and authenticated by the Trustee as hereinafter provided. The aggregate principal amount of the Regulation S Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depositary or its nominee as hereinafter provided.

Notes offered and sold to Qualified Institutional Buyers ("QIBS") in reliance on Rule 144A under the Securities Act ("RULE 144A"), as provided in the Purchase Agreement, shall be issued initially in the form of one or more permanent Global Notes in definitive, fully registered form without interest coupons with the Global Notes Legend and Restricted Notes Legend set forth in Exhibit A hereto ("RULE 144A GLOBAL NOTE"), which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Trustee, as custodian for the Depositary, and registered in the name of the Depositary or a nominee of the Depositary, duly executed by the Company and authenticated by the Trustee as hereinafter provided. The aggregate principal amount of the Rule 144A Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depositary or its nominee as hereinafter provided.

(c) Book-Entry Provisions.

This Section 2.01(c) shall apply only to the Regulation S Global Note and the Rule 144A Global Note issued in the form of one or more permanent Global Notes (collectively, the "GLOBAL NOTES") deposited with or on behalf of the Depositary.

The Company shall execute and the Trustee shall, in accordance with this Section 2.01(c), authenticate and deliver initially one or more Global Notes that (a) shall be registered in the name of the Depositary for such Global Note or Global Notes or the nominee of such Depositary and (b) shall be delivered by the Trustee to such Depositary or pursuant to such Depositary's instructions or held by the Trustee as custodian for the Depositary.

Members of, or participants in, the Depositary ("AGENT MEMBERS") shall have no rights under this Indenture with respect to any Global Note held on their behalf by the Depositary or by the Trustee as the custodian of the Depositary or under such Global Note, 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 Note 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 of such Depositary governing the exercise of the rights of an owner of a beneficial interest in any Global Note.

(d) Certificated Notes.

Notes offered and sold to "accredited investors" (as defined in Rule 501 (a) (1), (2), (3) or (7) of Regulation D under the Securities Act), as provided in the Purchase Agreement, shall be issued in the form of one or more certificated Notes (subject to a minimum initial purchase amount of \$100,000) in definitive, fully registered form without interest coupons with the Restricted Notes Legend set forth in Exhibit A hereto ("ACCREDITED INVESTOR RESTRICTED NOTES"), which shall be registered in the name of such Accredited Investor or its nominee, duly executed by the Company and authenticated by the Trustee as hereinafter provided. Such Accredited Investor Restricted Notes may only be transferred in reliance on Regulation S or to QIBs in reliance on Rule 144A.

Notwithstanding the foregoing, Notes offered and sold on the Issuance Date to "accredited investors" (as defined above) shall be issued initially in the form of one or more permanent Global Notes in definitive, fully registered form without interest coupons with the Global Notes Legend and Restrictive Notes Legend set forth in Exhibit A ("AI Global Note"), which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Trustee, as custodian for the Depositary, and registered in the name of the Depositary or a nominee of the Depositary, duly executed by the Company and authenticated by the Trustee as hereinafter provided. Such AI Global Note shall be deemed to be a Global Note for all purposes of this Indenture. Promptly after the Issuance Date, the Company shall cause the purchasers of the AI Global Note to arrange with the Depositary for the exchange of such AI Global Note for Accredited Investor Restricted Notes. Upon receipt by the principal Registrar of instructions from the Depositary directing the principal Registrar to authenticate and deliver one or more Accredited Investor Restricted Notes of the same aggregate principal amount as the beneficial interest in the AI Global Note to be exchanged, such instructions to contain the name or names of the Holder or Holders of such Accredited Investor Restricted Note or Notes, the authorized denominations of the Accredited Investor Restricted Note or Notes to be so issued and appropriate delivery instructions, then the principal Registrar will instruct the Depositary to reduce the AI Global Note by the aggregate principal amount of the beneficial interest therein to be exchanged and to debit from the account of the Person making such exchange the beneficial interest in the AI Global Note that is being exchanged, and

concurrently with such reduction and debit the Company shall execute, and the Trustee shall authenticate and deliver, one or more Accredited Investor Restricted Notes of the same aggregate principal amount in accordance with the instructions referred to above. Certificated Notes may be issued as aforesaid notwithstanding any other provision of this Indenture to the contrary restricting the issuance of certificated Notes.

In addition to the provisions of Section 2.10, owners of beneficial interests in Global Notes may, if the Company, at its option, notifies the Trustee in writing that it elects to cause the issuance of certificated Notes, receive a certificated Note, which certificated Note shall bear the Restricted Notes Legend set forth in Exhibit A hereto (the "RESTRICTED NOTES") unless otherwise provided in this Section 2.01(d) and Section 2.06(b) hereof.

After a transfer of any Notes during the period of the effectiveness of a Shelf Registration Statement with respect to the Notes and pursuant thereto, all requirements for Restricted Notes Legends on such Note will cease to apply, and a certificated Note without a Restricted Notes Legend will be available to the Holder of such Notes.

SECTION 2.02. EXECUTION AND AUTHENTICATION.

One Officer shall sign the Notes for the Company by manual or facsimile signature.

If an Officer whose signature is on a Note no longer holds that office at the time the Note is authenticated, the Note shall nevertheless be valid.

A Note shall not be valid until authenticated by the manual signature of an authorized officer of the Trustee. The signature shall be conclusive evidence that the Note has been authenticated under this Indenture.

The Trustee shall, upon a written order of the Company signed by an Officer, authenticate (1) Notes for original issue up to an aggregate principal amount stated in paragraph 5 of the Notes. The aggregate principal amount of Notes outstanding at any time may not exceed \$1,000,000,000 except as provided in Section 2.07.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with Holders, the Company or an Affiliate.

SECTION 2.03. REGISTRAR AND PAYING AGENT.

The Company shall maintain (i) offices or agencies where the Notes may be presented for registration of transfer or for exchange ("REGISTRAR") (ii) offices or agencies where the Notes may be presented for payment ("PAYING AGENT") and (iii) offices or agencies where the Notes may be presented for conversion ("CONVERSION AGENT"). The Company initially designates the Trustee at its corporate trust offices to act as principal Registrar, Paying Agent and Conversion Agent. The principal Registrar shall keep a register of the Notes and of their transfer and exchange. The Company may appoint one or more co-registrars, one or more additional paying agents and one or more additional Conversion Agents in such other locations as it shall determine. The term "Registrar" includes any co-registrar, the term "Paying Agent" includes any additional paying agent and the term "Conversion Agent" includes any additional conversion agent. The Company may change any Paying Agent, Registrar or Conversion

Agent without prior notice to any Holder. The Company shall notify the Trustee of the name and address of any Agent not a party to this Indenture. If the Company fails to appoint or maintain another entity as Registrar, Paying Agent or Conversion Agent, the Trustee shall act as such. The Company or any of its Affiliates may act as Paying Agent, Registrar or Conversion Agent.

SECTION 2.04. PAYING AGENT TO HOLD MONEY IN TRUST.

The Company shall require each Paying Agent other than the Trustee to agree in writing that the Paying Agent will hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal or interest on the Notes, and will notify the Trustee of any default by the Company in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee and to account for any money disbursed by it. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Company or an Affiliate of the Company) shall have no further liability for the money. If the Company or an Affiliate of the Company acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent.

SECTION 2.05. 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 furnish to the Trustee on or before each interest payment date and at such other times as the Trustee may request in writing a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Holders.

SECTION 2.06. TRANSFER AND EXCHANGE.

Whenever Notes are presented to the Registrar or a co-registrar with a request to register a transfer or to exchange them for an equal principal amount of Notes of other denominations, the Registrar shall register the transfer or make the exchange if its requirements for such transactions are met. To permit registrations of transfers and exchanges, the Company shall issue and the Trustee shall authenticate Notes at the Registrar's request. No service charge shall be made for any registration of transfer or exchange (except as otherwise expressly permitted herein), but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer tax or similar governmental charge payable upon exchanges pursuant to Sections 2.10, 3.06 or 11.05 hereof).

The Company shall not be required (i) to issue, register the transfer of or exchange any Note for a period beginning at the opening of business 15 days before the day of any selection of Notes to be redeemed under Section 3.02 hereof and ending at the close of business on the day of selection, or (ii) to register the transfer, or exchange, of any Note so selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(a) Notwithstanding any provision to the contrary herein, so long as a Global Note remains outstanding and is held by or on behalf of the Depositary, transfers of a Global Note, in whole or in part, or of any beneficial interest therein, shall only be made in accordance with Section 2.01(b) and this Section 2.06(a); provided, however, that beneficial interests in a Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest

in the same Global Note in accordance with the transfer restrictions set forth in the Restricted Notes Legend and under the heading "Notice to investors" in the Company's Offering Memorandum dated December 2, 1999.

(i) Except for transfers or exchanges made in accordance with clauses (ii) through (iv) of this Section 2.06(a), transfers of a Global Note shall be limited to transfers of such Global Note in whole, but not in part, to nominees of the Depositary or to a successor of the Depositary or such successor's nominee.

(ii) Rule 144A Global Note to Regulation S Global Note. If an owner of a beneficial interest in the Rule 144A Global Note deposited with the Depositary or the Trustee as custodian for the Depositary wishes at any time to transfer its interest in such Rule 144A Global Note to a Person who is required to take delivery thereof in the form of an interest in the Regulation S Global Note, such owner may, subject to the rules and procedures of the Depositary, exchange or cause the exchange of such interest for an equivalent beneficial interest in the Regulation S Global Note. Upon receipt by the principal Registrar of (1) instructions given in accordance with the Depositary's procedures from an Agent Member directing the principal Registrar to credit or cause to be credited a beneficial interest in the Regulation S Global Note in an amount equal to the beneficial interest in the Rule 144A Global Note to be exchanged, (2) a written order given in accordance with the Depositary's procedures containing information regarding the participant account of the Depositary and the Euroclear or Cedel account to be credited with such increase and (3) a certificate in the form of Exhibit B attached hereto given by the Holder of such beneficial interest, then the principal Registrar shall instruct the Depositary to reduce or cause to be reduced the principal amount of the Rule 144A Global Note and to increase or cause to be increased the principal amount of the Regulation S Global Note by the aggregate principal amount of the beneficial interest in the Rule 144A Global Note equal to the beneficial interest in the Regulation S Global Note to be exchanged or transferred, to credit or cause to be credited to the account of the Person specified in such instructions a beneficial interest in the Regulation S Global Note equal to the reduction in the principal amount of the Rule 144A Global Note and to debit or cause to be debited from the account of the Person making such exchange or transfer the beneficial interest in the Rule 144A Global Note that is being exchanged or transferred.

(iii) Regulation S Global Note to Rule 144A Global Note. If an owner of a beneficial interest in the Regulation S Global Note deposited with the Depositary or with the Trustee as custodian for the Depositary wishes at any time to transfer its interest in such Regulation S Global Note to a Person who is required to take delivery thereof in the form of an interest in the Rule 144A Global Note, such Holder may, subject to the rules and procedures of Euroclear or Cedel, as the case may be, and the Depositary, exchange or cause the exchange of such interest for an equivalent beneficial interest in the Rule 144A Global Note. Upon receipt by the principal Registrar of (1) instructions from Euroclear or Cedel, if applicable, and the Depositary, directing the principal Registrar to credit or cause to be credited a beneficial interest in the Rule 144A Global Note equal to the beneficial interest in the Regulation S Global Note to be exchanged or transferred, (2) a written order

given in accordance with the Depositary's procedures containing information regarding the participant account of the Depositary and (3) a certificate in the form of Exhibit C attached hereto given by the owner of such beneficial interest, then Euroclear or Cedel or the principal Registrar, as the case may be, will instruct the Depositary to reduce or cause to be reduced the Regulation S Global Note and to increase or cause to be increased the principal amount of the Rule 144A Global Note by the aggregate principal amount of the beneficial interest in the Regulation S Global Note to be exchanged or transferred, and the principal Registrar shall instruct the Depositary, concurrently with such reduction, to credit or cause to be credited to the account of the Person specified in such instructions a beneficial interest in the Rule 144A Global Note equal to the reduction in the principal amount of the Regulation S Global Note and to debit or cause to be debited from the account of the Person making such exchange or transfer the beneficial interest in the Regulation S Global Note that is being exchanged or transferred.

(iv) Global Note to Restricted Note. If an owner of a beneficial interest in a Global Note deposited with the Depositary or with the Trustee as custodian for the Depositary wishes at any time to transfer its interest in such Global Note to a Person who is required to take delivery thereof in the form of a Restricted Note, such owner may, subject to the rules and procedures of Euroclear or Cedel, if applicable, and the Depositary, cause the exchange of such interest for one or more Restricted Notes of any authorized denomination or denominations and of the same aggregate principal amount. Upon receipt by the principal Registrar of (1) instructions from Euroclear or Cedel, if applicable, and the Depositary directing the principal Registrar to authenticate and deliver one or more Restricted Notes of the same aggregate principal amount as the beneficial interest in the Global Note to be exchanged, such instructions to contain the name or names of the designated transferee or transferees, the authorized denomination or denominations of the Restricted Notes to be so issued and appropriate delivery instructions, (2) a certificate in the form of Exhibit D attached hereto given by the owner of such beneficial interest to the effect set forth therein, (3) a certificate in the form of Exhibit E attached hereto given by the Person acquiring the Restricted Notes for which such interest is being exchanged, to the effect set forth therein, and (4) such other certifications, legal opinions or other information as the Company may reasonably require to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act, then Euroclear or Cedel, if applicable, or the principal Registrar, as the case may be, will instruct the Depositary to reduce or cause to be reduced such Global Note by the aggregate principal amount of the beneficial interest therein to be exchanged and to debit or cause to be debited from the account of the Person making such transfer the beneficial interest in the Global Note that is being transferred, and concurrently with such reduction and debit the Company shall execute, and the Trustee shall authenticate and deliver, one or more Restricted Notes of the same aggregate principal amount in accordance with the instructions referred to above.

(v) Restricted Note to Restricted Note. If a Holder of a Restricted Note wishes at any time to transfer such Restricted Note to a Person who is required to take delivery thereof in the form of a Restricted Note, such Holder may, subject to

the restrictions on transfer set forth herein and in such Restricted Note, cause the exchange of such Restricted Note for one or more Restricted Notes of any authorized denomination or denominations and of the same aggregate principal amount. Upon receipt by the principal Registrar of (1) such Restricted Note, duly endorsed as provided herein, (2) instructions from such Holder directing the principal Registrar to authenticate and deliver one or more Restricted Notes of the same aggregate principal amount as the Restricted Note to be exchanged, such instructions to contain the name or authorized denomination or denominations of the Restricted Notes to be so issued and appropriate delivery instructions, (3) a certificate from the Holder of the Restricted Note to be exchanged in the form of Exhibit D attached hereto, (4) a certificate in the form of Exhibit E attached hereto given by the Person acquiring the Restricted Notes for which such interest is being exchanged, to the effect set forth therein, and (5) such other certifications, legal opinions or other information as the Company may reasonably require to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act, then the Registrar shall cancel or cause to be canceled such Restricted Note and concurrently therewith, the Company shall execute, and the Trustee shall authenticate and deliver, one or more Restricted Notes of the same aggregate principal amount, in accordance with the instructions referred to above.

(vi) Restricted Note to Rule 144A Global Note. If an owner of a Restricted Note registered in the name of such owner wishes at any time to transfer such Restricted Note to a Person who is required to take delivery thereof in the form of an interest in the Rule 144A Global Note, such Holder may, subject to the rules and procedures of the Depositary, exchange or cause the exchange of such Restricted Note for an equivalent beneficial interest in the Rule 144A Global Note. Upon receipt by the principal Registrar of (1) instructions from the Company, directing the principal Registrar (A) to credit or cause to be credited a beneficial interest in the Rule 144A Global Note equal to the principal amount of the Restricted Note to be exchanged or transferred and (B) to cancel such Restricted Note to be exchanged or transferred, (2) a written order given in accordance with the Depositary's procedures containing information regarding the participant account of the Depositary and (3) a certificate in the form of Exhibit C attached hereto given by the owner of such Restricted Note, then the principal Registrar will instruct the Trustee to cancel such Restricted Note and will instruct the Depositary to increase or cause to be increased the principal amount of the Rule 144A Global Note by the principal amount of the Restricted Note to be exchanged or transferred, and the principal Registrar shall instruct the Depositary, concurrently with such cancellation of the Restricted Note, to credit or cause to be credited to the account of the Person specified in such instructions a beneficial interest in the Rule 144A Global Note equal to the principal amount of the Restricted Note to be canceled by the Trustee.

(vii) Restricted Note to Regulation S Global Note. If an owner of a Restricted Note registered in the name of such owner wishes at any time to transfer such Restricted Note to a Person who is required to take delivery thereof in the form of an interest in the Regulation S Global Note, such owner may, subject to the rules and procedures of the Euroclear or Cedel, as the case may be, exchange

or cause the exchange of such Restricted Note for an equivalent beneficial interest in the Regulation S Global Note. Upon receipt by the principal Registrar of (1) instructions from the Company, directing the principal Registrar (A) to credit or cause to be credited a beneficial interest in the Regulation S Global Note equal to the principal amount of the Restricted Note to be exchanged or transferred and (B) to cancel such Restricted Note to be exchanged or transferred, (2) a written order given in accordance with the Depository's procedures containing information regarding the participant account of the Euroclear or Cedel account to be credited with such increase and (3) a certificate in the form of Exhibit B attached hereto given by the Holder of such Restricted Note, then the principal Registrar will instruct the Trustee to cancel such Restricted Note and will instruct the Depository to increase or cause to be increased the principal amount of the Regulation S Global Note by the principal amount of the Restricted Note to be exchanged or transferred, and the principal Registrar shall instruct the Depository, concurrently with such cancellation of the Restricted Note, to credit or cause to be credited to the account of the Person specified in such instructions a beneficial interest in the Regulation S Global Note equal to the principal amount of the Restricted Note to be canceled by the Trustee.

(viii) Other Exchanges. In the event that a beneficial interest in a Global Note is exchanged for a certificated Note in definitive registered form pursuant to Section 2.10, prior to the effectiveness of a Shelf Registration Statement with respect to such Notes, such Notes may be exchanged only in accordance with such procedures as are substantially consistent with the provisions of clauses (ii) through (v) above (including the certification requirements intended to ensure that such transfers comply with Rule 144A, Rule 144, Regulation S or any other available exemption from registration, as the case may be) and such other procedures as may from time to time be adopted by the Company.

(b) Except in connection with a Shelf Registration Statement contemplated by and in accordance with the terms of the Registration Rights Agreement, if Notes are issued upon the transfer, exchange or replacement of Notes bearing the Restricted Securities Legend set forth in Exhibit A hereto, or if a request is made to remove such Restricted Notes Legend on Notes, the Notes so issued shall bear the Restricted Notes Legend, or the Restricted Notes Legend shall not be removed, as the case may be, unless there is delivered to the Company such satisfactory evidence, which may include an opinion of counsel, as may be reasonably required by the Company, that neither the legend nor the restrictions on transfer set forth therein are required to ensure that transfers thereof comply with the provisions of Rule 144A, Rule 144, Regulation S or any other available exemption from registration under the Securities Act or, with respect to Restricted Notes, that such Notes are not "restricted" within the meaning of Rule 144 under the Securities Act. Upon provision of such satisfactory evidence, the Trustee, at the direction of the Company, shall authenticate and deliver Notes that do not bear the legend.

(c) Neither the Company nor the Trustee shall have any responsibility for any actions taken or not taken by the Depository and the Company shall have no responsibility for any actions taken or not taken by the Trustee as agent or custodian of the Depository.

SECTION 2.07. REPLACEMENT NOTES.

If the Holder of a Note claims that the Note has been lost, destroyed or wrongfully taken or if such Note is mutilated and is surrendered to the Trustee, the Company shall issue and the Trustee shall authenticate a replacement Note if the Trustee's and the Company's requirements are met. If required by the Trustee or the Company, an indemnity bond must be sufficient in the judgment of both to protect the Company, the Trustee, any Agent or any authenticating agent from any loss which any of them may suffer if a Note is replaced. The Company may charge for its expenses in replacing a Note.

In case any such mutilated, destroyed, lost or stolen Note has become or is about to become due and payable, or is about to be purchased by the Company pursuant to Article III hereof, the Company in its discretion may, instead of issuing a new Note, pay or purchase such Note, as the case may be.

Every replacement Note is an additional obligation of the Company and shall be entitled to all of the benefits of this Indenture equally and proportionately with all other Notes duly issued hereunder.

SECTION 2.08. OUTSTANDING NOTES.

The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, and those described in this Section as not outstanding.

If a Note is replaced, paid or purchased pursuant to Section 2.07 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced, paid or purchased Note is held by a bona fide purchaser.

If the principal amount of any Note is considered paid under Section 4.01 hereof, it ceases to be outstanding and interest on it ceases to accrue.

Except as set forth in Section 2.09 hereof, a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note.

SECTION 2.09. TREASURY NOTES.

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company or an Affiliate of the Company shall be considered as though they are not outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes that the Trustee knows are so owned shall be so disregarded.

SECTION 2.10. TEMPORARY NOTES; GLOBAL NOTES.

