

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 FOR THE QUARTERLY PERIOD ENDED SEPTEMBER 30, 2003

OR

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

For the transition period from _____ to _____

Commission File Number: 0-26176

EchoStar Communications Corporation

(Exact name of registrant as specified in its charter)

Nevada
(State or other jurisdiction of incorporation or organization)

88-0336997
(I.R.S. Employer Identification No.)

9601 S. Meridian Blvd.
Englewood, Colorado
(Address of principal executive offices)

80112
(Zip code)

(303) 723-1000
(Registrant's telephone number, including area code)

Not Applicable
(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant is an accelerated filer (as defined by Rule 12b-2 of the Exchange Act). Yes No

As of November 6, 2003, the Registrant's outstanding common stock consisted of 246,149,134 shares of Class A Common Stock and 238,435,208 Shares of Class B Common Stock.

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DISCLOSURE REGARDING FORWARD-LOOKING STATEMENTS

We make “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995 throughout this document. Whenever you read a statement that is not simply a statement of historical fact (such as when we describe what we “believe,” “intend,” “plan,” “estimate,” “expect” or “anticipate” will occur, and other similar statements), you must remember that our expectations may not be correct, even though we believe they are reasonable. We do not guarantee that any future transactions or events described herein will happen as described or that they will happen at all. You should read this document completely and with the understanding that actual future results may be materially different from what we expect. Whether actual events or results will conform with our expectations and predictions is subject to a number of risks and uncertainties. The risks and uncertainties include, but are not limited to the following:

- we face intense and increasing competition from the satellite and cable television industry, new competitors may enter the subscription television business, and new technologies may increase competition;
- DISH Network subscriber growth may decrease, subscriber turnover may increase and subscriber acquisition costs may increase;
- satellite programming signals have been pirated and will continue to be pirated in the future; pirating could cause us to lose subscribers and revenue or result in higher costs to us;
- programming costs may increase beyond our current expectations; we may be unable to obtain or renew programming agreements on acceptable terms or at all; existing programming agreements could be subject to cancellation;
- weakness in the global or U.S. economy may harm our business generally, and adverse local political or economic developments may occur in some of our markets;
- the regulations governing our industry may change;
- our satellite launches may be delayed or fail, or our satellites may fail in orbit prior to the end of their scheduled lives;
- we currently do not have traditional commercial insurance covering losses incurred from the failure of satellite launches and/or in orbit satellites and we may be unable to settle outstanding claims with insurers;
- service interruptions arising from technical anomalies on satellites or on-ground components of our DBS system, or caused by war, terrorist activities or natural disasters, may cause customer cancellations or otherwise harm our business;
- we may be unable to obtain needed retransmission consents, Federal Communications Commission (“FCC”) authorizations or export licenses, and we may lose our current or future authorizations;
- we are party to various lawsuits which, if adversely decided, could have a significant adverse impact on our business;
- we may be unable to obtain patent licenses from holders of intellectual property or redesign our products to avoid patent infringement;
- sales of digital equipment and related services to international direct-to-home service providers may decrease;
- we are highly leveraged and subject to numerous constraints on our ability to raise additional debt;
- acquisitions, business combinations, strategic partnerships, divestitures and other significant transactions may involve additional uncertainties;
- terrorist attacks, consequences of the war in Iraq, and the possibility of war or hostilities relating to other countries, and changes in international political conditions as a result of these events may continue to affect the U.S. and the global economy and may increase other risks; and
- we may face other risks described from time to time in periodic and current reports we file with the Securities and Exchange Commission (“SEC”).

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.

DISCLOSURE REGARDING FORWARD-LOOKING STATEMENTS

We assume no responsibility for updating forward-looking information contained or incorporated by reference herein or in other reports we file with the SEC.

In this document, the words “we,” “our” and “us” refer to EchoStar Communications Corporation and its subsidiaries, unless the context otherwise requires. “EDBS” refers to EchoStar DBS Corporation and its subsidiaries.

ECHOSTAR COMMUNICATIONS CORPORATION
CONDENSED CONSOLIDATED BALANCE SHEETS
(Dollars in thousands)
(Unaudited)

	As of	
	December 31, 2002	September 30, 2003
Assets		
Current Assets:		
Cash and cash equivalents	\$ 1,483,078	\$ 908,399
Marketable investment securities	1,203,917	2,141,333
Trade accounts receivable, net of allowance for uncollectible accounts of \$27,649 and \$23,248, respectively	329,020	339,753
Insurance receivable	106,000	106,000
Inventories	150,290	148,713
Other current assets	47,212	71,998
Total current assets	3,319,517	3,716,196
Restricted cash	9,972	9,893
Cash reserved for satellite insurance	151,372	127,147
Property and equipment, net	1,974,516	1,914,455
FCC authorizations, net	696,409	696,409
Other noncurrent assets	108,799	142,203
Total assets	\$ 6,260,585	\$ 6,606,303
Liabilities and Stockholders' Deficit		
Current Liabilities:		
Trade accounts payable	\$ 264,813	\$ 338,019
Deferred revenue	443,757	491,165
Accrued expenses	923,217	913,258
Current portion of long-term obligations	13,432	13,975
Total current liabilities	1,645,219	1,756,417
Long-term obligations, net of current portion:		
9 1/4% Senior Notes due 2006 (Note 7)	375,000	—
9 3/8% Senior Notes due 2009	1,625,000	1,625,000
10 3/8% Senior Notes due 2007	1,000,000	1,000,000
9 1/8% Senior Notes due 2009 (Note 7)	700,000	455,000
4 7/8% Convertible Subordinated Notes due 2007	1,000,000	1,000,000
5 3/4% Convertible Subordinated Notes due 2008	1,000,000	1,000,000
3 % Convertible Subordinated Notes due 2010 (Note 7)	—	500,000
Mortgages and other notes payable, net of current portion	33,621	42,686
Long-term deferred distribution and carriage payments and other long-term liabilities	87,383	136,786
Total long-term obligations, net of current portion	5,821,004	5,759,472
Total liabilities	7,466,223	7,515,889
Commitments and Contingencies (Note 8)		
Stockholders' Deficit:		
Class A Common Stock, \$01 par value, 1,600,000,000 shares authorized, 242,539,709 and 246,124,272 shares issued and outstanding, respectively	2,425	2,461
Class B Common Stock, \$01 par value, 800,000,000 shares authorized, 238,435,208 shares issued and outstanding	2,384	2,384
Class C Common Stock, \$01 par value, 800,000,000 shares authorized, none outstanding	—	—
Additional paid-in capital	1,706,731	1,735,958
Non-cash, stock-based compensation	(8,657)	(2,895)
Accumulated other comprehensive income	6,197	45,398
Accumulated deficit	(2,914,718)	(2,692,892)
Total stockholders' deficit	(1,205,638)	(909,586)
Total liabilities and stockholders' deficit	\$ 6,260,585	\$ 6,606,303

The accompanying notes are an integral part of the condensed consolidated financial statements.

ECHOSTAR COMMUNICATIONS CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(In thousands, except per share amounts)
(Unaudited)

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2002	2003	2002	2003
Revenue:				
Subscription television services	\$ 1,120,448	\$ 1,363,369	\$ 3,208,350	\$3,994,081
Other subscriber-related revenue	3,558	2,458	14,228	7,932
DTH equipment sales	76,559	70,345	201,749	161,887
Other	22,284	16,123	71,674	62,010
Total revenue	1,222,849	1,452,295	3,496,001	4,225,910
Costs and Expenses:				
Subscriber-related expenses (exclusive of depreciation shown below — Note 9)	577,671	683,871	1,630,026	1,971,396
Satellite and transmission expenses (exclusive of depreciation shown below — Note 9)	16,247	21,930	44,884	54,271
Cost of sales — DTH equipment	40,396	43,651	123,875	105,006
Cost of sales — other	11,016	7,745	37,186	32,804
Cost of sales — subscriber promotion subsidies (exclusive of depreciation shown below — Note 9)	108,668	139,121	290,370	360,003
Other subscriber promotion subsidies	144,097	167,784	415,469	467,313
Subscriber acquisition advertising	46,132	39,607	111,260	113,084
General and administrative	81,209	86,621	230,458	258,090
Non-cash, stock-based compensation	3,722	1,083	7,557	2,855
Depreciation and amortization (Note 9)	97,822	100,397	267,340	298,862
Total costs and expenses	1,126,980	1,291,810	3,158,425	3,663,684
Operating income	95,869	160,485	337,576	562,226
Other Income (Expense):				
Interest income	28,236	11,887	87,375	42,362
Interest expense, net of amounts capitalized	(117,599)	(133,932)	(363,114)	(372,148)
Change in valuation of contingent value rights	(134,477)	—	(139,855)	—
Other	(40,614)	71	(78,194)	1,170
Total other income (expense)	(264,454)	(121,974)	(493,788)	(328,616)
Income (loss) before income taxes	(168,585)	38,511	(156,212)	233,610
Income tax benefit (provision), net	636	(3,395)	(9,883)	(11,784)
Net income (loss)	(167,949)	35,116	(166,095)	221,826
Accretion of Series D Convertible Preferred Stock	—	—	(61,860)	—
Numerator for basic and diluted income (loss) per share — income (loss) available (attributable) to common shareholders	\$ (167,949)	\$ 35,116	\$ (227,955)	\$ 221,826
Denominator for basic income (loss) per share — weighted-average common shares outstanding	480,721	484,425	480,289	482,977
Denominator for diluted income (loss) per share — weighted-average common shares outstanding	480,721	488,720	480,289	487,758
Net income (loss) per common share:				
Basic net income (loss)	\$ (0.35)	\$ 0.07	\$ (0.47)	\$ 0.46
Diluted net income (loss)	\$ (0.35)	\$ 0.07	\$ (0.47)	\$ 0.45

The accompanying notes are an integral part of the condensed consolidated financial statements.

ECHOSTAR COMMUNICATIONS CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)
(Unaudited)

	For the Nine Months Ended September 30,	
	2002	2003
Cash Flows From Operating Activities:		
Net income (loss)	\$ (166,095)	\$ 221,826
Adjustments to reconcile net income (loss) to net cash flows from operating activities:		
Depreciation and amortization	267,340	298,862
Equity in losses (earnings) of affiliates	8,012	(1,265)
Change in valuation of contingent value rights	139,855	—
Realized and unrealized losses (gains) on investments	66,648	(1,032)
Non-cash, stock-based compensation recognized	7,557	2,855
Deferred tax expense (benefit)	6,828	(1,783)
Recognition of bridge commitment fees from reduction of bridge financing commitments	15,112	—
Amortization of debt discount and deferred financing costs	8,847	13,611
Change in long-term assets	—	(49,333)
Change in long-term deferred distribution and carriage payments	12,838	21,504
Other, net	(1,146)	10,724
Changes in current assets and current liabilities, net	97,491	135,919
Net cash flows from operating activities	463,287	651,888
Cash Flows From Investing Activities:		
Purchases of marketable investment securities	(4,107,963)	(3,505,713)
Sales of marketable investment securities	4,329,509	2,597,387
Purchases of property and equipment	(356,087)	(241,688)
Cash reserved for satellite insurance	(59,680)	—
Change in restricted cash and cash reserved for satellite insurance due to depreciation on related satellites	22,300	24,304
Capitalized merger-related costs	(25,475)	—
Other	(3,709)	1,973
Net cash flows from investing activities	(201,105)	(1,123,737)
Cash Flows From Financing Activities:		
Net proceeds from issuance of Series D Convertible Preferred Stock	1,483,477	—
Proceeds from issuance of 3% Convertible Subordinated Notes due 2010 (Note 7)	—	500,000
Redemption of 9 1/4% Senior Notes due 2006 (Note 7)	—	(375,000)
Partial Redemption of 9 1/8% Senior Notes due 2009 (Note 7)	—	(245,000)
Repayments of mortgage indebtedness and notes payable	(1,655)	(1,892)
Net proceeds from Class A Common Stock options exercised and Class A Common Stock issued to Employee Stock Purchase Plan	7,639	19,062
Other	(1,045)	—
Net cash flows from financing activities	1,488,416	(102,830)
Net increase (decrease) in cash and cash equivalents	1,750,598	(574,679)
Cash and cash equivalents, beginning of period	1,677,889	1,483,078
Cash and cash equivalents, end of period	\$ 3,428,487	\$ 908,399
Supplemental Disclosure of Cash Flow Information:		
Forfeitures of deferred non-cash, stock-based compensation	\$ 5,520	\$ 3,078
Interest received	\$ 99,854	\$ 50,612
Capitalized interest	\$ 20,934	\$ 7,035
Satellite vendor financing	\$ 30,000	\$ 10,000
Initial estimated value of contingent value rights	\$ 30,724	\$ —
Interest paid	\$ 366,959	\$ 370,558
Income taxes paid	\$ 7,713	\$ 9,993

The accompanying notes are an integral part of the condensed consolidated financial statements.

ECHOSTAR COMMUNICATIONS CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

1. Organization and Business Activities

Principal Business

The operations of EchoStar Communications Corporation (“ECC,” and together with its subsidiaries, “EchoStar,” the “Company,” “we,” “us,” and/or “our”) include two interrelated business units:

- *The DISH Network* — which provides a direct broadcast satellite subscription television service we refer to as “DBS” in the United States; and
- *EchoStar Technologies Corporation* (“ETC”) — which designs and develops DBS set-top boxes, antennae and other digital equipment for the DISH Network. We refer to this equipment collectively as “EchoStar receiver systems.” ETC also designs, develops and distributes similar equipment for international satellite service providers.

Since 1994, we have deployed substantial resources to develop the “EchoStar DBS System.” The EchoStar DBS System consists of our FCC-allocated DBS spectrum, nine in-orbit satellites (“EchoStar I” through “EchoStar IX”), EchoStar receiver systems, digital broadcast operations centers, customer service facilities, and other assets utilized in our operations. Our principal business strategy is to continue developing our subscription television service in the United States to provide consumers with a fully competitive alternative to cable television service.

2. Significant Accounting Policies

Basis of Presentation

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with generally accepted accounting principles and with the instructions to Form 10-Q and Article 10 of Regulation S-X for interim financial information. Accordingly, these statements do not include all of the information and disclosures required by generally accepted accounting principles for complete financial statements. In our opinion, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation have been included. All significant intercompany accounts and transactions have been eliminated in consolidation. Operating results for the nine months ended September 30, 2003 are not necessarily indicative of the results that may be expected for the year ending December 31, 2003. For further information, refer to the consolidated financial statements and disclosures thereto included in EchoStar’s Annual Report on Form 10-K for the year ended December 31, 2002. Certain prior year amounts have been reclassified to conform with the current year presentation.

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses for each reporting period. Actual results could differ from those estimates.

ECHOSTAR COMMUNICATIONS CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — Continued
(Unaudited)

Comprehensive Income (Loss)

The components of comprehensive income (loss), net of tax, are as follows:

	For the Nine Months Ended September 30,	
	2002	2003
	(In thousands)	
Net income	\$ (166,095)	\$ 221,826
Foreign currency translation adjustments	—	681
Unrealized holding gains (losses) on available-for-sale securities arising during period	(112,721)	36,554
Reclassification adjustment for impairment losses on available-for-sale securities included in net income	49,563	1,966
Comprehensive income (loss)	\$ (229,253)	\$ 261,027

Accumulated other comprehensive income (loss) presented on the accompanying condensed consolidated balance sheets consists of the accumulated net unrealized gains (losses) on available-for-sale securities and foreign currency translation adjustments, net of deferred taxes.

Basic and Diluted Earnings (Loss) Per Share

Statement of Financial Accounting Standards No. 128, “Earnings Per Share” (“FAS 128”) requires entities to present both basic earnings per share (“EPS”) and diluted EPS. Basic EPS excludes dilution and is computed by dividing income (loss) available to common shareholders by the weighted-average number of common shares outstanding for the period. Diluted EPS reflects the potential dilution that could occur if stock options were exercised and convertible securities were converted to common stock.

We recorded a net loss attributable to common shareholders for the three and nine month periods ending September 30, 2002. Therefore, common stock equivalents and convertible securities are excluded from the computation of diluted earnings (loss) per share for these periods since the effect of including them is anti-dilutive. Since we reported net income attributable to common shareholders for the three and nine month periods ending September 30, 2003, the potential dilution from stock options exercisable into common stock for these periods was computed using the treasury stock method based on the average fair market value of the Class A common stock for the period. The following table reflects the basic and diluted weighted-average shares outstanding used to calculate basic and diluted earnings per share.

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2002	2003	2002	2003
	(In thousands)		(In thousands)	
Denominator for basic income (loss) per share — weighted-average common shares outstanding	480,721	484,425	480,289	482,977
Dilutive impact of options outstanding	—	4,295	—	4,781
Denominator for diluted income (loss) per share — weighted-average diluted common shares outstanding	480,721	488,720	480,289	487,758

As of September 30, 2002 and 2003, options to purchase a total of approximately 21.2 million and 18.0 million shares of Class A common stock were outstanding, respectively. Our 4 7/8% Convertible Subordinated Notes due 2007, 5 3/4% Convertible Subordinated Notes due 2008 and our 3% Convertible Subordinated Note due 2010 were convertible into approximately 22.0 million shares, 23.1 million shares and 6.87 million shares of Class A common stock, respectively, as of September 30, 2003. The convertible notes are not included in the diluted EPS calculation as the effect of the conversion of the notes would be anti-dilutive. The 4 7/8% Convertible Subordinated Notes due 2007 were subsequently redeemed in full on October 20, 2003. Of the options outstanding as of September 30,

ECHOSTAR COMMUNICATIONS CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — Continued
(Unaudited)

2003, options to purchase approximately 8.1 million shares were outstanding under a long term incentive plan. Vesting of these options is contingent upon meeting certain longer-term goals which have not yet been achieved. As such, the long-term incentive options are not included in the diluted EPS calculation.

Accounting for Stock-Based Compensation

We have elected to follow Accounting Principles Board Opinion No. 25, “Accounting for Stock Issued to Employees,” (“APB 25”) and related interpretations in accounting for our stock-based compensation plans. Under APB 25, we generally do not recognize compensation expense on the issuance of stock under our stock incentive plans because the option terms are typically fixed and typically the exercise price equals or exceeds the market price of the underlying stock on the date of grant. In October 1995, the Financial Accounting Standards Board issued Financial Accounting Standard No. 123, “Accounting and Disclosure of Stock-Based Compensation,” (“FAS No. 123”) which established an alternative method of expense recognition for stock-based compensation awards to employees based on fair values. We elected to not adopt FAS No. 123 for expense recognition purposes.

Pro forma information regarding net income and earnings per share is required by FAS No. 123 and Financial Accounting Standard No. 148, “Accounting and Disclosure of Stock-Based Compensation — Transition and Disclosure,” (“FAS No. 148”). Pro forma information has been determined as if we had accounted for our stock-based compensation plans using the fair value method prescribed by FAS No. 123. For purposes of pro forma disclosures, the estimated fair value of the options is amortized to expense over the vesting period of the options. A value is not attributed to options that employees forfeit because they fail to satisfy specified service or performance related conditions. The following table, as required by FAS No. 148, illustrates the effect on net income (loss) and income (loss) per share if we had accounted for our stock-based compensation plans using the fair value method prescribed by FAS No. 123 (in thousands, except per share amounts):

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2002	2003	2002	2003
	(In thousands)		(In thousands)	
Net income (loss) available (attributable) to common shareholders, as reported	\$ (167,949)	\$ 35,116	\$ (227,955)	\$ 221,826
Add: Stock-based employee compensation expense included in reported net income (loss), net of related tax effects	3,722	1,045	7,557	2,755
Deduct: Total stock-based employee compensation expense determined under fair value based method for all awards, net of related tax effects	(6,323)	(6,918)	(18,880)	(19,615)
Pro forma net income (loss) available (attributable) to common shareholders, as reported	\$ (170,550)	\$ 29,243	\$ (239,278)	\$ 204,966
Basic income (loss) per share, as reported	\$ (0.35)	\$ 0.07	\$ (0.47)	\$ 0.46
Diluted income (loss) per share, as reported	\$ (0.35)	\$ 0.07	\$ (0.47)	\$ 0.45
Pro forma basic income (loss) per share	\$ (0.35)	\$ 0.06	\$ (0.50)	\$ 0.42
Pro forma diluted income (loss) per share	\$ (0.35)	\$ 0.06	\$ (0.50)	\$ 0.42

For purposes of this pro forma presentation, the fair value of each option grant was estimated at the date of the grant using a Black-Scholes option pricing model. The Black-Scholes option valuation model was developed for use in estimating the fair value of traded options which have no vesting restrictions and are fully transferable. In addition, option valuation models require the input of highly subjective assumptions, including expected stock price characteristics, which are significantly different from those of traded options. Because changes in the subjective input

ECHOSTAR COMMUNICATIONS CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — Continued
(Unaudited)

assumptions can materially affect the fair value estimate, the existing models do not necessarily provide a reliable single measure of the fair value of stock-based compensation awards.

Non-cash, stock-based compensation

During 1999, we adopted an incentive plan under our 1995 Stock Incentive Plan that provided certain key employees with incentives including stock options. The table below shows the amount of compensation expense recognized under this performance-based plan for the three and nine months ended September 30, 2002 and 2003. The expense decrease from the prior year for both the three and nine months is primarily attributable to stock option forfeitures resulting from employee terminations. The remaining deferred compensation of \$2.9 million as of September 30, 2003, which will be reduced by future forfeitures, if any, will be recognized over the remaining vesting period, ending on March 31, 2004.

We report all non-cash compensation based on stock option appreciation as a single expense category in our accompanying statements of operations. The following table indicates the other expense categories in our statements of operations that would be affected if non-cash, stock-based compensation was allocated to the same expense categories as the base compensation for key employees who participate in the 1999 incentive plan.

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2002	2003	2002	2003
	(In thousands)		(In thousands)	
Subscriber related	\$ 182	\$ 73	\$ 547	\$ (38)
Satellite and transmission	183	90	(189)	269
General and administrative	3,357	920	7,199	2,624
	<u>\$ 3,722</u>	<u>\$ 1,083</u>	<u>\$ 7,557</u>	<u>\$ 2,855</u>

In addition, options to purchase 8.1 million shares were outstanding under our long term incentive plan as of September 30, 2003. These options were granted with exercise prices at least equal to the market value of the underlying shares on the dates they were issued during 1999, 2000 and 2001. The weighted-average exercise price of these options is \$9.06. Vesting of these options is contingent upon meeting certain longer-term goals which have not yet been achieved. Consequently, no compensation was recorded during the nine months ended September 30, 2003 related to these long-term options. We will record the related compensation at the achievement, if ever, of the performance goals. Such compensation, if recorded, would likely result in material non-cash, stock-based compensation expense in our statements of operations.

3. Marketable and Non-Marketable Investment Securities

We currently classify all marketable investment securities as available-for-sale. In accordance with generally accepted accounting principles, we adjust the carrying value of our available-for-sale marketable investment securities to fair market value and report the related temporary unrealized gains and losses as a separate component of stockholders' deficit, net of related deferred income tax. Declines in the fair market value of a marketable investment security which are estimated to be "other than temporary" must be recognized in the statement of operations, thus establishing a new cost basis for such investment. We evaluate our marketable investment securities portfolio on a quarterly basis to determine whether declines in the market value of these securities are other than temporary. This quarterly evaluation consists of reviewing, among other things, the fair value of our marketable investment securities compared to the carrying value of these securities, the historical volatility of the price of each security and any market and company specific factors related to each security. Generally, absent specific factors to the contrary, declines in the fair value of investments below cost basis for a period of less than six months are considered to be temporary. Declines in the fair value of investments for a period of six to nine months are evaluated on a case by case basis to determine whether any company or market-specific factors exist which would indicate that such declines are other than temporary. Declines in

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the fair value of investments below cost basis for greater than nine months are considered other than temporary and are recorded as charges to earnings, absent specific factors to the contrary.

As of September 30, 2003, we recorded unrealized gains of approximately \$44.7 million as a separate component of stockholders' deficit. During the nine months ended September 30, 2003, we also recorded an aggregate charge to earnings for other than temporary declines in the fair market value of certain of our marketable investment securities of approximately \$2.0 million, and established a new cost basis for these securities. In addition, we realized gains of approximately \$3.1 million on sales of marketable investment securities. Our approximately \$3.19 billion of restricted and unrestricted cash, cash equivalents and marketable investment securities includes debt and equity securities which we own for strategic and financial purposes. The fair market value of these strategic marketable investment securities aggregated approximately \$160.9 million as of September 30, 2003. During the nine months ended September 30, 2003, our portfolio generally, and our strategic investments particularly, experienced and continue to experience volatility. If the fair market value of our marketable securities portfolio does not remain above cost basis or if we become aware of any market or company specific factors that indicate that the carrying value of certain of our marketable securities is impaired, we may be required to record charges to earnings in future periods equal to the amount of the decline in fair value.

We also have made strategic equity investments in certain non-marketable investment securities. These securities are not publicly traded. Our ability to realize value from our strategic investments in companies that are not public is dependent on the success of their business and their ability to obtain sufficient capital to execute their business plans. Since private markets are not as liquid as public markets, there is also increased risk that we will not be able to sell these investments, or that when we desire to sell them we will not be able to obtain full value for them. We evaluate our non-marketable investment securities on a quarterly basis to determine whether the carrying value of each investment is impaired. This quarterly evaluation consists of reviewing, among other things, company business plans and current financial statements, if available, for factors which may indicate an impairment in our investment. Such factors may include, but are not limited to, cash flow concerns, material litigation, violations of debt covenants and changes in business strategy. During the nine months ended September 30, 2003, we did not record any impairment charges with respect to these instruments.

4. Inventories

Inventories consist of the following:

	As of	
	December 31, 2002	September 30, 2003
	(In thousands)	
Finished goods — DBS	\$ 104,769	\$ 95,927
Raw materials	25,873	31,012
Finished goods — remanufactured and other	16,490	17,286
Work-in-process	7,964	9,414
Consignment	5,161	1,854
Reserve for excess and obsolete inventory	(9,967)	(6,780)
Inventories, net	<u>\$ 150,290</u>	<u>\$ 148,713</u>

5. Satellites

EchoStar I and II

EchoStar I and EchoStar II are both Series 7000 class satellites designed and manufactured by Lockheed Martin Corporation. While both of those satellites are currently functioning properly in orbit, a similar Lockheed Series 7000 class satellite owned by Loral Skynet recently experienced total in-orbit failure. While we currently do not have sufficient information available to reach any conclusions as to whether other satellites of the Series 7000 class might be at increased risk of suffering a similar malfunction, no telemetry or other data indicates EchoStar I or EchoStar II would be expected to experience a similar failure. EchoStar I and II are currently located at the 148 west orbital location.

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EchoStar III

During June 2003, a transponder pair on EchoStar III failed, resulting in a temporary interruption of service. Operation of the satellite was quickly restored. Including the six transponder pairs that malfunctioned in prior years, these anomalies have resulted in the failure of a total of fourteen transponders on the satellite to date. While originally designed to operate a maximum of 32 transponders at any given time, the satellite was equipped with a total of 44 transponders to provide redundancy, and can now operate a maximum of 30 transponders. A total of 19 transponders are currently in operation on EchoStar III, including 11 licensed to us and 8 licensed to a third party.

EchoStar V

During 2000, 2001 and 2002, EchoStar V experienced anomalies resulting in the loss of three solar array strings, and during January 2003, EchoStar V experienced anomalies resulting in the loss of an additional solar array string. The satellite has a total of approximately 96 solar array strings and approximately 92 are required to assure full power availability for the estimated 12-year design life of the satellite. In addition, during January 2003, EchoStar V experienced an anomaly in a spacecraft electronic component which affects the ability to receive telemetry from certain on-board equipment. Other methods of communication have been established to alleviate the effects of the failed component. An investigation of the solar array and electronic component anomalies, none of which have impacted commercial operation of the satellite, is continuing. Until the root cause of these anomalies is finally determined, there can be no assurance future anomalies will not cause further losses which could impact commercial operation of the satellite.