(a) Until definitive Notes are ready for delivery, the Company may prepare and the Trustee shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of definitive Notes but may have variations that the Company considers appropriate for temporary Notes. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate definitive Notes in exchange for temporary Notes. Holders of temporary Notes shall be entitled to all of the benefits of this Indenture.

(b) A Global Note deposited with the Depository or with the Trustee as custodian for the Depository pursuant to Section 2.01 shall be transferred to the beneficial owners thereof in the form of certificated Notes only in accordance with Section 2.01(d) or if such transfer complies with Section 2.06 and (i) the Depository notifies the Company that it is unwilling or unable to continue as Depository for such Global Note or if at any time such Depository ceases to be a "clearing agency" registered under the Exchange Act and a successor Depository is not appointed by the Company within 90 days after receipt of such notice or after it becomes aware of such cessation or (ii) an Event of Default has occurred and is continuing.

(c) Any Global Note that is transferable to the beneficial owners thereof in the form of certificated Notes pursuant to Section 2.01(d) or to this Section 2.10 shall be surrendered by the Depository to the Trustee to be so transferred, in whole or from time to time in part, without charge, and the Trustee shall authenticate and deliver, upon such transfer of each portion of such Global Note, an equal aggregate principal amount of Notes of authorized denominations in the form of certificated Notes. Any portion of a Global Note transferred pursuant to this Section 2.10 shall be executed, authenticated and delivered only in denominations of \$1,000 and any integral multiple thereof and registered in such names as the Depository shall direct. Any Note in the form of certificated Notes delivered in exchange for an interest in the Global Notes shall, except as otherwise provided by Section 2.06(b) bear the Restricted Notes Legend set forth in Exhibit A hereto.

(d) The registered Holder of a Global Note 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 Notes.

(e) In the event of the occurrence of either of the events specified in Section 2.10(b), the Company will promptly make available to the Trustee a reasonable supply of certificated Notes in definitive, fully registered form without interest coupons.

SECTION 2.11. CANCELLATION.

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar, Paying Agent and Conversion Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee shall promptly cancel all Notes surrendered for registration of transfer, exchange, payment, conversion, replacement or cancellation and shall destroy such Notes and furnish a certificate regarding such destruction to the Company. The Company may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation.

SECTION 2.12. DEFAULTED INTEREST.

If the Company fails to make a payment of interest on the Notes, it shall pay such defaulted interest plus any interest payable on the defaulted interest, in any lawful manner. It may pay such defaulted interest, plus any such interest payable on it, to the Persons who are Holders on a subsequent special record date. The Company shall fix any such record date and payment date, provided that no such record date shall be less than 10 days prior to the related payment date for such defaulted interest. At least 15 days before any such record date, the Company shall mail to Holders a notice that states the special record date, the related payment date and amount of such interest to be paid.

ARTICLE III.
REDEMPTION

SECTION 3.01. NOTICES TO TRUSTEE.

If the Company elects to redeem Notes pursuant to the optional redemption provisions of the Notes and Section 3.07 hereof, it shall notify the Trustee of the redemption date and the principal amount of Notes to be redeemed. The Company shall give each notice to the Trustee provided for in this Section 3.01 at least 35 days before the redemption date (unless a shorter notice period shall be reasonably satisfactory to the Trustee).

SECTION 3.02. SELECTION OF NOTES TO BE REDEEMED.

If less than all of the Notes are to be redeemed at any time, selection of Notes shall be made by the Trustee on a pro rata basis or by lot or by a method that complies with the requirements of any exchange on which the Notes are listed and that the Trustee considers fair and appropriate, provided that no Notes of \$1,000 or less shall be redeemed in part. The Trustee shall make the selection not more than 60 days and not less than 30 days before the redemption date from Notes outstanding not previously called for redemption. Notes and portions of Notes selected shall be in amounts of \$1,000 or integral multiples of \$1,000. Provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption. The Trustee shall notify the Company promptly of the Notes or portions of Notes to be called for redemption.

If any Note selected for partial redemption is converted in part after such selection, the converted portion of such Note shall be deemed (so far as may be) to be the portion to be selected for redemption. The Notes (or portions thereof) so selected shall be deemed duly selected for redemption for all purposes hereunder, notwithstanding that any such Note is converted in whole or in part before the mailing of the notice of redemption. Upon any redemption of less than all the Notes, the Company and the Trustee may treat as outstanding any Notes surrendered for conversion during the period 15 days next preceding the mailing of a notice of redemption and need not treat as outstanding any Note authenticated and delivered during such period in exchange for the unconverted portion of any Note converted in part during such period.

SECTION 3.03. NOTICE OF REDEMPTION.

At least 30 days but not more than 60 days before a redemption date, the Company shall mail, by first class mail, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address. The notice shall identify the Notes to be redeemed and shall state:

(a) the redemption date;

(b) the redemption price;

(c) if any Note is to be redeemed in part only, the portion of the principal amount thereof redeemed, and that, after the redemption date, upon surrender of such Note, a new Note in principal amount equal to the unredeemed portion thereof shall be issued in the name of the Holder thereof upon cancellation of the original Note;

(d) the name and address of the Paying Agent;

(e) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price plus accrued interest, if any;

(f) that interest on Notes called for redemption ceases to accrue on and after the redemption date; and

(g) the paragraph of the Notes pursuant to which the Notes called for redemption are being redeemed.

Such notice shall also state the current Conversion Price and the date on which the right to convert such Notes or portions thereof into Common Stock of the Company will expire.

At the Company's request, the Trustee shall give notice of redemption in the Company's name and at its expense; provided that the Company shall have delivered to the Trustee, at least 45 days prior to the redemption date, an Officers' Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice, as provided in the preceding paragraph.

SECTION 3.04. EFFECT OF NOTICE OF REDEMPTION.

Once notice of redemption is mailed in accordance with Section 3.03 hereof, Notes called for redemption become due and payable on the redemption date at the price set forth in the Note. A notice of redemption may not be conditional.

SECTION 3.05. DEPOSIT OF REDEMPTION PRICE.

On or before the redemption date, the Company shall deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption price of and accrued interest on all Notes to be redeemed on that date unless theretofore converted into Common Stock pursuant to the provisions hereof. The Trustee or the Paying Agent shall return to the Company any money not required for that purpose.

SECTION 3.06. NOTES REDEEMED IN PART.

Upon surrender of a Note that is redeemed in part, the Company shall issue and the Trustee shall authenticate for the Holder at the expense of the Company a new Note equal in principal amount to the unredeemed portion of the Note surrendered.

SECTION 3.07. OPTIONAL REDEMPTION.

The Company may redeem all or any portion of the Notes, upon the terms and at the redemption prices set forth in the Notes. Any redemption pursuant to this Section 3.07 shall be made pursuant to the provisions of Section 3.01 through 3.06 hereof.

SECTION 3.08. MANDATORY REDEMPTION

The Company shall not be required to make mandatory redemption payments or sinking fund payments with respect to the Notes.

SECTION 3.09. PURCHASE OFFER.

(a) In the event that, pursuant to Section 4.07 hereof, the Company shall commence an offer to all Holders of the Notes to purchase Notes (the "PURCHASE OFFER"), the Company shall follow the procedures in this Section 3.09.

(b) The Purchase Offer shall remain open for a period specified by the Company which shall be no less than 30 calendar days and no more than 40 calendar days following its commencement (the "COMMENCEMENT DATE") (as determined in accordance with Section 4.07 hereof), except to the extent that a longer period is required by applicable law (the "TENDER PERIOD"). Upon the expiration of the Tender Period (the "PURCHASE DATE"), the Company shall purchase the principal amount of all of the Notes required to be purchased pursuant to Section 4.07 hereof (the "OFFER AMOUNT").

(c) If the Purchase Date is on or after an interest payment record date and on or before the related interest payment date, any accrued interest shall be paid to the Person in whose name a Note is registered at the close of business on such record date, and no additional interest will be payable to Holders who tender Notes pursuant to the Purchase Offer.

(d) The Company shall provide the Trustee with notice of the Purchase Offer at least 10 days before the Commencement Date.

(e) On or before the Commencement Date, the Company or the Trustee (at the expense of the Company) shall send, by first class mail, a notice to each of the Holders, which shall govern the terms of the Purchase Offer and shall state:

(i) that the Purchase Offer is being made pursuant to this Section 3.09 and Section 4.07 hereof, that all Notes validly tendered will be accepted for payment and the length of time the Purchase Offer will remain open;

(ii) the purchase price (as determined in accordance with Section 4.07 hereof) and the Purchase Date, and that all Notes tendered will be accepted for payment;

(iii) that any Note or portion thereof not tendered or accepted for payment will continue to accrue interest;

(iv) that, unless the Company defaults in the payment of the purchase price, any Note or portion thereof accepted for payment pursuant to the Purchase Offer will cease to accrue interest after the Purchase Date;

(v) that Holders electing to have a Note or portion thereof purchased pursuant to any Purchase Offer will be required to surrender the Note, with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Note completed, to the Company, a depository, if appointed by the Company, or a Paying Agent at the address specified in the notice prior to the close of business on the third Business Day preceding the Purchase Date;

(vi) that Holders will be entitled to withdraw their election if the Company, depository or Paying Agent, as the case may be, receives, not later than

the close of business on the second Business Day preceding the Purchase Date, or such longer period as may be required by law, a letter or a telegram, telex or facsimile transmission (receipt of which is confirmed and promptly followed by a letter) setting forth the name of the Holder, the principal amount of the Note or portion thereof the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have the Note or portion thereof purchased;

(vii) that Holders whose Notes were purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered.

(f) On or prior to the Purchase Date, the Company shall irrevocably deposit with the Trustee or a Paying Agent in immediately available funds an amount equal to the Offer Amount to be held for payment in accordance with the terms of this Section 3.09. On the Purchase Date, the Company shall, to the extent lawful, (i) accept for payment the Notes or portions thereof properly tendered pursuant to the Purchase Offer, (ii) deliver or cause the depository or Paying Agent to deliver to the Trustee Notes so accepted and (iii) deliver to the Trustee an Officers' Certificate stating such Notes or portions thereof have been accepted for payment by the Company in accordance with the terms of this Section 3.09. The Depository, the Paying Agent or the Company, as the case may be, shall promptly (but in any case not later than ten (10) calendar days after the Purchase Date) mail or deliver to each tendering Holder an amount equal to the purchase price of the Notes tendered by such Holder and accepted by the Company for purchase, and the Trustee shall promptly authenticate and mail or deliver to such Holders a new Note equal in principal amount to any unpurchased portion of the Note surrendered. Any Notes not so accepted shall be promptly mailed or delivered by or on behalf of the Company to the Holder thereof. The Company will publicly announce in a newspaper of general circulation the results of the Purchase Offer on the Purchase Date.

(g) The Purchase Offer shall be made by the Company in compliance with all applicable provisions of the Exchange Act, and all applicable tender offer rules promulgated thereunder, and shall include all instructions and materials necessary to enable such Holders to tender their Notes.

ARTICLE IV. COVENANTS

SECTION 4.01. PAYMENT OF NOTES.

The Company shall pay the principal of, premium, if any and interest on, the Notes on the dates and in the manner provided in the Notes. Principal, premium, if any, and interest shall be considered paid on the date due if the Paying Agent (other than the Company or an Affiliate of the Company) holds on that date money designated for and sufficient to pay all principal, premium, if any, and interest then due. To the extent lawful, the Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on (i) overdue principal and premium, if any, at the rate borne by the Notes, compounded semiannually; and (ii) overdue installments of interest or (without regard to any applicable grace period) at the same rate, compounded semiannually.

Whenever in this Indenture or the Notes there is mentioned, in any context, the payment of principal (and premium, if any), Offer Amount, interest or any other amount payable under or with

respect to any Note such mention shall be deemed to include mention of the payment of Special Interest provided for in Section 2 of the Notes to the extent that, in such context, Special Interest is, was or would be payable in respect thereof pursuant to the provisions of Section 2 of the Notes and express mention of the payment of Special Interest (if applicable) in any provisions hereof shall not be construed as excluding Special Interest in those provisions hereof where such express mention is not made (if applicable).

SECTION 4.02. REPORTS.

Whether or not required by the rules and regulations of the SEC, so long as any Notes are outstanding, the Company shall file with the SEC and furnish to the Trustee and to the Holders of Notes, all quarterly and annual financial information required to be contained in a filing with the SEC on Forms 10-Q and 10-K, including a "Management's Discussion and Analysis of Financial Condition and Results of Operations" and, with respect to the annual information only, a report thereon by the Company's certified independent accountants, in each case, as required by the rules and regulations of the SEC as in effect on the Issuance Date.

SECTION 4.03. COMPLIANCE CERTIFICATE.

The Company shall deliver to the Trustee, within 90 days after the end of each fiscal year of the Company, an Officers' Certificate stating that a review of the activities of the Company and its subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under, and complied with the covenants and conditions contained in, this Indenture, and further stating, as to each such Officer signing such certificate, that to the best of his knowledge the Company has kept, observed, performed and fulfilled each and every covenant, and complied with the covenants and conditions contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions hereof (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which he may have knowledge) and that to the best of his knowledge no event has occurred and remains in existence by reason of which payments on account of the principal or of interest, if any, on the Notes are prohibited.

One of the Officers signing such Officers' Certificate shall be either the Company's principal executive officer, principal financial officer or principal accounting officer.

The Company will so long as any of the Notes are outstanding, deliver to the Trustee, forthwith upon becoming aware of any Default or Event of Default an Officers' Certificate specifying such Default or Event of Default.

Immediately upon the occurrence of any Registration Default giving rise to Special Interest or the cure of any such Registration Default, the Company shall give the Trustee notice thereof and of the event giving rise to such Registration Default or the cure of any such Registration Default (such notice to be contained in an Officers' Certificate) and prior to receipt of such Officers' Certificate the Trustee shall be entitled to assume that no such Registration Default has occurred or been cured, as the case may be.

SECTION 4.04. STAY, EXTENSION AND USURY LAWS.

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

SECTION 4.05. CORPORATE EXISTENCE.

Subject to Article VII hereof, to the extent permitted by law the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence and the corporate, partnership or other existence of each subsidiary of the Company in accordance with the respective organizational documents of each subsidiary and the rights (charter and statutory), licenses and franchises of the Company; provided, however, that the Company shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any subsidiary, if the preservation thereof is no longer desirable in the conduct of the business of the Company and its subsidiaries taken as a whole.

SECTION 4.06. TAXES.

The Company shall, and shall cause each of its subsidiaries to, pay prior to delinquency all material taxes, assessments and governmental levies, except as contested in good faith and by appropriate proceedings.

SECTION 4.07. CHANGE OF CONTROL.

(a) Upon the occurrence of a Change of Control, each Holder of Notes shall have the right to require the Company to repurchase all or any part (equal to \$1,000 or an integral multiple thereof) of such Holder's Notes pursuant to the Purchase Offer at a purchase price equal to 101% of the principal amount thereof plus accrued and unpaid interest to the date of purchase (the "CHANGE OF CONTROL PAYMENT").

(b) Within 40 days following any Change of Control, the Company shall mail to each Holder the notice provided by Section 3.09(e).

SECTION 4.08. LIMITATION ON STATUS AS INVESTMENT COMPANY.

The Company shall not, and shall not permit any Subsidiary to, conduct its business in a fashion that would cause the Company to be required to be registered as an "investment company" (as that term is defined in the Investment Company Act of 1940, as amended).

ARTICLE V.
CONVERSION

SECTION 5.01. CONVERSION PRIVILEGE.

A Holder of a Note may convert it into fully paid and nonassessable shares of Common Stock at any time after 90 days following the Issuance Date and prior to maturity at the Conversion Price then in effect, except that, with respect to any Note called for redemption, such conversion right shall terminate at the close of business on the Business Day immediately preceding the redemption date (unless the Company shall default in making the redemption payment when it becomes due, in which case the conversion right shall terminate on the date such default is cured). The number of shares of Common Stock issuable upon conversion of a Note is determined by dividing the principal amount of such Note by the conversion price in effect on the Conversion Date (the "CONVERSION PRICE").

The initial Conversion Price is stated in paragraph 11 of the Notes and is subject to adjustment as provided in this Article V.

A Holder may convert a portion of a Note equal to any integral multiple of \$1,000. Provisions of this Indenture that apply to conversion of all of a Note also apply to conversion of a portion of it.

SECTION 5.02. CONVERSION PROCEDURE.

To convert a Note, a Holder must satisfy the requirements in paragraph 11 of the Notes. The date on which the Holder satisfies all of those requirements is the conversion date (the "CONVERSION DATE"). As soon as practicable after the Conversion Date, the Company shall deliver to the Holder through the Conversion Agent a certificate for the number of whole shares of Common Stock issuable upon the conversion and a check for any fractional share determined pursuant to Section 5.03 hereof. The Person in whose name the certificate is registered shall become the stockholder of record on the Conversion Date and, as of such date, such Person's rights as a Holder shall cease; provided, however, that no surrender of a Note on any date when the stock transfer books of the Company shall be closed shall be effective to constitute the Person entitled to receive the shares of Common Stock upon such conversion as the stockholder of record of such shares of Common Stock on such date, but such surrender shall be effective to constitute the Person entitled to receive such shares of Common Stock as the stockholder of record thereof for all purposes at the close of business on the next succeeding day on which such stock transfer books are open; provided further, however, that such conversion shall be at the Conversion Price in effect on the date that such Note shall have been surrendered for conversion, as if the stock transfer books of the Company had not been closed.

No payment or adjustment will be made for accrued and unpaid interest on a converted Note, but if any holder surrenders a Note for conversion after the close of business on the record date for the payment of an installment of interest and prior to the opening of business on the next interest payment date, then, notwithstanding such conversion, the interest payable on such interest payment date shall be paid to the holder of such Note on such record date; provided, however, that such Note, when surrendered for conversion, must be accompanied by payment to the Company of an amount equal to the interest payable on such interest payment date on the portion so converted; provided further, however, that such payment to the Company described in the immediately preceding proviso shall not be required in connection with any conversion of a Note that occurs on or after the date that the Company has issued a notice of redemption pursuant to Section 3.03 hereof and prior to the date of such redemption.

If a Holder converts more than one Note at the same time, the number of whole shares of Common Stock issuable upon the conversion shall be based on the total principal amount of Notes converted.

Upon surrender of a Note that is converted in part, the Trustee shall authenticate for the Holder a new Note equal in principal amount to the unconverted portion of the Note surrendered.

SECTION 5.03. FRACTIONAL SHARES.

The Company will not issue fractional shares of Common Stock upon conversion of a Note. In lieu thereof, the Company will pay an amount in cash based upon the Daily Market Price of the Common Stock on the trading day prior to the date of conversion.

SECTION 5.04. TAXES ON CONVERSION.

The issuance of certificates for shares of Common Stock upon the conversion of any Note shall be made without charge to the converting Holder for such certificates or for any tax in respect of the issuance of such certificates, and such certificates shall be issued in the respective names of, or in such names as may be directed by, the Holder or Holders of the converted Note; provided, however, that in the event that certificates for shares of Common Stock are to be issued in a name other than the name of the Holder of the Note converted, such Note, when surrendered for conversion, shall be accompanied by an instrument of transfer, in form satisfactory to the Company, duly executed by the registered Holder thereof or his duly authorized attorney; and provided further, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any such certificates in a name other than that of the Holder of the converted Note, and the Company shall not be required to issue or deliver such certificates unless or until the Person or Persons requesting the issuance thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid or is not applicable.

SECTION 5.05. COMPANY TO PROVIDE STOCK.

The Company shall at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued Common Stock, solely for the purpose of issuance upon conversion of Notes as herein provided, a sufficient number of shares of Common Stock to permit the conversion of all outstanding Notes for shares of Common Stock. All shares of Common Stock which may be issued upon conversion of the Notes shall be duly authorized, validly issued, fully paid and nonassessable when so issued. Shares of Common Stock issuable upon conversion of a Restricted Note shall bear such restrictive legends as the Company shall provide in accordance with applicable law. If shares of Common Stock are to be issued upon conversion of a Restricted Note and they are to be registered in a name other than that of the Holder of such Restricted Note, then the Person in whose name such shares of Common Stock are to be registered must deliver to the Trustee a certificate satisfactory to the Company and signed by such Person as to compliance with the restrictions on transfer contained in such restrictive legends.

SECTION 5.06. ADJUSTMENT OF CONVERSION PRICE.

The Conversion Price shall be subject to adjustment from time to time as follows:

- (a) In case the Company shall (1) pay a dividend in shares of Common Stock to all holders of Common Stock, (2) make a distribution in shares of Common Stock to all holders of

Common Stock, (3) subdivide its outstanding shares of Common Stock into a greater number of shares of Common Stock or (4) combine its outstanding shares of Common Stock into a smaller number of shares of Common Stock, the Conversion Price in effect immediately prior to such action shall be adjusted so that the holder of any Note thereafter surrendered for conversion shall be entitled to receive the number of shares of Common Stock which he would have owned immediately following such action had such Notes been converted immediately prior thereto. Any adjustment made pursuant to this subsection (a) shall become effective immediately after the record date in the case of a dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision or combination.

(b) In case the Company shall issue rights or warrants to substantially all holders of Common Stock entitling them (for a period commencing no earlier than the record date for the determination of holders of Common Stock entitled to receive such rights or warrants and expiring not more than 45 days after such record date) to subscribe for or purchase shares of Common Stock (or securities convertible into Common Stock) at a price per share less than the current market price (as determined pursuant to subsection (f) below) of the Common Stock on such record date, the Conversion Price shall be adjusted so that the same shall equal the price determined by multiplying the Conversion Price in effect immediately prior to such record date by a fraction of which the numerator shall be the number of shares of Common Stock outstanding on such record date, plus the number of shares of Common Stock which the aggregate offering price of the offered shares of Common Stock (or the aggregate conversion price of the convertible securities so offered) would purchase at such current market price, and of which the denominator shall be the number of shares of Common Stock outstanding on such record date plus the number of additional shares of Common Stock offered (or into which the convertible securities so offered are convertible). Such adjustments shall become effective immediately after such record date.

(c) In case the Company shall distribute to all holders of Common Stock shares of capital stock of the Company other than Common Stock, evidences of indebtedness or other assets (other than cash dividends out of current or retained earnings), or shall distribute to substantially all holders of Common Stock, rights or warrants to subscribe for securities (other than those referred to in subsection (b) above), then in each such case the Conversion Price shall be adjusted so that the same shall equal the price determined by multiplying the Conversion Price in effect immediately prior to the date of such distribution by a fraction of which the numerator shall be the current market price (determined as provided in subsection (f) below) of the Common Stock on the record date mentioned below less the then fair market value (as determined by the Board of Directors, whose determination shall be conclusive evidence of such fair market value and described in a Board Resolution) of the portion of the assets so distributed or of such subscription rights or warrants applicable to one share of Common Stock, and of which the denominator shall be such current market price of the Common Stock. Such adjustment shall become effective immediately after the record date for the determination of the holders of Common Stock entitled to receive such distribution. Notwithstanding the foregoing, in the event that the Company shall distribute rights or warrants (other than those referred to in subsection (b) above) ("RIGHTS") pro rata to holders of Common Stock, the Company may, in lieu of making any adjustment pursuant to this Section 5.06, make proper provision so that each holder of a Note who converts such Note (or any portion thereof) after the record date for such distribution and prior to the expiration or redemption of the Rights shall be entitled to receive upon such conversion, in addition to the shares of Common Stock issuable upon such conversion (the "CONVERSION SHARES"), a number of Rights to be determined as follows: (i) if such

conversion occurs on or prior to the date for the distribution to the holders of Rights of separate certificates evidencing such Rights (the "DISTRIBUTION DATE"), the same number of Rights to which a holder of a number of shares of Common Stock equal to the number of Conversion Shares is entitled at the time of such conversion in accordance with the terms and provisions of and applicable to the Rights; and (ii) if such conversion occurs after the Distribution Date, the same number of Rights to which a holder of the number of shares of Common Stock into which the principal amount of the Note so converted was convertible immediately prior to the Distribution Date would have been entitled on the Distribution Date in accordance with the terms and provisions of and applicable to the Rights.

(d) In case the Company shall, by dividend or otherwise, at any time distribute to all holders of its Common Stock cash (including any distributions of cash out of current or retained earnings of the Company but excluding any cash that is distributed as part of a distribution requiring a Conversion Price adjustment pursuant to paragraph (c) of this Section 5.06) in an aggregate amount that, together with the sum of (x) the aggregate amount of any other distributions to all holders of its Common Stock made in cash plus (y) all Excess Payments, in each case made within the 12 months preceding the date fixed for determining the stockholders entitled to such distribution (the "DISTRIBUTION RECORD DATE") and in respect of which no Conversion Price adjustment pursuant to paragraphs (c) or (e) of this Section 5.06 or this paragraph (d) has been made, exceeds 15% of the product of the current market price per share (determined as provided in paragraph (f) of this Section 5.06) of the Common Stock on the Distribution Record Date times the number of shares of Common Stock outstanding on the Distribution Record Date (excluding shares held in the treasury of the Company), the Conversion Price shall be reduced so that the same shall equal the price determined by multiplying such Conversion Price in effect immediately prior to the effectiveness of the Conversion Price reduction contemplated by this paragraph (d) by a fraction of which the numerator shall be the current market price per share (determined as provided in paragraph (f) of this Section 5.06) of the Common Stock on the Distribution Record Date less the amount of such cash and other consideration (including any Excess Payments) so distributed applicable to one share (based on the pro rata portion of the aggregate amount of such cash and other consideration (including any Excess Payments), divided by the shares of Common Stock outstanding on the Distribution Record Date) of Common Stock and the denominator shall be such current market price per share (determined as provided in paragraph (f) of this Section 5.06) of the Common Stock on the Distribution Record Date, such reduction to become effective immediately prior to the opening of business on the day following the Distribution Record Date.

(e) In case a tender offer or other negotiated transaction made by the Company or any Subsidiary for all or any portion of the Common Stock shall be consummated, if an Excess Payment is made in respect of such tender offer or other negotiated transaction and the amount of such Excess Payment, together with the sum of (x) the aggregate amount of all Excess Payments plus (y) the aggregate amount of all distributions to all holders of the Common Stock made in cash (specifically including distributions of cash out of retained earnings), in each case made within the 12 months preceding the date of payment of such current negotiated transaction consideration or expiration of such current tender offer, as the case may be (the "TENDER PAYMENT DATE"), and as to which no adjustment pursuant to paragraph (c) or paragraph (d) of this Section 5.06 or this paragraph (e) has been made, exceeds 15% of the product of the current market price per share (determined as provided in paragraph (f) of this Section 5.06) of the Common Stock on the Tender Payment Date times the number of shares of Common Stock outstanding (including any tendered shares but excluding any shares held in the treasury of the

Company) on the Tender Payment Date, the Conversion Price shall be reduced so that the same shall equal the price determined by multiplying such Conversion Price in effect immediately prior to the effectiveness of the Conversion Price reduction contemplated by this paragraph (e) by a fraction of which the numerator shall be the current market price per share (determined as provided in paragraph (f) of this Section 5.06) of the Common Stock on the Tender Payment Date less the amount of such Excess Payments and such cash distributions, if any, applicable to one share (based on the pro rata portion of the aggregate amount of such Excess Payments and such cash distributions, divided by the shares of Common Stock outstanding on the Tender Payment Date) of Common Stock and the denominator shall be such current market price per share (determined as provided in paragraph (f) of this Section 5.06) of the Common Stock on the Tender Payment Date, such reduction to become effective immediately prior to the opening of business on the day following the Tender Payment Date.

(f) The current market price per share of Common Stock on any date shall be deemed to be the average of the Daily Market Prices for the shorter of (i) ten consecutive business days ending on the last full trading day on the exchange or market referred to in determining such Daily Market Prices prior to the time of determination or (ii) the period commencing on the date next succeeding the first public announcement of the issuance of such rights or such warrants or such other distribution or such negotiated transaction through such last full trading day on the exchange or market referred to in determining such Daily Market Prices prior to the time of determination.

(g) In any case in which this Section 5.06 shall require that an adjustment be made immediately following a record date, the Company may elect to defer (but only until five Business Days following the filing by the Company with the Trustee of the certificate described in Section 5.10 hereof) issuing to the holder of any Note converted after such record date the shares of Common Stock and other Capital Stock of the Company issuable upon such conversion over and above the shares of Common Stock and other Capital Stock of the Company issuable upon such conversion only on the basis of the Conversion Price prior to adjustment; and, in lieu of the shares the issuance of which is so deferred, the Company shall issue or cause its transfer agents to issue due bills or other appropriate evidence of the right to receive such shares.

SECTION 5.07. NO ADJUSTMENT.

No adjustment in the Conversion Price shall be required until cumulative adjustments amount to 1% or more of the Conversion Price as last adjusted; provided, however, that any adjustments which by reason of this Section 5.07 are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Article V shall be made to the nearest cent or to the nearest one-hundredth of a share, as the case may be. No adjustment need be made for rights to purchase Common Stock pursuant to a Company plan for reinvestment of dividends or interest. No adjustment need be made for a change in the par value or no par value of the Common Stock.

SECTION 5.08. OTHER ADJUSTMENTS.

(a) In the event that, as a result of an adjustment made pursuant to Section 5.06 hereof, the holder of any Note thereafter surrendered for conversion shall become entitled to receive any shares of Capital Stock of the Company other than shares of its Common Stock, thereafter the Conversion Price of such other shares so receivable upon conversion of any Note 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 this Article V.

(b) In the event that shares of Common Stock are not delivered after the expiration of any of the rights or warrants referred to in Section 5.06(b) and Section 5.06(c) hereof, the Conversion Price shall be readjusted to the Conversion Price which would otherwise be in effect had the adjustment made upon the issuance of such rights or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered.

SECTION 5.09. ADJUSTMENTS FOR TAX PURPOSES.

The Company may make such reductions in the Conversion Price, in addition to those required by Section 5.06 hereof, as it determines to be advisable in order that any stock dividend, subdivision of shares, distribution or rights to purchase stock or securities or distribution of securities convertible into or exchangeable for stock made by the Company to its stockholders will not be taxable to the recipients thereof.

SECTION 5.10. NOTICE OF ADJUSTMENT.

Whenever the Conversion Price is adjusted, the Company shall promptly mail to Holders at the addresses appearing on the Registrar's books a notice of the adjustment and file with the Trustee an Officers' Certificate briefly stating the facts requiring the adjustment and the manner of computing it. The certificate shall be conclusive evidence of the correctness of such adjustment.

SECTION 5.11. NOTICE OF CERTAIN TRANSACTIONS.

In the event that:

- (1) the Company takes any action which would require an adjustment in the Conversion Price;
- (2) the Company takes any action that would require a supplemental indenture pursuant to Section 5.12; or
- (3) there is a dissolution or liquidation of the Company;

a Holder of a Note may wish to convert such Note into shares of Common Stock prior to the record date for or the effective date of the transaction so that he may receive the rights, warrants, securities or assets which a holder of shares of Common Stock on that date may receive. Therefore, the Company shall mail to Holders at the addresses appearing on the Registrar's books and the Trustee a notice stating the proposed record or effective date, as the case may be. The Company shall mail the notice at least 15 days before such date; however, failure to mail such notice or any defect therein shall not affect the validity of any transaction referred to in clause (1), (2) or (3) of this Section 5.11.

SECTION 5.12. EFFECT OF RECLASSIFICATIONS, CONSOLIDATIONS, MERGERS OR SALES ON CONVERSION PRIVILEGE.

If any of the following shall occur, namely: (i) any reclassification or change in the Common Stock issuable upon conversion of Notes (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), (ii) any consolidation or merger to which the Company is a party other than a merger in which the Company is

the continuing corporation and which does not result in any reclassification of, or change (other than a change in name, or 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) in, the Common Stock or (iii) any sale or conveyance of all or substantially all of the property or business of the Company as an entirety, then the Company, or such successor or purchasing corporation, as the case may be, shall, as a condition precedent to such reclassification, change, consolidation, merger, sale or conveyance, execute and deliver to the Trustee a supplemental indenture in form reasonably satisfactory to the Trustee providing that the holder of each Note then outstanding shall have the right to convert such Note into the kind and amount of shares of stock and other securities and property (including cash) receivable upon such reclassification, change, consolidation, merger, sale or conveyance by a holder of the number of shares of Common Stock deliverable upon conversion of such Note immediately prior to such reclassification, change, consolidation, merger, sale or conveyance. Such supplemental indenture shall provide for adjustments of the Conversion Price which shall be as nearly equivalent as may be practicable to the adjustments of the Conversion Price provided for in this Article V. The foregoing, however, shall not in any way affect the right a holder of a Note may otherwise have, pursuant to clause (ii) of the last sentence of subsection (c) of Section 5.06 hereof, to receive Rights upon conversion of a Note. If, in the case of any such consolidation, merger, sale or conveyance, the stock or other securities and property (including cash) receivable thereupon by a holder of Common Stock includes shares of stock or other securities and property of a corporation other than the successor or purchasing corporation, as the case may be, in such consolidation, merger, 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 Notes as the Board of Directors of the Company shall reasonably consider necessary by reason of the foregoing. The provision of this Section 5.12 shall similarly apply to successive consolidations, mergers, sales or conveyances.

In the event the Company shall execute a supplemental indenture pursuant to this Section 5.12, the Company shall promptly file with the Trustee an Officers' Certificate briefly stating the reasons therefor, the kind or amount of shares of stock or securities or property (including cash) receivable by holders of the Notes upon the conversion of their Notes after any such reclassification, change, consolidation, merger, sale or conveyance and any adjustment to be made with respect thereto.

SECTION 5.13. TRUSTEE'S DISCLAIMER.

The Trustee has no duty to determine when an adjustment under this Article V should be made, how it should be made or what such adjustment should be, but may accept as conclusive evidence of the correctness of any such adjustment, and shall be protected in relying upon the Officers' Certificate with respect thereto which the Company is obligated to file with the Trustee pursuant to Section 5.10 hereof. The Trustee makes no representation as to the validity or value of any securities or assets issued upon conversion of Notes, and the Trustee shall not be responsible for the Company's failure to comply with any provisions of this Article V.

The Trustee shall not be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture executed pursuant to Section 5.12, but may accept as conclusive evidence of the correctness thereof, and shall be protected in relying upon, the Officers' Certificate with respect thereto which the Company is obligated to file with the Trustee pursuant to Section 5.12 hereof.

ARTICLE VI.
SUBORDINATION

SECTION 6.01. AGREEMENT TO SUBORDINATE AND RANKING.

The Company, for itself and its successors, and each holder, by his acceptance of Notes, agree that the payment of the principal of or interest on or any other amounts due on the Notes is subordinated in right and priority of payment, to the extent and in the manner stated in this Article VI, to the prior payment in full of all existing and future Senior Debt. The Notes shall rank pari passu with, and shall not be senior in right of payment to such other Indebtedness of the Company whether outstanding on the date of this Indenture or hereafter created, incurred, issued or guaranteed by the Company, whenever the instrument creating or evidencing such Indebtedness expressly provides that such Indebtedness ranks pari passu with the Notes.

SECTION 6.02. NO PAYMENT ON NOTES IF SENIOR DEBT IN DEFAULT.

Anything in this Indenture to the contrary notwithstanding, no payment on account of principal of or redemption of, interest on or other amounts due on the Notes, and no redemption, purchase, or other acquisition of the Notes, shall be made by or on behalf of the Company (i) unless full payment of amounts then due for principal and interest and of all other amounts then due on all Senior Debt has been made or duly provided for pursuant to the terms of the instrument governing such Senior Debt, (ii) if, at the time of such payment, redemption, purchase or other acquisition, or immediately after giving effect thereto, there shall exist under any Senior Debt, or any agreement pursuant to which any Senior Debt is issued, any default, which default shall not have been cured or waived and which default shall have resulted in the full amount of such Senior Debt being declared due and payable or (iii) if, at the time of such payment, redemption, purchase or other acquisition, the Trustee shall have received written notice from any of the holders of Senior Debt or such holder's representative (a "PAYMENT BLOCKAGE NOTICE") that there exists under such Senior Debt, or any agreement pursuant to which such Senior Debt is issued, any default, which default shall not have been cured or waived, permitting the holders thereof to declare any amounts of such Senior Debt due and payable, but only for the period (the "PAYMENT BLOCKAGE PERIOD") commencing on the date of receipt of the Payment Blockage Notice and ending (unless earlier terminated by notice given to the Trustee by the holders of such Senior Debt) on the earlier of (a) the date on which such event of default shall have been cured or waived or (b) 180 days from the receipt of the Payment Blockage Notice. Upon termination of the Payment Blockage Period, payments on account of principal of or interest on the Notes (other than, subject to Section 6.03 hereof, amounts due and payable by reason of the acceleration of the maturity of the Notes) and redemptions, purchases or other acquisitions may be made by or on behalf of the Company. Notwithstanding anything herein to the contrary, (a) only one Payment Blockage Notice may be given during any period of 360 consecutive days with respect to the same event of default or any other events of default on the same issue of Senior Debt existing and known to the Person giving such notice at the time of such notice unless such event of default or such other events of default have been cured or waived for a period of not less than 90 consecutive days and (b) no new Payment Blockage Period may be commenced by the holder or holders of the same issue of Senior Debt or their representative or representatives during any period of 360 consecutive days unless all events of default which were the object of the immediately preceding Payment Blockage Notice, and any other event of default on the same issue of Senior Debt existing and known to the Person giving such notice at the time of such notice, have been cured or waived.

In the event that, notwithstanding the provisions of this Section 6.02, payments are made by or on behalf of the Company in contravention of the provisions of this Section 6.02, such payments shall be

held by the Trustee, any Paying Agent or the Holders, as applicable, in trust for the benefit of, and shall be paid over to and delivered to, the holders of Senior Debt or their representative or the trustee under the indenture or other agreement (if any), pursuant to which any instruments evidencing any Senior Debt may have been issued for application to the payment of all Senior Debt ratably according to the aggregate amounts remaining unpaid to the extent necessary to pay all Senior Debt in full in accordance with the terms of such Senior Debt, after giving effect to any concurrent payment or distribution to or for the holders of Senior Debt.

The Company shall give prompt written notice to the Trustee and any Paying Agent of any default or event of default under any Senior Debt or under any agreement pursuant to which any Senior Debt may have been issued.

SECTION 6.03. DISTRIBUTION ON ACCELERATION OF NOTES; DISSOLUTION AND REORGANIZATION; SUBROGATION OF NOTES.

(a) If the Notes are declared due and payable because of the occurrence of an Event of Default, the Company or the Trustee shall give prompt written notice to the holders of all Senior Debt or to the trustee(s) for such Senior Debt of such acceleration. The Company may not pay the principal of or interest on or any other amounts due on the Notes until five days after such holders or trustee(s) of Senior Debt receive such notice and, thereafter, the Company may pay the principal of or interest on or any other amounts due on the Notes only if the provisions of this Article VI permit such payment.

(b) Upon (i) any acceleration of the principal amount due on the Notes because of an Event of Default or (ii) any distribution of assets of the Company upon any dissolution, winding up, liquidation or reorganization of the Company (whether in bankruptcy, insolvency or receivership proceedings or upon an assignment for the benefit of creditors or any other dissolution, winding up, liquidation or reorganization of the Company):

(1) the holders of all Senior Debt shall first be entitled to receive payment in full of the principal thereof, the interest thereon and any other amounts due thereon before the Holders are entitled to receive payment on account of the principal of or interest on or any other amounts due on the Notes;

(2) any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities (other than securities of the Company as reorganized or readjusted or securities of the Company or any other corporation provided for by a plan of reorganization or readjustment the payment of which is subordinate, at least to the extent provided in this Article VI with respect to the Notes, to the payment in full without diminution or modification by such plan of all Senior Debt), to which the Holders or the Trustee would be entitled except for the provisions of this Article VI, shall be paid by the liquidating trustee or agent or other Person making such a payment or distribution, directly to the holders of Senior Debt (or their representatives(s) or trustee(s) acting on their behalf), ratably according to the aggregate amounts remaining unpaid on account of the principal of or interest on and other amounts due on the Senior Debt held or represented by each, to the extent necessary to make payment in full of all Senior Debt remaining unpaid, after giving effect to any concurrent payment or distribution to the holders of such Senior Debt; and

(3) in the event that, notwithstanding the foregoing, any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities (other

than securities of the Company as reorganized or readjusted, or securities of the Company or any other corporation provided for by a plan of reorganization or readjustment the payment of which is subordinate, at least to the extent provided in this Article VI with respect to the Notes, to the payment in full without diminution or modification by such plan of Senior Debt), shall be received by the Trustee or the Holders before all Senior Debt is paid in full, such payment or distribution shall be held in trust for the benefit of, and be paid over to upon request by a holder of the Senior Debt, the holders of the Senior Debt remaining unpaid (or their representatives) or trustee(s) acting on their behalf, ratably as aforesaid, for application to the payment of such Senior Debt until all such Senior Debt shall have been paid in full, after giving effect to any concurrent payment or distribution to the holders of such Senior Debt.

Subject to the payment in full of all Senior Debt, the Holders shall be subrogated to the rights of the holders of Senior Debt to receive payments or distributions of cash, property or securities of the Company applicable to the Senior Debt until the principal of and interest on the Notes shall be paid in full and, for purposes of such subrogation, no such payments or distributions to the holders of Senior Debt of cash, property or securities which otherwise would have been payable or distributable to Holders shall, as between the Company, its creditors other than the holders of Senior Debt, and the Holders, be deemed to be a payment by the Company to or on account of the Senior Debt, it being understood that the provisions of this Article VI are and are intended solely for the purpose of defining the relative rights of the Holders, on the one hand, and the holders of Senior Debt, on the other hand.

Nothing contained in this Article VI or elsewhere in this Indenture or in the Notes is intended to or shall (i) impair, as between the Company and its creditors other than the holders of Senior Debt, the obligation of the Company, which is absolute and unconditional, to pay to the Holders the principal of and interest on the Notes as and when the same shall become due and payable in accordance with the terms of the Notes or is intended to or (ii) affect the relative rights of the Holders and creditors of the Company other than holders of Senior Debt or, as between the Company and the Trustee, the obligations of the Company to the Trustee, or (iii) prevent the Trustee or the Holders from exercising all remedies otherwise permitted by applicable law upon default under this Indenture, subject to the rights, if any, under this Article VI of the holders of Senior Debt in respect of cash, property and securities of the Company received upon the exercise of any such remedy.