EchoStar VIII

During 2002, two of the thrusters on EchoStar VIII experienced anomalous events and are not currently in use. During March 2003, an additional thruster on EchoStar VIII experienced an anomalous event and is not currently in use. The satellite is equipped with a total of 12 thrusters that help control spacecraft location, attitude, and pointing and is currently operating using a combination of the other nine thrusters. This workaround requires more frequent maneuvers to maintain the satellite at its specified orbital location, which are less efficient and therefore result in accelerated fuel use. In addition, the workaround will require certain gyroscopes to be utilized for aggregate periods of time substantially in excess of their originally qualified limits. However, neither of these workarounds are expected to reduce the estimated design life of the satellite to less than 12 years. An investigation of the thruster anomalies including the development of additional workarounds for long term operations is continuing. None of these events has impacted commercial operation of the satellite to date. Until the root cause of these anomalies has been finally determined, there can be no assurance that these or future anomalies will not cause further losses which could impact commercial operation of the satellite.

EchoStar VIII is equipped with two solar arrays which convert solar energy into power for the satellite. Those arrays rotate continuously to maintain optimal exposure to the sun. During June and July 2003, EchoStar VIII experienced anomalies that temporarily halted rotation of one of the solar arrays. The array is currently fully functional, but rotating in a mode recommended by the satellite manufacturer which allows full rotation but is different than the originally prescribed mode. An investigation of the solar array anomalies, none of which have impacted commercial operation of the satellite, is continuing. Until the root cause of these anomalies is finally determined, there can be no assurance future anomalies will not cause losses which could impact commercial operation of the satellite.

During September 2003, a single battery cell on EchoStar VIII exhibited reduced capacity. There are 72 battery cells on EchoStar VIII and all loads can be maintained for the full design life of the satellite with up to two battery cells fully failed. An investigation of the battery cell anomaly, which has not impacted commercial operation of the

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satellite, is underway. Until the root cause of the anomaly is determined, there can be no assurance future anomalies will not cause losses which could impact commercial operation of the satellite.

EchoStar IX

EchoStar IX was successfully launched to the 121 degree orbital location on August 7, 2003. Its 32 licensed Ku-band transponders are expected to provide additional video service choices for DISH Network subscribers utilizing a specially-designed dish beginning during the fourth quarter of 2003. EchoStar IX is also equipped with two Ka-band transponders which we intend to utilize to confirm the commercial viability of direct-to-home Ka-band video and data services.

Satellite Insurance

As a result of the failure of EchoStar IV solar arrays to fully deploy and the failure of 38 transponders to date, a maximum of 6 of the 44 transponders (including spares) on EchoStar IV are available for use at this time. In addition to transponder and solar array failures, EchoStar IV has experienced anomalies affecting its thermal systems and propulsion system. There can be no assurance that further material degradation, or total loss of use, of EchoStar IV will not occur in the immediate future. EchoStar IV is currently located at the 157 degree orbital location.

In September 1998, we filed a \$219.3 million insurance claim for a total loss under the launch insurance policies covering EchoStar IV. The satellite insurance consists of separate substantially identical policies with different carriers for varying amounts that, in combination, create a total insured amount of \$219.3 million. The insurance carriers include La Reunion Spatiale; AXA Reinsurance Company (n/k/a AXA Corporate Solutions Reinsurance Company), United States Aviation Underwriters, Inc., United States Aircraft Insurance Group; Assurances Generales De France I.A.R.T. (AGF); Certain Underwriters at Lloyd's, London; Great Lakes Reinsurance (U.K.) PLC; British Aviation Insurance Group; If Skaadeforsikring (previously Storebrand); Hannover Re (a/k/a International Hannover); The Tokio Marine & Fire Insurance Company, Ltd.; Marham Space Consortium (a/k/a Marham Consortium Management); Ace Global Markets (a/k/a Ace London); M.C. Watkins Syndicate; Goshawk Syndicate Management Ltd.; D.E. Hope Syndicate 10009 (Formerly Busbridge); Amlin Aviation; K.J. Coles & Others; H.R. Dumas & Others; Hiscox Syndicates, Ltd.; Cox Syndicate; Hayward Syndicate; D.J. Marshall & Others; TF Hart; Kiln; Assitalia Le Assicurazioni D'Italia S.P.A. Roma; La Fondiaria Assicurazione S.P.A., Firenze; Vittoria Assicurazioni S.P.A., Milano; Ras — Riunione Adriatica Di Sicurtà S.P.A., Milano; Societa Cattolica Di Assicurazioni, Verano; Siat Assicurazione E Riassicurazione S.P.A, Genova; E. Patrick; ZC Specialty Insurance; Lloyds of London Syndicates 588 NJM, 1209 Meb AND 861 Meb; Generali France Assurances; Assurance France Aviation; and Ace Bermuda Insurance Ltd.

The insurance carriers offered us a total of approximately \$88.0 million, or 40.0% of the total policy amount, in settlement of the EchoStar IV insurance claim. The insurers assert, among other things, that EchoStar IV was not a total loss, as that term is defined in the policy, and that we did not abide by the exact terms of the insurance policies. We strongly disagree and filed arbitration claims against the insurers for breach of contract, failure to pay a valid insurance claim and bad faith denial of a valid claim, among other things. Due to individual forum selection clauses in certain of the policies, we are pursuing our arbitration claims against Ace Bermuda Insurance Ltd. in London, England, and our arbitration claims against all of the other insurance carriers in New York, New York. The New York arbitration commenced on April 28, 2003, and hearings are scheduled to resume in November 2003. The parties to the London arbitration have agreed to stay that proceeding pending a ruling in the New York arbitration. There can be no assurance that we will receive the amount claimed in either the New York or the London arbitrations or, if we do, that we will retain title to EchoStar IV with its reduced capacity.

At the time we filed our claim in 1998, we recognized an initial impairment loss of \$106.0 million to write-down the carrying value of the satellite and related costs, and simultaneously recorded an insurance claim receivable for the same amount. We will have to reduce the amount of this receivable if a final settlement is reached for less than this amount.

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In addition, during 1999, we recorded an impairment loss of approximately \$16.0 million as a charge to earnings to further write-down the carrying value of the satellite.

As a result of transponder, thermal and propulsion system anomalies only 6 transponders are currently available on EchoStar IV. We cannot predict with certainty how much longer we will be able to transmit programming from EchoStar IV.

The indentures related to certain of EDBS' senior notes contain restrictive covenants that require us to maintain satellite insurance with respect to at least half of the satellites EDBS owns or leases. As of September 30, 2003, eight of our nine in-orbit satellites were in service and owned by a direct subsidiary of EDBS. As of September 30, 2003, insurance coverage was therefore required for at least four of EDBS' eight satellites. The launch and/or in-orbit insurance policies for EchoStar I through EchoStar VIII have expired. We have been unable to obtain insurance on any of these satellites on terms acceptable to us. As a result, we are currently self-insuring these satellites. To satisfy insurance covenants related to EDBS' senior notes, we have reclassified an amount equal to the depreciated cost of four of our satellites from "Cash and cash equivalents" to "Cash reserved for satellite insurance" on our balance sheet. As of September 30, 2003, "Cash reserved for satellite insurance" totaled approximately \$127.1 million. The reclassifications will continue until such time, if ever, as we can again insure our satellites on acceptable terms and for acceptable amounts or until the covenants requiring the insurance are no longer applicable.

6. Goodwill and Intangible Assets

As of December 31, 2002 and September 30, 2003, we had approximately \$53.8 million of gross identifiable intangibles with related accumulated amortization of approximately \$33.6 million and \$41.3 million as of the end of each period, respectively. These identifiable intangibles primarily include acquired contracts and technology-based intangibles. Amortization of these intangible assets with an average finite useful life of approximately five years was \$2.6 million and \$7.7 million for the three and nine months ended September 30, 2003, respectively. We estimate that such amortization expense will aggregate approximately \$10.0 million annually for the remaining useful life of these intangible assets of approximately 1.25 years. In addition, we had approximately \$3.4 million of goodwill as of December 31, 2002 and September 30, 2003.

7. Long-Term Debt

Redemption of 9 1/4% Senior Notes due 2006

Effective February 1, 2003, EDBS redeemed all of its outstanding 9 1/4% Senior Notes due 2006. In accordance with the terms of the indenture governing the notes, the full \$375.0 million outstanding principal amount of the notes was repurchased at a redemption price of 104.625% of such amount, for a total redemption payment of approximately \$392.3 million. The premium paid of approximately \$17.3 million and unamortized debt issuance costs of approximately \$3.3 million were recorded as charges to earnings.

3% Convertible Subordinated Note due 2010

On July 21, 2003, we issued and sold a \$500.0 million 3.0% Convertible Subordinated Note due 2010 to SBC Communications, Inc. ("SBC") in a privately negotiated transaction. The note is an unsecured obligation convertible into approximately 6.87 million shares of our Class A Common Stock at the option of SBC at \$72.82 per share, subject to adjustment in certain circumstances. Commencing July 21, 2008, we may redeem, and SBC may require us to purchase, all or a portion of the note without premium.

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Partial Redemption of 9 1/8% Senior Notes due 2009

Effective September 3, 2003, EDBS redeemed \$245.0 million principal amount of its 9 1/8 % Senior Notes due 2009, fully exercising its optional partial redemption right. The outstanding principal amount of the notes after the redemption is \$455.0 million. In accordance with the terms of the indenture governing the notes, the full \$245.0 million principal amount of the notes eligible for redemption was repurchased at a redemption price of 109.125% of such amount, for a total redemption payment of approximately \$267.4 million. The premium paid of approximately \$22.4 million and unamortized debt issuance costs of approximately \$2.9 million were recorded as charges to earnings. Interest on the notes was paid through the September 3, 2003 redemption date.

8. Commitments and Contingencies

Commitments

SES Americom

During March 2003, one of our wholly-owned subsidiaries, EchoStar Satellite Corporation (“ESC”), entered into a satellite service agreement with SES Americom for all of the capacity on a Fixed Satellite Service (“FSS”) satellite to be located at the 105 degree west orbital location. This satellite is scheduled to be launched during the second half of 2004. ESC also agreed to lease all of the capacity on an existing in-orbit FSS satellite at the 105 degree orbital location beginning August 1, 2003 and continuing in most circumstances until the new satellite is launched.

ESC intends to use the capacity on the satellites to offer a combination of satellite TV programming including local network channels in additional markets and expanded high definition programming, together with satellite-delivered, high-speed internet services. In connection with the SES agreement, ESC paid a \$50.0 million deposit to SES Americom to partially fund construction of the new satellite. The ten-year satellite service agreement is renewable by ESC on a year to year basis following the initial term, and provides ESC with certain rights to replacement satellites at the 105 degree west orbital location. We are required to make monthly payments to SES Americom for both the existing in-orbit FSS satellite and also for the new satellite for the ten-year period following its launch.

During August 2003, we exercised our option under the SES agreement to also lease for an initial ten-year term all of the capacity on a new DBS satellite at an orbital location to be determined at a future date. We anticipate that this satellite will be launched during the fourth quarter of 2005.

EchoStar X

During July 2003, we entered into a contract for the construction of EchoStar X, a high-powered DBS satellite. Construction is expected to be completed during 2005. With spot-beam capacity, EchoStar X will provide back-up protection for our existing local channel offerings, and could allow DISH Network to offer other value-added services.

Satellite-Related Obligations

As a result of our recent agreements with SES Americom and for the construction of EchoStar X, our obligations for payments related to satellites have increased substantially. While in certain circumstances the dates on which we are obligated to make these payments could be delayed, the aggregate amount due under all of our existing satellite-related contracts including satellite construction and launch, satellite leases, in-orbit payments to satellite manufacturers and tracking, telemetry and control payments is expected to be approximately \$42.0 million for the remainder of 2003, \$90.0 million during 2004, \$101.0 million during 2005, \$120.0 million during 2006, \$105.0 million during 2007 and a similar amount in subsequent years. These amounts will increase when we commence payments for the launch of EchoStar X, and would further increase to the extent we procure insurance for our satellites or contract for the construction, launch or lease of additional satellites.

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SBC Agreement

During July 2003, we announced an agreement with SBC Communications, Inc. to co-brand our DISH Network service with SBC Communications' telephony, high-speed data and other communications services. SBC Communications will market the bundled service, including integrated order-entry, customer service and billing, which is expected to be available to consumers in early 2004.

Pursuant to the agreement, SBC Communications will purchase set-top box equipment from us to sell to bundled service customers. SBC Communications also may choose to outsource installation and certain customer service functions to us for a fee. As part of the agreement, SBC Communications will pay us development and implementation fees for, among other things, product development and integration.

Legal Proceedings

WIC Premium Television Ltd.

During July 1998, a lawsuit was filed by WIC Premium Television Ltd. ("WIC"), an Alberta corporation, in the Federal Court of Canada Trial Division, against General Instrument Corporation, HBO, Warner Communications, Inc., John Doe, Showtime, United States Satellite Broadcasting Company, Inc., EchoStar, and certain EchoStar subsidiaries.

During September 1998, WIC filed another lawsuit in the Court of Queen's Bench of Alberta Judicial District of Edmonton against certain defendants, including us. WIC is a company authorized to broadcast certain copyrighted work, such as movies and concerts, to residents of Canada. WIC alleges that the defendants engaged in, promoted, and/or allowed satellite dish equipment from the United States to be sold in Canada and to Canadian residents and that some of the defendants allowed and profited from Canadian residents purchasing and viewing subscription television programming that is only authorized for viewing in the United States. The lawsuit seeks, among other things, interim and permanent injunctions prohibiting the defendants from importing satellite receivers into Canada and from activating satellite receivers located in Canada to receive programming, together with damages in excess of \$175.0 million.

The Court in the Alberta action denied our motion to dismiss, and our appeal of that decision. The Federal action has been dismissed. We intend to continue to vigorously defend the suit. During 2002, the Supreme Court of Canada ruled that the receipt in Canada of programming from United States pay television providers is prohibited. While we were not a party to that case, the ruling could adversely affect our defense. It is too early to make an assessment of the probable outcome of the litigation or to determine the extent of any potential liability or damages.

Distant Network Litigation

Until July 1998, we obtained feeds of distant broadcast network channels (ABC, NBC, CBS and FOX) for distribution to our customers through PrimeTime 24. In December 1998, the United States District Court for the Southern District of Florida entered a nationwide permanent injunction requiring that provider to shut off distant network channels to many of its customers, and henceforth to sell those channels to consumers in accordance with the injunction.

In October 1998, we filed a declaratory judgment action against ABC, NBC, CBS and FOX in the United States District Court for the District of Colorado. We asked the Court to find that our method of providing distant network programming did not violate the Satellite Home Viewer Act and hence did not infringe the networks' copyrights. In November 1998, the networks and their affiliate association groups filed a complaint against us in Miami Federal Court 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 Federal Court.

In February 1999, the networks 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

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satellite. DirecTV settled that lawsuit with the networks. Under the terms of the settlement between DirecTV and the networks, some DirecTV customers were scheduled to lose access to their satellite-provided distant network channels by July 31, 1999, while other DirecTV customers were to be disconnected by December 31, 1999. Subsequently, substantially all providers of satellite-delivered network programming other than us agreed to this cut-off schedule, although we do not know if they adhered to this schedule.

In April 2002, we reached a private settlement with ABC, Inc., one of the plaintiffs in the litigation and jointly filed a stipulation of dismissal. In November 2002, we reached a private settlement with NBC, another of the plaintiffs in the litigation and jointly filed a stipulation of dismissal. We have also reached private settlements with a small number of independent stations and station groups. We were unable to reach a settlement with six of the original eight plaintiffs — CBS, Fox and the associations affiliated with each of the four networks.

The trial took place during April 2003 and the Court issued its final judgment in June 2003. The District Court found that with one exception our current distant network qualification procedures comply with the law. We have revised our procedures to comply with the District Court's Order. Although the plaintiffs asked the District Court to enter an injunction precluding us from selling any local or distant network programming, the District Court refused. While the networks did not claim monetary damages and none were awarded, they are seeking attorney fees in excess of \$6.0 million. In August 2003, CBS agreed to release and discharge us from any obligation to pay CBS' proportionate share of any fee award. It is too early to make an assessment of the probable outcome of the plaintiffs' fee petition.

However, the District Court's injunction requires us to use a computer model to requalify, as of June 2003, all of our subscribers who receive ABC, NBC, CBS or Fox programming by satellite from a market other than the city in which the subscriber lives. The Court also invalidated all waivers historically provided by network stations. These waivers, which have been provided by stations for the past several years through a third party automated system, allow subscribers who believe the computer model improperly disqualified them for distant network channels to none-the-less receive those channels by satellite. Further, even though the Satellite Home Viewer Improvement Act provides that certain subscribers who received distant network channels prior to October 1999 can continue to receive those channels through December 2004, the District Court terminated the right of our grandfathered subscribers to continue to receive distant network channels.

We believe the District Court made a number of errors and have appealed the District Court's decision. Plaintiffs have cross-appealed. The Court of Appeals granted our request to stay the injunction until our appeal is decided. The Court of Appeals also expedited consideration of our appeal and has set oral argument for the week of February 23, 2004. It is not possible to predict how or when the Court of Appeals will rule on the merits of our appeal.

In the event the Court of Appeals upholds the injunction, and if we do not reach private settlement agreements with additional stations, we will attempt to assist subscribers in arranging alternative means to receive network channels, including migration to local channels by satellite where available, and free off air antenna offers in other markets. However, we cannot predict with any degree of certainty how many subscribers will cancel their primary DISH Network programming as a result of termination of their distant network channels. We could be required to terminate distant network programming to all subscribers in the event the plaintiffs prevail on their cross-appeal and we are permanently enjoined from delivering all distant network channels. Termination of distant network programming to subscribers would result in a reduction in average monthly revenue per subscriber and a temporary increase in churn.

Gemstar

During October 2000, Starsight Telecast, Inc., a subsidiary of Gemstar-TV Guide International, Inc. ("Gemstar"), filed a suit for patent infringement against us and certain of our subsidiaries in the United States District Court for the Western District of North Carolina, Asheville Division. The suit alleges infringement of United States Patent No. 4,706,121 ("the `121 Patent") which relates to certain electronic program guide functions. We examined this patent

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and believe that it is not infringed by any of our products or services. This conclusion is supported by findings of the International Trade Commission (“ITC”) which are discussed below. The North Carolina case is stayed pending the appeal of the ITC action to the United States Court of Appeals for the Federal Circuit.

In December 2000, we filed suit against Gemstar-TV Guide (and certain of its subsidiaries) in the United States District Court for the District of Colorado alleging violations by Gemstar of various federal and state anti-trust laws and laws governing unfair competition. The lawsuit seeks an injunction and monetary damages. Gemstar filed counterclaims alleging infringement of United States Patent Nos. 5,923,362 and 5,684,525 that relate to certain electronic program guide functions. We examined these patents and believe they are not infringed by any of our products or services. In August 2001, the Federal Multi-District Litigation panel combined this suit, for pre-trial purposes, with other lawsuits asserting antitrust claims against Gemstar, which had previously been filed by other parties. In January 2002, Gemstar dropped the counterclaims of patent infringement. During March 2002, the Court denied Gemstar’s motion to dismiss our antitrust claims. In January 2003, the Court denied a more recently filed Gemstar motion for summary judgment based generally on lack of standing. In its answer, Gemstar asserted new patent infringement counterclaims regarding United States Patent Nos. 4,908,713 (“the ‘713 patent”) and 5,915,068 (“the ‘068 patent”, which is expired). These patents relate to on-screen programming of VCRs. We have examined these patents and believe that they are not infringed by any of our products or services. Recently, the Court granted our motions to dismiss both the ‘713 patent and the ‘068 Patent for lack of standing.

In February 2001, Gemstar filed patent infringement actions against us in the District Court in Atlanta, Georgia and with the ITC. These suits allege infringement of United States Patent Nos. 5,252,066, 5,479,268 and 5,809,204, all of which relate to certain electronic program guide functions. In addition, the ITC action alleged infringement of the `121 Patent which was also asserted in the North Carolina case previously discussed. In the Georgia district court case, Gemstar seeks damages and an injunction. The Georgia case was stayed pending resolution of the ITC action and remains stayed at this time. In December 2001, the ITC held a 15-day hearing before an administrative law judge. Prior to the hearing, Gemstar dropped its infringement allegations regarding United States Patent No. 5,252,066 with respect to which we had asserted substantial allegations of inequitable conduct. The hearing addressed, among other things, Gemstar’s allegations of patent infringement and respondents’ (SCI, Scientific Atlanta, Pioneer and us) allegations of patent misuse. During June 2002, the judge issued a Final Initial Determination finding that none of the patents asserted by Gemstar had been infringed. In addition, the judge found that Gemstar was guilty of patent misuse with respect to the `121 Patent and that the `121 Patent was unenforceable because it failed to name an inventor. The parties then filed petitions for the full ITC to review the judge’s Final Initial Determination. During August 2002, the full ITC adopted the judge’s findings regarding non-infringement and the unenforceability of the `121 Patent. The ITC did not adopt, but did not overturn, the judge’s findings of patent misuse. The ITC decision has been appealed to the United States Court of Appeals for the Federal Circuit. If the Federal Circuit were to overturn the judge’s decision, such an adverse decision in this case could temporarily halt the import of our receivers and could require us to materially modify certain user-friendly electronic programming guides and related features we currently offer to consumers. Based upon our review of these patents, and based upon the ITC’s decision, we continue to believe that these patents are not infringed by any of our products or services. We intend to continue to vigorously contest the ITC, North Carolina and Georgia suits and will, among other things, continue to challenge both the validity and enforceability of the asserted patents.

During 2000, Superguide Corp. (“Superguide”) also filed suit against us, DirecTV and others in the United States District Court for the Western District of North Carolina, Asheville Division, alleging infringement of United States Patent Nos. 5,038,211, 5,293,357 and 4,751,578 which relate to certain electronic program guide functions, including the use of electronic program guides to control VCRs. Superguide sought injunctive and declaratory relief and damages in an unspecified amount. It is our understanding that these patents may be licensed by Superguide to Gemstar. Gemstar was added as a party to this case and asserted these patents against us. We examined these patents and believe that they are not infringed by any of our products or services. A Markman ruling interpreting the patent claims was issued by the Court and in response to that ruling, we filed motions for summary judgment of non-infringement for each of the asserted patents. Gemstar filed a motion for summary judgment of infringement with respect to one of the patents. During July 2002, the Court issued a Memorandum of Opinion on the summary judgment

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motions. In its Opinion, the Court ruled that none of our products infringe the 5,038,211 and 5,293,357 patents. With respect to the 4,751,578 patent, the Court ruled that none of our current products infringed that patent and asked for additional information before it could rule on certain low-volume products that are no longer in production. During July 2002, the Court summarily ruled that the aforementioned low-volume products did not infringe any of the asserted patents. Accordingly, the Court dismissed the case and awarded us our court costs. Superguide and Gemstar are appealing this case to the United States Court of Appeals for the Federal Circuit. We will continue to vigorously defend this case. In the event the Federal Circuit ultimately determines that we infringe on any of the aforementioned patents, we may be subject to substantial damages, which may include treble damages and/or an injunction that could require us to materially modify certain user-friendly electronic programming guide and related features that we currently offer to consumers. It is too early to make an assessment of the probable outcome of the appeals.

California Actions

A purported class action was filed against us in the California State Superior Court for Alameda County during May 2001 by Andrew A. Werby. The complaint related to late fees, among other things. The matter was settled with no material impact on our business.

A purported class action relating to the use of terms such as “crystal clear digital video,” “CD-quality audio,” and “on-screen program guide,” and with respect to the number of channels available in various programming packages was also filed against us in the California State Superior Court for Los Angeles County in 1999 by David Pritikin and by Consumer Advocates, a nonprofit unincorporated association. The complaint alleges breach of express warranty and violation of the California Consumer Legal Remedies Act, Civil Code Sections 1750, et seq., and the California Business & Professions Code Sections 17500 & 17200. A hearing on the plaintiffs’ motion for class certification and our motion for summary judgment was held during June 2002. At the hearing, the Court issued a preliminary ruling denying the plaintiffs’ motion for class certification. However, before issuing a final ruling on class certification, the Court granted our motion for summary judgment with respect to all of the plaintiffs’ claims. Subsequently, we filed a motion for attorney’s fees which was denied by the Court. The plaintiffs filed a notice of appeal of the court’s granting of our motion for summary judgment and we cross-appealed the Court’s ruling on our motion for attorney’s fees. It is not possible to make a firm assessment of the probable outcome of the appeal or to determine the extent of any potential liability or damages.

State Investigation

During April 2002, two state attorneys general commenced a civil investigation concerning certain of our business practices. Over the course of the next six months, 11 additional states ultimately joined the investigation. The states alleged failure to comply with consumer protection laws based on our call response times and policies, advertising and customer agreement disclosures, policies for handling consumer complaints, issuing rebates and refunds and charging cancellation fees to consumers, and other matters. We cooperated fully in the investigation. During May 2003, we entered into an Assurance of Voluntary Compliance with the states which ended their investigation. The states have released all claims related to the matters investigated.

Retailer Class Actions

We have been sued by retailers in three separate purported class actions. During October 2000, two separate lawsuits were filed in the Arapahoe County District Court in the State of Colorado and the United States District Court for the District of Colorado, respectively, by Air Communication & Satellite, Inc. and John DeJong, et al. on behalf of themselves and a class of persons similarly situated. The plaintiffs are attempting to certify nationwide classes on behalf of certain of our satellite hardware retailers. The plaintiffs are requesting the Courts to declare certain provisions of, and changes to, alleged agreements between us and the retailers invalid and unenforceable, and to award damages for lost incentives and payments, charge backs, and other compensation. We are vigorously defending against the suits and have asserted a variety of counterclaims. The United States District Court for the District of Colorado stayed the Federal Court action to allow the parties to pursue a comprehensive adjudication of their dispute in the Arapahoe

ECHOSTAR COMMUNICATIONS CORPORATION
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County State Court. John DeJong, d/b/a Nexwave, and Joseph Kelley, d/b/a Keltronics, subsequently intervened in the Arapahoe County Court action as plaintiffs and proposed class representatives. We have filed a motion for summary judgment on all counts and against all plaintiffs. The plaintiffs have filed a motion for additional time to conduct discovery to enable them to respond to our motion. The Court has not ruled on either of the two motions. It is too early to make an assessment of the probable outcome of the litigation or to determine the extent of any potential liability or damages.

Satellite Dealers Supply, Inc. (“SDS”) filed a lawsuit against us in the United States District Court for the Eastern District of Texas during September 2000, on behalf of itself and a class of persons similarly situated. The plaintiff was attempting to certify a nationwide class on behalf of sellers, installers, and servicers of satellite equipment who contract with us and who allege that we: (1) charged back certain fees paid by members of the class to professional installers in violation of contractual terms; (2) manipulated the accounts of subscribers to deny payments to class members; and (3) misrepresented, to class members, the ownership of certain equipment related to the provision of our satellite television service. During September 2001, the Court granted our motion to dismiss. The plaintiff moved for reconsideration of the Court’s order dismissing the case. The Court denied the plaintiff’s motion for reconsideration. The trial court denied our motions for sanctions against SDS. Both parties have now perfected appeals before the Fifth Circuit Court of Appeals. The parties’ written briefs have been filed and oral argument was heard by the Court on August 4, 2003. It is not possible to make a firm assessment of the probable outcome of the appeals or to determine the extent of any potential liability or damages.

StarBand Shareholder Lawsuit

On August 20, 2002, a limited group of shareholders in StarBand filed an action in the Delaware Court of Chancery against EchoStar and EchoBand Corporation, together with four EchoStar executives who sat on the Board of Directors for StarBand, for alleged breach of the fiduciary duties of due care, good faith and loyalty, and also against EchoStar and EchoBand Corporation for aiding and abetting such alleged breaches. Two of the individual defendants, Charles W. Ergen and David K. Moskowitz, are members of our Board of Directors. The action stems from the defendants’ involvement as directors, and EchoBand’s position as a shareholder, in StarBand, a broadband Internet satellite venture in which we invested. On July 28, 2003, the Court granted the defendants’ motion to dismiss on all counts. The Plaintiffs have since filed a notice of appeal. It is not possible to make a firm assessment of the probable outcome of the appeal or to determine the extent of any potential liability or damages.