Upon distribution of assets of the Company referred to in this Article VI, the Trustee, subject to the provisions of Section 9.01 hereof, and the Holders shall be entitled to rely upon a certificate of the liquidating trustee or agent or other Person making any distribution to the Trustee or to the Holders for the purpose of ascertaining the Persons entitled to participate in such distribution, the holders of the Senior Debt and other indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article VI. The Trustee, however, shall not be deemed to owe any fiduciary duty to the holders of Senior Debt. Nothing contained in this Article VI or elsewhere in this Indenture, or in any of the Notes, shall prevent the good faith application by the Trustee of any moneys which were deposited with it hereunder, prior to its receipt of written notice of facts which would prohibit such application, for the purpose of the payment of or on account of the principal of or interest on, the Notes unless, prior to the date on which such application is made by the Trustee, the Trustee shall be charged with notice under Section 6.03(d) hereof of the facts which would prohibit the making of such application.

(c) The provisions of this Article VI shall not be applicable to any cash, properties or securities received by the Trustee or by any Holder when received as a holder of Senior Debt and nothing in

Section 9.11 hereof or elsewhere in this Indenture shall deprive the Trustee or such Holder of any of its rights as such holder.

(d) The Company shall give prompt written notice to the Trustee of any fact known to the Company which would prohibit the making of any payment of money to or by the Trustee in respect of the Notes pursuant to the provisions of this Article VI. The Trustee, subject to the provisions of Section 9.01 hereof, shall be entitled to assume that no such fact exists unless the Company or any holder of Senior Debt or any trustee therefor has given such notice to the Trustee. Notwithstanding the provisions of this Article VI or any other provisions of this Indenture, the Trustee shall not be charged with knowledge of the existence of any fact which would prohibit the making of any payment of monies to or by the Trustee in respect of the Notes pursuant to the provisions in this Article VI, unless, and until three Business Days after, the Trustee shall have received written notice thereof from the Company or any holder or holders of Senior Debt or from any trustee therefor; and, prior to the receipt of any such written notice, the Trustee, subject to the provisions of Section 9.01 hereof, shall be entitled in all respects conclusively to assume that no such facts exist; provided that if on a date not less than three Business Days immediately preceding the date upon which by the terms hereof any such monies may become payable for any purpose (including, without limitation, the principal of or interest on any Note), the Trustee shall not have received with respect to such monies the notice provided for in this Section 6.03(d), than anything herein contained to the contrary notwithstanding, the Trustee shall have full power and authority to receive such monies and to apply the same to the purpose for which they were received, and shall not be affected by any notice to the contrary which may be received by it on or after such prior date.

The Trustee shall be entitled to rely on the delivery to it of a written notice by a Person representing himself to be a holder of Senior Debt (or a trustee on behalf of such holder) to establish that such notice has been given by a holder of Senior Debt (or a trustee on behalf of any such holder or holders). In the event that the Trustee determines in good faith that further evidence is required with respect to the right of any Person as a holder of Senior Debt to participate in any payment or distribution pursuant to this Article VI, the Trustee may request such Person to furnish evidence to the reasonable satisfaction of the Trustee as to the amount of Senior Debt held by such Person, the extent to which such Person is entitled to participate in such payment or distribution and any other facts pertinent to the rights of such Person under this Article VI, and, if such evidence is not furnished, the Trustee may defer any payment to such Person pending judicial determination as to the right of such Person to receive such payment; nor shall the Trustee be charged with knowledge of the curing or waiving of any default of the character specified in Section 6.02 hereof or that any event or any condition preventing any payment in respect of the Notes shall have ceased to exist, unless and until the Trustee shall have received an Officers' Certificate to such effect.

(e) The provisions of this Section 6.03 applicable to the Trustee shall also apply to any Paying Agent for the Company.

SECTION 6.04 RELIANCE BY SENIOR DEBT ON SUBORDINATION PROVISIONS.

Each Holder of any Note by his acceptance thereof acknowledges and agrees that the foregoing subordination provisions are, and are intended to be, an inducement and a consideration for each holder of any Senior Debt, whether such Senior Debt was created or acquired before or after the issuance of the Notes, to acquire and continue to hold, or to continue to hold, such Senior Debt, and such holder of Senior Debt shall be deemed conclusively to have relied on such subordination provisions in acquiring and continuing to hold, or in continuing to hold, such Senior Debt. Notice of any default in the payment

of any Senior Debt, except as expressly stated in this Article VI, and notice of acceptance of the provisions hereof are hereby expressly waived. Except as otherwise expressly provided herein, no waiver, forbearance or release by any holder of Senior Debt under such Senior Debt or under this Article VI shall constitute a release of any of the obligations or liabilities of the Trustee or Holders of the Notes provided in this Article VI.

SECTION 6.05. NO WAIVER OF SUBORDINATION PROVISIONS.

Except as otherwise expressly provided herein, no right of any present or future holder of any Senior Debt to enforce subordination as herein provided shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Company or by any act or failure to act, in good faith, by any such holder, or by any noncompliance by the Company with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof any such holder may have or be otherwise charged with.

Without in any way limiting the generality of the foregoing paragraph, the holders of Senior Debt may, at any time and from time to time, without the consent of, or notice to, the Trustee or the Holders of the Notes, without incurring responsibility to the Holders of the Notes and without impairing or releasing the subordination provided in this Article VI or the obligations hereunder of the Holders of the Notes to the holders of Senior Debt, do any one or more of the following: (i) change the manner, place or terms of payment of, or renew or alter, Senior Debt, or otherwise amend or supplement in any manner Senior Debt or any instrument evidencing the same or any agreement under which Senior Debt is outstanding; (ii) sell, exchange, release or otherwise dispose of any property pledged, mortgaged or otherwise securing Senior Debt; (iii) release any Person liable in any manner for the collection of Senior Debt; and (iv) exercise or refrain from exercising any rights against the Company or any other Person.

SECTION 6.06. TRUSTEE'S RELATION TO SENIOR DEBT.

The Trustee in its individual capacity shall be entitled to all the rights set forth in this Article VI in respect of any Senior Debt at any time held by it, to the same extent as any holder of Senior Debt, and nothing in Section 9.11 hereof or elsewhere in this Indenture shall deprive the Trustee of any of its rights as such holder.

With respect to the holders of Senior Debt, the Trustee undertakes to perform or to observe only such of its covenants and obligation, as are specifically set forth in this Article VI, and no implied covenants or obligations with respect to the holders of Senior Debt shall be read into this Indenture against the Trustee. The Trustee shall not owe any fiduciary duty to the holders of Senior Debt but shall have only such obligations to such holders as are expressly set forth in this Article VI.

Each Holder of a Note by his acceptance thereof authorizes and directs the Trustee on his behalf to take such action as may be necessary or appropriate to effectuate the subordination provided in this Article VI and appoints the Trustee his attorney-in-fact for any and all such purposes, including, in the event of any dissolution, winding up or liquidation or reorganization under any applicable bankruptcy law of the Company (whether in bankruptcy, insolvency or receivership proceedings or otherwise), the timely filing of a claim for the unpaid balance of such Holder's Notes in the form required in such proceedings and the causing of such claim to be approved. If the Trustee does not file a claim or proof of debt in the form required in such proceedings prior to 30 days before the expiration of the time to file such claims or proofs, then any holder or holders of Senior Debt or their representative or representatives shall have the right to demand, sue for, collect, receive and receipt for the payments and distributions in

respect of the Notes which are required to be paid or delivered to the holders of Senior Debt as provided in this Article VI and to file and prove all claims therefore and to take all such other action in the name of the holders or otherwise, as such holders of Senior Debt or representative thereof may determine to be necessary or appropriate for the enforcement of the provisions of this Article VI.

SECTION 6.07. OTHER PROVISIONS SUBJECT HERETO.

Except as expressly stated in this Article VI, notwithstanding anything contained in this Indenture to the contrary, all the provisions of this Indenture and the Notes are subject to the provisions of this Article VI. However, nothing in this Article VI shall apply to or adversely affect the claims of, or payment, to, the Trustee pursuant to Section 9.07 hereof. Notwithstanding the foregoing, the failure to make a payment on account of principal of or interest on the Notes by reason of any provision of this Article VI shall not be construed as preventing the occurrence of an Event of Default under Section 8.01 hereof.

ARTICLE VII.
SUCCESSORS

SECTION 7.01. SALE OF ASSETS.

The Company may not sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets in one or more related transactions to, another corporation, Person or entity unless:

(a) the entity or Person to which such sale, assignment, transfer, lease, conveyance or other disposition shall have been made is a corporation organized or existing under the laws of the United States, any state thereof or the District of Columbia;

(b) the entity or Person to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made assumes all the Obligations of the Company, pursuant to a supplemental indenture in a form reasonably satisfactory to the Trustee, under the Notes and this Indenture; and

(c) immediately after such transaction no Default or Event of Default exists.

SECTION 7.02. SUCCESSOR CORPORATION SUBSTITUTED.

Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the assets of the Company in accordance with Section 7.01 or Section 8.01(i) hereof, the successor corporation formed by such consolidation or into or with which the Company is merged or to which such sale, assignment, transfer, lease, conveyance 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 Person has been named as the Company herein; provided, however, that the predecessor Company in the case of a sale, assignment, transfer, lease, conveyance or other disposition shall not be released from the obligation to pay the principal of and interest on the Notes.

ARTICLE VIII.
DEFAULTS AND REMEDIES

SECTION 8.01. EVENTS OF DEFAULT.

An "EVENT OF DEFAULT" occurs if:

(a) the Company defaults in the payment of interest on any Note when the same becomes due and payable and the Default continues for a period of 30 days after the date due and payable;

(b) the Company defaults in the payment of the principal of any Note when the same becomes due and payable at maturity, upon optional redemption, in connection with a Purchase Offer, upon declaration or otherwise;

(c) the Company fails to observe or perform for a period of 30 days after notice any covenant or agreement contained in Sections 4.07 and 7.01 hereof (other than, in the case of Section 4.07 a failure to purchase Notes in connection with a Purchase Offer) hereof;

(d) the Company fails to observe or perform any other covenant or agreement contained in this Indenture or the Notes, required by it to be performed and the Default continues for a period of 60 days after notice from the Trustee to the Company or from the Holders of 25% in aggregate principal amount of the then outstanding Notes to the Company and the Trustee stating that such notice is a "Notice of Default";

(e) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, or the payment of which is guaranteed by the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, whether such Indebtedness or guarantee now exists or is created after the Issuance Date, which default:

(i) is caused by a failure to pay when due principal of or interest on such Indebtedness within the grace period provided for in such Indebtedness (which failure continues beyond any applicable grace period) (a "PAYMENT DEFAULT") or

(ii) results in the acceleration of such Indebtedness prior to its express maturity and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there is a Payment Default or the maturity of which has been so accelerated, aggregates \$50 million or more;

(f) failure by the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary to pay final judgments for the payment of money (other than any judgment as to which a reputable insurance company has accepted liability subject to customary terms)

aggregating in excess of \$50 million, which judgments are not paid, discharged or stayed within 60 days after their entry;

(g) the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary pursuant to or within the meaning of any Bankruptcy Law:

(i) commences a voluntary case;

(ii) consents to the entry of an order for relief against it in an involuntary case in which it is the debtor;

(iii) consents to the appointment of a Custodian of it or for all or substantially all of its property;

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

(v) generally is unable to pay its debts as the same become due;

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

(i) is for relief against the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary in an involuntary case;

(ii) appoints a Custodian of the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary or for all or substantially all of its property; or

(iii) orders the liquidation of the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, and the order or decree remains unstayed and in effect for 60 days; and

(i) The approval by the shareholders of the Company of any merger, amalgamation or consolidation by the Company (whether or not the Company is the surviving corporation) and whether or not such merger, amalgamation or consolidation is in one or more related transactions if, (x) the successor corporation, Person or entity (A) does not assume all the Obligations of the Company, pursuant to a supplemental indenture in a form reasonably satisfactory to the Trustee, under the Notes and this Indenture (to the extent any such supplemental indenture may be necessary, in the opinion of the Trustee, to evidence the Company's continuing obligations under the Indenture) and (B) is not a corporation, Person or entity organized or existing under the laws of the United States, any state thereof or the District of Columbia or (y) immediately after such transaction, any Default or Event of Default exists.

The term "BANKRUPTCY LAW" means Title 11, U.S. Code or any similar federal, state or foreign law for the relief of debtors or the protection of creditors. The term "CUSTODIAN" means any receiver, trustee, assignee, liquidator or similar official under any Bankruptcy Law.

SECTION 8.02. ACCELERATION.

If an Event of Default (other than an Event of Default specified in clauses (g), (h), and (i) of Section 8.01 hereof) occurs and is continuing, the Trustee by notice to the Company, or the Holders of at least 25% in principal amount of the then outstanding Notes by notice to the Company and the Trustee, may declare all the Notes to be due and payable. Upon such declaration, the principal of, premium, if any, and interest on the Notes shall be due and payable immediately. If an Event of Default specified in clause (g), (h) or (i) of Section 8.01 hereof occurs, such an amount shall ipso facto become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

If the Notes have been declared due and payable as a result of the acceleration of Indebtedness prior to its express maturity pursuant to Section 8.01(e)(ii), such declaration shall be automatically rescinded if the acceleration of such Indebtedness has been rescinded or annulled within 30 days after such acceleration in accordance with the mortgage, indenture or instrument under which it was issued and the conditions set forth in clauses (i) and (ii) in the next paragraph are satisfied.

Except as otherwise provided in the immediately preceding paragraph, the Holders of a majority in principal amount of the then outstanding Notes by notice to the Trustee may rescind an acceleration and its consequences (i) if the rescission would not conflict with any judgment or decree of a court of competent jurisdiction and (ii) if all existing Events of Default have been cured or waived except nonpayment of principal or interest on the Notes that has become due solely because of the acceleration of the Notes.

SECTION 8.03. OTHER REMEDIES.

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal or interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

SECTION 8.04. WAIVER OF PAST DEFAULTS.

The Holders of a majority in principal amount of the then outstanding Notes by notice to the Trustee may on behalf of all of the Holders of the Notes waive an existing Default or Event of Default and its consequences except a continuing Default or Event of Default in the payment of the principal of or interest on any Note. When a Default or Event of Default is waived, it is cured and ceases; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

SECTION 8.05. CONTROL BY MAJORITY.

The Holders of a majority in principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that

conflicts with law or this Indenture, is unduly prejudicial to the rights of other Holders, or would involve the Trustee in personal liability.

SECTION 8.06. LIMITATION ON SUITS.

A Holder may pursue a remedy with respect to this Indenture or the Notes only if:

(a) the Holder gives to the Trustee notice of a continuing Event of Default;

(b) the Holders of at least 25% in principal amount of the then outstanding Notes make a request to the Trustee to pursue the remedy;

(c) such Holder or Holders offer to the Trustee 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 the request and the offer of indemnity; and

(e) during such 60-day period the Holders of a majority in principal amount of the then outstanding Notes do not give the Trustee a direction inconsistent with the request.

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

SECTION 8.07. RIGHTS OF HOLDERS TO RECEIVE PAYMENT.

Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of principal and interest on the Note, on or after the respective due dates expressed in the Note, or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of the Holder made pursuant to this Section 8.07.

SECTION 8.08. COLLECTION SUIT BY TRUSTEE.

If an Event of Default specified in Section 8.01(a) or (b), hereof occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal and interest remaining unpaid on the Notes and interest on overdue principal and interest and such further amount as shall be sufficient to cover the costs and, to the extent lawful, expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

SECTION 8.09. TRUSTEE MAY FILE PROOFS OF CLAIM.

The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Company, its creditors or its property. 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 Notes 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, it shall pay out the money in the following order:

First: to the Trustee for amounts due under Section 9.07 hereof;

Second: to the holders of Senior Debt to the extent required by Article VI;

Third: to Holders for amounts due and unpaid on the Notes for principal and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal and interest, respectively; and

Fourth: to the Company.

The Trustee may fix a record date and payment date for any payment to Holders made pursuant to this Section 8.10.

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 a Trustee, a court in its discretion may require the filing by any party litigant 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, 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 8.07 hereof, or a suit by Holders of more than 10% in principal amount of the then outstanding Notes.

ARTICLE IX.
TRUSTEE

SECTION 9.01. DUTIES OF TRUSTEE.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her 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. However, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture and to confirm the correctness of all mathematical computations.

(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 paragraph does not limit the effect of paragraph (b) of this Section 9.01; (ii) the Trustee shall not be liable for any error of judgment

made in good faith by a Trust 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 8.05 hereof.

(d) Every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b) and (c) of this Section 9.01.

(e) The Trustee may refuse to perform any duty or exercise any right or power unless it receives indemnity satisfactory to it against any loss, liability or expense.

(f) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

SECTION 9.02. RIGHTS OF TRUSTEE.

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

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

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

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers.

(e) The Trustee shall not be charged with knowledge of any Event of Default under subsection (c), (d), (e), (f) or (i) (and subsection (a) or (b) if the Trustee does not act as Paying Agent) of Section 8.01 or of the identity of any Significant Subsidiary or of any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary unless either (1) a Trust Officer of the Trustee assigned to its corporate trust department shall have actual knowledge thereof, or (2) the Trustee shall have received notice thereof in accordance with Section 12.02 hereof from the Company or any Holder.

SECTION 9.03. INDIVIDUAL RIGHTS OF TRUSTEE.

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or an Affiliate with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights. However, the Trustee is subject to Sections 9.10 and 9.11 hereof.

SECTION 9.04. TRUSTEE'S DISCLAIMER.

The Trustee makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Company's use of the proceeds from the Notes, and it shall not

be responsible for any statement of the Company in the Indenture or any statement in the Notes other than its authentication or for compliance by the Company with the Registration Rights Agreement.

SECTION 9.05. NOTICE OF DEFAULTS.

If a Default or Event of Default occurs and is continuing and if it is known to the Trustee, the Trustee shall mail to Holders a notice of the Default or Event of Default within 90 days after it occurs. Except in the case of a Default or Event of Default in payment on any Note, the Trustee may withhold the notice if and so long as a committee of its Trust Officers in good faith determines that withholding the notice is in the interests of Holders.

SECTION 9.06. REPORTS BY TRUSTEE TO HOLDERS.

Within 60 days after the reporting date stated in Section 12.10, the Trustee shall mail to Holders a brief report dated as of such reporting date that complies with TIA Section 313(a) if and to the extent required by such (section) 313(a). The Trustee also shall comply with TIA Section 313(b)(2). The Trustee shall also transmit by mail all reports as required by TIA Section 313(c).

A copy of each report at the time of its mailing to Holders shall be filed with the SEC and each stock exchange on which the Notes are listed. The Company shall notify the Trustee when the Notes are listed on any stock exchange.

SECTION 9.07. COMPENSATION AND INDEMNITY.

The Company shall pay to the Trustee from time to time reasonable compensation for its services hereunder. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee upon request for all reasonable disbursements, expenses and advances incurred or made by it. Such disbursements and expenses may include the reasonable disbursements, compensation and expenses of the Trustee's agents and counsel.

The Company shall indemnify the Trustee against any loss or liability incurred by it except as set forth in the next paragraph. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. The Company shall defend the claim and the Trustee shall cooperate in the defense. The Trustee may have separate counsel and the Company shall pay the reasonable fees, disbursements and expenses of such counsel. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld.

The Company need not reimburse any expense or indemnify against any loss or liability incurred by the Trustee through negligence or bad faith.

To secure the Company's payment obligations in this Section 9.07, the Trustee shall have a lien prior to the Notes on all money or property held or collected by the Trustee, except money or property held in trust to pay principal and interest on particular Notes.

Without prejudice to any other rights available to the Trustee under applicable law, when the Trustee incurs expenses or renders services after an Event of Default specified in Section 8.01(g) or (h) hereof occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under any Bankruptcy Law.

All amounts owing to the Trustee under this Section 9.07 shall be payable by the Company in United States dollars.

SECTION 9.08. REPLACEMENT OF TRUSTEE.

A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 9.08.

The Trustee may resign by so notifying the Company. The Holders of a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Company. The Company may remove the Trustee if:

(a) the Trustee fails to comply with Section 9.10 hereof, unless the Trustee's duty to resign is stayed as provided in TIA Section 310(b);

(b) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

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

(d) the Trustee 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 a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company or the Holders of at least 10% in principal amount of the then outstanding Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee fails to comply with Section 9.10 hereof, unless the Trustee's duty to resign is stayed as provided in TIA Section 310(b), any Holder who has been a bona fide Holder of a Note for at least six months may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The 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, subject to the lien provided for in Section 9.07 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 9.08 hereof, the Company's obligations under Section 9.07 hereof shall continue for the benefit of the retiring trustee with respect to expenses and liabilities incurred by it prior to such replacement.

SECTION 9.09. SUCCESSOR TRUSTEE BY MERGER, ETC.

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act shall be the successor Trustee.

SECTION 9.10. ELIGIBILITY; DISQUALIFICATION.

This Indenture shall always have a Trustee who satisfies the requirements of TIA Section 310(a)(1) and (5). The Trustee shall always have a combined capital and surplus as stated in Section 12.10 hereof. The Trustee is subject to TIA Section 310(b).

SECTION 9.11. PREFERENTIAL COLLECTION OF CLAIMS AGAINST COMPANY.

The Trustee is subject to 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 10.01. TERMINATION OF COMPANY'S OBLIGATIONS.

This Indenture shall cease to be of further effect (except that the Company's obligations under Sections 9.07 and 10.02 hereof shall survive) when all outstanding Notes theretofore authenticated and issued have been delivered to the Trustee for cancellation and the Company has paid all sums payable hereunder.

SECTION 10.02. REPAYMENT TO COMPANY.

The Trustee and the Paying Agent shall promptly pay to the Company upon request any excess money or securities held by them at any time.

The Trustee and the Paying Agent shall pay to the Company upon request any money held by them for the payment of principal or interest that remains unclaimed for two years after the date upon which such payment shall have become due; provided, however, that the Company shall have first caused notice of such payment to the Company to be mailed to each Holder entitled thereto no less than 30 days prior to such payment. After payment to the Company, the Trustee and the Paying Agent shall have no further liability with respect to such money and Holders entitled to the money must look to the Company for payment as general creditors unless any applicable abandoned property law designates another Person.

ARTICLE XI.
AMENDMENTS, SUPPLEMENTS AND WAIVERS

SECTION 11.01. WITHOUT CONSENT OF HOLDERS.

The Company and the Trustee may amend or supplement this Indenture or the Notes without the consent of any Holder:

(a) to cure any ambiguity, defect or inconsistency;

(b) to comply with Sections 5.12 and 7.01 hereof;

(c) to provide for uncertificated Notes in addition to or in place of certificated Notes;

(d) to make any change that provides additional rights or benefits to the Holders of the Notes;

(e) to make any change that does not adversely affect the interests hereunder of any Holder; or

(f) to qualify the Indenture under the TIA or to comply with the requirements of the SEC in order to maintain the qualification of the Indenture under the TIA.

SECTION 11.02. WITH CONSENT OF HOLDERS.

Subject to Section 8.07 hereof, the Company and the Trustee may amend or supplement this Indenture or the Notes with the written consent of the Holders of at least a majority in principal amount of the then outstanding Notes. Subject to Sections 8.04 and 8.07 hereof, the Holders of a majority in principal amount of the Notes then outstanding may also waive compliance in a particular instance by the Company with any provision of this Indenture or the Notes. However, without the consent of each Holder affected, an amendment, supplement or waiver under this Section 11.02 may not:

(a) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;

(b) reduce the principal of or change the fixed maturity of any Note or alter the provisions of Section 6 of the Notes;

(c) reduce the rate of or change the time for payment or accrual of interest on any Note;

(d) waive a default in the payment of the principal of or interest on any Note, except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the Notes and a waiver of the payment default that resulted from such acceleration;

(e) make any Note payable in money other than that stated in the Note;

(f) make any change in Section 8.04 or 8.07 hereof;

(g) waive a redemption payment with respect to any Note;

(h) impair the right to convert the Notes into Common Stock;

(i) modify Article V or VI in a manner adverse to the Holders of Notes; and

(j) make any change in the foregoing amendment and waiver provisions of this Article XI.

To secure a consent of the Holders under this Section 11.02, it shall not be necessary for the Holders to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section 11.02 becomes effective, the Company shall mail to Holders a notice briefly describing the amendment or waiver.

SECTION 11.03. COMPLIANCE WITH TRUST INDENTURE ACT.

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

SECTION 11.04. REVOCATION AND EFFECT OF CONSENTS.

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder or subsequent Holder may revoke the consent as to his Note or portion of a Note if the Trustee receives the notice of revocation before the date on which the Trustee receives an Officers' Certificate certifying that the Holders of the requisite principal amount of Notes have consented to the amendment, supplement or waiver.

The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment, supplement or waiver. If a record date is fixed, then notwithstanding the provisions of the immediately preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to consent to such amendment, supplement or waiver or to revoke any consent previously given, whether or not such Persons continue to be Holders after such record date. No consent shall be valid or effective for more than 90 days after such record date unless consents from Holders of the principal amount of Notes required hereunder for such amendment or waiver to be effective shall have also been given and not revoked within such 90-day period.

After an amendment, supplement or waiver becomes effective it shall bind every Holder, unless it is of the type described in any of clauses (a) through (j) of Section 11.02 hereof. In such case, the amendment or waiver shall bind each Holder who has consented to it and every subsequent Holder that evidences the same debt as the consenting Holder's Note.

SECTION 11.05. NOTATION ON OR EXCHANGE OF NOTES.

The Trustee may place an appropriate notation about an amendment or waiver on any Note thereafter authenticated. The Company in exchange for all Notes may issue and the Trustee shall authenticate new Notes that reflect the amendment or waiver.

Failure to make such notation on a Note or to issue a new Note as aforesaid shall not affect the validity and effect of such amendment or waiver.

SECTION 11.06. TRUSTEE PROTECTED.

The Trustee shall sign all supplemental indentures, except that the Trustee may, but need not, sign any supplemental indenture that adversely affects its rights.

ARTICLE XII.
MISCELLANEOUS

SECTION 12.01. TRUST INDENTURE ACT CONTROLS.

This Indenture is subject to the provisions of the TIA that are required to be incorporated into this Indenture (or, prior to the registration of the Notes pursuant to the Registration Rights Agreement, would be required to be incorporated into this Indenture if it were qualified under the TIA), and shall, to the extent applicable, be governed by such provisions. If any provision of this Indenture limits, qualifies, or conflicts with another provision which is required (or would be so required) to be incorporated in this Indenture by the TIA, the incorporated provision shall control.

SECTION 12.02. NOTICES.

Any notice or communication by the Company or the Trustee to the other is duly given if in writing and delivered in Person or mailed by first class mail to the other's address stated in Section 12.10 hereof. The Company or the Trustee by notice to the other may designate additional or different addresses for subsequent notices or communications.

Any notice or communication to a Holder shall be mailed by first class mail to such Holder's address shown on the register kept by the Registrar. 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 within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Company mails a notice or communication to Holders, it shall mail a copy to the Trustee and each Agent at the same time.

All other notices or communications shall be in writing.

In case by reason of the suspension of regular mail service, or by reason of any other cause, it shall be impossible to mail any notice as required by the Indenture, then such method of notification as shall be made with the approval of the Trustee shall constitute a sufficient mailing of such notice.

SECTION 12.03. COMMUNICATION BY HOLDERS WITH OTHER HOLDERS.

Holdes may communicate pursuant to TIA Section 312(b) with other Holders with respect to their rights under this Indenture or the Notes. The Company, the Trustee, the Registrar and anyone else shall have the protection of TIA Section 312(c).

SECTION 12.04. 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, 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 12.05. STATEMENTS REQUIRED IN CERTIFICATE OR OPINION.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than pursuant to Section 4.03) shall include:

(a) a statement that the Person signing such certificate or rendering such opinion 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 certificate or opinion are based;

(c) a statement that, in the opinion of such Person, such Person 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 as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

SECTION 12.06. RULES BY TRUSTEE AND AGENTS.

The Trustee may make reasonable rules for action by, or a meeting of, Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

SECTION 12.07. LEGAL HOLIDAYS.

A "LEGAL HOLIDAY" is a Saturday, a Sunday or a day on which banking institutions in the State of New York are not required to be open. If a payment date is a Legal Holiday at a place of payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period. If any other operative date for purposes of this Indenture shall occur on a Legal Holiday then for all purposes the next succeeding day that is not a Legal Holiday shall be such operative date.

SECTION 12.08. NO RECOURSE AGAINST OTHERS.

A director, officer, employee, incorporator or shareholder of the Company, as such, shall not have any liability for any Obligations of the Company under the Notes or this Indenture or for any claim based on, in respect of or by reason of such Obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issue of the Notes.

SECTION 12.09. COUNTERPARTS AND FACSIMILE SIGNATURES.

This Indenture may be executed by manual or facsimile signature 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.

SECTION 12.10. VARIABLE PROVISIONS.

"OFFICER" means the Chairman of the Board, the President, any Vice President, the Treasurer, the Secretary, any Assistant Treasurer or any Assistant Secretary of the Company.

The first certificate pursuant to Section 4.03 hereof shall be for the fiscal year ended on December 31, 1999.

The reporting date for Section 9.06 hereof is December 31, of each year. The first reporting date is December 31, 2000.

The Trustee shall always have a combined capital and surplus of at least \$25,000,000 as set forth in its most recent published annual report of condition.

The Company's address is:

EchoStar Communications Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120
Attention: David Moskowitz, Esq.
Senior Vice President and General Counsel

The Trustee's address is:

U.S. Bank Trust National Association
180 E. 5th Street
St. Paul, MN 55101
Attention: Corporate Trust Administration

SECTION 12.11. GOVERNING LAW, SUBMISSION TO JURISDICTION.

THE INTERNAL LAWS OF THE STATE OF NEW YORK SHALL GOVERN THIS INDENTURE AND THE NOTES, WITHOUT REGARD TO THE CONFLICT OF LAWS PROVISIONS THEREOF.

To the extent permitted by applicable law, the Company irrevocably submits to the nonexclusive jurisdiction of any federal or state court in the Borough of Manhattan, City and State of New York, United States of America, in any suit or proceeding based on or arising under this Indenture and the Notes and irrevocably agrees that all claims in respect of such suit or proceeding may be determined in any such court. The Company irrevocably and fully waives the defense of an inconvenient forum to the maintenance of such suit or proceeding.

SECTION 12.12. NO ADVERSE INTERPRETATION OF OTHER AGREEMENTS.

This Indenture may not be used to interpret another indenture, loan or debt agreement of the Company or an Affiliate. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

SECTION 12.13. SUCCESSORS.

All agreements of the Company in this Indenture and the Notes shall bind its successor. All agreements of the Trustee in this Indenture shall bind its successor.

SECTION 12.14. SEVERABILITY.

In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 12.15. TABLE OF CONTENTS, HEADINGS, ETC.

The Table of Contents, Cross-Reference Table, and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part hereof, and shall in no way modify or restrict any of the terms or provisions hereof.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed, all as of the date first written above.

ECHOSTAR COMMUNICATIONS CORPORATION,
as Company

By: -----
Name: -----
Title: -----

U.S. BANK TRUST NATIONAL ASSOCIATION, as
Trustee

By: -----
Name: -----
Title: -----

[FORM OF FACE OF NOTE]

[Global Notes Legend]

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), NEW YORK, NEW YORK, TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO., OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC) ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.

[Restricted Notes Legend]

THE SECURITY (OR ITS PREDECESSOR) EVIDENCED HEREBY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER SECTION 5 OF THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THE SECURITY EVIDENCED HEREBY AND ANY SHARES OF COMMON STOCK ISSUED UPON CONVERSION HEREOF MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THE SECURITY EVIDENCED HEREBY IS HEREBY NOTIFIED THAT THE SELLER MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER. THE HOLDER OF THE SECURITY EVIDENCED HEREBY AGREES FOR THE BENEFIT OF THE COMPANY THAT (A) SUCH SECURITY AND ANY SHARES OF COMMON STOCK ISSUED UPON CONVERSION HEREOF MAY BE RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (1) (a) TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (b) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144 UNDER THE SECURITIES ACT, IF AVAILABLE, (c) OUTSIDE THE UNITED STATES TO A NON-U.S. PERSON IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 904 UNDER THE SECURITIES ACT OR (d) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL IF THE COMPANY SO REQUESTS), (2) TO THE COMPANY OR

(3) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT AND, IN EACH CASE, IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER APPLICABLE JURISDICTION AND (B) THE PURCHASER WILL, AND EACH SUBSEQUENT PURCHASER IS REQUIRED TO, NOTIFY ANY SUBSEQUENT PURCHASER FROM IT OF THE SECURITY EVIDENCED HEREBY OR ANY COMMON STOCK ISSUABLE UPON CONVERSION HEREOF OF THE RESALE RESTRICTIONS SET FORTH IN (A) ABOVE.

No. _____

\$ -----

CUSIP No. []/CINS No. []

4 7/8% CONVERTIBLE SUBORDINATED NOTE DUE 2007

EchoStar Communications Corporation, a Nevada corporation (the "COMPANY"), promises to pay to _____ or registered assigns, the principal sum of _____ \$[_____] [, or such other amount as is indicated on Schedule A hereof* ,] on January 1, 2007, subject to the further provisions of this Note set forth on the reverse hereof which further provisions shall for all purposes have the same effect as if set forth at this place.

Interest Payment Dates: January 1 and July 1, commencing July 1, 2000

Record Dates: June 15 and December 15

IN WITNESS WHEREOF, the Company has caused this Note to be signed manually or by facsimile by one of its duly authorized officers.

Dated: -----

ECHOSTAR COMMUNICATIONS CORPORATION

by: -----

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the 4 7/8% Convertible Subordinated Notes due 2007 described in the within-mentioned Indenture.

U.S. BANK TRUST NATIONAL ASSOCIATION, as Trustee

By: -----
Authorized Signatory

* Applicable to Global Notes Only

[FORM OF REVERSE OF NOTE]

ECHOSTAR COMMUNICATIONS CORPORATION

4 7/8 % Convertible Subordinated Note due 2007

1. Interest. ECHOSTAR COMMUNICATIONS CORPORATION, a Nevada corporation (the "COMPANY"), is the issuer of 4 7/8 % Convertible Subordinated Notes due 2007 (the "Notes"). The Notes will accrue interest at a rate of 4 7/8 % per annum. The Company promises to pay interest on the Notes in cash semiannually on each January 1 and July 1, commencing on July 1, 2000, to Holders of record on the immediately preceding December 15 and June 15, respectively. Interest on the Notes will accrue from the most recent date to which interest has been paid, or if no interest has been paid, from December 8, 1999. Interest will be computed on the basis of a 360-day year of twelve 30-day months. The Company will pay interest on overdue principal at the interest rate borne by the Notes, compounded semiannually, and it shall pay interest on overdue installments of interest (without regard to any applicable grace period) at the same interest rate compounded semiannually.

2. Registration Rights. The Holder of this Note is entitled to the benefits of a Registration Rights Agreement, dated as of December 8, 1999, among the Company and the Initial Purchasers (the "Registration Rights Agreement"). Pursuant to the Registration Rights Agreement the Company has agreed for the benefit of the Holders of the Notes, that (i) it will, at its cost, within 90 days after the closing of the sale of the Notes (the "Closing"), file a shelf registration statement (the "Shelf Registration Statement") with the Securities and Exchange Commission (the "Commission") with respect to resales of the Notes and the Common Stock issuable upon conversion thereof, (ii) it will use its best efforts to cause such Shelf Registration Statement to be declared effective within 270 days after the Closing, and (iii) it will use its best efforts to keep such Shelf Registration Statement continuously effective under the Securities Act, subject to certain exceptions specified in the Registration Rights Agreement until the second anniversary of the date of the Closing. The Company will be permitted to suspend use of the prospectus that is part of the Shelf Registration Statement during certain periods of time and in certain circumstances relating to pending corporate developments and public filings with the SEC and similar events. If (a) the Company fails to file the Shelf Registration Statement required by the Registration Rights Agreement on or before the date specified above for such filing, (b) such Shelf Registration Statement is not declared effective by the Commission on or prior to the date specified above for such effectiveness, or (c) the Shelf Registration Statement is declared effective but thereafter ceases to be effective or useable in connection with resales of Transfer Restricted Securities (as defined in the Registration Rights Agreement) during the periods specified in the Registration Rights Agreement (each such event referred to in clauses (a) through (c) above a "Registration Default"), then the Company will pay special interest to each Holder of Transfer Restricted Securities, with respect to the first consecutive 90-day period immediately following the occurrence of such Registration Default in an amount equal to an increase in the annual interest rate on the Notes of 0.25% ("SPECIAL INTEREST") and with respect to each subsequent consecutive 90-day period, an amount equal to an increase in the annual interest rate on the Notes of 0.25% until all Registration Defaults have been cured, up to a maximum increase in the annual interest rate on the Notes equal to 1.0%. All accrued Special Interest shall be paid by the Company on each Interest Payment Date for which Special Interest is owed to the Holders of Global Notes by wire transfer of immediately available funds or by federal funds check and to Holders of certificated Notes registered as such as of the preceding Record Date by mailing checks to their registered addresses. Following the cure of all Registration Defaults, the application of Special Interest will cease.

3. Method of Payment. The Company will pay interest on the Notes (except defaulted interest) to the Persons who are registered Holders of Notes at the close of business on the record date for

the next interest payment date even though Notes are canceled after the record date and on or before the interest payment date. Holders must surrender Notes to a Paying Agent to collect principal and premium payments. The Company will pay principal, premium, if any, interest and Special Interest, if any, in money of the United States that at the time of payment is legal tender for payment of public and private debts. However, the Company may pay principal, premium, if any, interest and Special Interest, if any, by check payable in such money. It may mail an interest or Special Interest check to a Holder's registered address. If a Holder of not less than an aggregate principal amount of \$5.0 million of Notes so requests, principal, premium, if any, interest and Special Interest, if any, may be paid by wire transfer of immediately available funds to an account previously specified in writing by such Holder to the Company and the Trustee.

4. Paying Agent, Conversion Agent and Registrar. The Trustee will act as Paying Agent, Conversion Agent and Registrar. The Company may change any Paying Agent, Conversion Agent or Registrar without prior notice. The Company or any of its Affiliates may act in any such capacity.

5. Indenture. The Company issued the Notes under an Indenture, dated as of December 8, 1999 (the "INDENTURE"), between the Company and U.S. Bank Trust National Association, as Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by the Trust Indenture Act of 1939 (15 U.S. Code Sections 77aaa-77bbb) as in effect on the date of the Indenture. The Notes are subject to, and qualified by, all such terms, certain of which are summarized hereon, and Holders are referred to the Indenture and such Act for a statement of such terms. The Notes are unsecured general obligations of the Company limited to \$1,000,000,000 in aggregate principal amount and subordinated in right of payment to all existing and future Senior Debt of the Company.

6. Optional Redemption. The Notes are not redeemable at the Company's option prior to January 1, 2003. Thereafter, the Notes will be subject to redemption at the option of the Company, in whole or in part, upon not less than 30 nor more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount thereof) set forth below plus accrued and unpaid interest thereon to the applicable redemption date, if redeemed during the twelve-month period beginning on January 1 of the years indicated below:

Year ----	Percentage -----
2003.....	102.786%
2004.....	102.089%
2005.....	101.393%
2006.....	100.696%
2007.....	100.000%

7. Notice of Redemption. Notice of redemption will be mailed at least 30 days but not more than 60 days before the redemption date to each Holder of the Notes to be redeemed at his address of record. The Notes in denominations larger than \$1,000 may be redeemed in part but only in integral multiples of \$1,000. In the event of a redemption of less than all of the Notes, the Notes will be chosen for redemption by the Trustee in accordance with the Indenture. On and after the redemption date, interest ceases to accrue on the Notes or portions of them called for redemption.

If this Note is redeemed subsequent to a record date with respect to any interest payment date specified above and on or prior to such interest payment date, then any accrued interest will be paid to the Person in whose name this Note is registered at the close of business on such record date.

8. Mandatory Redemption. The Company will not be required to make mandatory redemption or repurchase payments with respect to the Notes. There are no sinking fund payments with respect to the Notes.

9. Repurchase at Option of Holder. If there is a Change of Control, the Company shall be required to offer to purchase on the Purchase Date all outstanding Notes at a purchase price equal to 101% of the aggregate principal amount thereof, plus accrued and unpaid interest, if any, to the Purchase Date. Holders of Notes that are subject to an offer to purchase will receive a Change of Control offer from the Company prior to any related Purchase Date and may elect to have such Notes or portions thereof in authorized denominations purchased by completing the form entitled "Option of Holder to Elect Purchase" appearing below.

10. Subordination. The payment of the principal of, interest on or any other amounts due on the Notes is subordinated in right of payment to all existing and future Senior Debt of the Company, as described in the Indenture. Each Holder, by accepting a Note, agrees to such subordination and authorizes and directs the Trustee on its behalf to take such action as may be necessary or appropriate to effectuate the subordination so provided and appoints the Trustee as its attorney-in-fact for such purpose.

11. Conversion. The Holder of any Note has the right, exercisable at any time after 90 days following the Issuance Date and prior to the close of business (New York time) on the date of the Note's maturity, to convert the principal amount thereof (or any portion thereof that is an integral multiple of \$1,000) into shares of Common Stock at the initial Conversion Price of \$90.88 per share, subject to adjustment under certain circumstances as set forth in the Indenture, except that if a Note is called for redemption, the conversion right will terminate at the close of business on the Business Day immediately preceding the date fixed for redemption.