Shareholder Derivative Action

During October 2002, a purported shareholder filed a derivative action against members of our Board of Directors in the United States District Court of Clark County, Nevada and naming us as a nominal defendant. The complaint alleges breach of fiduciary duties, corporate waste and other unlawful acts relating to our agreement to (1) pay Hughes Electronics Corporation a \$600.0 million termination fee in certain circumstances and (2) acquire Hughes’ shareholder interest in PanAmSat. The agreements to pay the termination fee and acquire PanAmSat were required in the event that the merger with DirecTV was not completed by January 21, 2003. During July 2003, the individual Board of Director defendants were dismissed from the suit, and EchoStar was dismissed during August 2003. The plaintiff filed a motion for attorney’s fees. The Court granted our motion for summary judgment. The plaintiff did not file an appeal.

In addition to the above actions, we are subject to various other legal proceedings and claims which arise in the ordinary course of business. In our opinion, the amount of ultimate liability with respect to any of these actions is unlikely to materially affect our financial position, results of operations or liquidity.

9. Depreciation and Amortization Expense

Depreciation and amortization expense consists of the following:

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2002	2003	2002	2003
	(In thousands)		(In thousands)	
Satellites	\$ 31,945	\$ 35,556	\$ 92,148	\$107,569
Digital Home Plan equipment	35,159	37,928	93,943	110,747
Furniture, fixtures and equipment	25,303	23,082	67,337	69,054
Other amortizable intangibles	2,584	2,638	8,242	7,708
Buildings and improvements	862	1,130	2,496	2,955
Tooling and other	1,969	63	3,174	829
Depreciation and amortization expense	<u>\$ 97,822</u>	<u>\$ 100,397</u>	<u>\$ 267,340</u>	<u>\$298,862</u>

ECHOSTAR COMMUNICATIONS CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — Continued
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Cost of sales and operating expense categories included in our accompanying condensed consolidated statements of operations do not include depreciation expense related to satellites or digital home plan equipment.

10. Segment Reporting

Financial Data by Business Unit

Statement of Financial Accounting Standard No. 131, “Disclosures About Segments of an Enterprise and Related Information” (“FAS No. 131”) establishes standards for reporting information about operating segments in annual financial statements of public business enterprises and requires that those enterprises report selected information about operating segments in interim financial reports issued to shareholders. Operating segments are components of an enterprise about which separate financial information is available and regularly evaluated by the chief operating decision maker(s) of an enterprise. Under this definition, we currently operate as two business units, DISH Network and ETC. The “All other” category consists of revenue and expenses from other operating segments for which the disclosure requirements of FAS No. 131 do not apply.

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2002	2003	2002	2003
	(In thousands)		(In thousands)	
Revenue				
DISH Network	\$ 1,154,970	\$ 1,392,630	\$ 3,312,267	\$4,073,437
ETC	44,936	42,800	109,560	87,500
All other	24,782	18,890	78,955	71,474
Eliminations	(1,839)	(2,025)	(4,781)	(6,501)
Total revenue	\$ 1,222,849	\$ 1,452,295	\$ 3,496,001	\$4,225,910
Net income				
DISH Network	\$ (191,649)	\$ 22,881	\$ (210,335)	\$ 200,774
ETC	13,658	8,058	21,728	2,143
All other	10,042	4,177	22,512	18,909
Total net income	\$ (167,949)	\$ 35,116	\$ (166,095)	\$ 221,826

11. Subsequent Events

\$2.5 Billion Senior Notes Offering

On October 2, 2003, our subsidiary EDBS closed on the issuance and sale of: (i) \$1,000,000,000 principal amount of its 5 3/4% Senior Notes due October 1, 2008; (ii) \$1,000,000,000 principal amount of its 6 3/8% Senior Notes due October 1, 2011; and (iii) \$500,000,000 principal amount of its Floating Rate Senior Notes due October 1, 2008 (collectively, the “New DBS Notes”). All of the New DBS Notes were sold in a private placement to qualified institutional buyers in reliance on Rule 144A under the Securities Act of 1933.

ECHOSTAR COMMUNICATIONS CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — Continued
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Debt and Equity Buyback Programs

We intend to use the net proceeds from issuance of the New DBS Notes to repurchase or redeem all or a portion of EDBS' outstanding 9 3/8% Senior Notes due 2009 and other outstanding debt securities and for general corporate purposes. In addition, our board of directors has authorized the repurchase of an aggregate of up to \$1.0 billion of our Class A Common Stock, and we also previously announced that our board of directors has authorized the repurchase or redemption of an aggregate of up to \$1.0 billion principal amount of our and/or EDBS' outstanding debt securities.

We may make repurchases of our Class A Common Stock and debt securities, including debt securities of EDBS, through open market purchases or privately negotiated transactions subject to market conditions and other factors. Our repurchase programs do not require us to acquire any specific number or amount of securities and any of those programs may be terminated at any time. We may enter into Rule 10b5-1 plans from time to time to facilitate repurchases of our securities.

We will record premiums we pay and unamortized debt issuance costs associated with our debt repurchases and redemptions as charges to earnings during the quarterly periods in which such repurchases occur. These charges will have a negative impact on our reported net income for the fourth quarter of 2003 and for other periods during which we repurchase debt securities.

Redemption of 4 7/8% Convertible Subordinated Notes due 2007

On October 20, 2003, we retired the \$1.0 billion principal amount of our outstanding 4 7/8% Convertible Subordinated Notes due 2007. In accordance with the terms of the indenture governing the notes, the \$1.0 billion outstanding principal amount of the notes was repurchased at a redemption price of 102.786% of such amount, for a total redemption payment of approximately \$1.03 billion. The premium paid of approximately \$27.9 million and unamortized debt issuance costs of approximately \$9.1 million were recorded as charges to earnings.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Principal Business

The operations of EchoStar Communications Corporation ("ECC", and together with its subsidiaries or referring to particular subsidiaries in certain circumstances, "EchoStar", the "Company", "we", "us", and/or "our") include two interrelated business units:

- *The DISH Network* — which provides a direct broadcast satellite subscription television service we refer to as "DBS" in the United States; and
- *EchoStar Technologies Corporation* ("ETC") — which designs and develops DBS set-top boxes, antennae and other digital equipment for the DISH Network. We refer to this equipment collectively as "EchoStar receiver systems." ETC also designs, develops and distributes similar equipment for international satellite service providers.

Since 1994, we have deployed substantial resources to develop the "EchoStar DBS System." The EchoStar DBS System consists of our FCC-allocated DBS spectrum, nine in-orbit satellites ("EchoStar I" through "EchoStar IX"), EchoStar receiver systems, digital broadcast operations centers, customer service facilities, and other assets utilized in our operations. Our principal business strategy is to continue developing our subscription television service in the United States to provide consumers with a fully competitive alternative to cable television service.

Results of Operations

Three Months Ended September 30, 2003 Compared to the Three Months Ended September 30, 2002.

Total revenue. "Total revenue" for the three months ended September 30, 2003 was \$1.45 billion, an increase of \$229.4 million or 18.8% compared to the three months ended September 30, 2002. This increase was attributable to continued DISH Network subscriber growth and increased monthly average revenue per subscriber. The increase was partially offset by decreases in "DTH equipment sales" (discussed below) and "Other revenue".

Subscription television services. "Subscription television services revenue" consists principally of revenue from basic, premium, local, international and pay-per-view subscription television services. "Subscription television services revenue" totaled \$1.36 billion for the three months ended September 30, 2003, an increase of \$242.9 million or 21.7% compared to the same period in 2002. This increase was attributable to continued DISH Network subscriber growth and an increase in monthly average revenue per subscriber, discussed below. DISH Network added approximately 285,000 net new subscribers for the three months ended September 30, 2003 compared to approximately 320,000 net new subscribers added during the same period in 2002. As of September 30, 2003, we had approximately 9.085 million DISH Network subscribers compared to approximately 7.78 million at September 30, 2002, an increase of approximately 16.8%. "Subscription television services revenue" will continue to increase to the extent we are successful in increasing the number of DISH Network subscribers and maintaining or increasing revenue per subscriber. Subscriber additions during the three months ended September 30, 2003 were negatively impacted by, among other things, delays in delivery of several newly developed products. Significant deployment of these products is expected late in the fourth quarter of 2003 and should be completed during the first quarter of 2004.

Monthly average revenue per subscriber. Monthly average revenue per subscriber was approximately \$50.79 during the three months ended September 30, 2003 and approximately \$49.04 during the same period in 2002. This increase was attributable to price increases in March 2003 and an increase in the number of subscribers with multiple set-top boxes, partially offset by an increase in the amount of free and discounted programming offered during the three months ended September 30, 2003 compared to the same period in 2002. During the three months ended September 30, 2003, monthly average revenue per subscriber was also negatively impacted by promotions which offer free or discounted programming. Monthly average revenue per subscriber will be adversely affected in any future periods to the extent we continue or expand our free or discounted programming promotions.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS — Continued

Impacts from our litigation with the networks in Florida, FCC rules governing the delivery of superstations and other factors could cause us to terminate delivery of network channels and superstations to a substantial number of our subscribers, which could cause many of those customers to cancel their subscription to our other services. In the event the Court of Appeals upholds the Miami District Court's network litigation injunction, and if we do not reach private settlement agreements with additional stations, we will attempt to assist subscribers in arranging alternative means to receive network channels, including migration to local channels by satellite where available, and free off air antenna offers in other markets. However, we cannot predict with any degree of certainty how many subscribers might ultimately cancel their primary DISH Network programming as a result of termination of their distant network channels. We could be required to terminate distant network programming to all subscribers in the event the plaintiffs prevail on their cross-appeal and we are permanently enjoined from delivering all distant network channels. Termination of distant network programming to subscribers would result in a reduction in average monthly revenue per subscriber and a temporary increase in churn.

In April 2002, the FCC concluded that our "must carry" implementation methods were not in compliance with the "must carry" rules. If the FCC finds our subsequent remedial actions unsatisfactory, while we would attempt to continue providing local network channels in all markets without interruption, we could be forced by capacity constraints to reduce the number of markets in which we provide local channels. This could cause a temporary increase in churn and a small reduction in average monthly revenue per subscriber.

DTH equipment sales. "DTH equipment sales" consist of sales of digital set-top boxes by our ETC subsidiary to Bell ExpressVu, a subsidiary of Bell Canada, Canada's national telephone company. "DTH equipment sales" also include sales of DBS accessories in the United States. For the three months ended September 30, 2003, "DTH equipment sales" totaled \$70.3 million, a decrease of \$6.2 million compared to the same period during 2002. This decrease resulted from both lower sales of digital set-top boxes to Bell ExpressVu and a decrease in sales of DBS accessories.

Subscriber-related expenses. "Subscriber-related expenses" include costs incurred in the operation of our DISH Network customer service centers, programming expenses, copyright royalties, residual commissions, and billing, lockbox and other variable subscriber expenses. "Subscriber-related expenses" totaled \$683.9 million during the three months ended September 30, 2003, an increase of \$106.2 million compared to the same period in 2002. This increase is primarily attributable to the increase in DISH Network subscribers. These expenses represent 50.2% and 51.6% of "Subscription television services revenue" during the three months ended September 30, 2003 and 2002, respectively. The decrease in "Subscriber-related expenses" as a percentage of "Subscription television services revenue" primarily resulted from the increase in monthly average revenue per subscriber discussed above and increased operating efficiencies. Our "Subscriber-related expenses" as a percentage of "Subscription television service revenue" during the three months ended September 30, 2003 were negatively impacted by promotions which offer free or discounted programming.

During the three months ended March 31, 2003, we combined the line item on our Condensed Consolidated Statement of Operations captioned "Subscriber-related expenses" with the previously included line item captioned "Customer service center and other". In addition, at that time we reclassified certain amounts between categories on the Condensed Consolidated Statement of Operations. All prior period amounts have been reclassified to conform to the current year presentation. None of these changes had any impact on "Operating income" or "Net income".

Satellite and transmission expenses. "Satellite and transmission expenses" include expenses associated with the operation of our digital broadcast centers and contracted satellite telemetry, tracking and control services. "Satellite and transmission expenses" totaled \$21.9 million during the three months ended September 30, 2003, a \$5.7 million increase compared to the same period in 2002. This increase primarily resulted from launch and operational costs associated with the increasing number of markets in which we offer local network channels by satellite. "Satellite and transmission expense" totaled 1.6% and 1.5% of "Subscription television services revenue" during the three months ended September 30, 2003 and 2002, respectively. These expenses will increase further in the future as additional satellites are placed in service, additional local markets are launched, to the extent we successfully obtain commercial in-orbit insurance and to the extent we increase the operations at our digital broadcast centers in order, among other reasons, to meet the demands of current "must carry" requirements.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS — Continued

Cost of sales — DTH equipment. “Cost of sales — DTH equipment” principally includes costs associated with digital set-top boxes and related components sold to an international DTH operator and sales of DBS accessories. “Cost of sales — DTH equipment” totaled \$43.7 million during the three months ended September 30, 2003, an increase of \$3.3 million compared to the same period in 2002. This increase resulted from a \$5.0 million non-recurring reduction in the cost of set-top box equipment during the three months ended September 30, 2002, partially offset by a decrease in the sale of digital set-top boxes to Bell ExpressVu and a decrease in sales of DBS accessories. “Cost of sales — DTH equipment” represented 62.1% and 52.8% of “DTH equipment sales” during the three months ended September 30, 2003 and 2002, respectively.

Subscriber acquisition costs. Generally, under most promotions, we subsidize the installation and all or a portion of the cost of EchoStar receiver systems in order to attract new DISH Network subscribers. There is no clear industry standard used in the calculation of subscriber acquisition costs. Our subscriber acquisition costs include “Cost of sales — subscriber promotion subsidies”, “Other subscriber promotion subsidies” and “Subscriber acquisition advertising expense”. “Cost of sales — subscriber promotion subsidies” includes the cost of EchoStar receiver systems sold to retailers and other distributors of our equipment and receiver systems sold directly by us to subscribers. “Other subscriber promotion subsidies” include net costs related to our free installation promotions and other promotional incentives. During the three months ended March 31, 2003, certain amounts previously included in “Subscriber acquisition costs” were reclassified to “Subscriber-related expenses” on the Condensed Consolidated Statements of Operations. All prior period amounts have been reclassified to conform with the current year presentation. None of these changes had any impact on “Operating income” or “Net income”.

During the three months ended September 30, 2003, our subscriber acquisition costs totaled approximately \$346.5 million, or approximately \$466 per new subscriber activation. Comparatively, our subscriber acquisition costs during the three months ended September 30, 2002 totaled approximately \$297.7 million, or approximately \$413 per new subscriber activation. The relative increase resulted primarily from a non-recurring reduction in the cost of set-top box equipment of approximately \$31.0 million during the three months ended September 30, 2002. To a lesser extent, the sale of equipment at little or no cost to the subscriber, including our new promotion in which subscribers are eligible to receive up to three free receivers or a free digital video recorder, together with a corresponding decrease in subscriber equipment leases, contributed to the increase. These increases were partially offset by a decrease in “Subscriber acquisition advertising expense”. Our subscriber acquisition costs, both in the aggregate and on a per-new-subscriber activation basis, may materially increase in the future to the extent that we introduce more aggressive promotions to respond to competition, or for other reasons.

We exclude equipment capitalized under our lease promotion from our calculation of subscriber acquisition costs. We also exclude payments and certain returned equipment received from disconnecting lease promotion subscribers from our calculation of subscriber acquisition costs. Equipment capitalized under our lease promotion totaled approximately \$31.0 million and \$74.3 million for the three months ended September 30, 2003 and 2002, respectively. Returned equipment received from disconnecting lease promotion subscribers, which became available for sale rather than being redeployed through the lease promotion, together with payments received in connection with equipment not returned, totaled approximately \$5.1 million and \$9.5 million during the three months ended September 30, 2003 and 2002, respectively. This decrease resulted from a greater percentage of returned leased equipment being redeployed to new lease customers and relatively less of that equipment being offered for sale as remanufactured equipment.

General and administrative expenses. “General and administrative expenses” totaled \$86.6 million during the three months ended September 30, 2003, an increase of \$5.4 million compared to the same period in 2002. This increase was principally attributable to increased personnel and infrastructure expenses to support the growth of the DISH Network. “General and administrative expenses” represented 6.0% of “Total revenue” during the three months ended September 30, 2003 as compared to 6.6% during the three months ended September 30, 2002. This decrease in “General and administrative expenses” as a percent of “Total revenue” was the result of increased operational efficiencies.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS — Continued

During the first quarter 2003, certain amounts previously included in "General and administrative expenses" were reclassified to "Subscriber-related expenses" on the Condensed Consolidated Statements of Operations. All prior period amounts have been reclassified to conform to the current year presentation. None of these changes had any impact on "Operating income" or "Net income".

Non-cash, Stock-based Compensation. During 1999, we adopted an incentive plan under our 1995 Stock Incentive Plan, which provided certain key employees with incentives including stock options. During the three months ended September 30, 2003 and 2002, we recognized approximately \$1.1 million and \$3.7 million, respectively, of compensation under this performance-based plan. This decrease was primarily attributable to stock option forfeitures resulting from employee terminations. The remaining deferred compensation of \$2.9 million as of September 30, 2003, which will be reduced by future forfeitures, if any, will be recognized over the remaining vesting period, ending on March 31, 2004.

We report all non-cash compensation based on stock option appreciation as a single-expense category in our accompanying statements of operations. The following table indicates the other expense categories in our statements of operations that would be affected if non-cash, stock-based compensation was allocated to the same expense categories as the base compensation for key employees who participate in the 1999 incentive plan.

	For the Three Months Ended September 30,	
	2003	2002
	(In thousands)	
Subscriber-related	\$ 73	\$ 182
Satellite and transmission	90	183
General and administrative	920	3,357
	<u>\$ 1,083</u>	<u>\$ 3,722</u>

In addition, options to purchase 8.1 million shares were outstanding under our long term incentive plan as of September 30, 2003. These options were granted with exercise prices at least equal to the market value of the underlying shares on the dates they were issued during 1999, 2000 and 2001. The weighted-average exercise price of these options is \$9.06. Vesting of these options is contingent upon meeting certain longer-term goals which have not yet been achieved. Consequently, no compensation was recorded during the three months ended September 30, 2003 related to these long-term options. We will record the related compensation at the achievement, if ever, of the performance goals. Such compensation, if recorded, would likely result in material non-cash, stock-based compensation expense in our statements of operations.

Depreciation and Amortization. "Depreciation and amortization expense" totaled \$100.4 million during the three months ended September 30, 2003, a \$2.6 million increase compared to the same period in 2002. This increase primarily resulted from an increase in depreciation related to the commencement of commercial operation of EchoStar VIII in October 2002 and leased equipment and other depreciable assets placed in service during 2002 and 2003.

Other Income (Expense). "Other expense", net, totaled \$122.0 million during the three months ended September 30, 2003 compared to \$264.5 million in the same period in 2002. The change was primarily attributable to the absence during 2003 of any "Change in valuation of contingent value rights", which totaled \$134.5 million during the three months ended September 30, 2002. The absence during 2003 was a result of the repurchase of our Series D convertible preferred stock during the fourth quarter of 2002. This change also resulted from a decrease in "Other" of \$40.7 million primarily related to losses on impairments of strategic investments recorded in the third quarter of 2002. This change was partially offset by an increase in "Interest expense" of approximately \$25.3 million related to the partial redemption of our 9 1/8% Senior Notes due in 2009 in September 2003 offset by the decrease in interest expense of \$8.7 million related to the redemption of the 9 1/4 % Senior Notes due in 2006 in February 2003. "Interest income" decreased primarily as a result of lower returns realized on cash balances in 2003 as compared to 2002.

Item 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS — Continued

Earnings Before Interest, Taxes, Depreciation and Amortization. EBITDA is defined as “Net income (loss)” plus “Interest expense” net of “Interest income”, “Taxes” and “Depreciation and amortization”. Effective January 1, 2003, we include “Non-cash, stock-based compensation expense” in our definition of EBITDA. Effective April 1, 2003, we include “Other income and expense” items and “Change in valuation of contingent value rights” in our definition of EBITDA. All prior amounts conform to the current presentation. EBITDA was \$261.0 million during the three months ended September 30, 2003, compared to \$18.6 million during the same period in 2002. The improvement is primarily attributable to the decrease in “Change in valuation of contingent value rights” of \$134.5 million and the decrease in “Other expense” of \$40.7 million (discussed above) as well as the increase in the number of DISH Network subscribers, which continues to result in revenue sufficient to support the cost of new and existing subscribers. The improvement was partially offset by a decrease in subscribers leasing equipment and a corresponding increase in equipment subsidies compared to the same period in 2002, as well as a decrease in “DTH equipment sales”. EBITDA does not include the impact of capital expenditures under our lease promotion of approximately \$31.0 million and \$74.3 million during the three months ended September 30, 2003 and 2002, respectively. As previously discussed, to the extent we introduce more aggressive marketing promotions and our subscriber acquisition costs materially increase, our EBITDA results will be negatively impacted because subscriber acquisition costs are generally expensed as incurred.

The following table reconciles EBITDA to Net income (loss):

	For the Three Months Ended September 30,	
	2003	2002
	(In thousands)	
EBITDA	\$ 260,953	\$ 18,600
Less:		
Interest expense, net	122,045	89,363
Income tax provision (benefit), net	3,395	(636)
Depreciation and amortization	100,397	97,822
Net income (loss)	\$ 35,116	\$ (167,949)

EBITDA is not a measure determined in accordance with accounting principles generally accepted in the United States, or GAAP, and should not be considered a substitute for operating income, net income or any other measure determined in accordance with GAAP. EBITDA is used as a measurement of operating efficiency and overall financial performance and we believe it to be a helpful measure for those evaluating companies in the multi-channel video programming distribution industry. Conceptually, EBITDA measures the amount of income generated each period that could be used to service debt, pay taxes and fund capital expenditures. EBITDA should not be considered in isolation or as a substitute for measures of performance prepared in accordance with GAAP.

Net income (loss). “Net income” was \$35.1 million during the three months ended September 30, 2003, an improvement of \$203.1 million compared to the same period in 2002. The improvement was primarily attributable to a decrease in “Other income and expense” and an increase in “Operating income”, the components of which are discussed above.

Net income (loss) available (attributable) to common shareholders. “Net income available to common shareholders” was \$35.1 million during the three months ended September 30, 2003, an increase of \$203.1 million compared to the same period in 2002. The increase was attributable to the improvement in “Net income (loss)” discussed above.

Nine Months Ended September 30, 2003 Compared to the Nine Months Ended September 30, 2002.

Total revenue. “Total revenue” for the nine months ended September 30, 2003 was \$4.23 billion, an increase of \$729.9 million or 20.9% compared to the nine months ended September 30, 2002. This increase was attributable to

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS — Continued

continued DISH Network subscriber growth and increased monthly average revenue per subscriber. The increase was partially offset by decreases in "DTH equipment sales" (discussed below) and "Other revenue".

Subscription television services. "Subscription television services revenue" totaled \$3.99 billion for the nine months ended September 30, 2003, an increase of \$785.7 million or 24.5% compared to the same period in 2002. This increase was attributable to continued DISH Network subscriber growth and an increase in monthly average revenue per subscriber.

DTH equipment sales. For the nine months ended September 30, 2003, "DTH equipment sales" totaled \$161.9 million, a decrease of \$39.9 million compared to the same period during 2002. This decrease resulted from both lower sales of digital set-top boxes to Bell ExpressVu and a decrease in sales of DBS accessories.

Subscriber-related expenses. "Subscriber-related expenses" totaled \$1.97 billion during the nine months ended September 30, 2003, an increase of \$341.4 million compared to the same period in 2002. This increase is primarily attributable to the increase in DISH Network subscribers. These expenses represented 49.4% and 50.8% of "Subscription television services revenue" during the nine months ended September 30, 2003 and 2002, respectively. The decrease in "Subscriber-related expenses" as a percentage of "Subscription television services revenue" primarily resulted from the increase in monthly average revenue per subscriber and increased operating efficiencies.

Satellite and transmission expenses. "Satellite and transmission expenses" totaled \$54.3 million during the nine months ended September 30, 2003, a \$9.4 million increase compared to the same period in 2002. This increase primarily resulted from launch and operational costs associated with the increasing number of markets in which we offer local network channels by satellite. "Satellite and transmission expenses" totaled 1.4% of "Subscription television services revenue" during each of the nine months ended September 30, 2003 and 2002.

Cost of sales — DTH equipment. "Cost of sales — DTH equipment" totaled \$105.0 million during the nine months ended September 30, 2003, a decrease of \$18.9 million compared to the same period in 2002. This decrease related primarily to a decrease in sales of digital set-top boxes to Bell ExpressVu and a decrease in sales of DBS accessories. This decrease was partially offset by the \$6.5 million non-recurring reduction in the cost of set-top box equipment during the nine months ended September 30, 2002. "Cost of sales — DTH equipment" represented 64.9% and 61.4% of "DTH equipment sales" during the nine months ended September 30, 2003 and 2002, respectively.

Subscriber acquisition costs. During the nine months ended September 30, 2003, our subscriber acquisition costs totaled approximately \$940.4 million, or approximately \$441 per new subscriber activation. Comparatively, our subscriber acquisition costs during the nine months ended September 30, 2002 totaled approximately \$812.4 million, or approximately \$409 per new subscriber activation. The relative increase resulted from a non-recurring reduction in the cost of set-top box equipment of approximately \$47.7 million during the nine months ended September 30, 2002, and also from sales of equipment at little or no cost to the subscriber, together with a corresponding decrease in subscriber equipment leases. Subscriber acquisition costs during the nine months ended September 30, 2003 include a benefit of approximately \$34.4 million primarily related to the receipt of a reimbursement payment for previously sold set-top box equipment pursuant to a litigation settlement.

We exclude equipment capitalized under our lease promotion from our calculation of subscriber acquisition costs. We also exclude payments and certain returned equipment received from disconnecting lease promotion subscribers from our calculation of subscriber acquisition costs. Equipment capitalized under our lease promotion totaled approximately \$86.6 million and \$239.8 million for the nine months ended September 30, 2003 and 2002, respectively. Returned equipment received from disconnecting lease promotion subscribers, which became available for sale rather than being redeployed through the lease promotion, together with payments received in connection with equipment not returned, totaled approximately \$16.3 million and \$30.4 million during the nine months ended September 30, 2003 and 2002, respectively. This decrease resulted from a greater percentage of returned leased equipment being redeployed to new lease customers and relatively less of that equipment being offered for sale as remanufactured equipment.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS — Continued

General and administrative expenses. "General and administrative expenses" totaled \$258.1 million during the nine months ended September 30, 2003, an increase of \$27.6 million compared to the same period in 2002. This increase was principally attributable to increased personnel and infrastructure expenses to support the growth of the DISH Network. "General and administrative expenses" represented 6.1% of "Total revenue" during the nine months ended September 30, 2003 as compared to 6.6% during the nine months ended September 30, 2002. This decrease in "General and administrative expenses" as a percent of "Total revenue" was the result of increased operational efficiencies.

Non-cash, Stock-based Compensation. During 1999, we adopted an incentive plan under our 1995 Stock Incentive Plan that provided certain key employees with incentives including stock options. During the nine months ended September 30, 2003 and 2002, we recognized approximately \$2.9 million and \$7.6 million, respectively, of compensation under this performance-based plan. This decrease was primarily attributable to stock option forfeitures resulting from employee terminations. The remaining deferred compensation of \$2.9 million as of September 30, 2003, which will be reduced by future forfeitures, if any, will be recognized over the remaining vesting period, ending on March 31, 2004.

We report all non-cash compensation based on stock option appreciation as a single-expense category in our accompanying statements of operations. The following table indicates the other expense categories in our statements of operations that would be affected if non-cash, stock-based compensation was allocated to the same expense categories as the base compensation for key employees who participate in the 1999 incentive plan.

	For the Nine Months Ended September 30,	
	2003	2002
	(In thousands)	
Subscriber-related	\$ (38)	\$ 547
Satellite and transmission	269	(189)
General and administrative	2,624	7,199
	\$ 2,855	\$ 7,557

Depreciation and Amortization. "Depreciation and amortization expense" totaled \$298.9 million during the nine months ended September 30, 2003, a \$31.5 million increase compared to the same period in 2002. This increase primarily resulted from an increase in depreciation related to the commencement of commercial operation of EchoStar VII in April 2002, commencement of commercial operations of EchoStar VIII in October 2002 and leased equipment and other depreciable assets placed in service during 2002 and 2003.