To convert a Note, a Holder must (1) complete and sign a conversion notice substantially in the form set forth below, (2) surrender the Note to a Conversion Agent, (3) furnish appropriate endorsements or transfer documents if required by the Registrar or Conversion Agent and (4) pay any transfer or similar tax, if required. Upon conversion, no adjustment or payment will be made for interest or dividends, but if any Holder surrenders a Note for conversion after the close of business on the record date for the payment of an installment of interest and prior to the opening of business on the next interest payment date, then, notwithstanding such conversion, the interest payable on such interest payment date will be paid to the registered Holder of such Note on such record date; provided, however, that such Note, when surrendered for conversion, must be accompanied by payment to the Company of an amount equal to the interest payable on such interest payment date on the portion so converted; provided further, however, that such payment to the Company described in the immediately preceding proviso shall not be required in connection with any conversion of a Note that occurs on or after the date that the Company has issued a notice of redemption pursuant to Section 3.03 of the Indenture and prior to the date of redemption. The number of shares issuable upon conversion of a Note is determined by dividing the principal amount of the Note converted by the Conversion Price in effect on the Conversion Date. No fractional shares will be issued upon conversion but a cash adjustment will be made for any fractional interest.

A Note in respect of which a Holder has delivered an "Option of Holder to Elect Purchase" form appearing below exercising the option of such Holder to require the Company to purchase such Note may be converted only if the notice of exercise is withdrawn as provided above and in accordance with the terms of the Indenture. The above description of conversion of the Notes is qualified by reference to, and is subject in its entirety by, the more complete description thereof contained in the Indenture.

12. Denominations, Transfer, Exchange. The Notes are in registered form, without coupons, in denominations of \$1,000 and integral multiples of \$1,000. The transfer of Notes may be registered, and Notes may be exchanged, as provided in 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. The Registrar need not exchange or register the transfer of any Note or portion of a Note selected for redemption (except the unredeemed portion of any Note being redeemed in part). Also, it need not exchange or register the transfer of any Note for a period of 15 days before a selection of Notes to be redeemed.

13. Persons Deemed Owners. Except as provided in paragraph 3 of this Note, the registered Holder of a Note may be treated as its owner for all purposes.

14. Unclaimed Money. If money for the payment of principal or interest remains unclaimed for two years, the Trustee and the Paying Agent shall pay the money back to the Company at its written request. After that, Holders of Notes entitled to the money must look to the Company for payment unless an abandoned property law designates another Person and all liability of the Trustee and such Paying Agent with respect to such money shall cease.

15. Defaults and Remedies. The Notes shall have the Events of Default set forth in Section 8.01 of the Indenture. Subject to certain limitations in the Indenture, if an Event of Default occurs and is continuing, the Trustee by notice to the Company or the Holders of at least 25% in aggregate principal amount of the then outstanding Notes by notice to the Company and the Trustee may declare all the Notes to be due and payable immediately, except that in the case of an Event of Default arising from certain events of bankruptcy or insolvency, all unpaid principal and interest accrued on the Notes shall become due and payable immediately without further action or notice. The Holders of a majority in principal amount of the Notes then outstanding by written notice to the Trustee 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 principal or interest that has become due solely because of the acceleration. Holders may not enforce the Indenture or the Notes except as provided in the Indenture. Subject to certain limitations, Holders of a majority in principal amount of the then outstanding Notes issued under the Indenture may direct the Trustee in its exercise of any trust or power. The Company must furnish annually compliance certificates to the Trustee. The above description of Events of Default and remedies is qualified by reference, and subject in its entirety, to the more complete description thereof contained in the Indenture.

16. Amendments, Supplements and Waivers. Subject to certain exceptions, the Indenture or the Notes may be amended or supplemented with the consent of the Holders of at least a majority in principal amount of the then outstanding Notes (including consents obtained in connection with a tender offer or exchange offer for Notes), and any existing default may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes. Without the consent of any Holder, the Indenture or the Notes may be amended among other things, to cure any ambiguity, defect or inconsistency, to provide for uncertificated Notes in addition to or in place of certificated Notes, to provide for assumption of the Company's obligations to Holders, to make any change that does not adversely affect the rights of any Holder or to qualify the Indenture under the TIA or to comply with the requirements of the SEC in order to maintain the qualification of the Indenture under the TIA.

17. Trustee Dealings with the Company. The Trustee, in its individual or any other capacity may become the owner or pledgee of the Notes and may otherwise deal with the Company or an Affiliate

with the same rights it would have, as if it were not Trustee, subject to certain limitations provided for in the Indenture and in the TIA. Any Agent may do the same with like rights.

18. No Recourse Against Others. A director, officer, employee, incorporator or shareholder of the Company, as such, shall not have any liability for any obligations of the Company under the Notes or the Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. Each Holder of the Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issue of the Notes.

19. Governing Law. THE INTERNAL LAWS OF THE STATE OF NEW YORK SHALL GOVERN THE INDENTURE AND THE NOTES WITHOUT REGARD TO CONFLICT OF LAW PROVISIONS THEREOF.

20. Authentication. The Notes shall not be valid until authenticated by the manual signature of an authorized officer of the Trustee or an authenticating agent.

21. 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 UGMA (= Uniform Gifts to Minors Act).

The Company will furnish to any Holder of the Notes upon written request and without charge a copy of the Indenture. Request may be made to:

EchoStar Communications Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120
Attention of: David Moskowitz, Esq.
Senior Vice President and General Counsel

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to

(Insert assignee's social security or tax I.D. no.)

(Print or type assignee's name, address and zip code)

and irrevocably appoint _____ agent to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Your Signature:

(Sign exactly as your name appears on the other side of this Note)

Date:

Signature Guarantee: *

In connection with any transfer of any of the Notes evidenced by this certificate occurring prior to the date that is two years after the later of the date of original issuance of such Notes and the last date, if any, on which such Notes were owned by the Company or any Affiliate of the Company, the undersigned confirms that such Notes are being transferred:

CHECK ONE BOX BELOW

- (1) to the Company or any subsidiary thereof,
- (2) to a qualified institutional buyer in compliance with Rule 144A,
- (3) outside the United States in compliance with Rule 904 under the Securities Act,
- (4) pursuant to the exemption from registration provided by Rule 144 under the Securities Act (if available) or
- (5) pursuant to an effective registration statement under the Securities Act.

* Signature must be guaranteed by a participant in a recognized signature guaranty medallion program or other signature guarantor acceptable to the Trustee.

Signature

Signature Guarantee*

* Signature must be guaranteed by a participant in a recognized signature guaranty medallion program or other signature guarantor acceptable to the Trustee.

TO BE COMPLETED BY PURCHASER IF (2) ABOVE IS CHECKED.

The undersigned represents and warrants that it is purchasing this Note for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account is a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act of 1933, and is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Company as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon the undersigned's foregoing representations in order to claim the exemption from registration provided by Rule 144A.

Date: -----

* Signature must be guaranteed by a participant in a recognized signature guaranty medallion program or other signature guarantor acceptable to the Trustee.

NOTICE: To be executed by an executive officer

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note or a portion thereof repurchased by the Company pursuant to Section 3.09 or 4.07 of the Indenture, check the box:
[]

If the purchase is in part, indicate the portion (in denominations of \$1,000 or any integral multiple thereof) to be purchased: -----

Your Signature: -----
(Sign exactly as your name appears on the other side of this Note)

Date: -----

Signature Guarantee:**/

**/ Signature must be guaranteed by a participant in a recognized signature guaranty medallion program or other signature guarantor acceptable to the Trustee.

ELECTION TO CONVERT

To EchoStar Communications Corporation:

The undersigned owner of this Note hereby irrevocably exercises the option to convert this Note, or the portion below designated, into Common Stock of EchoStar Communications Corporation in accordance with the terms of the Indenture referred to in this Note, and directs that the shares issuable and deliverable upon conversion, together with any check in payment for fractional shares, be issued in the name of and delivered to the undersigned, unless a different name has been indicated in the assignment below. If the shares are to be issued in the name of a person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto.

Any Holder of Notes, upon the exercise of its conversion rights in accordance with the terms of the Indenture and the Note, agrees to be bound by the terms of the Registration Rights Agreement relating to the Common Stock issuable upon conversion of the Notes.

Date:

in whole ____

Portions of Note to be converted (\$1,000 or integral multiples thereof): \$

Signature

Please Print or Typewrite Name and Address,
Including Zip Code, and Social Security or Other
Identifying Number

Signature Guarantee: *

- -----

* Signature must be guaranteed by a participant in a recognized signature guaranty medallion program or other signature guarantor acceptable to the Trustee.

EXHIBIT B

FORM OF TRANSFER CERTIFICATE FOR TRANSFER
FROM RULE 144A GLOBAL NOTE OR RESTRICTED NOTE
TO REGULATION S GLOBAL NOTE
(Transfers pursuant to Section 2.06(a)(ii) or 2.06(a)(vii)
of the Indenture)

U.S. Bank Trust National Association, as Trustee
180 E. 5th Street
St. Paul, MN 55101
Attn: Corporate Trust Administration

Re: EchoStar Communications Corporation 4 7/8% Convertible
Subordinated Notes due 2007 (the "NOTES")

Reference is hereby made to the Indenture, dated as December 8, 1999 (the "INDENTURE"), between EchoStar Communications Corporation, as Issuer, and U.S. Bank Trust National Association, as Trustee.

This letter relates to \$[_____] [check one] (i) aggregate principal amount of Notes which are held in the form of the Rule 144A Global Note (CUSIP No. _____) with the Depository or (ii) principal amount of Restricted Note (CUSIP No. _____) registered, in either case, in the name of [name of transferor] (the "TRANSFEROR") to effect the transfer of the Notes in exchange for an equivalent beneficial interest in the Regulation S Global Notes.

In connection with such request, the Transferor does hereby certify that such transfer has been effected in accordance with (i) the transfer restrictions set forth in the Notes and (ii) that:

(1) the offer of the Notes was not made to a Person in the United States;

(2) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither the Transferor nor any Person acting on its behalf knows that the transaction was pre-arranged with a buyer in the United States;

(3) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or 904(b) of Regulation S, as applicable; and

(4) the transaction is not part of a plan or scheme to evade the registration requirements of the United States Securities Act of 1933, as amended (the "SECURITIES ACT").

In addition, if the sale is made during a distribution compliance period and the provisions of Rule 903(c)(2) or (3) or Rule 904(c)(1) of Regulation S are applicable thereto, we confirm that such sale has been made in accordance with the applicable provisions of Rule 903(c)(2) or (3) or Rule 904(c)(1), as the case may be.

You and the Company 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. Capitalized terms used in this certificate and not otherwise defined in the Indenture have the meanings set forth in Regulation S.

[Name of Transferor]

By: -----

Name:
Title:

Dated:

cc: EchoStar Communications Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120
Attention of: David Moskowitz, Esq.
Senior Vice President and General Counsel

FORM OF TRANSFER CERTIFICATE FOR TRANSFER
FROM REGULATION S GLOBAL NOTE OR RESTRICTED NOTE
TO RULE 144A GLOBAL NOTE
(Transfers pursuant to Section 2.06(a)(iii) or 2.06(a)(vi)
of the Indenture)

U.S. Bank Trust National Association, as Trustee
180 E. 5th Street
St. Paul, MN 55101
Attn: _____

Re: EchoStar Communications Corporation 4 7/8% Convertible
Subordinated Notes due 2007 (the "NOTES")

Reference is hereby made to the Indenture, dated as of December 8,
1999 (the "INDENTURE"), between EchoStar Communications Corporation, as Issuer,
U.S. Bank Trust National Association, as Trustee. Capitalized terms used but not
defined herein shall have the respective meanings given them in the Indenture.

This letter relates to \$[] [check one] (i) [] aggregate principal
amount of Notes which are held in the form of the Regulation S Global Note
(CUSIP No. ____) with the Depository or (ii) [] principal amount of Restricted
Note (CUSIP No. _____) registered, in each case, in the name of [name of
transferor] (the "TRANSFEROR") to effect the transfer of the Notes in exchange
for an equivalent beneficial interest in the Rule 144A Global Note.

In connection with such request, and in respect of such Notes the Transferor
does hereby certify that such Notes are being transferred in accordance with (i)
the transfer restrictions set forth in the Notes and (ii) Rule 144A under the
United States Securities Act of 1933, as amended, to a transferee that the
Transferor reasonably believes is purchasing the Notes for its own account or an
account with respect to which the transferee exercises sole investment
discretion and the transferee and any such account is a "qualified institutional
buyer" within the meaning of Rule 144A, in a transaction meeting the
requirements of Rule 144A and in accordance with applicable securities laws of
any state of the United States or any other jurisdiction.

[Name of Transferor],

By: _____
Name:
Title:

Dated:

cc: EchoStar Communications Corporation

5701 South Santa Fe Drive
Littleton, Colorado 80120
Attention of: David Moskowitz, Esq.
Senior Vice President and General Counsel

FORM OF TRANSFER CERTIFICATE FOR TRANSFER
FROM GLOBAL NOTE OR RESTRICTED
NOTE TO RESTRICTED NOTE
(Transfers pursuant to Section 2.06(a)(iv)
or Section 2.06(a)(v) of the Indenture)

U.S. Bank Trust National Association, as Trustee
180 E. 5th Street
St. Paul, MN 55101
Attn: _____

Re: EchoStar Communications Corporation 4 7/8% Convertible
Subordinated Notes due 2007 (the "NOTES")

Reference is hereby made to the Indenture, dated as of December 8,
1999 (the "INDENTURE"), between EchoStar Communications Corporation, as Issuer,
and U.S. Bank Trust National Association, as Trustee. Capitalized terms used but
not defined herein shall have the respective meanings given them in the
Indenture.

This letter relates to \$[] aggregate principal amount of Notes which
are held [in the form of the [Rule 144A/Regulation S] [Global] [Restricted] Note
(CUSIP No. [] CINS No. []) [with the Depository] in the name of [name of
transferor] (the "TRANSFEROR") to effect the transfer of the Notes.

In connection with such request, and in respect of such Notes, the
Transferor does hereby certify that such Notes are being transferred (i) in
accordance with the transfer restrictions set forth in the Notes and (ii) in
accordance with applicable securities laws of any state of the United States or
any other jurisdiction.

*Insert, if appropriate.

[Name of Transferor],

By: _____
Name:
Title:

Dated:

cc: EchoStar Communications Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120
Attention of: David Moskowitz, Esq.
Senior Vice President and General Counsel

FORM OF LETTER TO BE DELIVERED BY ACCREDITED INSTITUTIONAL INVESTORS

EchoStar Communications Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120

Ladies and Gentlemen:

We are delivering this letter in connection with our acquisition of 4 7/8% Convertible Subordinated Notes due January 1, 2007 (the "Notes") of EchoStar Communications Corporation, a Nevada corporation (the "Company"), as more fully described in the Confidential Offering Memorandum (the "Offering Memorandum") relating to the initial offering of the Notes.

We hereby confirm that:

(i) we are an "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"), or an entity in which all of the equity owners are accredited investors within the meaning of Rule 501 (a) (1), (2), (3) or (7) under the Securities Act (an "Institutional Accredited Investor");

(ii) (A) any purchase of the Notes by us will be for our 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 we exercise sole investment discretion or (B) we are 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 Notes as fiduciary for the account of one or more institutions for which we exercise sole investment discretion;

(iii) in the event that we purchase any of the Notes, we will acquire Notes having a minimum purchase price of not less than \$100,000 for our own account or for any separate account for which we are acting;

(iv) we have such knowledge and experience in financial and business matters that we are capable of evaluating the merits and risks of purchasing the Notes;

(v) we are not acquiring the Notes with a view to distribution thereof or with any present intention of offering or selling any of the Notes, except inside the United States in accordance with Rule 144A under the Securities Act or outside the United States in accordance with Regulation S under the Securities Act, as provided below, provided that the disposition of our property and the property of any accounts for which we are acting as fiduciary shall remain at all times within our control; and

(vi) we have received a copy of the Offering Memorandum relating to the offering of the Notes and acknowledge that we have had access to such financial and other information, and have been afforded the opportunity to ask such questions of representatives of the Company and receive answers thereto, as we deem necessary in connection with our decision to acquire the Notes.

We understand that the Notes are being offered in a transaction not involving any public offering within the United States within the meaning of the Securities Act and that the Notes have not been registered under the Securities Act, and we agree, on our own behalf and on behalf of each account for which we acquire any Notes, that if in the future we decide to resell, pledge or otherwise transfer such Notes, such Notes may be offered, resold, pledged or otherwise transferred only: (a) to the Company or any of its subsidiaries, (b) to a person whom the seller reasonably believes is a Qualified Institutional Buyer or "QIB" (as defined in Rule 144A under the Securities Act) purchasing for its own account or for the account of a QIB in a transaction meeting the requirements of Rule 144A, (c) in an offshore transaction meeting the requirements of Rule 904 of the Securities Act, (d) in a transaction meeting the requirements of Rule 144 under the Securities Act, (e) to an Institutional Accredited Investor that, prior to such transfer, furnishes the trustee a signed letter containing certain representations and agreements relating to the transfer of the Notes (in substantially this form) and, if such transfer is in respect of an aggregate principal amount of Notes less than \$100,000, an opinion of counsel acceptable to the Company that such transfer is in compliance with the Securities Act, (f) in accordance with another exemption from the registration requirements of the Securities Act (and based upon an opinion of counsel acceptable to the Company) or (g) pursuant to an effective registration statement and, in each case, in accordance with the applicable securities laws of any state of the United States, or any other applicable jurisdiction. We understand that the registrar and transfer agent for the Notes will not be required to accept for registration of transfer any Notes acquired by us, except upon presentation of evidence satisfactory to the Company and the transfer agent that the foregoing restrictions on transfer have been complied with. We further understand that any Notes acquired by us will be in the form of definitive physical certificates and will bear a legend reflecting the substance of this paragraph.

We acknowledge that the Company and others will rely upon our confirmations, acknowledgments and agreements set forth herein, and we agree to notify you promptly in writing if any of our representations or warranties herein ceases to be accurate and complete.

THIS LETTER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS.

Dated: _____

(Name of Purchaser)

By: _____
Name:
Title:
Address:

EXECUTION COPY

=====

\$1,000,000,000

4 7/8% CONVERTIBLE SUBORDINATED NOTES DUE 2007

REGISTRATION RIGHTS AGREEMENT

Dated as of December 8, 1999

by and among

ECHOSTAR COMMUNICATIONS CORPORATION

and

DONALDSON, LUFKIN & JENRETTE SECURITIES CORPORATION

=====

This Registration Rights Agreement (this "AGREEMENT") is made and entered into as of December 8, 1999 by and among EchoStar Communications Corporation, a Nevada corporation (the "COMPANY"), and Donaldson, Lufkin & Jenrette Securities Corporation, Banc of America Securities LLC, Bear, Stearns & Co Inc., Lehman Brothers Inc. ING Barings Furman Selz LLC and CIBC World Markets Corp., (each an "INITIAL PURCHASER" and collectively, the "INITIAL PURCHASERS"). The Company proposes to issue and sell to the Initial Purchasers (the "INITIAL PLACEMENT") \$750,000,000 in aggregate principal amount of its 4 7/8% Convertible Notes due 2007 (the "FIRM NOTES"). The Company also proposes to issue and sell to the Initial Purchasers not more than \$250,000,000 principal amount of its 4 7/8% Convertible Subordinated Notes due 2007 (the "ADDITIONAL NOTES" and, together with the Firm Notes, the "NOTES"). As an inducement to the Initial Purchasers to enter into the purchase agreement, dated as of December 2, 1999 (the "PURCHASE AGREEMENT"), and in satisfaction of a condition to the Initial Purchasers' obligations thereunder, the Company agrees with the Initial Purchasers, (i) for the benefit of the Initial Purchasers and (ii) for the benefit of the holders from time to time of the Notes whose names appear in the register maintained by the Registrar in accordance with the provisions of the Indenture (as defined in Section 1 hereof) (including the Initial Purchasers), as follows:

SECTION 1. DEFINITIONS

Capitalized terms used herein without definition shall have their respective meanings set forth in the Purchase Agreement. As used in this Agreement, the following capitalized defined terms shall have the following meanings:

"ACT" means the Securities Act of 1933, as amended, and the rules and regulations of the Commission promulgated thereunder.

"AFFILIATE" of any specified person means any other person 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.

"AGREEMENT" means this Registration Rights Agreement.

"CLOSING DATE" has the meaning set forth in the Purchase Agreement.

"COMMISSION" means the Securities and Exchange Commission.

"COMMON STOCK" means the class A common stock of the Company, par value \$0.01 per share, issuable upon the conversion of the Notes.

"COMPANY" means EchoStar Communications Corporation.

"EXCHANGE ACT" means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission promulgated thereunder.

"HOLDER" has the meaning set forth in Section 2 hereof.

"INDENTURE" means the Indenture, dated as of December 8, 1999, between the Company and the Trustee, relating to the Notes, as the same may be amended from time to time in accordance with the terms thereof.

"INITIAL PLACEMENT" has the meaning set forth in the preamble hereto.

"INITIAL PURCHASERS" means, collectively, Donaldson, Lufkin & Jenrette Securities Corporation, Banc of America Securities LLC, Bear, Stearns & Co. Inc., Lehman Brothers Inc., ING Barings Furman Selz LLC and CIBC World Markets Corp.

"LOSSES" has the meaning set forth in Section 7(d) hereof.

"MAJORITY HOLDERS" means the Holders of a majority of the aggregate principal amount of securities registered under a Shelf Registration Statement.