Other Income (Expense). "Other expense", net, totaled \$328.6 million during the nine months ended September 30, 2003, compared to \$493.8 in the same period in 2002. The change was primarily attributable to the absence during 2003 of any "Change in valuation of contingent value rights", which totaled \$139.9 million during the nine months ended September 30, 2002. The absence during 2003 was a result of the repurchase of our Series D convertible preferred stock during the fourth quarter of 2002. The change also resulted from a \$79.4 million decrease in "Other expense" primarily related to losses on investments recorded during the nine months ended September 30, 2002. This change was partially offset by an increase in interest expense as a result of the \$25.3 million impact of the partial redemption of our 9 1/8% Senior Notes due 2009, partially offset by a \$13.9 million reduction in the amount of interest capitalized during the nine months ended September 30, 2003 as compared to the same period in 2002. Interest is capitalized during the construction phase of a satellite and ceases to be capitalized upon commercial operation of the satellite. Therefore, once EchoStar VII and EchoStar VIII commenced commercial operation during April 2002 and October 2002, respectively, we ceased capitalizing interest related to these satellites. The expensing of this previously capitalized interest resulted in an increase in "Interest expense" which was also partially offset by the cessation of interest costs related to our merger financing activities. "Interest income" decreased primarily as a result of lower returns realized on cash balances in 2003 as compared to 2002.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS — Continued

Earnings Before Interest, Taxes, Depreciation and Amortization. EBITDA is defined as "Net income (loss)" plus "Interest expense" net of "Interest income", "Taxes" and "Depreciation and amortization". Effective January 1, 2003, we include "Non-cash, stock-based compensation expense" in our definition of EBITDA. Effective April 1, 2003, we include "Other income and expense" items and "Change in valuation of contingent value rights" in our definition of EBITDA. All prior amounts conform to the current presentation. EBITDA was \$862.3 million during the nine months ended September 30, 2003, compared to \$386.9 million during the same period in 2002. The improvement was primarily attributable to the decrease in the "Change in valuation of contingent value rights" of \$139.9 million and from a reduction in "Other expense" totaling \$79.4 million (discussed above) as well as the increase in the number of DISH Network subscribers, which continues to result in revenue sufficient to support the cost of new and existing subscribers. The improvement was partially offset by a decrease in subscribers leasing equipment and a corresponding increase in equipment subsidies compared to the same period in 2002, as well as a decrease in "DTH equipment sales". EBITDA does not include the impact of capital expenditures under our lease promotion of approximately \$86.6 million and \$239.8 million during the nine months ended September 30, 2003 and 2002, respectively.

The following table reconciles EBITDA to Net income (loss):

	For the Nine Months Ended September 30,	
	2003	2002
	(In thousands)	
EBITDA	\$ 862,258	\$ 386,867
Less:		
Interest expense, net	329,786	275,739
Income tax provision, net	11,784	9,883
Depreciation and amortization	298,862	267,340
Net income (loss)	<u>\$ 221,826</u>	<u>\$ (166,095)</u>

EBITDA is not a measure determined in accordance with accounting principles generally accepted in the United States, or GAAP, and should not be considered a substitute for operating income, net income or any other measure determined in accordance with GAAP. EBITDA is used as a measurement of operating efficiency and overall financial performance and we believe it to be a helpful measure for those evaluating companies in the multi-channel video programming distribution industry. Conceptually, EBITDA measures the amount of income generated each period that could be used to service debt, pay taxes and fund capital expenditures. EBITDA should not be considered in isolation or as a substitute for measures of performance prepared in accordance with GAAP.

Net income (loss). "Net income" was \$221.8 million during the nine months ended September 30, 2003, an improvement of \$387.9 million compared to the same period in 2002. The improvement was primarily attributable to an increase in "Operating income" and a decrease in "Other income and expense", the components of which are discussed above.

Net income (loss) available (attributable) to common shareholders. "Net income available to common shareholders" was \$221.8 million during the nine months ended September 30, 2003, an increase of \$449.8 million compared to the same period in 2002. The improvement was primarily attributable to the increase in "Net income (loss)" discussed above. In addition, "Net income (loss) available (attributable) to common shareholders" during the nine months ended September 30, 2002 was negatively impacted by a one-time beneficial conversion feature charge associated with issuance of our Series D convertible preferred stock. Our Series D convertible preferred stock was subsequently repurchased during December 2002.

LIQUIDITY AND CAPITAL RESOURCES**Cash Sources**

As of September 30, 2003, our restricted and unrestricted cash, cash equivalents and marketable investment securities totaled \$3.19 billion, including \$127.1 million of cash reserved for satellite insurance and approximately \$9.9 million

Item 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS — Continued

of other restricted cash, compared to \$2.85 billion, including \$151.4 million of cash reserved for satellite insurance and \$10.0 million of other restricted cash, as of December 31, 2002. For the nine months ended September 30, 2003 and 2002, we reported “Net cash flows from operating activities” of \$651.9 million and \$463.3 million, respectively.

Free Cash Flow

We define free cash flow as “Net cash flows from operating activities” less “Purchases of property and equipment”, as shown on our Condensed Consolidated Statements of Cash Flows. We believe free cash flow is an important metric because it measures during a given period the amount of cash generated that is available for debt obligations and investments other than purchases of property and equipment. Free cash flow is not a measure determined in accordance with accounting principles generally accepted in the United States, or GAAP, and should not be considered a substitute for “Operating income”, “Net income”, “Net cash flows from operating activities” or any other measure determined in accordance with GAAP. We believe this non-GAAP liquidity measure is useful in addition to the most directly comparable GAAP measure of “Net cash flows from operating activities” because free cash flow includes investments in operational assets. Free cash flow does not represent residual cash available for discretionary expenditures, since it excludes cash required for debt service. Free cash flow also excludes cash which may be necessary for acquisitions, investments and other needs that may arise.

Free cash flow was \$410.2 million and \$107.2 million for the nine months ended September 30, 2003 and 2002, respectively. The increase of approximately \$303.0 million from the same period in 2002 resulted from a decrease in “Purchases of property and equipment” of approximately \$114.4 million and an increase in “Net cash flows from operating activities” of approximately \$188.6 million. The decrease in “Purchases of property and equipment” was primarily attributable to reduced spending on the construction of satellites and the capitalization of less equipment under our lease promotion. The increase in “Net cash flows from operating activities” is primarily related to an improvement in net income (as discussed in Management’s Discussion and Analysis of Financial Condition and Results of Operations) and greater cash flow generated from changes in working capital for the nine months ended September 30, 2003 compared to the same period in 2002. Additionally, our free cash flow during the nine months ended September 30, 2003 benefited from a non-recurring \$30.0 million prepayment received for services to be provided to third parties, which will be substantially offset by expenditures in future periods. This improvement was partially offset by a \$50.0 million satellite deposit paid to SES Americom in 2003 that is included in “Other non-current assets” (see Note 8 to the Condensed Consolidated Financial Statements for further discussion). The following table reconciles free cash flow to “Net cash flows from operating activities”.

	For the Nine Months Ended September 30,	
	2003	2002
	(In thousands)	
Free cash flow	\$ 410,200	\$ 107,200
Add back:		
Purchases of property and equipment	241,688	356,087
Net cash flows from operating activities	<u>\$ 651,888</u>	<u>\$ 463,287</u>

During the nine months ended September 30, 2003 and 2002, free cash flow was positively impacted by significant changes in operating assets and liabilities as shown in the “Net cash flows from operating activities” section of our Condensed Consolidated Statements of Cash Flows included herein. Operating asset and liability balances can fluctuate significantly from period to period and there can be no assurance that free cash flow will not be negatively impacted by material changes in operating assets and liabilities in future periods, since these changes depend upon, among other things, management’s timing of payments and receipts and inventory levels. In addition to fluctuations resulting from changes in operating assets and liabilities, free cash flow can vary significantly from period to period depending upon, among other things, subscriber growth, subscriber revenue, subscriber churn, operating efficiencies, increases or decreases in purchases of property and equipment and other factors.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS — Continued

Seasonal inventory increases, together with our transition during the fourth quarter of 2003 to an inventory including newly developed products, will result in increased total inventory during that period. This inventory increase, together with increased capital expenditures, premiums we pay in connection with our debt repurchase and redemption programs and other factors, could result in negative free cash flow for the fourth quarter of 2003.

Impacts from our litigation with the networks in Florida, FCC rules governing the delivery of superstations and other factors could cause us to terminate delivery of network channels and superstations to a substantial number of our subscribers, which could cause many of those customers to cancel their subscription to our other services. In the event the Court of Appeals upholds the Miami District Court's network litigation injunction, and if we do not reach private settlement agreements with additional stations, we will attempt to assist subscribers in arranging alternative means to receive network channels, including migration to local channels by satellite where available, and free off air antenna offers in other markets. However, we cannot predict with any degree of certainty how many subscribers might ultimately cancel their primary DISH Network programming as a result of termination of their distant network channels. We could be required to terminate distant network programming to all subscribers in the event the plaintiffs prevail on their cross-appeal and we are permanently enjoined from delivering all distant network channels. Termination of distant network programming to subscribers would result in a reduction in average monthly revenue per subscriber and a temporary increase in churn. Our future capital expenditures could increase or decrease depending on the strength of the economy, strategic opportunities or other factors.

Investment Securities

We currently classify all marketable investment securities as available-for-sale. In accordance with generally accepted accounting principles, we adjust the carrying value of our available-for-sale marketable investment securities to fair market value and report the related temporary unrealized gains and losses as a separate component of stockholders' deficit, net of related deferred income tax, if applicable. Declines in the fair market value of a marketable investment security which are estimated to be "other than temporary" must be recognized in the statement of operations, thus establishing a new cost basis for such investment. We evaluate our marketable investment securities portfolio on a quarterly basis to determine whether declines in the market value of these securities are other than temporary. This quarterly evaluation consists of reviewing, among other things, the fair value of our marketable investment securities compared to the carrying value of these securities, the historical volatility of the price of each security and any market and company specific factors related to each security. Generally, absent specific factors to the contrary, declines in the fair value of investments below cost basis for a period of less than six months are considered to be temporary. Declines in the fair value of investments for a period of six to nine months are evaluated on a case by case basis to determine whether any company or market-specific factors exist which would indicate that such declines are other than temporary. Declines in the fair value of investments below cost basis for greater than nine months are considered other than temporary and are recorded as charges to earnings, absent specific factors to the contrary.

As of September 30, 2003, we recorded unrealized gains of approximately \$44.7 million as a separate component of stockholders' deficit. During the nine months ended September 30, 2003, we also recorded an aggregate charge to earnings for other than temporary declines in the fair market value of certain of our marketable investment securities of approximately \$2.0 million and established a new cost basis for these securities. In addition, we realized gains of approximately \$3.1 million on the sales of marketable investment securities. Our approximately \$3.19 billion of restricted and unrestricted cash, cash equivalents and marketable investment securities include debt and equity securities which we own for strategic and financial purposes. The fair market value of these strategic marketable investment securities aggregated approximately \$160.9 million as of September 30, 2003. During the nine months ended September 30, 2003, our portfolio generally, and our strategic investments particularly, experienced volatility. If the fair market value of our marketable securities portfolio does not remain above cost basis or if we become aware of

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS — Continued

any market or company specific factors that indicate that the carrying value of certain of our securities is impaired, we may be required to record charges to earnings in future periods equal to the amount of the decline in fair value.

We also have made strategic equity investments in certain non-marketable investment securities. These securities are not publicly traded. Our ability to realize value from our strategic investments in companies that are not public is dependent on the success of their business and their ability to obtain sufficient capital to execute their business plans. Since private markets are not as liquid as public markets, there is also increased risk that we will not be able to sell these investments, or that when we desire to sell them that we will not be able to obtain full value for them. We evaluate our non-marketable investment securities on a quarterly basis to determine whether the carrying value of each investment is impaired. This quarterly evaluation consists of reviewing, among other things, company business plans and current financial statements, if available, for factors which may indicate an impairment in our investment. Such factors may include, but are not limited to, cash flow concerns, material litigation, violations of debt covenants and changes in business strategy. During the nine months ended September 30, 2003, we did not record any impairment charges with respect to these instruments.

Subscriber Turnover

Our percentage monthly churn for the nine months ended September 30, 2003 was approximately 1.58%, compared to our percentage churn for the same period in 2002 of approximately 1.59%. We calculate percentage monthly churn by dividing the number of subscribers who terminate service during the month by total subscribers as of the beginning of the month. We are not aware of any uniform standards for calculating churn and believe presentations of churn may not be calculated consistently by different entities in the same or similar businesses. Impacts from our litigation with the networks in Florida, FCC rules governing the delivery of superstations and other factors could cause us to terminate delivery of network channels and superstations to a substantial number of our subscribers, which could cause many of those customers to cancel their subscription to our other services. In the event the Court of Appeals upholds the Miami District Court's network litigation injunction, and if we do not reach private settlement agreements with additional stations, we will attempt to assist subscribers in arranging alternative means to receive network channels including migration to local channels by satellite where available, and free off air antenna offers in other markets. However, we cannot predict with any degree of certainty how many subscribers might ultimately cancel their primary DISH Network programming as a result of termination of their distant network channels. We could be required to terminate distant network programming to all subscribers in the event the plaintiffs prevail on their cross-appeal and we are permanently enjoined from delivering all distant network channels. Termination of distant network programming to subscribers would result in a reduction in average monthly revenue per subscriber and a temporary increase in churn.

Increases in piracy or theft of our signal, or our competitors' signals, also could cause churn to increase in future periods. In addition, in April 2002, the FCC concluded that our "must carry" implementation methods were not in compliance with the "must carry" rules. If the FCC finds our subsequent remedial actions unsatisfactory, while we would attempt to continue providing local network channels in all markets without interruption, we could be forced by capacity constraints to reduce the number of markets in which we provide local channels. This could cause a temporary increase in churn and a small reduction in average monthly revenue per subscriber. Additionally, as the size of our subscriber base continues to increase, even if percentage churn remains constant, increasing numbers of gross new subscribers are required to sustain net subscriber growth.

Subscriber Acquisition Costs

As previously described, we generally subsidize installation and all or a portion of the cost of EchoStar receiver systems in order to attract new DISH Network subscribers. Our average subscriber acquisition costs were approximately \$441 per new subscriber activation during the nine months ended September 30, 2003. While there can be no assurance, we believe continued tightening of credit requirements, together with promotions tailored towards subscribers with multiple receivers, will attract better long-term subscribers. Our subscriber acquisition costs, both in the aggregate and on a per new subscriber activation basis, may materially increase to the extent that

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS — Continued

we introduce more aggressive promotions if we determine that they are necessary to respond to competition, or for other reasons.

We exclude equipment capitalized under our lease promotion from our calculation of subscriber acquisition costs. We also exclude payments and certain returned equipment received from disconnecting lease promotion subscribers from our calculation of subscriber acquisition costs. Equipment capitalized under our lease promotion totaled approximately \$86.6 million and \$239.8 million for the nine months ended September 30, 2003 and 2002, respectively. Returned equipment received from disconnecting lease promotion subscribers, which became available for sale rather than being redeployed through the lease promotion, together with payments received in connection with equipment not returned, totaled approximately \$16.3 million and \$30.4 million during the nine months ended September 30, 2003 and 2002, respectively. This decrease resulted from a greater percentage of returned leased equipment being redeployed to new lease customers and relatively less of that equipment being offered for sale as remanufactured equipment.

Funds necessary to meet subscriber acquisition costs are expected to be satisfied from existing cash and investment balances to the extent available. We may, however, decide to raise additional capital in the future to meet these requirements. If we decided to raise capital today, a variety of debt and equity funding sources would likely be available to us. However, there can be no assurance that additional financing will be available on acceptable terms, or at all, if needed in the future.

Obligations and Future Capital Requirements

The indentures related to certain of EDBS' senior notes contain restrictive covenants that require us to maintain satellite insurance with respect to at least half of the satellites EDBS owns or leases. As of September 30, 2003, eight of our nine in-orbit satellites were in service and owned by a direct subsidiary of EDBS. As of September 30, 2003, insurance coverage was therefore required for at least four of EDBS' eight satellites. The launch and/or in-orbit insurance policies for EchoStar I through EchoStar VIII have expired. We have been unable to obtain insurance on any of these satellites on terms acceptable to us. As a result, we are currently self-insuring these satellites. To satisfy insurance covenants related to EDBS' senior notes, we have reclassified an amount equal to the depreciated cost of four of our satellites from "Cash and cash equivalents" to "Cash reserved for satellite insurance" on our balance sheet. As of September 30, 2003, "Cash reserved for satellite insurance" totaled approximately \$127.1 million. The reclassifications will continue until such time, if ever, as we can again insure our satellites on acceptable terms and for acceptable amounts or until the covenants requiring the insurance are no longer applicable. We believe we have in-orbit satellite capacity sufficient to expeditiously recover transmission of most programming in the event one of our in-orbit satellites fails. However, the cash reserved for satellite insurance is not adequate to fund the construction, launch and insurance for a replacement satellite in the event of a complete loss of a satellite. Programming continuity cannot be assured in the event of multiple satellite losses.

During March 2003, one of our wholly-owned subsidiaries, EchoStar Satellite Corporation ("ESC"), entered into a satellite service agreement with SES Americom for all of the capacity on an FSS satellite to be located at the 105 degree west orbital location. This satellite is scheduled to be launched during the second half of 2004. ESC also agreed to lease all of the capacity on an existing in-orbit FSS satellite at the 105 degree orbital location beginning August 1, 2003 and continuing in most circumstances until the new satellite is launched. ESC intends to use the capacity on the satellites to offer a combination of satellite TV programming including local network channels in additional markets and expanded high definition programming, together with satellite-delivered, high-speed internet services. In connection with the SES agreement, ESC paid a \$50.0 million deposit to SES Americom to partially fund construction of the new satellite. The ten-year satellite service agreement is renewable by ESC on a year to year basis following the initial term, and provides ESC with certain rights to replacement satellites at the 105 degree west orbital location. We are required to make monthly payments to SES Americom for both the existing in-orbit FSS satellite and also for the new satellite for the ten-year period following its launch. During August 2003, we exercised our option under the SES agreement to also lease for an initial ten-year term all of the capacity on a new DBS satellite at an orbital location to be determined at a future date. We anticipate that this satellite will be launched during the fourth quarter of 2005.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS — Continued

During July 2003, we entered into a contract for the construction of EchoStar X, a high-powered DBS satellite. Construction is expected to be completed during 2005. With spot-beam capacity, EchoStar X will provide back up protection for our existing local channel offerings, and could allow DISH Network to offer other value added services.

In addition to our DBS business plan, we have FCC authorized orbital slots for a two-satellite FSS Ku-band satellite system and a two-satellite FSS Ka-band satellite system. EchoStar IX was successfully launched to the 121 degree orbital location on August 7, 2003. Its 32 licensed Ku-band transponders are expected to provide additional video service choices for DISH Network subscribers utilizing a specially-designed dish beginning during the fourth quarter of 2003. EchoStar IX is also equipped with two Ka-band transponders which we intend to utilize to confirm the commercial viability of direct-to-home Ka-band video and data services.

We currently own a 90.0% interest in VisionStar, Inc., ("VisionStar") which holds a Ka-band FCC license at the 113 degree orbital location. We did not complete construction or launch of a VisionStar satellite by the applicable FCC milestone deadlines and have requested an extension of these milestones from the FCC. Failure to receive an extension, of which there can be no assurance, would render the license invalid. In the future, we may fund construction, launch and insurance of this and additional satellites through cash from operations, public or private debt or equity financing, joint ventures with others, or from other sources, although there is no assurance that such funding will be available.

As a result of our recent agreements with SES Americom, and for the construction of EchoStar X, our obligations for payments related to satellites have increased substantially. While in certain circumstances the dates on which we are obligated to make these payments could be delayed, the aggregate amount due under all of our existing satellite-related contracts including satellite construction and launch, satellite leases, in-orbit payments to satellite manufacturers and tracking, telemetry and control payments is expected to be approximately \$42.0 million for the remainder of 2003, \$90.0 million during 2004, \$101.0 million during 2005, \$120.0 million during 2006, \$105.0 million during 2007 and similar amounts in subsequent years. These amounts will increase when we commence payments for the launch of EchoStar X, and would further increase to the extent we procure insurance for our satellites or contract for the construction, launch or lease of additional satellites.

We expect that our future working capital, capital expenditure and debt service requirements will be satisfied primarily from existing cash and investment balances and cash generated from operations. Our ability to generate positive future operating and net cash flows is dependent upon, among other things, our ability to retain existing DISH Network subscribers. There can be no assurance that we will be successful in achieving any or all of our goals. The amount of capital required to fund our future working capital and capital expenditure needs will vary, depending, among other things, on the rate at which we acquire new subscribers and the cost of subscriber acquisition, including capitalized costs associated with our lease promotion. Our capital expenditures will also vary depending on the number of satellites leased or under construction at any point in time. Our working capital and capital expenditure requirements could increase materially in the event of increased competition for subscription television customers, significant satellite failures, or in the event of continued general economic downturn, among other factors. These factors could require that we raise additional capital in the future.

From time to time, we evaluate opportunities for strategic investments or acquisitions that would complement our current services and products, enhance our technical capabilities or otherwise offer growth opportunities. Future material investments or acquisitions may require that we obtain additional capital. There can be no assurance that we could raise all required capital or that required capital would be available on acceptable terms.

Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Market Risks Associated With Financial Instruments

As of September 30, 2003, our restricted and unrestricted cash, cash equivalents and marketable investment securities had a fair value of approximately \$3.19 billion. Of that amount, a total of approximately \$3.03 billion was invested in: (a) cash; (b) debt instruments of the U.S. Government and its agencies; (c) commercial paper and notes with an overall

Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK — Continued

average maturity of less than one year and rated in one of the four highest rating categories by at least two nationally recognized statistical rating organizations; and (d) instruments with similar risk characteristics to the commercial paper described above. The primary purpose of these investing activities has been to preserve principal until the cash is required to fund operations. Consequently, the size of this portfolio fluctuates significantly as cash is received and used in our business.

Our restricted and unrestricted cash, cash equivalents and marketable investment securities had an average annual return for the nine months ended September 30, 2003 of approximately 2.0%. A hypothetical 10.0% decrease in interest rates would result in a decrease of approximately \$5.6 million in annual interest income. The value of certain of the investments in this portfolio can be impacted by, among other things, the risk of adverse changes in securities and economic markets generally, as well as the risks related to the performance of the companies whose commercial paper and other instruments we hold. However, the high quality of these investments (as assessed by independent rating agencies), reduces these risks. The value of these investments can also be impacted by interest rate fluctuations.

At September 30, 2003, all of the \$3.03 billion was invested in fixed or variable rate instruments or money market type accounts. While an increase in interest rates would ordinarily adversely impact the fair value of fixed and variable rate investments, we normally hold these investments to maturity. Consequently, neither interest rate fluctuations nor other market risks typically result in significant realized gains or losses to this portfolio. A decrease in interest rates has the effect of reducing our future annual interest income from this portfolio, since funds would be re-invested at lower rates as the instruments mature. Over time, any net percentage decrease in interest rates could be reflected in a corresponding net percentage decrease in our interest income.

Included in our marketable securities portfolio balance is debt and equity of public and private companies we hold for strategic and financial purposes. As of September 30, 2003, we held strategic and financial debt and equity investments of public companies with a fair value of approximately \$160.9 million. We may make additional strategic and financial investments in other debt and equity securities in the future.

The fair value of our strategic debt investments can be impacted by interest rate fluctuations. Absent the effect of other factors, a hypothetical 10.0% increase in LIBOR would result in a decrease in the fair value of our investments in these debt instruments of approximately \$6.8 million. The fair value of our strategic and financial debt and equity investments can also be significantly impacted by the risk of adverse changes in securities markets generally, as well as risks related to the performance of the companies whose securities we have invested in, risks associated with specific industries, and other factors. These investments are subject to significant fluctuations in fair market value due to the volatility of the securities markets and of the underlying businesses. A hypothetical 10.0% adverse change in the price of our public strategic debt and equity investments would result in approximately a \$16.1 million decrease in the fair value of that portfolio.

In accordance with generally accepted accounting principles, we adjust the carrying value of our available-for-sale marketable investment securities to fair market value and report the related temporary unrealized gains and losses as a separate component of stockholders' deficit, net of related deferred income tax, if applicable. Declines in the fair market value of a marketable investment security which are estimated to be "other than temporary" must be recognized in the statement of operations, thus establishing a new cost basis for such investment. We evaluate our marketable investment securities portfolio on a quarterly basis to determine whether declines in the market value of these securities are other than temporary. This quarterly evaluation consists of reviewing, among other things, the fair value of our marketable investment securities compared to the carrying value of these securities, the historical volatility of the price of each security and any market and company specific factors related to each security. Generally, absent specific factors to the contrary, declines in the fair value of investments below cost basis for a period of less than six months are considered to be temporary. Declines in the fair value of investments for a period of six to nine months are evaluated on a case by case basis to determine whether any company or market-specific factors exist which would indicate that such declines are other than temporary. Declines in the fair value of investments below cost basis for greater than nine months are considered other than temporary and are recorded as charges to earnings, absent specific factors to the contrary.

Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK — Continued

As of September 30, 2003, we recorded unrealized gains of approximately \$44.7 million as a separate component of stockholders' deficit. During the nine months ended September 30, 2003, we also recorded an aggregate charge to earnings for other than temporary declines in the fair market value of certain of our marketable investment securities of approximately \$2.0 million, and established a new cost basis for these securities. In addition, we realized gains of approximately \$3.1 million on the sales of marketable investment securities. Our approximately \$3.19 billion of restricted and unrestricted cash, cash equivalents and marketable investment securities include debt and equity securities which we own for strategic and financial purposes. The fair market value of these strategic marketable investment securities aggregated approximately \$160.9 million as of September 30, 2003. During the nine months ended September 30, 2003, our portfolio generally, and our strategic investments particularly, experienced and continue to experience volatility. If the fair market value of our marketable securities portfolio does not remain above cost basis or if we become aware of any market or company specific factors that indicate that the carrying value of certain of our securities is impaired, we may be required to record charges to earnings in future periods equal to the amount of the decline in fair value.

We also have made strategic equity investments in certain non-marketable investment securities. These securities are not publicly traded. Our ability to realize value from our strategic investments in companies that are not public is dependent on the success of their business and their ability to obtain sufficient capital to execute their business plans. Since private markets are not as liquid as public markets, there is also increased risk that we will not be able to sell these investments, or that when we desire to sell them that we will not be able to obtain full value for them. We evaluate our non-marketable investment securities on a quarterly basis to determine whether the carrying value of each investment is impaired. This quarterly evaluation consists of reviewing, among other things, company business plans and current financial statements, if available, for factors which may indicate an impairment in our investment. Such factors may include, but are not limited to, cash flow concerns, material litigation, violations of debt covenants and changes in business strategy. During the nine months ended September 30, 2003, we did not record any impairment charges with respect to these instruments.

As of September 30, 2003, we estimated the fair value of our fixed-rate debt and mortgages and other notes payable to be approximately \$6.02 billion using quoted market prices where available, or discounted cash flow analyses. The interest rates assumed in such discounted cash flow analyses reflect interest rates currently being offered for loans with similar terms to borrowers of similar credit quality. The fair value of our fixed-rate debt and mortgages is affected by fluctuations in interest rates. A hypothetical 10.0% decrease in assumed interest rates would increase the fair value of our debt by approximately \$129.9 million. To the extent interest rates increase, our costs of financing would increase at such time as we are required to refinance our debt. As of September 30, 2003, a hypothetical 10.0% increase in assumed interest rates would increase our annual interest expense by approximately \$42.3 million.

We have not used derivative financial instruments for speculative purposes. We have not hedged or otherwise protected against the risks associated with any of our investing or financing activities.

Item 4. CONTROLS AND PROCEDURES

Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of the effectiveness of our disclosure controls and procedures as defined in Rule 13a-15(e) promulgated under the Securities Exchange Act of 1934 as of the end of the period covered by this report. Based on their evaluation, our Chief Executive Officer and Chief Financial Officer concluded that the design and operation of our disclosure controls and procedures were effective as of the date of the evaluation.

PART II — OTHER INFORMATION

Item 1. LEGAL PROCEEDINGS

Legal Proceedings

WIC Premium Television Ltd.