"NOTES" has the meaning set forth in the preamble hereto.

"PROSPECTUS" means the prospectus included in any Shelf Registration Statement (including, without limitation, a prospectus that discloses information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A under the Act), as amended or supplemented by any prospectus supplement, with respect to the terms of the offering of any portion of Transfer Restricted Securities covered by such Shelf Registration Statement, and all amendments and supplements to the Prospectus, including post-effective amendments.

"SHELF REGISTRATION" means a registration effected pursuant to Section 3 hereof.

"SHELF REGISTRATION PERIOD" has the meaning set forth in Section 3 hereof.

"SHELF REGISTRATION STATEMENT" means a "shelf" registration statement of the Company pursuant to the provisions of Section 3 hereof that covers some or all of the Transfer Restricted Securities as applicable, on an appropriate form under Rule 415 under the Act, or any similar rule that may be adopted by the Commission, amendments and supplements to such registration statement, including post-effective amendments, and in each case, including the Prospectus contained therein, all exhibits thereto and all material incorporated by reference therein.

"SUPPLEMENT DELAY PERIOD" means any period commencing on the date of receipt by a Holder of Transfer Restricted Securities of any notice from the Company of the existence of any fact or event of the kind described in Section 4(b)(2) hereof and ending on the date of receipt by such Holder of an amended or supplemented Shelf Registration Statement or Prospectus, as contemplated by Section 4(h) hereof, or the receipt by such Holder of written notice from the Company (the "ADVICE") that the use of the Prospectus may be resumed, and the receipt of copies of any additional or supplemental filings that are incorporated by reference in the Prospectus.

"TRANSFER RESTRICTED SECURITIES" means each Note and the Common Stock issuable upon conversion thereof until (i) the date on which such Note or the Common Stock issuable upon conversion thereof has been effectively registered under the Act and disposed of in

accordance with the Shelf Registration Statement, (ii) the date on which such Note or Common Stock issuable upon conversion thereof is distributed to the public pursuant to Rule 144 under the Act (or any similar provision then in effect) or is saleable pursuant to Rule 144(k) under the Act or (iii) the date on which such Note (A) is converted into Common Stock in accordance with the terms and provisions of the Indenture or (B) otherwise ceases to be outstanding.

"TRUSTEE" means the trustee with respect to the Notes under the Indenture.

"UNDERWRITER" means any underwriter of Notes in connection with an offering thereof under a Shelf Registration Statement.

SECTION 2. HOLDERS

A person is deemed to be a holder of Transfer Restricted Securities (each, a "HOLDER") whenever such person becomes the registered holder of such Transfer Restricted Securities under the Indenture and includes broker-dealers that hold Transfer Restricted Securities (i) as a result of market making activities and other trading activities and (ii) which were acquired directly from the Company or an Affiliate.

SECTION 3. SHELF REGISTRATION

The Company shall within 90 days of the date of original issuance of the Notes, file with the Commission and thereafter shall use its reasonable best efforts to cause to be declared effective under the Act on or prior to 270 days (plus any additional days allowed as a result of a Supplement Delay Period) after the date of original issuance of the Notes, a Shelf Registration Statement relating to the offer and sale of the Transfer Restricted Securities by the Holders from time to time in accordance with the methods of distribution elected by such Holders and set forth in such Shelf Registration Statement.

The Company shall use its best efforts to keep the Shelf Registration Statement continuously effective in order to permit the Prospectus forming part thereof to be usable by Holders for a period of two years from the date of original issuance of the Notes or such shorter period that will terminate when (i) all the Transfer Restricted Securities covered by the Shelf Registration Statement have been sold pursuant to the Shelf Registration Statement, (ii) the date on which, in the opinion of counsel to the Company, all of the Transfer Restricted Securities then held by the Holders may be sold by such Holders in the public United States securities markets in the absence of a registration statement covering such sales or (iii) the date on which there ceases to be outstanding any Transfer Restricted Securities (in any such case, such period being called the "SHELF REGISTRATION PERIOD"). The Company shall be deemed not to have used its reasonable best efforts to keep the Shelf Registration Statement effective during the requisite period if it voluntarily takes any action that would result in Holders of Transfer Restricted Securities covered thereby not being able to offer and sell such securities during that period, unless (i) such action is required by applicable law, (ii) such action is taken by the Company in good faith and for valid business reasons (not including avoidance of the Company's obligations hereunder), including the acquisition or divestiture of assets, so long as the Company promptly thereafter complies with the requirements of Section 4(h) hereof, if applicable or (iii) such action is taken because of any fact or circumstance giving rise to a Supplement Delay Period.

SECTION 4. REGISTRATION PROCEDURES

In connection with any Shelf Registration Statement, the following provisions shall apply:

(a) The Company shall ensure that (i) any Shelf Registration Statement and any amendment thereto and any Prospectus forming part thereof and any amendment or supplement thereto complies in all material respects with the Act and the rules and regulations thereunder, (ii) any 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) any Prospectus forming part of any Shelf Registration Statement, and any amendment or supplement to such Prospectus, does not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading.

(b) (1) The Company shall advise the Initial Purchasers and the Holders of Transfer Restricted Securities named in any Shelf Registration Statement, and, if requested by the Initial Purchasers or any such Holder, confirm such advice in writing when a Shelf Registration Statement and any amendment thereto has been filed with the Commission and when the Shelf Registration Statement or any post-effective amendment thereto has become effective.

(2) The Company shall advise the Initial Purchasers and the Holders of Transfer Restricted Securities named in any Shelf Registration Statement, which have provided in writing to the Company a telephone or facsimile number and address for notices, and, if requested by the Initial Purchasers or any such Holder, confirm such advice in writing:

(i) of any request by the Commission for amendments or supplements to the Shelf Registration Statement or the Prospectus included therein or for additional information;

(ii) of the initiation by the Commission of proceedings relating to a stop order suspending the effectiveness of the Shelf Registration Statement;

(iii) of the issuance by the Commission of any stop order suspending the effectiveness of the Shelf Registration Statement;

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

(v) of the existence of any fact and the happening of any event (including, without limitation, pending negotiations relating to, or the consummation of, a transaction or the occurrence of any event which would require additional disclosure of material non-public information by the Company in the Shelf Registration Statement as to which the Company has a bona fide business purpose for preserving confidential or which renders the Company unable to comply with Commission requirements) that, in the opinion of the Company, makes untrue any statement of a material fact made in its Shelf Registration Statement, the Prospectus or any amendment or supplement thereto or any document incorporated by reference therein or requires the making of any changes in the Shelf

Registration Statement or the Prospectus so that, as of such date, the statements therein are not misleading 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 light of the circumstances under which they were made) not misleading, provided, that the foregoing obligation shall only arise if the Company has been notified by the Trustee or Transfer Agent that the Shelf Registration Statement is being used to effect transfers of Transfer Restricted Securities as provided by Section 4(o) below.

Such advice may be accompanied by an instruction to suspend the use of the Prospectus until the requisite changes have been made.

(c) The Company shall use its best efforts to obtain the withdrawal of any order suspending the effectiveness of any Shelf Registration Statement at the earliest possible time.

(d) The Company shall use its best efforts to furnish to each selling Holder named in any Shelf Registration Statement who so requests in writing and who has provided to the Company an address for notices, without charge, at least one conformed copy of such Shelf Registration Statement and any post-effective amendment thereto, including financial statements and, if the Holder so requests in writing, all exhibits and schedules (including those incorporated by reference).

(e) The Company shall, during the Shelf Registration Period, deliver to each Holder of Transfer Restricted Securities named in any Shelf Registration Statement and who has provided to the Company an address for notices, without charge, as many copies of the Prospectus (including each preliminary Prospectus) contained in such Shelf Registration Statement and any amendment or supplement thereto as such Holder may reasonably request; subject to any notice by the Company in accordance with Section 5(b) hereof, the Company consents to the use of the Prospectus or any amendment or supplement thereto by each of the selling Holders for the purposes of offering and resale of the Transfer Restricted Securities covered by the Prospectus in accordance with the applicable regulations promulgated under the Act.

(f) Prior to any offering of Transfer Restricted Securities pursuant to any Shelf Registration Statement, the Company shall register or qualify or cooperate with the Holders of Transfer Restricted Securities named therein and their respective counsel in connection with the registration or qualification of such Transfer Restricted Securities for offer and sale under the securities or blue sky laws of such jurisdictions of the United States as any such Holders reasonably request in writing not later than the date that is five business days prior to the date upon which this Agreement specifies that the Shelf Registration Statement shall become effective; provided, however, that the Company will not be required to qualify generally to do business in any jurisdiction where it is not then so qualified or to take any action which would subject it to general or unlimited service of process or to taxation in any such jurisdiction where it is not then so subject.

(g) The Company shall cooperate with the Holders of Transfer Restricted Securities to facilitate the timely preparation and delivery of certificates representing Transfer Restricted Securities to be sold pursuant to any Shelf Registration Statement free of any restrictive legends and in such denominations and registered in such names as Holders may request in writing at least two business days prior to sales of securities pursuant to such Shelf Registration Statement.

(h) Upon the occurrence of any event contemplated by paragraph (b)(2)(v) hereof, the Company shall promptly prepare a post-effective amendment to any Shelf Registration Statement or an amendment or supplement to the related Prospectus or file any other required document so that as thereafter delivered to purchasers of the Transfer Restricted Securities covered thereby, 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; provided that in the event of a material business transaction (including, without limitation, pending negotiations relating to such a transaction) which would, in the opinion of counsel to the Company, require disclosure by the Company in the Shelf Registration Statement of material non-public information for which the Company has a bona fide business purpose for not disclosing, then for so long as such circumstances exist, the Company shall not be required to prepare and file a supplement or post-effective amendment hereunder.

(i) Not later than the effective date of any such Shelf Registration Statement hereunder, the Company shall cause to be provided a CUSIP number for the Notes registered under such Shelf Registration Statement, and provide the applicable trustee with certificates for such Notes in a form eligible for deposit with The Depository Trust Company.

(j) The Company shall make generally available to its security holders in a regular filing on Form 10-Q or 10-K, an earnings statement satisfying the provisions of Rule 158 (which need not be audited) for the twelve-month period commencing after effectiveness of the Shelf Registration Statement, provided that the Company shall be allowed to fulfill its obligations pursuant to this Section 4(j) by publicly filing such reports on the Commission's EDGAR database.

(k) The Company may require each Holder of Transfer Restricted Securities, which are to be sold pursuant to any Shelf Registration Statement, to furnish to the Company within 20 business days after written request for such information has been made by the Company, such information regarding the Holder and the distribution of such securities as the Company may from time to time reasonably require for inclusion in such Shelf Registration Statement and such other information as may be necessary or advisable in the reasonable opinion of the Company and its counsel, in connection with such Shelf Registration Statement. No Holder of Transfer Restricted Securities shall be entitled to be named as a selling Holder in the Shelf Registration Statement as of the effective time of such Shelf Registration Statement (or in the first prospectus supplement filed thereafter in the case of an expedited filing that the Company expects to file and obtain effectiveness within 30 days of this Agreement), and no holder of Transfer Restricted Securities shall be entitled to use the prospectus forming a part thereof for offers and resales of Transfer Restricted Securities at any time, unless such Holder has returned a completed and signed notice and questionnaire to the Company by the deadline for response set forth therein. The Company shall not be required to take any action to name such Holder as a selling Holder in

the Shelf Registration Statement until such Holder has returned a completed and signed notice and questionnaire to the Company. Following its receipt of such notice and questionnaire, the Company will, as promptly as possible, but not prior to the next required amendment or supplement to the Shelf Registration Statement, include the Transfer Restricted Securities covered thereby in the Shelf Registration Statement (if not previously included). No Holder of Transfer Restricted Securities shall be entitled to the benefit of any Special Interest (as set forth in the Notes) under the Indenture and the Notes or be entitled to use the Prospectus unless and until such Holder has furnished the information required by this Section 4(k) and all such information required to be disclosed in order to make the information previously furnished to the Company by such Holder not materially misleading.

(l) The Company shall, if requested, promptly incorporate in a Prospectus supplement or post-effective amendment to a Shelf Registration Statement, such information as the Majority Holders reasonably agree should be included therein in order to effect their distribution of the Notes and shall make all required filings of such Prospectus supplement or post-effective amendment as soon as notified of the matters to be incorporated in such Prospectus supplement or post-effective amendment; provided, however, that the Company shall not be required to take any action pursuant to this Section 4(l) that would, in the opinion of counsel for the Company, violate applicable law or to include information the disclosure of which at the time would have an adverse effect on the business or operations of the Company and/or its subsidiaries, as determined in good faith by the Company.

(m) The Company shall enter into such agreements and take all other reasonably appropriate actions in order to expedite or facilitate the registration or the disposition of the Transfer Restricted Securities, and in connection therewith, if an underwriting agreement is entered into, cause the same to contain indemnification and contribution provisions and procedures no less favorable than those set forth in Section 7 (or such other provisions and procedures acceptable to the Majority Holders), with respect to all parties to be indemnified pursuant to Section 7 from Holders of Notes to the Company.

(n) The Company shall upon receipt of a reasonable request in writing therefor:

(i) make reasonably available at reasonable times prior to the effectiveness of the related Shelf Registration Statement for inspection by representatives of the Holders of Transfer Restricted Securities to be registered thereunder and any attorney, accountant or other agent retained by the Holders, at the office where normally kept during normal business hours, all financial and other records, pertinent corporate documents and properties of the Company and its subsidiaries, and cause the Company's officers, directors and employees to supply all relevant information reasonably requested by the Holders' attorneys, accountants or other agents in connection with any such Shelf Registration Statement as is customary for similar due diligence examinations; provided, however, that the foregoing inspection and information gathering shall be coordinated by one counsel designated by the Holders and that such persons shall first agree in writing with the Company that any information that is designated in writing by the Company, in good faith, as confidential at the time of delivery of such information shall be kept confidential by such person, unless such disclosure is made in connection with a court

proceeding or required by law, or such information becomes available to the public generally or through a third party without an accompanying obligation of confidentiality;

(ii) obtain opinions of counsel to the Company and updates thereof (which counsel and opinions (in form, scope and substance) shall be reasonably satisfactory to the Majority Holders), addressed to each selling Holder covering such matters (in form, scope and substance) as those matters set forth in Section 9(e)(i), (ii), (iii) and (iv) of the Purchase Agreement;

(iii) obtain "cold comfort" letters (or, in the case of any person that does not satisfy the conditions for receipt of a "cold comfort" letter specified in Statement on Auditing Standards No. 72, an "agreed-upon procedures letter") and updates thereof from the independent certified public accountants of the Company (and, if necessary, any other independent certified public accountants of any subsidiary of the Company or of any business acquired by the Company for which financial statements and financial data are, or are required to be, included in the Shelf Registration Statement), addressed where reasonably practicable to each selling Holder of Transfer Restricted Securities registered thereunder and the underwriters, if any, in customary form and covering matters of the type customarily covered in "cold comfort" letters in connection with primary underwritten offerings; and

(iv) deliver such documents and certificates as may be reasonably requested by the Majority Holders, including those to evidence compliance with Section 4(h).

The foregoing actions set forth in clauses (ii), (iii) and (iv) of this Section 4(n) shall, if reasonably requested by the Majority Holder, be performed upon the effectiveness of such Shelf Registration Statement and the effectiveness of each post-effective amendment thereto.

(v) The Company may offer securities of the Company other than the Notes under the Shelf Registration Statement, except where such offer would conflict with the terms of the Purchase Agreement.

(o) The Company shall provide instructions to the Trustee or Transfer Agent, as applicable, to notify the Company of any requested transfer of Transfer Restricted Securities using the Shelf Registration Statement and to only effect such transfer upon confirmation from the Company or its counsel that the Shelf Registration Statement conforms to the requirements of Section 4(a) above.

SECTION 5. HOLDERS' AGREEMENTS

Each Holder of Transfer Restricted Securities severally but not jointly, by the acquisition of such Transfer Restricted Securities, agrees:

(a) To furnish the information required to be furnished pursuant to Section 4(k) hereof within the time period set forth therein.

(b) That upon receipt of a notice of the commencement of a Supplement Delay Period, it will keep the fact of such notice confidential, forthwith discontinue disposition of its Transfer Restricted Securities pursuant to the Shelf Registration Statement, and will not deliver any Prospectus forming a part thereof until receipt of the amended or supplemented Shelf Registration Statement or Prospectus, as applicable, as contemplated by Section 4(h) hereof, or until receipt of the Advice. If a Supplement Delay Period occurs, the Shelf Registration Period shall be extended by the number of days which the Supplement Delay Period comprises; provided that the Shelf Registration Period shall not be extended if the Company has received an opinion of counsel (which counsel, if different from counsel to the Company referred to in Section 9(e) of the Purchase Agreement, shall be reasonably satisfactory to the Majority Holders of the Transfer Restricted Securities named in the Shelf Registration Period and which opinion shall be in writing if the Majority of the Holders so request) to the effect that the Transfer Restricted Securities can be freely tradeable without the continued effectiveness of the Shelf Registration Statement.

(c) If so directed by the Company in a notice of the commencement of a Supplement Delay Period, each Holder of Transfer Restricted Securities 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 the Transfer Restricted Securities.

(d) Sales of such Transfer Restricted Securities pursuant to a Shelf Registration Statement shall only be made in the manner set forth in such currently effective Shelf Registration Statement.

SECTION 6. REGISTRATION EXPENSES

The Company shall bear all expenses incurred in connection with the performance of its obligations under Sections 3 and 4 hereof and will reimburse the Holders for the reasonable fees and disbursements of one firm or counsel designated by the Majority Holders to act as counsel for the Holders in connection with any Shelf Registration Statement. Notwithstanding the foregoing or anything in this Agreement to the contrary, each Holder shall pay all underwriting discounts and commission of any underwriters with respect to any Transfer Restricted Securities sold by it.

SECTION 7. INDEMNIFICATION AND CONTRIBUTION

(a) In connection with Shelf Registration Statement and to the extent permitted by law, the Company agrees to indemnify and hold harmless each Holder of Transfer Restricted Securities covered thereby (including each Initial Purchaser), the directors, officers, employees, partners, representatives and agents of each such Holder and each person who controls any such Holder within the meaning of either Section 15 of the Act or Section 20 of the Exchange Act against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject under the Act, the Exchange Act or other federal or state statutory law or regulation, at common law or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of, or are based upon, any untrue statement or alleged untrue statement of a material fact contained in the Shelf Registration Statement as originally filed or in any amendment thereof, or in any preliminary Prospectus or Prospectus, or in any

amendment thereof or supplement thereto, or arise out of, or are based upon, the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and to reimburse each such indemnified party, as incurred, for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that (i) the Company will not be liable in any case to the extent that any such loss, claim, damage or liability 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 any such Holder specifically for inclusion therein and (ii) the Company will not be liable to any indemnified party under this indemnity agreement with respect to the Shelf Registration Statement or Prospectus to the extent that any such loss, claim, damage or liability of such indemnified party results solely from an untrue statement of a material fact contained in, or the omission of a material fact from, the Shelf Registration Statement or Prospectus, which untrue statement or omission was corrected in an amended or supplemented Shelf Registration Statement or Prospectus, if the person alleging such loss, claim, damage or liability was not sent or given, at or prior to the written confirmation of such sale, a copy of the amended or supplemented Shelf Registration Statement or Prospectus if the Company had previously furnished copies thereof to such indemnified party and if delivery of a prospectus is required by the Act and was not so made. This indemnity agreement will be in addition to any liability which the Company may otherwise have.

(b) Each Holder of Transfer Restricted Securities covered by a Shelf Registration Statement (including each Initial Purchaser) severally agrees to indemnify and hold harmless (i) the Company, (ii) each of its directors, (iii) each of its officers who signs such Shelf Registration Statement and (iv) each person who controls the Company within the meaning of Section 15 of the Act or Section 20 of the Exchange Act to the same extent as the foregoing indemnity from the Company to each such Holder, but only with reference to written information relating to such Holder furnished to the Company by or on behalf of such Holder specifically for inclusion in the documents referred to in the foregoing indemnity. This indemnity agreement will be in addition to any liability which any such Holder may otherwise have. In no event shall any Holder, its directors, officers or any person who controls such Holder be liable or responsible for any amount in excess of the amount by which the total amount received by such Holder with respect to its sale of Transfer Restricted Securities pursuant to a Shelf Registration Statement exceeds (i) the amount paid by such Holder for such Transfer Restricted Securities and (ii) the amount of any damages that such Holder, its directors, officers or any person who controls such Holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission.