During July 1998, a lawsuit was filed by WIC Premium Television Ltd. (“WIC”), an Alberta corporation, in the Federal Court of Canada Trial Division, against General Instrument Corporation, HBO, Warner Communications, Inc., John Doe, Showtime, United States Satellite Broadcasting Company, Inc., EchoStar, and certain EchoStar subsidiaries.

During September 1998, WIC filed another lawsuit in the Court of Queen’s Bench of Alberta Judicial District of Edmonton against certain defendants, including us. WIC is a company authorized to broadcast certain copyrighted work, such as movies and concerts, to residents of Canada. WIC alleges that the defendants engaged in, promoted, and/or allowed satellite dish equipment from the United States to be sold in Canada and to Canadian residents and that some of the defendants allowed and profited from Canadian residents purchasing and viewing subscription television programming that is only authorized for viewing in the United States. The lawsuit seeks, among other things, interim and permanent injunctions prohibiting the defendants from importing satellite receivers into Canada and from activating satellite receivers located in Canada to receive programming, together with damages in excess of \$175.0 million.

The Court in the Alberta action denied our motion to dismiss, and our appeal of that decision. The Federal action has been dismissed. We intend to continue to vigorously defend the suit. During 2002, the Supreme Court of Canada ruled that the receipt in Canada of programming from United States pay television providers is prohibited. While we were not a party to that case, the ruling could adversely affect our defense. It is too early to make an assessment of the probable outcome of the litigation or to determine the extent of any potential liability or damages.

Distant Network Litigation

Until July 1998, we obtained feeds of distant broadcast network channels (ABC, NBC, CBS and FOX) for distribution to our customers through PrimeTime 24. In December 1998, the United States District Court for the Southern District of Florida entered a nationwide permanent injunction requiring that provider to shut off distant network channels to many of its customers, and henceforth to sell those channels to consumers in accordance with the injunction.

In October 1998, we filed a declaratory judgment action against ABC, NBC, CBS and FOX in the United States District Court for the District of Colorado. We asked the Court to find that our method of providing distant network programming did not violate the Satellite Home Viewer Act and hence did not infringe the networks’ copyrights. In November 1998, the networks and their affiliate association groups filed a complaint against us in Miami Federal Court 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 Federal Court.

In February 1999, the networks 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. DirecTV settled that lawsuit with the networks. Under the terms of the settlement between DirecTV and the networks, some DirecTV customers were scheduled to lose access to their satellite-provided distant network channels by July 31, 1999, while other DirecTV customers were to be disconnected by December 31, 1999. Subsequently, substantially all providers of satellite-delivered network programming other than us agreed to this cut-off schedule, although we do not know if they adhered to this schedule.

In April 2002, we reached a private settlement with ABC, Inc., one of the plaintiffs in the litigation and jointly filed a stipulation of dismissal. In November 2002, we reached a private settlement with NBC, another of the plaintiffs in the litigation and jointly filed a stipulation of dismissal. We have also reached private settlements with a small number of independent stations and station groups. We were unable to reach a settlement with six of the original eight plaintiffs — CBS, Fox and the associations affiliated with each of the four networks.

PART II — OTHER INFORMATION

The trial took place during April 2003 and the Court issued its final judgment in June 2003. The District Court found that with one exception our current distant network qualification procedures comply with the law. We have revised our procedures to comply with the District Court's Order. Although the plaintiffs asked the District Court to enter an injunction precluding us from selling any local or distant network programming, the District Court refused. While the networks did not claim monetary damages and none were awarded, they are seeking attorney fees in excess of \$6.0 million. In August 2003, CBS agreed to release and discharge us from any obligation to pay CBS' proportionate share of any fee award. It is too early to make an assessment of the probable outcome of the plaintiffs' fee petition.

However, the District Court's injunction requires us to use a computer model to requalify, as of June 2003, all of our subscribers who receive ABC, NBC, CBS or Fox programming by satellite from a market other than the city in which the subscriber lives. The Court also invalidated all waivers historically provided by network stations. These waivers, which have been provided by stations for the past several years through a third party automated system, allow subscribers who believe the computer model improperly disqualified them for distant network channels to none-the-less receive those channels by satellite. Further, even though the Satellite Home Viewer Improvement Act provides that certain subscribers who received distant network channels prior to October 1999 can continue to receive those channels through December 2004, the District Court terminated the right of our grandfathered subscribers to continue to receive distant network channels.

We believe the District Court made a number of errors and have appealed the District Court's decision. Plaintiffs have cross-appealed. The Court of Appeals granted our request to stay the injunction until our appeal is decided. The Court of Appeals also expedited consideration of our appeal and has set oral argument for the week of February 23, 2004. It is not possible to predict how or when the Court of Appeals will rule on the merits of our appeal.

In the event the Court of Appeals upholds the injunction, and if we do not reach private settlement agreements with additional stations, we will attempt to assist subscribers in arranging alternative means to receive network channels, including migration to local channels by satellite where available, and free off air antenna offers in other markets. However, we cannot predict with any degree of certainty how many subscribers will cancel their primary DISH Network programming as a result of termination of their distant network channels. We could be required to terminate distant network programming to all subscribers in the event the plaintiffs prevail on their cross-appeal and we are permanently enjoined from delivering all distant network channels. Termination of distant network programming to subscribers would result in a reduction in average monthly revenue per subscriber and a temporary increase in churn.

Gemstar

During October 2000, Starsight Telecast, Inc., a subsidiary of Gemstar-TV Guide International, Inc. ("Gemstar"), filed a suit for patent infringement against us and certain of our subsidiaries in the United States District Court for the Western District of North Carolina, Asheville Division. The suit alleges infringement of United States Patent No. 4,706,121 ("the `121 Patent") which relates to certain electronic program guide functions. We examined this patent and believe that it is not infringed by any of our products or services. This conclusion is supported by findings of the International Trade Commission ("ITC") which are discussed below. The North Carolina case is stayed pending the appeal of the ITC action to the United States Court of Appeals for the Federal Circuit.

In December 2000, we filed suit against Gemstar-TV Guide (and certain of its subsidiaries) in the United States District Court for the District of Colorado alleging violations by Gemstar of various federal and state anti-trust laws and laws governing unfair competition. The lawsuit seeks an injunction and monetary damages. Gemstar filed counterclaims alleging infringement of United States Patent Nos. 5,923,362 and 5,684,525 that relate to certain electronic program guide functions. We examined these patents and believe they are not infringed by any of our products or services. In August 2001, the Federal Multi-District Litigation panel combined this suit, for pre-trial purposes, with other lawsuits asserting antitrust claims against Gemstar, which had previously been filed by other parties. In January 2002, Gemstar dropped the counterclaims of patent infringement. During March 2002, the Court denied Gemstar's motion to dismiss our antitrust claims. In January 2003, the Court denied a more recently filed Gemstar motion for summary judgment based generally on lack of standing. In its answer, Gemstar asserted new patent infringement counterclaims regarding

PART II — OTHER INFORMATION

United States Patent Nos. 4,908,713 (“the ‘713 patent”) and 5,915,068 (“the ‘068 patent”, which is expired). These patents relate to on-screen programming of VCRs. We have examined these patents and believe that they are not infringed by any of our products or services. Recently, the Court granted our motions to dismiss both the ‘713 patent and the ‘068 Patent for lack of standing.

In February 2001, Gemstar filed patent infringement actions against us in the District Court in Atlanta, Georgia and with the ITC. These suits allege infringement of United States Patent Nos. 5,252,066, 5,479,268 and 5,809,204, all of which relate to certain electronic program guide functions. In addition, the ITC action alleged infringement of the `121 Patent which was also asserted in the North Carolina case previously discussed. In the Georgia district court case, Gemstar seeks damages and an injunction. The Georgia case was stayed pending resolution of the ITC action and remains stayed at this time. In December 2001, the ITC held a 15-day hearing before an administrative law judge. Prior to the hearing, Gemstar dropped its infringement allegations regarding United States Patent No. 5,252,066 with respect to which we had asserted substantial allegations of inequitable conduct. The hearing addressed, among other things, Gemstar’s allegations of patent infringement and respondents’ (SCI, Scientific Atlanta, Pioneer and us) allegations of patent misuse. During June 2002, the judge issued a Final Initial Determination finding that none of the patents asserted by Gemstar had been infringed. In addition, the judge found that Gemstar was guilty of patent misuse with respect to the `121 Patent and that the `121 Patent was unenforceable because it failed to name an inventor. The parties then filed petitions for the full ITC to review the judge’s Final Initial Determination. During August 2002, the full ITC adopted the judge’s findings regarding non-infringement and the unenforceability of the `121 Patent. The ITC did not adopt, but did not overturn, the judge’s findings of patent misuse. The ITC decision has been appealed to the United States Court of Appeals for the Federal Circuit. If the Federal Circuit were to overturn the judge’s decision, such an adverse decision in this case could temporarily halt the import of our receivers and could require us to materially modify certain user-friendly electronic programming guides and related features we currently offer to consumers. Based upon our review of these patents, and based upon the ITC’s decision, we continue to believe that these patents are not infringed by any of our products or services. We intend to continue to vigorously contest the ITC, North Carolina and Georgia suits and will, among other things, continue to challenge both the validity and enforceability of the asserted patents.

During 2000, Superguide Corp. (“Superguide”) also filed suit against us, DirecTV and others in the United States District Court for the Western District of North Carolina, Asheville Division, alleging infringement of United States Patent Nos. 5,038,211, 5,293,357 and 4,751,578 which relate to certain electronic program guide functions, including the use of electronic program guides to control VCRs. Superguide sought injunctive and declaratory relief and damages in an unspecified amount. It is our understanding that these patents may be licensed by Superguide to Gemstar. Gemstar was added as a party to this case and asserted these patents against us. We examined these patents and believe that they are not infringed by any of our products or services. A Markman ruling interpreting the patent claims was issued by the Court and in response to that ruling, we filed motions for summary judgment of non-infringement for each of the asserted patents. Gemstar filed a motion for summary judgment of infringement with respect to one of the patents. During July 2002, the Court issued a Memorandum of Opinion on the summary judgment motions. In its Opinion, the Court ruled that none of our products infringe the 5,038,211 and 5,293,357 patents. With respect to the 4,751,578 patent, the Court ruled that none of our current products infringed that patent and asked for additional information before it could rule on certain low-volume products that are no longer in production. During July 2002, the Court summarily ruled that the aforementioned low-volume products did not infringe any of the asserted patents. Accordingly, the Court dismissed the case and awarded us our court costs. Superguide and Gemstar are appealing this case to the United States Court of Appeals for the Federal Circuit. We will continue to vigorously defend this case. In the event the Federal Circuit ultimately determines that we infringe on any of the aforementioned patents, we may be subject to substantial damages, which may include treble damages and/or an injunction that could require us to materially modify certain user-friendly electronic programming guide and related features that we currently offer to consumers. It is too early to make an assessment of the probable outcome of the appeals.

California Actions

A purported class action was filed against us in the California State Superior Court for Alameda County during May 2001 by Andrew A. Werby. The complaint related to late fees, among other things. The matter was settled with no material impact on our business.

PART II — OTHER INFORMATION

A purported class action relating to the use of terms such as “crystal clear digital video,” “CD-quality audio,” and “on-screen program guide,” and with respect to the number of channels available in various programming packages was also filed against us in the California State Superior Court for Los Angeles County in 1999 by David Pritikin and by Consumer Advocates, a nonprofit unincorporated association. The complaint alleges breach of express warranty and violation of the California Consumer Legal Remedies Act, Civil Code Sections 1750, et seq., and the California Business & Professions Code Sections 17500 & 17200. A hearing on the plaintiffs’ motion for class certification and our motion for summary judgment was held during June 2002. At the hearing, the Court issued a preliminary ruling denying the plaintiffs’ motion for class certification. However, before issuing a final ruling on class certification, the Court granted our motion for summary judgment with respect to all of the plaintiffs’ claims. Subsequently, we filed a motion for attorney’s fees which was denied by the Court. The plaintiffs filed a notice of appeal of the court’s granting of our motion for summary judgment and we cross-appealed the Court’s ruling on our motion for attorney’s fees. It is not possible to make a firm assessment of the probable outcome of the appeal or to determine the extent of any potential liability or damages.

State Investigation

During April 2002, two state attorneys general commenced a civil investigation concerning certain of our business practices. Over the course of the next six months, 11 additional states ultimately joined the investigation. The states alleged failure to comply with consumer protection laws based on our call response times and policies, advertising and customer agreement disclosures, policies for handling consumer complaints, issuing rebates and refunds and charging cancellation fees to consumers, and other matters. We cooperated fully in the investigation. During May 2003, we entered into an Assurance of Voluntary Compliance with the states which ended their investigation. The states have released all claims related to the matters investigated.

Retailer Class Actions

We have been sued by retailers in three separate purported class actions. During October 2000, two separate lawsuits were filed in the Arapahoe County District Court in the State of Colorado and the United States District Court for the District of Colorado, respectively, by Air Communication & Satellite, Inc. and John DeJong, et al. on behalf of themselves and a class of persons similarly situated. The plaintiffs are attempting to certify nationwide classes on behalf of certain of our satellite hardware retailers. The plaintiffs are requesting the Courts to declare certain provisions of, and changes to, alleged agreements between us and the retailers invalid and unenforceable, and to award damages for lost incentives and payments, charge backs, and other compensation. We are vigorously defending against the suits and have asserted a variety of counterclaims. The United States District Court for the District of Colorado stayed the Federal Court action to allow the parties to pursue a comprehensive adjudication of their dispute in the Arapahoe County State Court. John DeJong, d/b/a Nexwave, and Joseph Kelley, d/b/a Keltronics, subsequently intervened in the Arapahoe County Court action as plaintiffs and proposed class representatives. We have filed a motion for summary judgment on all counts and against all plaintiffs. The plaintiffs have filed a motion for additional time to conduct discovery to enable them to respond to our motion. The Court has not ruled on either of the two motions. It is too early to make an assessment of the probable outcome of the litigation or to determine the extent of any potential liability or damages.

Satellite Dealers Supply, Inc. (“SDS”) filed a lawsuit against us in the United States District Court for the Eastern District of Texas during September 2000, on behalf of itself and a class of persons similarly situated. The plaintiff was attempting to certify a nationwide class on behalf of sellers, installers, and servicers of satellite equipment who contract with us and who allege that we: (1) charged back certain fees paid by members of the class to professional installers in violation of contractual terms; (2) manipulated the accounts of subscribers to deny payments to class members; and (3) misrepresented, to class members, the ownership of certain equipment related to the provision of our satellite television service. During September 2001, the Court granted our motion to dismiss. The plaintiff moved for reconsideration of the Court’s order dismissing the case. The Court denied the plaintiff’s motion for reconsideration. The trial court denied our motions for sanctions against SDS. Both parties have now perfected appeals before the Fifth Circuit Court of Appeals. The parties’ written briefs have been filed and oral argument was heard by the Court on August 4, 2003. It is not possible to make a firm assessment of the probable outcome of the appeals or to determine the extent of any potential liability or damages.

PART II — OTHER INFORMATION

StarBand Shareholder Lawsuit

On August 20, 2002, a limited group of shareholders in StarBand filed an action in the Delaware Court of Chancery against EchoStar and EchoBand Corporation, together with four EchoStar executives who sat on the Board of Directors for StarBand, for alleged breach of the fiduciary duties of due care, good faith and loyalty, and also against EchoStar and EchoBand Corporation for aiding and abetting such alleged breaches. Two of the individual defendants, Charles W. Ergen and David K. Moskowitz, are members of our Board of Directors. The action stems from the defendants' involvement as directors, and EchoBand's position as a shareholder, in StarBand, a broadband Internet satellite venture in which we invested. On July 28, 2003, the Court granted the defendants' motion to dismiss on all counts. The Plaintiffs have since filed a notice of appeal. It is not possible to make a firm assessment of the probable outcome of the appeal or to determine the extent of any potential liability or damages.

Shareholder Derivative Action

During October 2002, a purported shareholder filed a derivative action against members of our Board of Directors in the United States District Court of Clark County, Nevada and naming us as a nominal defendant. The complaint alleges breach of fiduciary duties, corporate waste and other unlawful acts relating to our agreement to (1) pay Hughes Electronics Corporation a \$600.0 million termination fee in certain circumstances and (2) acquire Hughes' shareholder interest in PanAmSat. The agreements to pay the termination fee and acquire PanAmSat were required in the event that the merger with DirecTV was not completed by January 21, 2003. During July 2003, the individual Board of Director defendants were dismissed from the suit, and EchoStar was dismissed during August 2003. The plaintiff filed a motion for attorney's fees. The Court granted our motion for summary judgment. The plaintiff did not file an appeal.

In addition to the above actions, we are subject to various other legal proceedings and claims which arise in the ordinary course of business. In our opinion, the amount of ultimate liability with respect to any of these actions is unlikely to materially affect our financial position, results of operations or liquidity.

Satellite Insurance

In September 1998, we filed a \$219.3 million insurance claim for a total loss under the launch insurance policies covering EchoStar IV. The satellite insurance consists of separate substantially identical policies with different carriers for varying amounts that, in combination, create a total insured amount of \$219.3 million. The insurance carriers include La Reunion Spatiale; AXA Reinsurance Company (n/k/a AXA Corporate Solutions Reinsurance Company), United States Aviation Underwriters, Inc., United States Aircraft Insurance Group; Assurances Generales De France I.A.R.T. (AGF); Certain Underwriters at Lloyd's, London; Great Lakes Reinsurance (U.K.) PLC; British Aviation Insurance Group; If Skaadeforsikring (previously Storebrand); Hannover Re (a/k/a International Hannover); The Tokio Marine & Fire Insurance Company, Ltd.; Marham Space Consortium (a/k/a Marham Consortium Management); Ace Global Markets (a/k/a Ace London); M.C. Watkins Syndicate; Goshawk Syndicate Management Ltd.; D.E. Hope Syndicate 10009 (Formerly Busbridge); Amlin Aviation; K.J. Coles & Others; H.R. Dumas & Others; Hiscox Syndicates, Ltd.; Cox Syndicate; Hayward Syndicate; D.J. Marshall & Others; TF Hart; Kiln; Assitalia Le Assicurazioni D'Italia S.P.A. Roma; La Fondiaria Assicurazione S.P.A., Firenze; Vittoria Assicurazioni S.P.A., Milano; Ras — Riunione Adriatica Di Sicurtà S.P.A., Milano; Societa Cattolica Di Assicurazioni, Verano; Siat Assicurazione E Riassicurazione S.P.A, Genova; E. Patrick; ZC Specialty Insurance; Lloyds of London Syndicates 588 NJM, 1209 Meb AND 861 Meb; Generali France Assurances; Assurance France Aviation; and Ace Bermuda Insurance Ltd.

The insurance carriers offered us a total of approximately \$88.0 million, or 40.0% of the total policy amount, in settlement of the EchoStar IV insurance claim. The insurers assert, among other things, that EchoStar IV was not a total loss, as that term is defined in the policy, and that we did not abide by the exact terms of the insurance policies. We strongly disagree and filed arbitration claims against the insurers for breach of contract, failure to pay a valid insurance claim and bad faith denial of a valid claim, among other things. Due to individual forum selection clauses in certain of the policies, we are pursuing our arbitration claims against Ace Bermuda Insurance Ltd. in London, England, and our arbitration claims against all of the other insurance carriers in New York, New York. The New York arbitration commenced on April 28, 2003, and hearings are scheduled to resume in November 2003. The

PART II — OTHER INFORMATION

parties to the London arbitration have agreed to stay that proceeding pending a ruling in the New York arbitration. There can be no assurance that we will receive the amount claimed in either the New York or the London arbitrations or, if we do, that we will retain title to EchoStar IV with its reduced capacity.

In addition to the above actions, we are subject to various other legal proceedings and claims which arise in the ordinary course of business. In our opinion, the amount of ultimate liability with respect to any of these actions is unlikely to materially affect our financial position, results of operations or liquidity.

Item 2. CHANGES IN SECURITIES AND USE OF PROCEEDS

On July 21, 2003, we issued and sold a \$500.0 million 3.0% Convertible Subordinated Note due 2010 to SBC Communications, Inc. (“SBC”) in a privately negotiated transaction exempt from registration under Section 4(2) of the Securities Act of 1933. The note is an unsecured obligation convertible into approximately 6.87 million shares of our Class A Common Stock at the option of SBC at \$72.82 per share, subject to adjustment in certain circumstances. Commencing July 21, 2008, we may redeem, and SBC may require us to purchase, all or a portion of the note without premium.

PART II — OTHER INFORMATION

Item 6. EXHIBITS AND REPORTS ON FORM 8-K

(a) Exhibits.

- 4.1 Indenture, relating to EDBS 5 3/4% Senior Notes due 2008, dated as of October 2, 2003, between EDBS and U.S. Bank Trust National Association, as Trustee
- 4.2 Indenture, relating to EDBS 6 3/8% Senior Notes due 2011, dated as of October 2, 2003, between EDBS and U.S. Bank Trust National Association, as Trustee
- 4.3 Indenture, relating to EDBS Floating Senior Notes due 2008, dated as of October 2, 2003, between EDBS and U.S. Bank Trust National Association, as Trustee
- 4.4 Registration Rights Agreement dated as of October 2, 2003 among EDBS and the other parties named herein
- 4.5 3% Convertible Subordinated Note due 2010.
- 10.1* Amendment No. 1 to Satellite Service Agreement dated March 31, 2003 between SES Americom Inc. and EchoStar
- 10.2* Satellite Service Agreement dated as of August 13, 2003 between SES Americom Inc. and EchoStar
- 31.1 Section 302 Certification by Chairman and Chief Executive Officer
- 31.2 Section 302 Certification by Senior Vice President and Chief Financial Officer
- 32.1 Section 906 Certification by Chairman and Chief Executive Officer
- 32.2 Section 906 Certification by Senior Vice President and Chief Financial Officer

* Filed in redacted form since confidential treatment has been requested pursuant to Rule 24.b-2 for certain portions thereof.

(b) Reports on Form 8-K.

On August 4, 2003, we filed a Current Report on Form 8-K to announce that our subsidiary, EDBS, elected to redeem a portion of its outstanding 9 1/8% Senior Notes due 2009.

On August 13, 2003, we filed a Current Report on Form 8-K in connection with the filing of our Quarterly Report on Form 10-Q for the period ended June 30, 2003 attaching our earnings press release for the quarter ended June 30, 2003.

On September 4, 2003, we filed a Current Report on Form 8-K to announce the completion of the partial redemption of the 9 1/8% Senior Notes by our subsidiary, EDBS.

On September 19, 2003, we filed a Current Report on Form 8-K to announce our election to retire all of our outstanding 4 7/8% Convertible Subordinated Notes due 2007.

On September 25, 2003, we filed a Current Report on Form 8-K relating to the issuance of \$2.5 billion of senior notes by our subsidiary, EDBS.

SIGNATURES

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

EHOSTAR COMMUNICATIONS CORPORATION

By: */s/ Charles W. Ergen*

Charles W. Ergen
Chairman and Chief Executive Officer
(Duly Authorized Officer)

By: */s/ Michael R. McDonnell*

Michael R. McDonnell
Senior Vice President and Chief Financial Officer
(Principal Financial Officer)

Date: November 10, 2003

EXHIBIT INDEX

EXHIBIT NUMBER	DESCRIPTION
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32.2	Section 906 Certification by Senior Vice President and Chief Financial Officer

* Filed in redacted form since confidential treatment has been requested pursuant to Rule 24.b-2 for certain portions thereof.

ECHOSTAR DBS CORPORATION

5-3/4% SENIOR NOTES DUE 2008

INDENTURE

Dated as of October 2, 2003

U.S. Bank National Association

Trustee

CROSS-REFERENCE TABLE

TIA Section -----	Indenture Section -----
310(a)(1).....	7.10
(a)(2).....	7.10
(a)(3).....	N/A
(a)(4).....	N/A
(b).....	7.10
(c).....	N/A
311(a).....	7.11
(b).....	7.11
(c).....	N/A
312(a).....	2.05
(b).....	11.03
(c).....	11.03
313(a).....	7.06
(b)(1).....	7.06
(b)(2).....	7.07
(c).....	7.06; 11.02
(d).....	7.06
314(a).....	4.03(a); 11.05
(4).....	4.04
(b).....	N/A
(c)(1).....	11.04
(c)(2).....	11.04
(c)(3).....	N/A
(d).....	N/A
(e).....	11.05
(f).....	N/A
315(a).....	7.01(b)
(b).....	7.05; 11.02
(c).....	7.01(a)
(d).....	7.01
(e).....	6.11
316(a) (last sentence).....	2.09
(a)(1)(A).....	6.05
(a)(1)(B).....	6.04
(a)(2).....	N/A
(b).....	6.07
(c).....	2.12
317(a)(1).....	6.08
(a)(2).....	6.09
(b).....	2.04
318(a).....	11.01
(c).....	11.01

N/A means Not Applicable.

Note: This Cross-Reference Table shall not, for any purposes, be deemed to be part of this Indenture.

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EXHIBITS

EXHIBIT A FORM OF NOTE
EXHIBIT B FORM OF GUARANTEE
EXHIBIT C FORM OF CERTIFICATE OF TRANSFER
EXHIBIT D FORM OF CERTIFICATE OF EXCHANGE

INDENTURE, dated as of October 2, 2003, among EchoStar DBS Corporation (the "Company"), a Colorado corporation, the Guarantors (as hereinafter defined) and U.S. Bank National Association, as trustee (the "Trustee").

The Company, the Guarantors and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the Company's 5-3/4% Senior Notes due 2008.

RECITALS

The Company and the Guarantors have duly authorized the execution and delivery of this Indenture to provide for the issuance of the Notes and the Guarantees.

All things necessary (i) to make the Notes, when executed by the Company and authenticated and delivered hereunder and duly issued by the Company and delivered hereunder, the valid obligations of the Company, (ii) to make the Guarantees when executed by the Guarantors and delivered hereunder the valid obligations of the Guarantors, and (iii) to make this Indenture a valid agreement of the Company and the Guarantors, all in accordance with their respective terms, have been done.

For and in consideration of the premises and the purchase of the Notes by the Holders thereof, it is mutually agreed as follows for the equal and ratable benefit of the Holders of the Notes.

ARTICLE 1

DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.01 Definitions.

"144A Global Note" means one or more global Notes substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depository or its nominee, which, in the aggregate, are equal to the outstanding principal amount of the Notes initially sold in reliance on Rule 144A.

"Accounts Receivable Subsidiary" means one Unrestricted Subsidiary of the Company specifically designated as an Accounts Receivable Subsidiary for the purpose of financing the Company's accounts receivable and provided that any such designation shall not be deemed to prohibit the Company from financing accounts receivable through any other entity, including, without limitation, any other Unrestricted Subsidiary.

"Accounts Receivable Subsidiary Notes" means the notes to be issued by the Accounts Receivable Subsidiary for the purchase of accounts receivable.

"Acquired Debt" means, with respect to any specified Person, Indebtedness of any other Person existing at the time such other Person merges with or into or becomes a Subsidiary of such specified Person, or Indebtedness incurred by such specified Person in

connection with the acquisition of assets, including Indebtedness incurred in connection with, or in contemplation of, such other Person merging with or into or becoming a Subsidiary of such specified Person or the acquisition of such assets, as the case may be.

"Acquired Subscriber" means a subscriber to a telecommunications service provided by a telecommunications service provider that is not an Affiliate of the Company at the time the Company or one of its Restricted Subsidiaries purchases the right to provide telecommunications services to such subscriber from such telecommunications service provider, whether directly or through the acquisition of the entity providing telecommunications services or assets used or to be used to provide telecommunications service to such subscriber.

"Acquired Subscriber Debt" means (i) Indebtedness, the proceeds of which are used to pay the purchase price for Acquired Subscribers or to acquire the entity which has the right to provide telecommunications services to such Acquired Subscribers or to acquire from such entity or an Affiliate of such entity assets used or to be used in connection with such telecommunications business; provided that such Indebtedness is incurred within three years after the date of the acquisition of such Acquired Subscriber and (ii) Acquired Debt of any such entity being acquired; provided that in no event shall the amount of such Indebtedness and Acquired Debt for any Acquired Subscriber exceed the sum of the actual purchase price (inclusive of such Acquired Debt) for such Acquired Subscriber, such entity and such assets plus the cost of converting such Acquired Subscriber to usage of a delivery format for telecommunications services made available by the Company or any of its Restricted Subsidiaries.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For 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; provided further that no individual, other than a director of EchoStar or the Company or an officer of EchoStar or the Company with a policy making function, shall be deemed an Affiliate of the Company or any of its Subsidiaries solely by reason of such individual's employment, position or responsibilities by or with respect to EchoStar, the Company or any of their respective Subsidiaries.

"Agent" means any Registrar, Paying Agent or co-registrar.

"Applicable Procedures" means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depository, Euroclear and Clearstream that apply to such transfer or exchange.

"Bankruptcy Law" means title 11, U.S. Code or any similar federal or state law for the relief of debtors.

"Board of Directors" means the Board of Directors of the Company.

"Broker-Dealer" has the meaning set forth in the Registration Rights Agreement.

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

"Capital Lease Obligation" means, as to any Person, the obligations of such Person under a lease that are required to be classified and accounted for as capital lease obligations under GAAP and, for purposes of this definition, the amount of such obligations at the time any determination thereof is to be made shall be the amount of the liability in respect of a capital lease that would at such time be so required to be capitalized on a balance sheet in accordance with GAAP.

"Capital Stock" means any and all shares, interests, participations, rights or other equivalents, however designated, of corporate stock or partnership or membership interests, whether common or preferred.

"Cash Equivalents" means: (a) United States dollars; (b) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof having maturities of not more than one year from the date of acquisition; (c) certificates of deposit and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances with maturities not exceeding one year and overnight bank deposits, in each case with any domestic commercial bank having capital and surplus in excess of \$500 million; (d) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clauses (b) and (c) entered into with any financial institution meeting the qualifications specified in clause (c) above; (e) commercial paper rated P-1 or better, A-1 or better or the equivalent thereof by Moody's or S&P, respectively, and in each case maturing within 12 months after the date of acquisition; and (f) money market funds offered by any domestic commercial or investment bank having capital and surplus in excess of \$500 million at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses (a) through (e) of this definition.

"Change of Control" means: (a) any transaction or series of transactions the result of which is that any Person (other than the Principal or a Related Party) individually owns more than 50% of the total Equity Interest of ECC; (b) the first day on which a majority of the members of the Board of Directors of EchoStar are not Continuing Directors; or (c) any time that EchoStar shall cease to beneficially own 100% of the Equity Interests of the Company.

"Clearstream" means Clearstream Banking, societe anonyme.

"Communications Act" means the Communications Act of 1934, as amended.

"Consolidated Cash Flow" means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period, plus, to the extent deducted in computing Consolidated Net Income: (a) provision for taxes based on income or profits; (b) Consolidated Interest Expense; (c) depreciation and amortization (including amortization of goodwill and other intangibles) of such Person for such period; and (d) any extraordinary loss and any net loss realized in connection with any Asset Sale, in each case, on a consolidated basis determined in accordance with GAAP; provided that Consolidated Cash Flow shall not include interest income derived from the net proceeds of the Offering.

"Consolidated Interest Expense" means, with respect to any Person for any period, consolidated interest expense of such Person for such period, whether paid or accrued, including amortization of original issue discount and deferred financing costs, non-cash interest payments and the interest component of Capital Lease Obligations, on a consolidated basis determined in accordance with GAAP; provided, however, that with respect to the calculation of the consolidated interest expense of the Company, the interest expense of Unrestricted Subsidiaries shall be excluded.

"Consolidated Net Income" means, with respect to any Person for any period, the aggregate of the Net Income of such Person and its Subsidiaries or, if such Person is the Company, of the Company and its Restricted Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP; provided, however, that: (a) the Net Income of any Person that is not a Subsidiary or that is accounted for by the equity method of accounting shall be included only to the extent of the amount of dividends or distributions paid in cash to the referent Person, in the case of a gain, or to the extent of any contributions or other payments by the referent Person, in the case of a loss; (b) the Net Income of any Person that is a Subsidiary that is not a Wholly Owned Subsidiary shall be included only to the extent of the amount of dividends or distributions paid in cash to the referent Person; (c) the Net Income of any Person acquired in a pooling of interests transaction for any period prior to the date of such acquisition shall be excluded; (d) the Net Income of any Subsidiary of such Person shall be excluded to the extent that the declaration or payment of dividends or similar distributions is not at the time permitted by operation of the terms of its charter or bylaws or any other agreement, instrument, judgment, decree, order, statute, rule or government regulation to which it is subject; and (e) the cumulative effect of a change in accounting principles shall be excluded.

"Consolidated Net Tangible Assets" means, with respect to any Person, the aggregate amount of assets of such Person (less applicable reserves and other properly deductible items) after deducting therefrom (to the extent otherwise included therein) (a) all current liabilities and (b) all goodwill, trade names, trademarks, patents, unamortized debt discount and expense and other like intangibles, all as set forth in the books and records of such Person and its consolidated Subsidiaries as of the end of the most recently ended fiscal quarter and computed in accordance with GAAP.

"Consolidated Net Worth" means, with respect to any Person, the sum of: (a) the stockholders' equity of such Person; plus (b) the amount reported on such Person's most recent balance sheet with respect to any series of preferred stock (other than Disqualified Stock) that by its terms is not entitled to the payment of dividends unless such dividends may be declared and paid only out of net earnings in respect of the year of such declaration and payment, but only to the extent of any cash received by such Person upon issuance of such preferred stock, less: (i) all write-ups (other than write-ups resulting from foreign currency translations and write-ups of tangible assets of a going concern business made within 12 months after the acquisition of such business) subsequent to the date of this Indenture in the book value of any asset owned by such Person or a consolidated Subsidiary of such Person; and (ii) all unamortized debt discount and expense and unamortized deferred charges, all of the foregoing determined on a consolidated basis in accordance with GAAP.

"Continuing Director" means, as of any date of determination, any member of the Board of Directors of EchoStar who: (a) was a member of such Board of Directors on the date of this 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.

"Corporate Trust Office of the Trustee" shall be at the address of the Trustee specified in Section 11.02 or such other address as to which the Trustee may give notice to the Company.

"DBS" means direct broadcast satellite.

"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.

"Deferred Payments" means Indebtedness owed to satellite construction or launch contractors incurred after the date of this Indenture in connection with the construction or launch of one or more satellites of the Company or its Restricted Subsidiaries used by the Company and/or them in the businesses described in Section 4.16 in an aggregate principal amount not to exceed \$200 million at any one time outstanding.

"Definitive Note" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 of this Indenture, substantially in the form of Exhibit A hereto except that such Note shall not bear the Global Note Legend and shall not have the "Schedule of Exchanges of Interests in the Global Note" attached thereto.

"Depository" means the Depository Trust Company and any and all successors thereto appointed as depository hereunder and having become such pursuant to an applicable provision of this Indenture.

"Disqualified Stock" means any Capital Stock which, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder thereof, in whole or in part, on or prior to the date on which the Notes mature; provided, however, that any such Capital Stock may require the issuer of such Capital Stock to make an offer to purchase such Capital Stock upon the occurrence of certain events if the terms of such Capital Stock provide that such an offer may not be satisfied and the purchase of such Capital Stock may not be consummated until the 91st day after the Notes have been paid in full.

"DNCC" means Dish Network Credit Corporation, a Colorado corporation.

"EchoStar" means EchoStar Communications Corporation, a Nevada corporation, together with each Wholly Owned Subsidiary of EchoStar that beneficially owns 100% of the Equity Interests of the Company, but only so long as EchoStar beneficially owns 100% of the Equity Interests of such Subsidiary.

"EchoStar Dish Network" means the DBS service of the Company and its Subsidiaries.

"EchoStar I" means the Company's high-powered direct broadcast satellite as identified in EchoStar's Annual Report on Form 10-K for the year ended December 31, 2002 and consolidated financial statements included therein.

"EchoStar II" means the Company's high-powered direct broadcast satellite as identified in EchoStar's Annual Report on Form 10-K for the year ended December 31, 2002 and consolidated financial statements included therein.

"EchoStar III" means the high-powered direct broadcast satellite as identified in EchoStar's Annual Report on Form 10-K for the year ended December 31, 2002 and consolidated financial statements included therein.

"EchoStar IV" means the high-powered direct broadcast satellite as identified in EchoStar's Annual Report on Form 10-K for the year ended December 31, 2002 and consolidated financial statements included therein.

"EDBS Exchange Indenture" means the indenture, dated as of November 4, 2002, among the Company, the guarantors of the EDBS Exchange Notes named therein and U.S. Bank National Association, as trustee, as the same may be amended, modified or supplemented from time to time.

"EDBS Exchange Notes" means the \$1,000,000,000 aggregate principal original issue amount of 10-3/8% Senior Notes due 2007 issued by the Company.

"EDBS Notes" means the 2001 EDBS Notes, the 1999 EDBS Notes and the EDBS Exchange Notes.

"EDBS Notes Indentures" means the 2001 EDBS Notes Indenture, the 1999 EDBS Notes Indenture and the EDBS Exchange Indenture.

"Eligible Institution" means a commercial banking institution that has combined capital and surplus of not less than \$500 million or its equivalent in foreign currency, whose debt is rated Investment Grade at the time as of which any investment or rollover therein is made.

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

"ESC" means EchoStar Satellite Corporation, a Colorado corporation.

"ETC" means EchoStar Technologies Corporation, a Texas corporation.

"Euroclear" means Euroclear Bank S.A./N.V., as operator of the Euroclear system.

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

"Exchange Notes" means the Notes issued in the Exchange Offer pursuant to Section 2.06(f) or pursuant to a registered exchange offer for Notes with a Private Placement Legend issued after the Issue Date.

"Exchange Offer" has the meaning set forth in the Registration Rights Agreement with respect to the Notes.

"Exchange Offer Registration Statement" has the meaning set forth in the Registration Rights Agreement with respect to the Notes.

"Existing Indebtedness" means the Notes, the 6-3/8% Notes, the Floating Rate Notes and any other Indebtedness of the Company and its Subsidiaries in existence on the date of this Indenture until such amounts are repaid.

"FCC" means Federal Communications Commission.

"Floating Rate Notes" means the \$500,000,000 aggregate principal original issue amount of Floating Rate Senior Notes due 2008 issued by the Company under the Floating Rate Notes Indenture.

"Floating Rate Notes Indenture" means the indenture, dated as of October 2, 2003, among the Company, the guarantors of the Floating Rate Notes named therein and U.S. Bank National Association, as trustee.

"GAAP" means United States 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 may be approved by a significant segment of the accounting profession of the United States of America, which are applicable as of the date of determination; provided that, except as otherwise specifically provided, all calculations made for purposes of determining compliance with the terms of the provisions of this Indenture shall utilize GAAP as in effect on the date of this Indenture.

"Global Note Legend" means the legend set forth in Section 2.01, which is required to be placed on all Global Notes issued under this Indenture.

"Global Notes" means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes, substantially in the form of Exhibit A hereto issued in accordance with Section 2.01 or 2.06 of this Indenture.

"Government Securities" means direct obligations of, or obligations guaranteed by, the United States of America for the payment of which guarantee or obligations the full faith and credit of the United States of America is pledged.

"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.

"Guarantee" means a guarantee of the Notes by a Guarantor.

"Guarantor" means any entity that executes a Guarantee of the obligations of the Company under the Notes, and their respective successors and assigns.

"Hedging Obligations" means, with respect to any Person, the obligations of such Person pursuant to any arrangement with any other Person, whereby, directly or indirectly, such Person is entitled to receive from time to time periodic payments calculated by applying either floating or a fixed rate of interest on a stated notional amount in exchange for periodic payments made by such other Person calculated by applying a fixed or a floating rate of interest on the same notional amount and shall include, without limitation, interest rate swaps, caps, floors, collars and similar agreements designed to protect such Person against fluctuations in interest rates.

"Holder" means a Person in whose name a Note is registered.

"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 (including pursuant to capital leases) or representing any Hedging Obligations, except any such balance that constitutes an accrued expense or trade payable, if and to the extent any of the foregoing (other than Hedging Obligations) 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 amount of all obligations of such Person with respect to the redemption, repayment or other repurchase of any Disqualified Stock or, with respect to any Subsidiary of such Person, the liquidation preference with respect to, any Preferred Equity Interests (but excluding, in each case, any accrued dividends) as well as the guarantee of items that would be included within this definition.

"Indebtedness to Cash Flow Ratio" means, with respect to any Person, the ratio of: (a) the Indebtedness of such Person and its Subsidiaries (or, if such Person is the Company, of the Company and its Restricted Subsidiaries) as of the end of the most recently ended fiscal quarter, plus the amount of any Indebtedness incurred subsequent to the end of such fiscal quarter; to (b) such Person's Consolidated Cash Flow for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such event for which such calculation is being made shall occur (the "Measurement Period"); provided, however; that if such Person or any of its Subsidiaries (or, if such Person is the Company, any of its Restricted Subsidiaries) consummates an acquisition, merger or other business combination or an Asset Sale or other disposition of assets subsequent to the commencement of the Measurement Period for which the calculation of the Indebtedness to Cash Flow Ratio is made, then the Indebtedness to Cash Flow Ratio shall be calculated giving pro forma effect to such transaction(s) as if the same had occurred at the beginning of the applicable period.

"Indenture" means this Indenture, as amended or supplemented from time to time.

"Indirect Participant" means a Person who holds a beneficial interest in a Global Note through a Participant.

"Initial Notes" means the \$1.0 billion aggregate principal amount 5-3/4% Senior Notes due 2008 of the Company issued under this Indenture on the Issue Date.

"Initial Purchasers" means, with respect to the Notes, Banc of America LLC and Credit Suisse First Boston LLC.

"Investment Grade" means, with respect to a security, that such security is rated at least BBB- or higher by S&P or Baa3 or higher by Moody's (or, in the event of change in ratings systems, the equivalent of such ratings by S&P or Moody's), or the equivalent rating of another nationally recognized statistical rating organization.

"Investments" means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the forms of loans (including guarantees), advances or capital contributions (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities and all other items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP.

"Issue Date" means October 2, 2003, the date of original issuance of the Initial Notes.

"Legal Holiday" means a Saturday, a Sunday or a day on which banking institutions in the City of New York or at a place of payment are authorized or required by law, regulation or executive order to remain closed. 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.

"Letter of Transmittal" means the letter of transmittal to be prepared by the Company and sent to all Holders of the Notes for use by such Holders in connection with the Exchange Offer.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law (including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statute) of any jurisdiction).

"Marketable Securities" means: (a) Government Securities; (b) any certificate of deposit maturing not more than 365 days after the date of acquisition issued by, or time deposit of, an Eligible Institution; (c) commercial paper maturing not more than 365 days after the date of acquisition issued by a corporation (other than an Affiliate of the Company) with an Investment Grade rating, at the time as of which any investment therein is made, issued or

offered by an Eligible Institution; (d) any bankers' acceptances or money market deposit accounts issued or offered by an Eligible Institution; and (e) any fund investing exclusively in investments of the types described in clauses (a) through (d) above.

"Maximum Secured Amount" means 3.0 times the Trailing Cash Flow Amount, or, if greater and following a Fall Away Event, 15% of the Company's Consolidated Net Tangible Assets.

"Moody's" means Moody's Investors Service, Inc.

"Net Income" means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP, excluding, however, any gain (but not loss), together with any related provision for taxes on such gain (but not loss), realized in connection with any Asset Sale (including, without limitation, dispositions pursuant to sale and leaseback transactions), and excluding any extraordinary gain (but not loss), together with any related provision for taxes on such extraordinary gain (but not loss) and excluding any unusual gain (but not loss) relating to recovery of insurance proceeds on satellites, together with any related provision for taxes on such extraordinary gain (but not loss).

"Net Proceeds" means the aggregate cash proceeds received by the Company or any of its Restricted Subsidiaries, as the case may be, in respect of any Asset Sale, net of the direct costs relating to such Asset Sale (including, without limitation, legal, accounting and investment banking fees, and sales commissions) and any relocation expenses incurred as a result thereof, taxes paid or payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements), amounts required to be applied to the repayment of Indebtedness secured by a Lien on the asset or assets that are the subject of such Asset Sale and any reserve for adjustment in respect of the sale price of such asset or assets. Net Proceeds shall exclude any non-cash proceeds received from any Asset Sale, but shall include such proceeds when and as converted by the Company or any Restricted Subsidiary to cash.

"1999 EDBS Notes" means the \$1,625,000,000 aggregate principal original issue amount of 9-3/8% Senior Notes due 2009 issued by the Company.

"1999 EDBS Notes Indenture" means the indenture dated January 25, 1999 among the Company, the guarantors of the 1999 EDBS Notes named therein and U.S. Bank National Association, as Trustee, as the same may be amended, modified or supplemented from time to time.

"Non-Core Assets" means: (1) all intangible present and possible future authorizations, rights, interests and other intangible assets related to all "western" DBS orbital locations other than the 148 degree orbital slot (as the term "western" is used by the FCC) held by the Company and/or any of its Subsidiaries at any time, including without limitation the authorization for 3 DBS frequencies at the 157 degree orbital location; (2) all intangible present and possible future authorizations, rights, interests and other intangible assets related to the fixed satellite service in the Ku-band, Ka-band and C-band held by the Company and/or any of its Subsidiaries at any time, including without limitation the license of ESC for a two satellite Ka/Ku-band system at 83 degree and 121 degree orbital location, the application of ESC to add

C-band capabilities to a Ku-band satellite authorized at 83 degree orbital location, and ESC's pending applications for Ka-band and extended Ku-band satellites related to the fixed satellite service; (3) all present and possible future intangible authorizations, rights, interests and other intangible assets related to the mobile satellite service held by the Company and/or any of its Subsidiaries at any time, including without limitation the license of E-SAT, Inc. for a low-earth orbit mobile satellite service system; (4) all present and possible future intangible authorizations, rights, interests and other intangible assets related to local multi-point distribution service; and (5) any Subsidiary of the Company the assets of which consist solely of (i) any combination of the foregoing and (ii) other assets to the extent permitted under the provision described under the second paragraph of Section 4.19.

"Non-Recourse Indebtedness" of any Person means Indebtedness of such Person that: (i) is not guaranteed by any other Person (except a Wholly Owned Subsidiary of the referent Person); (ii) is not recourse to and does not obligate any other Person (except a Wholly Owned Subsidiary of the referent Person) in any way; (iii) does not subject any property or assets of any other Person (except a Wholly Owned Subsidiary of the referent Person), directly or indirectly, contingently or otherwise, to the satisfaction thereof, and (iv) is not required by GAAP to be reflected on the financial statements of any other Person (other than a Subsidiary of the referent Person) prepared in accordance with GAAP.

"Non-U.S. Person" means a Person who is not a U.S. Person.

"Notes" means the Initial Notes, the Exchange Notes and any other notes issued after the Issue Date in accordance with the fourth paragraph of Section 2.02 of this Indenture treated as a single class of securities.

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

"Offering" means the offering of the Notes, the 6-3/8% Notes and the Floating Rate Notes pursuant to the Offering Memorandum.

"Offering Memorandum" means the Offering Memorandum, dated September 18, 2003, relating to and used in connection with the Offering.

"Officer" means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, Controller, Secretary or any Vice-President of such Person.

"Officers' Certificate" means a certificate signed on behalf of the Company by two Officers of the Company, one of whom must be the principal executive officer, principal financial officer, treasurer or principal accounting officer of the Company.

"Opinion of Counsel" means an opinion from legal counsel, who may be an employee of or counsel to the Company, any Subsidiary of the Company or the Trustee.

"Participant" means, with respect to the Depository, Euroclear or Clearstream, a Person who has an account with the Depository, Euroclear or Clearstream, respectively (and, with respect to DTC, shall include Euroclear and Clearstream).

"Permitted Investments" means: (a) Investments in the Company or in a Wholly Owned Restricted Subsidiary that is a Guarantor; (b) Investments in Cash Equivalents and Marketable Securities; and (c) Investments by the Company or any of its Subsidiaries in a Person if, as a result of such Investment: (i) such Person becomes a Wholly Owned Restricted Subsidiary and becomes a Guarantor, or (ii) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Company or a Wholly Owned Restricted Subsidiary that is a Guarantor; provided that if at any time a Restricted Subsidiary of the Company shall cease to be a Subsidiary of the Company, the Company shall be deemed to have made a Restricted Investment in the amount of its remaining investment, if any, in such former Subsidiary.

"Permitted Liens" means:

(a) Liens securing the Notes, the 6-3/8% Notes and the Floating Rate Notes and Liens securing any Guarantee, any Guarantee (as defined in the 6-3/8% Notes Indenture) and any Guarantee (as defined in the Floating Rate Notes Indenture);

(b) Liens securing the Deferred Payments;

(c) Liens securing any Indebtedness permitted under Section 4.09 of this Indenture; provided that such Liens under this clause (c) shall not secure Indebtedness in an amount exceeding the Maximum Secured Amount at the time that such Lien is incurred;

(d) Liens securing Purchase Money Indebtedness; provided that such Indebtedness was permitted to be incurred by the terms of this Indenture and such Liens do not extend to any assets of the Company or its Restricted Subsidiaries other than the assets so acquired;

(e) Liens securing Indebtedness the proceeds of which are used to develop, construct, launch or insure any satellites other than EchoStar I, EchoStar II, EchoStar III, EchoStar IV; provided that such Indebtedness was permitted to be incurred by the terms of this Indenture and such Liens do not extend to any assets of the Company or its Restricted Subsidiaries other than such satellites being developed, constructed, launched or insured, and to the related licenses, permits and construction, launch and TT&C contracts;

(f) Liens on orbital slots, licenses and other assets and rights of the Company, provided that such orbital slots, licenses and other assets and rights relate solely to the satellites referred to in clause (e) of this definition;

(g) Liens on property of a Person existing at the time such Person is merged into or consolidated with the Company or any of its Restricted Subsidiaries, provided that such Liens were not incurred in connection with, or in contemplation of, such merger or consolidation, other than in the ordinary course of business;

(h) Liens on property of an Unrestricted Subsidiary at the time that it is designated as a Restricted Subsidiary pursuant to the definition of "Unrestricted Subsidiary;" provided that such Liens were not incurred in connection with, or contemplation of, such designation;

(i) Liens on property existing at the time of acquisition thereof by the Company or any Restricted Subsidiary of the Company; provided that such Liens were not incurred in connection with, or in contemplation of, such acquisition and do not extend to any assets of the Company or any of its Restricted Subsidiaries other than the property so acquired;

(j) Liens to secure the performance of statutory obligations, surety or appeal bonds or performance bonds, or landlords', carriers', warehousemen's, mechanics', suppliers', materialmen's or other like Liens, in any case incurred in the ordinary course of business and with respect to amounts not yet delinquent or being contested in good faith by appropriate process of law, if a reserve or other appropriate provision, if any, as is required by GAAP shall have been made therefor;

(k) Liens existing on the Issue Date;

(l) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded; provided that any reserve or other appropriate provision as shall be required in conformity with GAAP shall have been made therefor;

(m) Liens incurred in the ordinary course of the business of the Company or any of its Restricted Subsidiaries (including, without limitation, Liens securing Purchase Money Indebtedness) with respect to obligations that do not exceed \$50 million in principal amount in the aggregate at any one time outstanding;

(n) Liens securing Indebtedness in an amount not to exceed \$50 million incurred pursuant to clause (11) of the second paragraph of Section 4.09 of this Indenture;

(o) Liens on any asset of the Company or any of its Restricted Subsidiaries securing Indebtedness in an amount not to exceed \$25 million;

(p) Liens securing Indebtedness permitted under clause (12) of the second paragraph of Section 4.09 of this Indenture; provided that such Liens shall not extend to assets other than the assets that secure such Indebtedness being refinanced;

(q) any interest or title of a lessor under any Capital Lease Obligations; provided that such Capital Lease Obligation is permitted under the other provisions of this Indenture;

(r) Liens permitted to be incurred under the EDBS Notes Indentures;

(s) Liens not provided for in clauses (a) through (r) above, securing Indebtedness incurred in compliance with the terms of this Indenture; provided that the Notes are secured by the assets subject to such Liens on an equal and ratable basis or on a basis prior to

such Liens; provided that to the extent that such Lien secured Indebtedness that is subordinated to the Notes, such Lien shall be subordinated to and be later in priority than the Notes on the same basis; and

(t) extensions, renewals or refundings of any Liens referred to in clauses (a) through (q) above; provided that (i) any such extension, renewal or refunding does not extend to any assets or secure any Indebtedness not securing or secured by the Liens being extended, renewed or refinanced and (ii) any extension, renewal or refunding of a Lien originally incurred pursuant to clause (c) above shall not secure Indebtedness in an amount greater than the Maximum Secured Amount at the time of such extension, renewal or refunding.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust or unincorporated organization (including any subdivision or ongoing business of any such entity or substantially all of the assets of any such entity, subdivision or business).

"Preferred Equity Interest," in any Person, means an Equity Interest of any class or classes (however designated) which is preferred as to the payment of dividends or distributions, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over Equity Interests of any other class in such Person.

"Principal" means Charles W. Ergen.

"Private Placement Legend" means the legend set forth in Section 2.01 to be placed on all Notes issued under this Indenture except where otherwise permitted by the provisions of this Indenture.

"Purchase Money Indebtedness" means (i) Indebtedness of the Company, or any Guarantor incurred (within 365 days of such purchase) to finance the purchase of any assets (including the purchase of Equity Interests of Persons that are not Affiliates of the Company or the Guarantors): (a) to the extent the amount of Indebtedness thereunder does not exceed 100% of the purchase cost of such assets; and (b) to the extent that no more than \$50 million of such Indebtedness at any one time outstanding is recourse to the Company or any of its Restricted Subsidiaries or any of their respective assets, other than the assets so purchased; and (ii) Indebtedness of the Company or any Guarantor which refinances Indebtedness referred to in clause (i) of this definition, provided that such refinancing satisfies subclauses (a) and (b) of such clause (i).

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

"Rating Agencies" means: (a) S&P; (b) Moody's; or (c) if S&P or Moody's or both shall not make a rating of the Notes publicly available, a nationally recognized securities rating agency or agencies, as the case may be, selected by the Company, which shall be substituted for S&P or Moody's or both, as the case may be.

"Receivables Trust" means a trust organized solely for the purpose of securitizing the accounts receivable held by the Accounts Receivable Subsidiary that (a) shall not engage in any business other than (i) the purchase of accounts receivable or participation interests therein

from the Accounts Receivable Subsidiary and the servicing thereof, (ii) the issuance of and distribution of payments with respect to the securities permitted to be issued under clause (b) below and (iii) other activities incidental to the foregoing, (b) shall not at any time incur Indebtedness or issue any securities, except (i) certificates representing undivided interests in the trust issued to the Accounts Receivable Subsidiary and (ii) debt securities issued in an arm's length transaction for consideration solely in the form of cash and Cash Equivalents, all of which (net of any issuance fees and expenses) shall promptly be paid to the Accounts Receivable Subsidiary, and (c) shall distribute to the Accounts Receivable Subsidiary as a distribution on the Accounts Receivable Subsidiary's beneficial interest in the trust no less frequently than once every six months all available cash and Cash Equivalents held by it, to the extent not required for reasonable operating expenses or reserves therefor or to service any securities issued pursuant to clause (b) above that are not held by the Accounts Receivable Subsidiary.

"Registration Rights Agreement" means the Registration Rights Agreement for the Notes, the 6-3/8% Notes and the Floating Rate Notes, dated as of October 2, 2003, by and among the Company, the Guarantors, the Initial Purchasers and any other parties named on the signature pages thereof, as such agreement may be amended, modified or supplemented from time to time.

"Regulation S" means Regulation S promulgated under the Securities Act.

"Regulation S Global Note" means one or more global Notes substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depository or its nominee, which, in the aggregate, are equal to the outstanding principal amount of the Notes initially sold in reliance on Rule 903 of Regulation S.

"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.

"Responsible Officer," when used with respect to the Trustee, means any officer within the Corporate Trust Administration of the Trustee (or any successor group of the Trustee) or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

"Restricted Definitive Note" means a Definitive Note bearing the Private Placement Legend.

"Restricted Global Note" means a Global Note bearing the Private Placement Legend.

"Restricted Investment" means an Investment other than Permitted Investments.

"Restricted Period" means the 40-day distribution compliance period as defined in Regulation S.