(c) Promptly after receipt by an indemnified party under this Section 7 of notice of the commencement of any action, the indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under this Section 7, notify the indemnifying party in writing of the commencement thereof; but the failure to so notify the indemnifying party (i) will not relieve it from liability under paragraph (a) or (b) above unless and to the extent it did not otherwise learn of such action and such failure results in the forfeiture by the indemnifying party of substantial rights and defenses and (ii) will not, in any event, relieve the indemnifying party from any obligations to any indemnified party other than the indemnification obligation provided in paragraph (a) or (b) above. The indemnifying party shall be entitled to assume the defense of

any such claim and to appoint counsel of the indemnifying party's choice at the indemnifying party's expense to represent the indemnified party in any action for which indemnification is sought (in which case the indemnifying party shall not thereafter be responsible for the fees and expenses of any separate counsel retained by the indemnified party or parties except as set forth below); provided, however, that such counsel shall be reasonably satisfactory to the indemnified party. Notwithstanding the indemnifying party's election to appoint counsel to represent the indemnified party in an action, the indemnified party shall have the right to employ separate counsel (including local counsel), and the indemnifying party shall bear the reasonable fees, costs and expenses of such separate counsel (and local counsel) if (i) the use of counsel chosen by the indemnifying party to represent the indemnified party would present such counsel with a conflict of interest, (ii) the actual or potential defendants in, or targets of, any such action include both the indemnified party and the indemnifying party, and the indemnified party reasonably concluded that there may be legal defenses available to it and/or other indemnified parties that are different from or additional to those available to the indemnifying party, (iii) the indemnifying party did not employ counsel satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of the institution of such action or (iv) the indemnifying party authorized the indemnified party to employ separate counsel at the expense of the indemnifying party. The indemnifying party shall indemnify and hold harmless the indemnified party from and against all losses, claims, damages and liabilities by reason of any settlement of any action (i) effected with its written consent or (ii) effected without its written consent if the settlement is entered into more than twenty business days after the indemnifying party has received a request from the indemnified party for reimbursement for the fees and expenses of counsel (in any case where such fees and expenses are at the expense of the indemnifying party) and, prior to the date of such settlement, the indemnifying party has failed to comply with such reimbursement request. Notwithstanding the immediately preceding sentence, if at any time an indemnified party has requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel, an indemnifying party shall not be liable for any settlement of the nature contemplated by the immediately preceding sentence effected without its consent if such indemnifying party (i) reimburses such indemnified party in accordance with such request to the extent that it considers such request to be reasonable and (ii) provides written notice to the indemnified party substantiating the unpaid balance as unreasonable, in each case, prior to the date of settlement. An indemnifying party shall not, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding for which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim or action), unless such settlement, compromise or consent includes an unconditional release of each indemnified party from all liability arising out of such claim, action, suit or proceeding and does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of the indemnified party.

(d) In the event that the indemnity provided in paragraph (a) or (b) of this Section 7 is unavailable or insufficient to hold harmless an indemnified party for any reason, then each applicable indemnifying party, in lieu of indemnifying such indemnified party, shall to the extent permitted by law have a joint and several obligation to contribute to the aggregate losses, claims, damages and liabilities (including legal or other expenses reasonably incurred in connection with investigating or defending same) (collectively "LOSSES") to which such indemnified party may be

subject in such proportion as is appropriate to reflect the relative benefits received by such indemnifying party, on the one hand, and such indemnified party, on the other hand, from the Initial Placement and the Shelf Registration Statement that resulted in such Losses; provided, however, that in no case shall any Initial Purchaser be responsible, in the aggregate, for any amount in excess of the purchase discount or commission applicable to such Note, as set forth in Section 2 of the Purchase Agreement. If the allocation provided by the immediately preceding sentence is unavailable for any reason, the indemnifying party and the indemnified party shall contribute in such proportion as is appropriate to reflect not only such relative benefits, but also the relative fault of such indemnifying party, on the one hand, and such indemnified party, on the other hand, in connection with the statements or omissions which resulted in such Losses, as well as any other relevant equitable considerations. Benefits received by the Company shall be deemed to be equal to the sum of (x) the total net proceeds from the Initial Placement (in each case, before deducting expenses) as set forth in Section 2 of the Purchase Agreement and (y) the total amount of additional interest that the Company was not required to pay as a result of registering the securities covered by the Shelf Registration Statement that resulted in such Losses. Benefits received by the Initial Purchasers shall be deemed to be equal to the total purchase discounts and commissions as set forth in Section 2 of the Purchase Agreement, and benefits received by any other Holders shall be deemed to be equal to the value of the Transfer Restricted Securities sold by such Holders under the Shelf Registration Statement. Relative fault shall be determined by reference to whether any alleged untrue statement or omission relates to information provided by the indemnifying party, on the one hand, or by the indemnified party, on the other hand. The parties agree that it would not be just and equitable if contribution were determined by pro rata allocation or any other method of allocation that does not take account of the equitable considerations referred to above. Notwithstanding the provisions of this paragraph (d), no person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 7, each person who controls a Holder within the meaning of either the Act or the Exchange Act and each director, officer, employee and agent of such Holder shall have the same rights to contribution as such Holder, and each person who controls the Company within the meaning of either the Act or the Exchange Act, each officer of the Company who has signed the Shelf Registration Statement and each director of the Company shall have the same rights to contribution as the Company, subject in each case to the applicable terms and conditions of this paragraph (d).

(e) The provisions of this Section 7 shall remain in full force and effect, regardless of any investigation made by or on behalf of any Holder or the Company or any of the officers, directors or controlling persons referred to in Section 7 hereof, and will survive the sale by a Holder of Transfer Restricted Securities or Exchange Notes.

SECTION 8. RULE 144A AND RULE 144

The Company agrees with each Holder, for so long as any Transfer Restricted Securities remain outstanding and during any period in which the Company (I) is not subject to Section 13 or 15(d) of the Exchange Act, to make available, upon request of any Holder, to such Holder or beneficial owner of Transfer Restricted Securities in connection with any sale thereof and any prospective purchaser of such Transfer Restricted Securities designated by such Holder or

beneficial owner, the information required by Rule 144A(d)(4) under the Act in order to permit resales of such Transfer Restricted Securities pursuant to Rule 144A, and (ii) is subject to Section 13 or 15 (d) of the Exchange Act, to make all filings required thereby in a timely manner in order to permit resales of such Transfer Restricted Securities pursuant to Rule 144.

SECTION 9. MISCELLANEOUS

(a) No Inconsistent Agreements. The Company has not, as of the date hereof, entered into, nor shall it, on or after the date hereof, enter into, any agreement with respect to its securities that is inconsistent with the rights granted to the Holders herein or otherwise conflicts with the provisions hereof.

(b) Amendments and Waivers. The provisions of this Agreement, including the provisions of this sentence, may not be amended, qualified, modified or supplemented, and waivers or consents to departures from the provisions hereof may not be given, unless the Company has obtained the written consent of the Holders of at least a majority of the then outstanding aggregate principal amount of Notes; provided, however, that with respect to any matter that directly or indirectly affects the rights of any Initial Purchaser hereunder, the Company shall obtain the written consent of each such Initial Purchaser against which such amendment, qualification, supplement, waiver or consent is to be effective. Notwithstanding the foregoing (except the foregoing proviso), a waiver or consent to depart from the provisions hereof, with respect to a matter, which relates exclusively to the rights of Holders whose securities are being sold pursuant to a Shelf Registration Statement and does not directly or indirectly affect the rights of other Holders, may be given by the Majority Holders, determined on the basis of Notes being sold rather than registered under such Shelf Registration Statement.

(c) Notices. All notices and other communications provided for or permitted hereunder shall be made in writing by hand-delivery, first-class mail, telex, telecopier, or air courier guaranteeing overnight delivery:

(i) if to a Holder, at the most current address given by such holder to the Company in accordance with the provisions of this Section 9(c), which address initially is, with respect to each Holder, the address of such Holder maintained by the registrar under the Indenture

(ii) with a copy in like manner to Donaldson, Lufkin & Jenrette Securities Corporation;

(iii) if to the Initial Purchasers, initially at the respective addresses set forth in the Purchase Agreement; and

(iv) if to the Company, initially at its address set forth in the Purchase Agreement.

All such notices and communications shall be deemed to have been duly given when received.

Upon the date of filing of a Shelf Registration Statement notice shall be delivered to Donaldson, Lufkin & Jenrette Securities Corporation, on behalf of the Initial Purchasers (in the form attached hereto as Exhibit A) and shall be addressed to: Attention: Louise Guarneri (Compliance Department), 277 Park Avenue, New York, New York 10172.

The Initial Purchasers or the Company by notice to the other may designate additional or different addresses for subsequent notices or communications.

(d) Successors and Assigns. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of each of the parties hereto, including, without the need for an express assignment or any consent by the Company thereto, subsequent Holders of Notes. The Company hereby agrees to extend the benefits of this Agreement to any Holder of Notes and any such Holder may specifically enforce the provisions of this Agreement as if an original party hereto.

(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 shall not limit or otherwise affect the meaning hereof.

(g) Governing Law. This agreement shall be governed by and construed in accordance with the internal laws of the State of New York applicable to agreements made and to be performed in said State (without reference to the conflict of law rules thereof).

(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 the remaining provisions hereof shall not be in any way impaired or affected thereby, it being intended that all of the rights and privileges of the parties shall be enforceable to the fullest extent permitted by law.

(i) Notes Held by the Company, etc. Whenever the consent or approval of Holders of a specified percentage of principal amount of Notes is required hereunder, Notes held by the Company or its Affiliates (other than subsequent Holders of Notes if such subsequent Holders are deemed to be Affiliates solely by reason of their holdings of such Notes) shall not be counted in determining whether such consent or approval was given by the Holders of such required percentage.

(j) Entire Agreement. This Agreement is intended by the parties as a final expression of their agreement and intended to be a complete and exclusive statement of the agreement and understanding of the parties hereto with respect to the subject matter contained herein. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein with respect to the registration rights granted with respect to the Transfer Restricted Securities. This Agreement supersedes all prior agreements and understandings between the parties with respect to such subject matter.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

ECHOSTAR COMMUNICATIONS CORPORATION

By: /s/ David K. Moskowitz

Name: David K. Moskowitz, Esq.
Title: Senior Vice President and General
Counsel

DONALDSON, LUFKIN & JENRETTE
SECURITIES CORPORATION

By: /s/ J. Tracy Mehr

Name: J. Tracy Mehr
Title: Vice President

EXHIBIT A

NOTICE OF FILING OF
SHELF REGISTRATION STATEMENT

To: Donaldson, Lufkin & Jenrette Securities Corporation
277 Park Avenue
New York, New York 10172
Attention: Louise Guarneri (Compliance Department)
Fax: (212) 892-7272

From: EchoStar Communications Corporation
4 7/8% Convertible Subordinated Notes due 2007

Date: _____, 199__

For your information only (NO ACTION REQUIRED):

Today, _____, _____, we filed a Shelf Registration Statement with the Securities and Exchange Commission.

HALE LANE PEEK
DENNISON HOWARD AND ANDERSON
A Professional Corporation
Attorneys and Counsellors at Law

Office Address:	(775) 327-3000	Mailing Address:
100 West Liberty Street, Tenth Floor	(775) 786-7900	Post Office Box 3237
Reno, Nevada 89501	Facsimile (775) 786-6179	Reno, Nevada 89505

March 3, 2000

EchoStar Communications Corporation
5701 South Santa Fe Drive
Littleton, CO 80120

Ladies and Gentlemen:

We have acted as special Nevada counsel for EchoStar Communications Corporation, a Nevada corporation (the "Company"), in connection with the filing by the Company with the Securities and Exchange Commission of a Registration Statement on Form S-3 (the "Registration Statement") with respect to the proposed offering and sale by certain stockholders of up to an aggregate of \$1,000,000,000 in principal amount of 4-7/8% Convertible Subordinated Notes due 2007 (the "Notes") and the shares of Class A Common Stock of the Company, par value \$.01 per share, issuable upon conversion thereof (the "Conversion Shares"), pursuant to a public offering.

In so acting, we have examined such documents, records and matters of law as we have deemed relevant and necessary for the purposes of this opinion. In rendering the opinion hereinafter set forth, we have assumed the validity of and relied upon the representations of the Company as to certain factual matters relevant thereto.

On the basis of our examination, it is our opinion that (a) the Notes being registered are legally and validly issued, and (b) the Conversion Shares being registered, when issued in accordance with the terms of the Notes and their associated indenture, will be legally and validly issued, fully paid and nonassessable.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement and to the use of our name under the heading "Legal Matters" in the prospectus included in the Registration Statement. In giving this consent, we do not thereby admit that we come within the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended, or the rules and regulations of the Securities and Exchange Commission.

Very truly yours,

/s/ HALE LANE PEEK DENNISON
HOWARD AND ANDERSON

LAS VEGAS OFFICE: 2300 West Sahara Avenue, Eighth Floor, Box 8, Las Vegas, Nevada 89102
(702) 362-5118 o Facsimile (702) 365-6940

CARSON CITY OFFICE: 777 East William Street, Suite 201, Post Office Box 2620, Carson City, Nevada 89702
(702) 684-6000 o Facsimile (702) 684-6001

Friedlob Sanderson Raskin
Paulson & Tourtillott, LLC
1400 Glenarm Place, Suite 300
Denver, Colorado 80202
Tel- 303.571.1400
Fax- 303.575.3157

March 7, 2000

EchoStar Communications Corporation
5701 South Santa Fe Drive
Littleton, CO 80120

Ladies and Gentlemen:

We have acted as counsel for EchoStar Communications Corporation, a Nevada corporation (the "Company"), in connection with the filing by the Company with the Securities and Exchange Commission of a registration statement on Form S-3 (the "Registration Statement") with respect to \$1,000,000,000 aggregate principal amount of 4 7/8% Convertible Subordinated Notes due 2007 (the "Notes"), and 11,003,521 shares of the Company's Class A common stock, \$.01 par value, issuable upon conversion of the Notes (the "Conversion Shares"). The Notes and the Conversion Shares are to be offered and sold by certain securityholders of the Company.

We have examined the Registration Statement and such documents and records of the Company and other documents as we have deemed necessary for the purpose of this opinion. In rendering the opinion hereinafter set forth, we have assumed the validity of and relied upon the representations of the Company as to certain factual matters relevant thereto. Based upon the foregoing, we are of the opinion that (i) the Notes have been duly authorized and, assuming due authentication by the trustee for the Notes, are valid and binding obligations of the Company, subject to applicable bankruptcy and insolvency laws and the application of general principals of equity, and (ii) upon conversion of the Notes in accordance with their terms and the indenture pursuant to which they were issued, the Conversion Shares will be duly authorized, validly issued, fully paid and nonassessable.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement and any amendment thereto, including any and all post-effective amendments, and to the reference to our firm in the Prospectus of the Registration Statement under the heading "Legal Matters." In giving such consent, we do not hereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended, or the rules and regulations of the Securities and Exchange Commission.

Very truly yours,

/s/ FRIEDLOB SANDERSON RASKIN
PAULSON & TOURTILLOTT, LLC

ECHOSTAR COMMUNICATIONS CORPORATION AND SUBSIDIARIES AND AFFILIATES
COMPUTATION OF RATIOS

(IN THOUSANDS)
(UNAUDITED)

CALCULATION OF RATIO OF EARNINGS TO FIXED CHARGES:

	Year Ended December 31,					Nine Months Ended September 30, 1999
	1994	1995	1996	1997	1998	
Income (loss) before taxes	\$ 489	\$ (17,231)	\$(155,679)	\$(312,679)	\$(260,838)	\$ (303,753)
Series A Preferred Stock dividends	939	1,204	1,204	1,204	1,204	124
Series B Preferred Stock dividend	6,164	26,874	241			
Series C Preferred Stock dividend	1,074	7,137	5,661			
Interest expense	21,408	23,985	61,487	104,192	167,529	149,532
Capitalized interest	5,695	25,763	31,818	43,169	21,678	--
Interest component of rent expense (1)	94	71	84	64	74	74
Total fixed charges	28,136	51,023	94,593	155,867	224,496	155,632
Earnings before fixed charges	\$ 21,991	\$ 6,825	\$ (94,108)	\$(208,423)	\$ (93,235)	\$ (154,147)
Ratio of earnings to fixed changes	0.78	0.13	(0.99)	(1.34)	(0.42)	(0.99)
Deficiency of available earnings to fixed charges	\$ (6,145)	\$ (44,198)	\$(188,701)	\$(364,290)	\$(317,731)	\$ (309,779)

(1) The interest component of rent expense has been estimated by taking the difference between the gross rent expense and net present value of rent expense using a weighted-average cost of capital of approximately 13% for the years ended December 31, 1994, through December 31, 1998. The weighted-average cost of capital for the nine months ended September 30, 1999 approximated 9%. The cost of capital used to calculate the interest component of rent expense is representative of the Company's outstanding secured borrowings during each respective period.

CONSENT OF INDEPENDENT PUBLIC ACCOUNTANTS

As independent public accountants, we hereby consent to the incorporation by reference in this registration statement of our report dated March 2, 1999 and included in EchoStar Communication Corporation's Form 10-K for the year ended December 31, 1998 and to all references to our Firm included in or made part of this Registration Statement.

Denver, Colorado,
March 3, 2000.

/s/ Arthur Andersen, LLP

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM T-1

Statement of Eligibility Under the
Trust Indenture Act of 1939 of a Corporation
Designated to Act as Trustee

U.S. BANK TRUST NATIONAL ASSOCIATION
(Exact name of Trustee as specified in its charter)

United States
(State of Incorporation)

41-0257700
(I.R.S. Employer
Identification No.)

U.S. Bank Trust Center
180 East Fifth Street
St. Paul, Minnesota
(Address of Principal Executive Offices)

55101
(Zip Code)

ECHOSTAR COMMUNICATIONS CORPORATION
(Exact name of Registrant as specified in its charter)

Nevada
(State of Incorporation)

88-0336997
(I.R.S. Employer
Identification No.)

5701 South Santa Fe Drive
Littleton, Colorado 80120
(303) 723-1000
(Address of Principal Executive Offices)

4 7/8% CONVERTIBLE SUBORDINATED NOTES DUE 2007
(Title of the Indenture Securities)

GENERAL

1. General Information Furnish the following information as to the Trustee.
 - (a) Name and address of each examining or supervising authority to which it is subject.
Comptroller of the Currency
Washington, D.C.
 - (b) Whether it is authorized to exercise corporate trust powers.
Yes
2. AFFILIATIONS WITH OBLIGOR AND UNDERWRITERS If the obligor or any underwriter for the obligor is an affiliate of the Trustee, describe each such affiliation.
None

See Note following Item 16.

Items 3-15 are not applicable because to the best of the Trustee's knowledge the obligor is not in default under any Indenture for which the Trustee acts as Trustee.
16. LIST OF EXHIBITS List below all exhibits filed as a part of this statement of eligibility and qualification.
 1. Copy of Articles of Association.*
 2. Copy of Certificate of Authority to Commence Business.*
 3. Authorization of the Trustee to exercise corporate trust powers (included in Exhibits 1 and 2; no separate instrument).*
 4. Copy of existing By-Laws.*
 5. Copy of each Indenture referred to in Item 4. N/A.
 6. The consents of the Trustee required by Section 321(b) of the act.
 7. Copy of the latest report of condition of the Trustee published pursuant to law or the requirements of its supervising or examining authority is incorporated by reference to Registration Number 333-70709.

* Incorporated by reference to Registration Number 22-27000.

NOTE

The answers to this statement insofar as such answers relate to what persons have been underwriters for any securities of the obligors within three years prior to the date of filing this statement, or what persons are owners of 10% or more of the voting securities of the obligors, or affiliates, are based upon information furnished to the Trustee by the obligors. While the Trustee has no reason to doubt the accuracy of any such information, it cannot accept any responsibility therefor.

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, the Trustee, U.S. Bank Trust National Association, an Association organized and existing under the laws of the United States, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, and its seal to be hereunto affixed and attested, all in the City of Saint Paul and State of Minnesota on the 1st day of March, 2000.

U.S. BANK TRUST NATIONAL ASSOCIATION

Richard H. Prokosch
Asst. Vice President

Harry Hall, Jr.
Assistant Secretary

NOTE

The answers to this statement insofar as such answers relate to what persons have been underwriters for any securities of the obligors within three years prior to the date of filing this statement, or what persons are owners of 10% or more of the voting securities of the obligors, or affiliates, are based upon information furnished to the Trustee by the obligors. While the Trustee has no reason to doubt the accuracy of any such information, it cannot accept any responsibility therefor.

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, the Trustee, U.S. Bank Trust National Association, an Association organized and existing under the laws of the United States, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, and its seal to be hereunto affixed and attested, all in the City of Saint Paul and State of Minnesota on the 1st day of March, 2000.

U.S. BANK TRUST NATIONAL ASSOCIATION

/s/ Richard H. Prokosch

Richard H. Prokosch
Asst. Vice President

/s/ Harry Hall, Jr.

Harry Hall, Jr.
Assistant Secretary

EXHIBIT 6

CONSENT

In accordance with Section 321(b) of the Trust Indenture Act of 1939, the undersigned, U.S. BANK TRUST NATIONAL ASSOCIATION hereby consents that reports of examination of the undersigned by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon its request therefor.

Dated: March 1, 2000

U.S. BANK TRUST NATIONAL ASSOCIATION

Richard H. Prokosch
Asst. Vice President

EXHIBIT 6

CONSENT

In accordance with Section 321(b) of the Trust Indenture Act of 1939, the undersigned, U.S. BANK TRUST NATIONAL ASSOCIATION hereby consents that reports of examination of the undersigned by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon its request therefor.

Dated: March 1, 2000

U.S. BANK TRUST NATIONAL ASSOCIATION

/s/ Richard H. Prokosch

Richard H. Prokosch
Asst. Vice President