"Restricted Subsidiary" or "Restricted Subsidiaries" 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 the Company or one or more Subsidiaries of the Company or a combination thereof, other than Unrestricted Subsidiaries.

Act. "Rule 144" means Rule 144 promulgated under the Securities

Act. "Rule 144A" means Rule 144A promulgated under the Securities

Act. "Rule 903" means Rule 903 promulgated under the Securities

Act. "Rule 904" means Rule 904 promulgated under the Securities

McGraw Hill Companies, Inc. "S&P" means Standard & Poor's Ratings Group, a division of The

"Satellite Receiver" means any satellite receiver capable of receiving programming from the EchoStar Dish Network.

"SEC" means the Securities and Exchange Commission.

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

Statement as defined in the Registration Rights Agreement. "Shelf Registration Statement" means the Shelf Registration

"Significant Subsidiary" means any Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X promulgated pursuant to the Securities Act, as such regulation is in effect on the Issue Date.

"6-3/8% Notes" means the \$1,000,000,000 aggregate principal original issue amount of 6-3/8% Senior Notes due 2011 issued by the Company under the 6-3/8% Notes Indenture.

"6-3/8% Notes Indenture" means the indenture, dated as of October 2, 2003, among the Company, the guarantors of the 6-3/8% Notes named therein and U.S. Bank National Association, as trustee.

"Subsidiary" or "Subsidiaries" means, with respect to any Person, 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 such Person or one or more of the other Subsidiaries of such Person or a combination thereof.

"TIA" means the Trust Indenture Act of 1939 as in effect on the date of this Indenture.

"Trailing Cash Flow Amount" means the Consolidated Cash Flow of the Company during the most recent four fiscal quarters of the Company for which financial statements are available; provided that if the Company or any of its Restricted Subsidiaries consummates a merger, acquisition or other business combination or an Asset Sale or other disposition of assets subsequent to the commencement of such period but prior to or contemporaneously with the event for which the calculation of Trailing Cash Flow Amount is made, then Trailing Cash Flow Amount shall be calculated giving pro forma effect to such material acquisition or Asset Sale or other disposition of assets, as if the same had occurred at the beginning of the applicable period.

"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 serving hereunder.

"TT&C" means telemetry, tracking and control.

"2001 EDBS Notes" means the \$700,000,000 aggregate principal original issue amount of 9-1/8% Senior Notes due 2009 issued by the Company.

"2001 EDBS Notes Indenture" means the indenture dated December 28, 2001 among the Company and U.S. Bank National Association, as trustee, as the same may be amended, modified or supplemented from time to time.

"2003 Indentures" means this Indenture, the 6-3/8% Notes Indenture and the Floating Rate Notes Indenture.

"U.S. Person" means a U.S. Person as defined in Rule 902(k) under the Securities Act.

"Unrestricted Definitive Note" means one or more Definitive Notes that do not bear and are not required to bear the Private Placement Legend.

"Unrestricted Global Note" means a permanent global Note substantially in the form of Exhibit A attached hereto that bears the Global Note Legend and that has the "Schedule of Exchanges of Interests in the Global Note" attached thereto, and that is deposited with or on behalf of and registered in the name of the Depositary, representing Notes that do not bear the Private Placement Legend.

"Unrestricted Subsidiary" or "Unrestricted Subsidiaries" means: (A) E-Sat, Inc., Wright Travel Corporation, EchoStar Real Estate Corporation V, EchoStar International (Mauritius) Ltd., EchoStar Manufacturing & Distribution Private Ltd. India, Satrec Mauritius Ltd., Celsat America, WS Acquisition Corporation, Flextracker Sdn. Bhd., Echosphere De Mexico S. De R.L. De C.V. and EIC Spain, S.L.; and (B) any Subsidiary of the Company designated as an Unrestricted Subsidiary in a resolution of the Board of Directors:

(a) no portion of the Indebtedness or any other obligation (contingent or otherwise) of which, immediately after such designation: (i) is guaranteed by the Company or any other Subsidiary of the Company (other than another Unrestricted

Subsidiary); (ii) is recourse to or obligates the Company or any other Subsidiary of the Company (other than another Unrestricted Subsidiary) in any way; or (iii) subjects any property or asset of the Company or any other Subsidiary of the Company (other than another Unrestricted Subsidiary), directly or indirectly, contingently or otherwise, to satisfaction thereof;

(b) with which neither the Company nor any other Subsidiary of the Company (other than another Unrestricted Subsidiary) has any contract, agreement, arrangement, understanding or is subject to an obligation of any kind, written or oral, other than on terms no less favorable to the Company or such other Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Company; and

(c) with which neither the Company nor any other Subsidiary of the Company (other than another Unrestricted Subsidiary) has any obligation: (i) to subscribe for additional shares of Capital Stock or other equity interests therein; or (ii) to maintain or preserve such Subsidiary's financial condition or to cause such Subsidiary to achieve certain levels of operating results;

provided, however, that neither ESC nor Echosphere Corporation may be designated as an Unrestricted Subsidiary. If at any time after the date of this Indenture the Company designates an additional Subsidiary (other than ETC or a Subsidiary that constitutes a Non-Core Asset) as an Unrestricted Subsidiary, the Company will be deemed to have made a Restricted Investment in an amount equal to the fair market value (as determined in good faith by the Board of Directors of the Company evidenced by a resolution of the Board of Directors of the Company and set forth in an Officers' Certificate delivered to the Trustee no later than ten business days following a request from the Trustee, which certificate shall cover the six months preceding the date of the request) of such Subsidiary. An Unrestricted Subsidiary may be designated as a Restricted Subsidiary of the Company if, at the time of such designation after giving pro forma effect thereto, no Default or Event of Default shall have occurred or be continuing.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years obtained by dividing (a) the then outstanding principal amount of such Indebtedness into (b) the total of the product obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment.

"Wholly Owned Restricted Subsidiary" means a Wholly Owned Subsidiary of the Company that is a Restricted Subsidiary.

"Wholly Owned Subsidiary" means, with respect to any Person, any Subsidiary all of the outstanding voting stock (other than directors' qualifying shares) of which is owned by such Person, directly or indirectly.

SECTION 1.02 Other Definitions.

Term -----	Defined in Section -----
"Affiliate Transaction".....	4.11
"Asset Sale".....	4.10
"Change of Control Offer".....	4.15
"Change of Control Payment".....	4.15
"Change of Control Payment Date".....	4.15
"Company".....	Preamble
"Covenant Defeasance".....	8.03
"DTC".....	2.01
"ETC Amount Due".....	4.19
"Event of Default".....	6.01
"Excess Proceeds".....	4.10
"Excess Proceeds Offer".....	3.08
"H.15(519) Selected Interest Rates".....	3.07
"incur".....	4.09
"Legal Defeasance".....	8.02
"Make-Whole Premium".....	3.07
"Non-Core Asset Amount Due".....	4.19
"Offer Amount".....	3.08
"Offer Period".....	3.08
"Paying Agent".....	2.03
"Payment Default".....	6.01(f)
"Payout".....	4.19
"Permitted Refinancing".....	4.09
"Private Placement Legend".....	2.01
"Purchase Date".....	3.08
"Refinancing Indebtedness".....	4.09
"Registrar".....	2.03
"Remaining Term".....	3.07
"Restricted Payments".....	4.07
"Terminated Covenants".....	4.21
"Treasury Yield".....	3.07

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;

"obligor" on the Notes means each of the Company and any successor obligor upon the Notes.

All other terms used in this Indenture that are defined by the TIA, defined by 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:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (3) "or" is not exclusive;
- (4) words in the singular include the plural, and in the plural include the singular; and
- (5) provisions apply to successive events and transactions.

ARTICLE 2

THE NOTES

SECTION 2.01. Form and Dating.

The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto, the terms of which are incorporated in and made a part of this Indenture. The Notes may have notations, legends or endorsements approved as to form by the Company, and required by law, stock exchange rule, agreements to which the Company is subject or usage. Each Note shall be dated the date of its authentication. The Notes shall be issuable only in denominations of \$1,000 and integral multiples thereof.

The Notes shall initially be issued in the form of one or more Global Notes and the Depository Trust Company ("DTC"), its nominees, and their respective successors, shall act as the Depository with respect thereto. Each Global Note shall (i) be registered in the name of the Depository for such Global Note or the nominee of such Depository, (ii) shall be delivered by the Trustee to such Depository or pursuant to such Depository's instructions, and (iii) shall bear a legend (the "Global Note Legend") substantially to the following effect:

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

THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE OF A DEPOSITARY OR A SUCCESSOR DEPOSITARY. THIS NOTE IS NOT EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITARY OR ITS NOMINEE EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE, AND NO TRANSFER OF THIS NOTE (OTHER THAN A TRANSFER OF THIS NOTE AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY) MAY BE REGISTERED EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.

Except as permitted by Section 2.06(g), any Note not registered under the Securities Act shall bear the following legend (the "Private Placement Legend") on the face thereof:

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS NOTE NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT. THE HOLDER OF THIS NOTE BY ITS ACCEPTANCE HEREOF AGREES TO OFFER, SELL OR OTHERWISE TRANSFER SUCH NOTE, PRIOR TO THE DATE WHICH IS TWO YEARS AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF AND THE LAST DATE ON WHICH THE COMPANY OR ANY AFFILIATE OF THE COMPANY WAS THE OWNER OF THIS NOTE (OR ANY PREDECESSOR OF THIS NOTE) (THE "RESALE

RESTRICTION TERMINATION DATE") ONLY (A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, (B) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, (C) FOR SO LONG AS THE NOTES ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE SECURITIES ACT ("RULE 144A"), TO A PERSON IT REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) PURSUANT TO OFFERS AND SALES TO NON-U.S. PERSONS THAT OCCUR OUTSIDE THE UNITED STATES WITHIN THE MEANING OF REGULATIONS UNDER THE SECURITIES ACT AND OTHERWISE IN COMPLIANCE WITH REGULATIONS UNDER THE SECURITIES ACT OR (E) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE COMPANY'S AND THE TRUSTEE'S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSE (D) PRIOR TO THE END OF THE 40 DAY DISTRIBUTION COMPLIANCE PERIOD WITHIN THE MEANING OF REGULATIONS UNDER THE SECURITIES ACT OR PURSUANT TO CLAUSE (E) PRIOR TO THE RESALE RESTRICTION TERMINATION DATE TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF A HOLDER AFTER THE RESALE RESTRICTION TERMINATION DATE.

The Trustee must refuse to register any transfer of a Note bearing the Private Placement Legend that would violate the restrictions described in such legend.

SECTION 2.02. Form of Execution and Authentication.

Two Officers of the Company shall sign the Notes for the Company by manual or facsimile signature. The Company's seal shall be reproduced on the Notes.

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 the Trustee. The signature of the Trustee shall be conclusive evidence that the Note has been authenticated under this Indenture.

The Trustee shall authenticate (i) Initial Notes for original issue on the Issue Date in an aggregate principal amount of \$1.0 billion, (ii) pursuant to the Exchange Offer, Exchange Notes from time to time for issue only in exchange for a like principal amount of Initial Notes and (iii) subject to compliance with Section 4.09, one or more series of Notes for original issue after the Issue Date (such Notes to be substantially in the form of Exhibit A) in an unlimited

amount (and if issued with a Private Placement Legend, the same principal amount of Exchange Notes in exchange therefor upon consummation of a registered exchange offer) in each case upon written orders of the Company in the form of an Officers' Certificate, which Officers' Certificate shall, in the case of any issuance pursuant to clause (iii) above, certify that such issuance is in compliance with Section 4.09. In addition, each such Officers' Certificate shall specify the amount of Notes to be authenticated, the date on which the Notes are to be authenticated, whether the Securities are to be Initial Notes, Exchange Notes or Notes issued under clause (iii) of the preceding sentence and the aggregate principal amount of Notes outstanding on the date of authentication, and shall further specify the amount of such Notes to be issued as a Global Note or Definitive Notes. Such Notes shall initially be in the form of one or more Global Notes, which (i) shall represent, and shall be denominated in an amount equal to the aggregate principal amount of, the Notes to be issued, (ii) shall be registered in the name of the Depositary for such Global Note or Notes or its nominee and (iii) shall be delivered by the Trustee to the Depositary or pursuant to the Depositary's instruction. All Notes issued under this Indenture shall vote and consent together on all matters as one class and no series of Notes will have the right to vote or consent as a separate class on any matter.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. Unless limited by the terms of such appointment, 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 the Company or any Affiliate of the Company.

SECTION 2.03. Registrar and Paying Agent.

The Company shall maintain (i) an office or agency where Notes may be presented for registration of transfer or for exchange (including any co-registrar, the "Registrar") and (ii) an office or agency where Notes may be presented for payment ("Paying Agent"). The Registrar shall keep a register of the Notes and of their transfer and exchange. The Company may appoint one or more co-registrars and one or more additional paying agents. The term "Paying Agent" includes any additional paying agent. The Company may change any Paying Agent, Registrar or co-registrar without prior notice to any Holder of a Note. The Company shall notify the Trustee and the Trustee shall notify the Holders of the Notes of the name and address of any Agent not a party to this Indenture. The Company may act as Paying Agent, Registrar or co-registrar. The Company shall enter into an appropriate agency agreement with any Agent not a party to this Indenture, which shall incorporate the provisions of the TIA. The agreement shall implement the provisions of this Indenture that relate to such Agent. The Company shall notify the Trustee of the name and address of any such Agent. If the Company fails to maintain a Registrar or Paying Agent, or fails to give the foregoing notice, the Trustee shall act as such, and shall be entitled to appropriate compensation in accordance with Section 7.07.

The Company initially appoints the Trustee as Registrar, Paying Agent and agent for service of notices and demands in connection with the Notes.

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 shall hold in trust for the benefit of the Holders of the Notes or the Trustee all money held by the Paying Agent for the payment of principal of, premium, if any, and interest on the Notes, and shall 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. 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) shall have no further liability for the money delivered to the Trustee. If the Company acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders of the Notes all money held by it as Paying Agent.

SECTION 2.05. Lists of Holders of the Notes.

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 of the Notes and shall otherwise comply with TIA Section 312(a). If the Trustee is not the Registrar, the Company shall furnish to the Trustee at least seven Business Days 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 of the Notes, including the aggregate principal amount of the Notes held by each thereof, and the Company shall otherwise comply with TIA Section 312(a).

SECTION 2.06. Transfer and Exchange.

(a) Transfer and Exchange of Global Notes. A Global Note may not be transferred as a whole except by the Depository to a nominee of the Depository, by a nominee of the Depository to the Depository or to another nominee of the Depository, or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository. All Global Notes will be exchanged by the Company for Definitive Notes if (i) the Company delivers to the Trustee notice from the Depository that it is unwilling or unable to continue to act as Depository and a successor Depository is not appointed by the Company within 90 days after the date of such notice from the Depository, (ii) the Depository has ceased to be a clearing agency registered under the Exchange Act, (iii) the Company in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and delivers a written notice to such effect to the Trustee or (iv) there shall have occurred and be continuing a Default or an Event of Default under this Indenture. In any such case, the Company will notify the Trustee in writing that, upon surrender by the Direct Participants and Indirect Participants of their interest in such Global Note, Certificated Notes will be issued to each Person that such Direct Participants and Indirect Participants and DTC identify as being the beneficial owner of the related Notes. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 of this Indenture. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10 of this Indenture, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as

provided in this Section 2.06. However, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b), (c) or (f) of this Indenture.

(b) Transfer and Exchange of Beneficial Interests in the Global Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes shall be subject to restrictions on transfer comparable to those set forth in this Indenture to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(i) Transfer of Beneficial Interests in the Same Global Note. Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend; provided, however, that prior to the expiration of the Restricted Period, no transfer of beneficial interests in the Regulation S Global Note may be made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser) unless permitted by applicable law and made in compliance with subparagraphs (ii) and (iii) below. Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(i) unless specifically stated above.

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(i) above, the transferor of such beneficial interest must deliver to the Registrar either (A) (1) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or, (B) (1) if Definitive Notes are at such time permitted to be issued pursuant to this Indenture, a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above. Upon consummation of an Exchange Offer by the Company in accordance with Section 2.06(f), the requirements of this Section 2.06(b)(ii) shall be deemed to have been satisfied upon receipt by the Registrar of the instructions contained in the Letter of Transmittal delivered by the Holder of such beneficial interests in the Restricted Global Notes. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the

Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(h).

(iii) Transfer of Beneficial Interests to Another Restricted Global Note. A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.06(b)(ii) above and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in the 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit C hereto, including the certifications in item (1) thereof; and

(B) if the transferee will take delivery in the form of a beneficial interest in the Regulation S Global Note, then the transferor must deliver a certificate in the form of Exhibit C hereto, including the certifications in item (2) thereof.

(iv) Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note. A beneficial interest in any Restricted Global Note may be exchanged by any Holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.06(b)(ii) above and:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder of the beneficial interest to be transferred, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an "affiliate" (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to a Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to an Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(y) if the Holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such Holder in the form of Exhibit D hereto, including the certifications in item (1)(a) thereof, or

(z) if the Holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained in this Indenture and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected pursuant to subparagraph (B) or (D) above at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02, the Trustee shall authenticate, one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to subparagraph (B) or (D) above.

Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(c) Transfer or Exchange of Beneficial Interests for Definitive Notes.

(i) Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes. If any Holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such Holder in the form of Exhibit D hereto, including the certifications in item (2)(a) thereof;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (3)(a) thereof;

(E) if such beneficial interest is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (3)(b) thereof; or

(F) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h), and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Restricted Definitive Note in the appropriate principal amount. Any Restricted Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c) shall be registered in such name or names and in such authorized denomination or denominations as the Holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Restricted Definitive Notes to the Persons in whose names such Notes are so registered. Any Restricted Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c)(1) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(ii) Beneficial Interests in Restricted Global Notes to Unrestricted Definitive Notes. A Holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note only if:

(A) such exchange or transfer is effected pursuant to an Exchange Offer in accordance with the Registration Rights Agreement and the Holder of such beneficial interest, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an "affiliate" (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to a Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(y) if the Holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Definitive Note that does not bear the Private Placement Legend, a certificate from such Holder in the form of Exhibit D hereto, including the certifications in item (1)(b) thereof; or

(z) if the Holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a Definitive Note that does not bear the Private Placement Legend, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (4) thereof,

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained in this Indenture and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected pursuant to subparagraph (B) or (D) above at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to subparagraph (B) or (D) above.

(iii) Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes. If any Holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth in Section 2.06(b)(ii), the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h), and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iii) shall be registered in such name or names and in such authorized denomination or denominations as the Holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iii) shall not bear the Private Placement Legend.

(d) Transfer and Exchange of Definitive Notes for Beneficial Interests.

(i) Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes. If any Holder of a Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder in the form of Exhibit D hereto, including the certifications in item (2)(b) thereof;

(B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (1) thereof; or

(C) if such Restricted Definitive Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (2) thereof,

the Trustee shall cancel the Restricted Definitive Note, increase or cause to be increased the aggregate principal amount of, in the case of clause (A) above, the appropriate Restricted Global Note, in the case of clause (B) above, the 144A Global Note, and in the case of clause (C) above, the Regulation S Global Note.

(ii) Restricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of a Restricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an "affiliate" (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to a Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to an Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

following: (D) the Registrar receives the

(y) if the Holder of such Definitive Notes proposes to exchange such Notes for a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit D hereto, including the certifications in item (1)(c) thereof; or

(z) if the Holder of such Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained in this Indenture and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the conditions of any of the subparagraphs in this Section 2.06(d)(ii), the Trustee shall cancel the Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(iii) Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of an Unrestricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Unrestricted Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes.

If any such exchange or transfer from an Unrestricted Definitive Note or a Restricted Definitive Note, as the case may be, to a beneficial interest is effected pursuant to subparagraphs (ii)(B), (ii)(D) or (iii) above at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 of this Indenture, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of Unrestricted Definitive Notes or Restricted Definitive Notes, as the case may be, so transferred.

(e) Transfer and Exchange of Definitive Notes for Definitive Notes. Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar shall register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly

authorized in writing. In addition, the requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.06(e).

(i) Restricted Definitive Notes to Restricted Definitive Notes. Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer will be made pursuant to Rule 144A under the Securities Act, then the transferor must deliver a certificate in the form of Exhibit C hereto, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904, then the transferor must deliver a certificate in the form of Exhibit C hereto, including the certifications in item (2) thereof; and

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit C hereto, including, if the Registrar so requests, a certification or Opinion of Counsel in form reasonably acceptable to the Company to the effect that such transfer is in compliance with the Securities Act.

(ii) Restricted Definitive Notes to Unrestricted Definitive Notes. Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note if:

(A) such exchange or transfer is effected pursuant to an Exchange Offer in accordance with the Registration Rights Agreement and the Holder, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an "affiliate" (as defined in Rule 144) of the Company;

(B) any such transfer is effected pursuant to a Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) any such transfer is effected by a Broker-Dealer pursuant to an Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(y) if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for an Unrestricted Definitive

Note, a certificate from such Holder in the form of Exhibit D hereto, including the certifications in item (1)(d) thereof; or

(z) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (4) thereof; and, in each such case set forth in this subparagraph (D), if the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained in this Indenture and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) Unrestricted Definitive Notes to Unrestricted Definitive Notes. A Holder of Unrestricted Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the Holder thereof.

(f) Exchange Offer. Upon the occurrence of an Exchange Offer in accordance with the Registration Rights Agreement, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02, the Trustee shall authenticate (i) one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of the beneficial interests in the Restricted Global Notes tendered for acceptance by Persons that certify in the applicable Letters of Transmittal that (x) they are not broker-dealers, (y) they are not participating in a distribution of the Exchange Notes and (z) they are not "affiliates" (as defined in Rule 144) of the Company, and accepted for exchange in an Exchange Offer and (ii) Definitive Notes in an aggregate principal amount equal to the principal amount of the Restricted Definitive Notes accepted for exchange in an Exchange Offer. Concurrently with the issuance of such Notes, the Trustee shall cause the aggregate principal amount of the applicable Restricted Global Notes to be reduced accordingly, and the Company shall execute and the Trustee shall authenticate and deliver to the Persons designated by the Holders of Restricted Definitive Notes so accepted Unrestricted Definitive Notes in the appropriate principal amount.

(g) Legends. The following legends shall appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture.

(i) Private Placement Legend.

(A) Except as permitted by subparagraph (B) below, each Global Note (other than an Unrestricted Global Note) and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof) shall bear the Private Placement Legend.

(B) Notwithstanding the foregoing, any Global Note or Definitive Note issued pursuant to subparagraphs (b)(iv), (c)(ii), (c)(iii), (d)(ii), (d)(iii), (e)(ii), (e)(iii) or (f) to this Section 2.06 (and all Notes issued in exchange therefor or substitution thereof) shall not bear the Private Placement Legend.

(ii) Global Note Legend. Each Global Note shall bear the Global Note Legend.

(h) Cancellation and/or Adjustment of Global Notes. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(i) General Provisions Relating to Transfers and Exchanges.

(i) To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon the Company's order or at the Registrar's request.

(ii) No service charge shall be made to a Holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, 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 taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06, 3.08 and 9.05).

(iii) The Registrar shall not be required to register the transfer of or exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

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

(v) The Company shall not be required (A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business

on a Business Day 15 days before the day of any selection of Notes for redemption under Section 3.02 of this Indenture and ending at the close of business on the day of selection or (B) to register the transfer of or to exchange any Note so selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(vi) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

(vii) The Trustee shall authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 2.02 of this Indenture.

(viii) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06 to effect a registration of transfer or exchange may be submitted by facsimile.

SECTION 2.07. Replacement Notes.

If any mutilated Note is surrendered to the Trustee, or the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Note, the Company shall issue and the Trustee, upon the written order of the Company signed by two Officers of the Company, shall authenticate a replacement Note if the Trustee's requirements for replacements of Notes are met. If required by the Trustee or the Company, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Company 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. Each of the Company and the Trustee may charge for its expenses in replacing a Note.

Every replacement Note is an obligation of the Company.

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 pursuant to Section 2.07, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a protected purchaser.

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

Subject to Section 2.09, a Note does not cease to be outstanding because the Company, a Subsidiary of 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, any Subsidiary of the Company or any Affiliate of the Company shall be considered as though not outstanding, except that for purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes which a Responsible Officer knows to be so owned shall be so considered. Notwithstanding the foregoing, Notes that are to be acquired by the Company, any Subsidiary of the Company or an Affiliate of the Company pursuant to an exchange offer, tender offer or other agreement shall not be deemed to be owned by the Company, a Subsidiary of the Company or an Affiliate of the Company until legal title to such Notes passes to the Company, such Subsidiary or such Affiliate, as the case may be.

SECTION 2.10. Temporary Notes.

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 and the Trustee consider appropriate for temporary Notes. Without unreasonable delay, the Company shall prepare and the Trustee, upon receipt of the written order of the Company signed by two Officers of the Company, shall authenticate definitive Notes in exchange for temporary Notes. Until such exchange, temporary Notes shall be entitled to the same rights, benefits and privileges as definitive Notes.

SECTION 2.11. Cancellation.

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee shall cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and shall destroy canceled Notes (subject to the record retention requirement of the Exchange Act), unless the Company directs canceled Notes to be returned to it. The Company may not issue new Notes to replace Notes that it has redeemed or paid or that have been delivered to the Trustee for cancellation. All canceled Notes held by the Trustee shall be destroyed and certification of their destruction delivered to the Company, unless by a written order, signed by two Officers of the Company, the Company shall direct that canceled Notes be returned to it.

SECTION 2.12. Defaulted Interest.

If the Company defaults in a payment of interest on the Notes, it shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, to the Persons who are Holders of the Notes on a subsequent special record date, which date shall be at the earliest practicable date but in all events at least five Business Days prior to the payment date, in each case at the rate provided in the Notes. The Company shall, with the consent of the Trustee, fix or cause to be fixed each such special record date and payment date. At least 15 days before the special record date, the Company (or the Trustee, in

the name of and at the expense of the Company) shall mail to Holders of the Notes a notice that states the special record date, the related payment date and the amount of such interest to be paid.

SECTION 2.13. Record Date.

The record date for purposes of determining the identity of Holders of the Notes entitled to vote or consent to any action by vote or consent authorized or permitted under this Indenture shall be determined as provided for in TIA Section 316(c).

SECTION 2.14. CUSIP Number.

The Company in issuing the Notes may use a "CUSIP" number and, if it does so, the Trustee shall use the CUSIP number in notices of redemption or exchange as a convenience to Holders; provided that any such notice may state that no representation is made as to the correctness or accuracy of the CUSIP number printed in the notice or on the Notes and that reliance may be placed only on the other identification numbers printed on the Notes. The Company will promptly notify the Trustee of any change in the CUSIP number.

ARTICLE 3

REDEMPTION

SECTION 3.01. Notices to Trustee.

If the Company elects to redeem Notes pursuant to the optional redemption provisions of Section 3.07, it shall furnish to the Trustee, at least 35 days (unless a shorter period is acceptable to the Trustee) but not more than 60 days before a redemption date, an Officers' Certificate setting forth (i) the redemption date, (ii) the principal amount of Notes to be redeemed and (iii) the redemption price. If the Company is required to make the redemption pursuant to Section 3.08, it shall furnish the Trustee, at least one but not more than 10 Business Days before a redemption date, an Officers' Certificate setting forth (i) the redemption date and (ii) the redemption price.

SECTION 3.02. Selection of Notes To Be Redeemed.

If less than all of the Notes are to be redeemed at any time, the selection of Notes for redemption will be made by the Trustee in compliance with the requirements of the principal national securities exchange, if any, on which the Notes are listed, or if the Notes are not so listed on a pro rata basis, by lot or in accordance with any other method the Trustee deems fair and appropriate, provided that no Notes with a principal amount of \$1,000 or less shall be redeemed in part. In the event of partial redemption by lot, the particular Notes to be redeemed shall be selected, unless otherwise provided herein, not less than 30 nor more than 60 days prior to the redemption date by the Trustee from the outstanding Notes not previously called for redemption.

The Trustee shall promptly notify the Company in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount thereof to be redeemed. Notes and portions of them selected shall be in amounts of \$1,000 or

whole multiples of \$1,000; except that if all of the Notes of a Holder are to be redeemed, the entire outstanding amount of Notes held by such Holder, even if not a multiple of \$1,000, shall be redeemed. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption.

SECTION 3.03. Notice of Redemption.

Subject to the provisions of Sections 3.08, at least 30 days but not more than 60 days before a redemption date, the Company shall mail or cause to be mailed, 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:

- (i) the redemption date;
- (ii) the redemption price;
- (iii) if any Note is being redeemed in part only, the portion of the principal amount of such Note to be redeemed and that, after the redemption date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion shall be issued in the name of the Holder thereof upon cancellation of the original Note;
- (iv) the name and address of the Paying Agent;
- (v) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;
- (vi) that, unless the Company defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the redemption date;
- (vii) the paragraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed; and
- (viii) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes.

At the Company's request, the Trustee shall give the notice of redemption in the Company's name and at its expense; provided that the Company shall have delivered to the Trustee, at least 35 days (unless a shorter period is acceptable to the Trustee) 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, Notes called for redemption become due and payable on the redemption date at the redemption price.

SECTION 3.05. Deposit of Redemption Price.

On or prior to any 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. The Trustee or the Paying Agent shall promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the redemption price of, and accrued interest on, all Notes to be redeemed.

On and after the redemption date, if the Company does not default in the payment of the redemption price, interest shall cease to accrue on the Notes or the portions of Notes called for redemption. If a Note is redeemed on or after an interest record date but on or prior to the related interest payment date, then any accrued and unpaid interest shall be paid to the Person in whose name such Note was registered at the close of business on such record date. If any Note called for redemption shall not be so paid upon surrender for redemption because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the redemption date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes.

SECTION 3.06. Notes Redeemed in Part.

Upon surrender and cancellation of a Note that is redeemed in part, the Company shall issue and the Trustee shall authenticate for the Holder of the Notes 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 Notes will be subject to redemption at the option of the Company, at any time in whole, or from time to time in part, upon not less than 30 nor more than 60 days' notice, at a redemption price equal to 100% of the principal amount of such Notes plus accrued and unpaid interest, if any, to the applicable redemption date plus the "Make-Whole Premium." The "Make-Whole Premium," with respect to any Note or any portion of any Note to be redeemed shall be equal to the greater of:

- (a) 1% of the principal amount of such Note or such portion of a Note being redeemed and
- (b) the excess, if any, of
 - (i) the sum of the present values, calculated as of the redemption date, of:
 - (A) each interest payment that, but for the redemption, would have been payable on the Note, or portion of a Note, being redeemed on each interest payment date occurring after the redemption date, excluding any accrued interest for the period prior to the redemption date, plus

(B) the principal amount that, but for the redemption, would have been payable on the maturity date of the Note, or portion of a Note, being redeemed; over

(ii) the principal amount of the Note, or portion of a Note, being redeemed.

The present values of interest and principal payments referred to in clause (b)(i) above will be determined in accordance with generally accepted principles of financial analysis. The present values will be calculated by discounting the amount of each payment of interest or principal from the date that each such payment would have been payable, but for the redemption, to the redemption date at a discount rate equal to the Treasury Yield, as defined below, plus 50 basis points.

The Company shall appoint an independent investment banking institution of national standing to calculate the Make-Whole Premium; provided that if the Company fails to appoint such an institution at least 45 days prior to the date set for redemption or if the institution that the Company appoints is unwilling or unable to make such calculation, such calculation shall be made by Banc of America Securities LLC or, if such firm is unwilling or unable to make such calculation, by an independent investment banking institution of national standing appointed by the Trustee.

For purposes of determining the Make-Whole Premium, "Treasury Yield" shall refer to an annual rate of interest equal to the weekly average yield to maturity of United States Treasury Notes that have a constant maturity that corresponds to the remaining term to maturity of the Notes being redeemed, calculated to the nearest 1/12th of a year (the "Remaining Term"). The Treasury Yield shall be determined as of the third Business Day immediately preceding the applicable redemption date.

The weekly average yields of United States Treasury Notes shall be determined by reference to the most recent statistical release published by the Federal Reserve Bank of New York and designated "H.15(519) Selected Interest Rates" or any successor release (the "H.15 Statistical Release"). If the H.15 Statistical Release sets forth a weekly average yield for United States Treasury Notes having a constant maturity that is the same as the Remaining Term, then the Treasury Yield shall be equal to such weekly average yield. In all other cases, the Treasury Yield shall be calculated by interpolation, on a straight-line basis, between the weekly average yields on the United States Treasury Notes that have a constant maturity closest to and greater than the Remaining Term and the United States Treasury Notes that have a constant maturity closest to and less than the Remaining Term, in each case as set forth in the H.15 Statistical Release. Any weekly average yields as calculated by interpolation shall be rounded to the nearest 0.01%, with any figure of 0.005% or more being rounded upward. If weekly average yields for United States Treasury Notes are not available in the H.15 Statistical Release or otherwise, then the Treasury Yield shall be calculated by interpolation of comparable rates selected by the independent investment banking institution.

Additionally, (i) Holders of record on the relevant record date shall have the right to receive interest due on any interest payment date that is on or prior to the redemption date and

(ii) the redemption price shall never be less than 100% of the principal amount of the Notes being redeemed plus accrued interest to the redemption date.

Notwithstanding the foregoing, at any time prior to October 1, 2006, the Company may redeem up to 35% of the aggregate principal amount of the Notes outstanding at a redemption price equal to 105.750% of the principal amount thereof on the redemption date, together with accrued and unpaid interest to such redemption date, with the net cash proceeds of any capital contributions or one or more public or private sales (including sales to EchoStar, regardless of whether EchoStar obtained such funds from an offering of Equity Interests or Indebtedness of EchoStar or otherwise) of Equity Interests (other than Disqualified Stock) of the Company (other than proceeds from a sale to any Subsidiary of the Company or any employee benefit plan in which the Company or any of its Subsidiaries participates); provided that: (a) at least 65% in aggregate of the originally issued principal amount of the Notes remains outstanding immediately after the occurrence of such redemption; and (b) the sale of such Equity Interests is made in compliance with the terms of this Indenture.

SECTION 3.08. Offer To Purchase by Application of Excess Proceeds.

When the cumulative amount of Excess Proceeds that have not been applied in accordance with Section 4.10 or this Section 3.08 exceeds \$100.0 million, the Company shall be obligated to make an offer to all Holders of the Notes (an "Excess Proceeds Offer") to purchase the maximum principal amount of Notes that may be purchased out of such Excess Proceeds at an offer price in cash in an amount equal to 101% of the principal amount thereof, together with accrued and unpaid interest to the date fixed for the closing of such offer in accordance with the procedures set forth in this Indenture. To the extent the Company or a Restricted Subsidiary is required under the terms of Indebtedness of the Company or such Restricted Subsidiary which is ranked equally with the Notes to make an offer to purchase such other Indebtedness with any proceeds which constitute Excess Proceeds under this Indenture, the Company shall make a pro rata offer to the holders of all other pari passu Indebtedness (including the Notes) with such proceeds. If the aggregate principal amount of Notes and other pari passu Indebtedness surrendered by holders thereof exceeds the amount of such Excess Proceeds, the Trustee shall select the Notes and other pari passu Indebtedness to be purchased on a pro rata basis.

The Excess Proceeds Offer shall remain open for a period of 20 Business Days following its commencement and no longer, except to the extent that a longer period is required by applicable law (the "Offer Period"). No later than five Business Days after the termination of the Offer Period (the "Purchase Date"), the Company shall purchase the maximum principal amount of Notes that may be purchased with such Excess Proceeds (which maximum principal amount of Notes shall be the "Offer Amount") or, if less than the Offer Amount has been tendered, all Notes tendered in response to the Excess Proceeds Offer.

If the Purchase Date is on or after an interest 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 shall be payable to Holders who tender Notes pursuant to the Excess Proceeds Offer.

Upon the commencement of any Excess Proceeds Offer, the Company shall send, by first class mail, a notice to each of the Holders of the Notes, with a copy to the Trustee. The notice shall contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Excess Proceeds Offer. The notice, which shall govern the terms of the Excess Proceeds Offer, shall state:

(i) that the Excess Proceeds Offer is being made pursuant to this Section 3.08 and the length of time the Excess Proceeds Offer shall remain open;

(ii) the Offer Amount, the purchase price and the Purchase Date;

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

(iv) that any Note accepted for payment pursuant to the Excess Proceeds Offer shall cease to accrue interest after the Purchase Date;

(v) that Holders electing to have a Note purchased pursuant to any Excess Proceeds Offer shall 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 at least three business days before the Purchase Date;

(vi) that Holders shall be entitled to withdraw their election if the Company, depository or Paying Agent, as the case may be, receives, not later than the expiration of the Offer Period, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have the Note purchased;

(vii) that, if the aggregate principal amount of Notes surrendered by Holders exceeds the Offer Amount, the Company shall select the Notes to be purchased on a pro rata basis (with such adjustments as may be deemed appropriate by the Company so that only Notes in denominations of \$1,000, or integral multiples thereof, shall be purchased); and

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

On or before the Purchase Date, the Company shall, to the extent lawful, accept for payment, on a pro rata basis to the extent necessary, the Offer Amount of Notes or portions thereof tendered pursuant to the Excess Proceeds Offer, or if less than the Offer Amount has been tendered, all Notes or portion thereof tendered, and deliver to the Trustee an Officers' Certificate stating that such Notes or portions thereof were accepted for payment by the Company in accordance with the terms of this Section 3.08. The Company, Depository or Paying Agent, as the case may be, shall promptly (but in any case not later than five days after the Purchase Date) mail or deliver to each tendering Holder an amount equal to the purchase price of

the Note tendered by such Holder and accepted by the Company for purchase, and the Company shall promptly issue a new Note, and the Trustee shall authenticate and mail or deliver such new Note, to such Holder equal in principal amount to any unpurchased portion of the Note surrendered. Any Note not so accepted shall be promptly mailed or delivered by the Company to the Holder thereof. The Company shall publicly announce the results of the Excess Proceeds Offer on the Purchase Date. To the extent that the aggregate principal amount of Notes tendered pursuant to an Excess Proceeds Offer is less than the amount of such Excess Proceeds, the Company may use any remaining Excess Proceeds for general corporate purposes. Upon completion of an Excess Proceeds Offer, the amount of Excess Proceeds shall be reset at zero.

Other than as specifically provided in this Section 3.08, any purchase pursuant to this Section 3.08 shall be made pursuant to the provisions of Sections 3.01 through 3.06.

ARTICLE 4

COVENANTS

SECTION 4.01. Payment of Notes.

The Company shall pay or cause to be paid 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, if other than the Company, holds as of 10:00 a.m. Eastern Time on the due date money deposited by or on behalf of the Company in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due.

The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to the then applicable interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace period) at the same rate to the extent lawful.

SECTION 4.02. Maintenance of Office or Agency.

The Company shall maintain an office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where Notes may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

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

such designation or rescission and of any change in the location of any such other office or agency.

The Company hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Company in accordance with Section 2.03.

SECTION 4.03. Reports.

(a) Whether or not required by the rules and regulations of the SEC, so long as any of the Notes remain outstanding, the Company shall cause copies of all quarterly and annual financial reports and of the information, documents, and other reports (or copies of such portions of any of the foregoing as the SEC may by rules and regulations prescribe) which the Company is required to file with the SEC on Forms 10-Q and 10-K to be filed with the SEC and the Trustee and mailed to the Holders at their addresses appearing in the register of Notes maintained by the Registrar, in each case, within 15 days of filing with the SEC. If the Company is not required to file reports on Form 10-Q and 10-K, the Company shall nevertheless continue to cause the annual and quarterly financial statements, including any notes thereto (and, with respect to annual reports, an auditors' report by an accounting firm of established national reputation) and a "Management's Discussion and Analysis of Financial Condition and Results of Operations," comparable to that which would have been required to appear in Forms 10-Q and 10-K, to be so filed with the SEC for public availability (to the extent permitted by the SEC) and the Trustee and mailed to the Holders within 120 days after the end of the Company's fiscal years and within 60 days after the end of each of the first three quarters of each such fiscal year. The Company shall also comply with the provisions of TIA Section 314(a).

(b) The Company shall provide the Trustee with a sufficient number of copies of all reports and other documents and information that the Trustee may be required to deliver to the Holders of the Notes under this Section 4.03.

SECTION 4.04. Compliance Certificate.

(a) The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year, 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 each has kept, observed, performed and fulfilled its obligations under this Indenture and further stating, as to each such Officer signing such certificate, that to the best of his or her knowledge each entity has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions of this Indenture including, without limitation, a default in the performance or breach of Section 4.07, Section 4.09, Section 4.10 or Section 4.15 (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action each is taking or proposes to take with respect thereto) and that to the best of his or her knowledge no event has occurred and remains in existence by reason of which payments on account of the principal of or interest, if any, on the Notes is prohibited or if such event has occurred, a description of the event and what action each is taking or proposes to take with respect thereto.

(b) The Company shall, so long as any of the Notes are outstanding, deliver to the Trustee, forthwith upon any Officer becoming aware of (i) any Default or Event of Default, or (ii) any default under any Indebtedness referred to in Section 6.01(f) or (g) of this Indenture, an Officers' Certificate specifying such Default, Event of Default or default and what action the Company or any of its Affiliates is taking or proposes to take with respect thereto.

SECTION 4.05. Taxes.

The Company shall pay, 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 or where the failure to effect such payment is not adverse in any material respect to the Holders of the Notes.

SECTION 4.06. Stay, Extension and Usury Laws.

The Company covenants (to the extent that it may lawfully do so) that it shall 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, that may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law has been enacted.

SECTION 4.07. Limitation on Restricted Payments.

Neither the Company nor any of its Restricted Subsidiaries may, directly or indirectly:

(a) declare or pay any dividend or make any distribution on account of any Equity Interests of the Company other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Company;

(b) purchase, redeem or otherwise acquire or retire for value any Equity Interests of EchoStar, the Company or any of their respective Subsidiaries or Affiliates, other than any such Equity Interests owned by the Company or by any Wholly Owned Restricted Subsidiary;

(c) purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness that is expressly subordinated in right of payment to the Notes or the Guarantees, except:

(i) in accordance with the scheduled mandatory redemption, sinking fund or repayment provisions set forth in the original documentation governing such Indebtedness and

(ii) the purchase, repurchase or other acquisition of subordinated Indebtedness with a stated maturity earlier than the maturity of the Notes or the

Guarantees purchased in anticipation of satisfying a payment of principal at the stated maturity thereof, within one year of such stated maturity;

(d) declare or pay any dividend or make any distribution on account of any Equity Interests of any Restricted Subsidiary, other than:

(i) to the Company or any Wholly Owned Restricted Subsidiary; or

(ii) to all holders of any class or series of Equity Interests of such Restricted Subsidiary on a pro rata basis; provided that in the case of this clause (ii), such dividends or distributions may not be in the form of Indebtedness or Disqualified Stock; or

(e) make any Restricted Investment

(all such prohibited payments and other actions set forth in clauses (a) through (e) being collectively referred to as "Restricted Payments"), unless, at the time of such Restricted Payment:

(i) no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof;

(ii) after giving effect to such Restricted Payment and the incurrence of any Indebtedness the net proceeds of which are used to finance such Restricted Payment, the Indebtedness to Cash Flow Ratio of the Company would not have exceeded 8.0 to 1; and

(iii) such Restricted Payment, together with the aggregate of all other Restricted Payments made by the Company after December 28, 2001, is less than the sum of:

(A) the difference of

(x) the cumulative Consolidated Cash Flow of the Company determined at the time of such Restricted Payment (or, in case such Consolidated Cash Flow shall be a deficit, minus 100% of such deficit); minus

(y) 120% of Consolidated Interest Expense of the Company,

each as determined for the period (taken as one accounting period) from January 1, 2002 to the end of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment; plus

(B) an amount equal to 100% of the aggregate net cash proceeds and, in the case of proceeds consisting of assets used in or constituting a

business permitted under Section 4.16 of this Indenture, 100% of the fair market value of the aggregate net proceeds other than cash received by the Company either from capital contributions from EchoStar, or from the issue or sale (including an issue or sale to EchoStar) of Equity Interests (other than Disqualified Stock) of the Company (other than Equity Interests sold to any Subsidiary of the Company), since December 28, 2001; plus

(C) if any Unrestricted Subsidiary is designated by the Company as a Restricted Subsidiary, an amount equal to the fair market value of the net Investment by the Company or a Restricted Subsidiary in such Subsidiary at the time of such designation; provided, however, that the foregoing sum shall not exceed the amount of the Investments made by the Company or any Restricted Subsidiary in any such Unrestricted Subsidiary since December 28, 2001; plus

(D) 100% of any cash dividends and other cash distributions received by the Company and its Wholly Owned Restricted Subsidiaries from an Unrestricted Subsidiary since December 28, 2001 to the extent not included in cumulative Consolidated Cash Flow of the Company; plus

(E) to the extent not included in clauses (A) through (D) above, an amount equal to the net reduction in Investments of the Company and its Restricted Subsidiaries since December 28, 2001 resulting from payments in cash of interest on indebtedness, dividends, or repayment of loans or advances, or other transfers of property, in each case, to the Company or to a Wholly Owned Restricted Subsidiary or from the net cash proceeds from the sale, conveyance or other disposition of any such Investment; provided, however, that the foregoing amount shall not exceed, with respect to any Person in whom such Investment was made, the amount of Investments previously made by the Company or any Restricted Subsidiary in such Person which were included in computations made pursuant to this clause (iii).

The foregoing provisions will not prohibit the following (provided that with respect to clauses (2), (3), (5), (6), (7), (8), (9), (11), and (12) below, no Default or Event of Default shall have occurred and be continuing):

(1) the payment of any dividend or distribution within 60 days after the date of declaration thereof, if at such date of declaration such payment would have complied with the provisions of this Indenture;

(2) the redemption, repurchase, retirement or other acquisition of any Equity Interests of the Company in exchange for, or out of the net proceeds of the substantially concurrent capital contribution from EchoStar or from the substantially concurrent issue or sale (including to EchoStar) of Equity Interests (other than Disqualified Stock) of the Company (other than Equity Interests issued or sold to any Subsidiary of the Company);

(3) Investments in an aggregate amount not to exceed \$500 million plus, to the extent not included in Consolidated Cash Flow, an amount equal to the net reduction in such Investments resulting from payments in cash of interest on Indebtedness, dividends or repayment of loans or advances, or other transfers of property, in each case, to the Company or to a Wholly Owned Restricted Subsidiary or from the net cash proceeds from the sale, conveyance or other disposition of any such Investment; provided, however, that the foregoing amount shall not exceed, with respect to any Person in whom such Investment was made, the amount of Investments previously made by the Company or any Restricted Subsidiary in such Person pursuant to this clause (3);

(4) Investments to fund the financing activity of DNCC in the ordinary course of its business in an amount not to exceed, as of the date of determination, the sum of (A) \$100 million plus (B) 50% of the aggregate cost to DNCC for each Satellite Receiver purchased by DNCC and leased by DNCC to a retail consumer in excess of 100,000 units;

(5) cash dividends or distributions to EchoStar to the extent required for the purchase, redemption, repurchase or other acquisition or retirement for value of employee stock options to purchase Capital Stock of EchoStar, or Capital Stock of EchoStar issued pursuant to any management equity plan, stock option plan or other management or employee benefit plan or agreement, in an aggregate amount not to exceed \$25 million in any calendar year;

(6) a Permitted Refinancing;

(7) Investments in an amount equal to 100% of the aggregate net proceeds (whether or not in cash) received by the Company or any Wholly Owned Restricted Subsidiary from capital contributions from EchoStar or from the issue and sale (including a sale to EchoStar) of Equity Interests (other than Disqualified Stock) of the Company (other than Equity Interests issued or sold to a Subsidiary of EchoStar), on or after December 28, 2001; plus, to the extent not included in Consolidated Cash Flow, an amount equal to the net reduction in such Investments resulting from payments in cash of interest on Indebtedness, dividends, or repayment of loans or advances, or other transfers of property, in each case, to the Company or to a Wholly Owned Restricted Subsidiary or from the net cash proceeds from the sale, conveyance, or other disposition of any such Investment; provided that the foregoing amount shall not exceed, with respect to any Person in whom such Investment was made, the amount of Investments previously made by the Company or any Restricted Subsidiary in such Person pursuant to this clause (7) in each case, provided that such Investments are in businesses of the type described under Section 4.16 of this Indenture;

(8) Investments in any Restricted Subsidiary which is not a Wholly Owned Restricted Subsidiary, but which is a Guarantor and Investments in the form of intercompany debt with any direct or indirect parent company or any Wholly Owned Subsidiary of such direct or indirect parent company provided that such debt is incurred in the ordinary course of business and is used in a business described in Section 4.16 of this Indenture;

(9) Investments in businesses strategically related to businesses described in Section 4.16 of this Indenture in an aggregate amount not to exceed \$250 million;

(10) cash dividends or distributions to EchoStar to the extent required for the purchase of odd-lots of Equity Interests of EchoStar, in an aggregate amount not to exceed \$15 million in any calendar year;

(11) the making of any Restricted Payment (including the receipt of any Investment) permitted under or resulting from any transaction permitted under Section 4.19 of this Indenture; provided that all conditions to any such Restricted Payment set forth in such Section 4.19 are satisfied;

(12) Investments made as a result of the receipt of non-cash proceeds from Asset Sales made in compliance with Section 4.10 of this Indenture and Investments entered into in connection with an acquisition of assets used in or constituting a business permitted under Section 4.16 of this Indenture as a result of "earn-outs" or other deferred payments or similar obligations;

(13) any Restricted Payment permitted under another 2003 Indenture or any of the EDBS Notes Indentures;

(14) Investments which are used to pay for the construction, launch, operation or insurance of satellites owned or leased by the Company or any Subsidiaries of the Company in an amount not to exceed \$500 million;

(15) Investments in a foreign direct-to-home satellite provider in an amount not to exceed \$200 million; provided that the Investments are made through the supply of satellite receivers and related equipment to the provider, or the proceeds from the Investments are used to purchase satellite receivers and related equipment from EchoStar or a Subsidiary of EchoStar;

(16) the redemption, repurchase, defeasance or other acquisition or retirement for value of subordinated Indebtedness, including premium, if any, and accrued and unpaid interest, with the proceeds of, or in exchange for: (a) the proceeds of a capital contribution or a substantially concurrent offering of, shares of Capital Stock of the Company (or options, warrants or other rights to acquire such Capital Stock), or (b) Indebtedness that is at least as subordinated in right of payment to the Notes, including premium, if any, and accrued and unpaid interest, as the Indebtedness being redeemed, repurchased, defeased, acquired or retired and with a final maturity equal to or greater than, and a Weighted Average Life to Maturity equal to or greater than, the final maturity and Weighted Average Life to Maturity, respectively, of the Indebtedness being redeemed, repurchased, defeased, acquired or retired;

(17) repurchases of Equity Interests deemed to occur upon (a) the exercise of stock options, warrants or convertible securities issued as compensation if such Equity Interests represent a portion of the exercise price thereof and (b) the withholding of a portion of the Equity Interests granted or awarded to an employee to pay taxes associated

therewith (or a dividend or distribution to finance such a deemed repurchase by EchoStar);

(18) amounts paid by the Company to EchoStar or any other person with which the Company is included in a consolidated tax return equal to the amount of federal, state and local income taxes payable in respect of the income of the Company and its Subsidiaries, including without limitation, any payments made in accordance with tax allocation agreements between the Company and its Affiliates in effect from time to time; and

(19) the making of a Restricted Payment so long as after giving effect to such Restricted Payment and the incurrence of any Indebtedness the net proceeds of which are used to finance such Restricted Payment, the Company's Indebtedness to Cash Flow Ratio would not exceed 3.5 to 1.

Restricted Payments made pursuant to clauses (1), (2), (4), (7), (16) (but only to the extent that net proceeds received by the Company as set forth in such clause (2), (7) or (16) were included in the computations made in clause (iii)(B) of the first paragraph of this Section 4.07), (10) or (13) (but only to the extent such Restricted Payment is included as a Restricted Payment in any computation made pursuant to clause (iii) of the first paragraph of Section 4.07 of the other 2003 Indentures and in the EDBS Notes Indenture), shall be included as Restricted Payments in any computation made pursuant to clause (iii) of the first paragraph of this Section 4.07.

Restricted Payments made pursuant to clauses (3), (5), (6), (7), (16) (but only to the extent that net proceeds received by the Company as set forth in such clause (7) or (16) were not included in the computations made in clause (iii)(B) of the first paragraph of this Section 4.07), (8), (9), (11), (12), (13) (but only to the extent such Restricted Payment is not included as a Restricted Payment in any computation made pursuant to clause (iii) of the first paragraph of Section 4.07 of another 2003 Indenture or in an EDBS Notes Indenture), (14), (15), (17), (18) or (19) shall not be included as Restricted Payments in any computation made pursuant clause (iii) of the first paragraph of this Section 4.07.

If the Company or any Restricted Subsidiary makes an Investment which was included in computations made pursuant to this Section 4.07 and the Person in which such Investment was made subsequently becomes a Restricted Subsidiary that is a Guarantor, to the extent such Investment resulted in a reduction in the amounts calculated under clause (iii) of the first paragraph of or under any other provision of this Section 4.07, then such amount shall be increased by the amount of such reduction.

Not later than ten Business Days following a request from the Trustee, the Company shall deliver to the Trustee an Officers' Certificate stating that each Restricted Payment made in the six months preceding the date of the request was permitted and setting forth the basis upon which the calculations required by this Section 4.07 were computed, which calculations shall be based upon the Company's latest available financial statements.

SECTION 4.08. Limitations on Dividend and Other Payment Restrictions Affecting Subsidiaries.

The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any encumbrance or restriction on the ability of any Restricted Subsidiary to:

(a) pay dividends or make any other distribution to the Company or any of its Restricted Subsidiaries on its Capital Stock or with respect to any other interest or participation in, or measured by, its profits, or pay any Indebtedness owed to the Company or any of the Company's Subsidiaries;

(b) make loans or advances to the Company or any of its Subsidiaries; or

(c) transfer any of its properties or assets to the Company or any of its Subsidiaries; except for such encumbrances or restrictions existing under or by reasons of:

(i) Existing Indebtedness and existing agreements as in effect on the Issue Date;

(ii) applicable law or regulation;

(iii) any instrument governing Acquired Debt as in effect at the time of acquisition (except to the extent such Indebtedness was incurred in connection with, or in contemplation of, such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired, provided that the Consolidated Cash Flow of such Person shall not be taken into account in determining whether such acquisition was permitted by the terms of this Indenture, except to the extent that dividends or other distributions are permitted notwithstanding such encumbrance or restriction and could have been distributed;

(iv) by reason of customary non-assignment provisions in leases entered into in the ordinary course of business and consistent with past practices;

(v) Refinancing Indebtedness (as defined in Section 4.09 of this Indenture); provided that the restrictions contained in the agreements governing such Refinancing Indebtedness are no more restrictive than those contained in the agreements governing the Indebtedness being refinanced;

(vi) any of the 2003 Indentures or any of the Notes, the 6-3/8% Notes or the Floating Rate Notes;

(vii) Permitted Liens; or

(viii) any agreement for the sale of any Subsidiary or its assets that restricts distributions by that Subsidiary pending its sale; provided that during the entire

period in which such encumbrance or restriction is effective, such sale (together with any other sales pending) would be permitted under the terms of this Indenture.

SECTION 4.09. Limitation on Incurrence of Indebtedness.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable with respect to (collectively, "incur") any Indebtedness (including Acquired Debt); provided, however, that, notwithstanding the foregoing the Company and any Guarantor may incur Indebtedness (including Acquired Debt), if, after giving effect to the incurrence of such Indebtedness and the application of the net proceeds thereof on a pro forma basis (including, in the case of an acquisition, merger or other business combination giving pro forma effect to such transaction), either (a) the Indebtedness to Cash Flow Ratio of the Company would not have exceeded 8.0 to 1 or (b) the aggregate amount of Indebtedness of the Company and the Guarantors would not exceed \$1,500 per Subscriber.

The foregoing limitation will not apply to any of the following incurrences of Indebtedness:

(1) Indebtedness in an aggregate principal amount of \$2.5 billion represented by any of the Notes and the Guarantees thereof, the 6-3/8% Notes and the Guarantees (as defined in the 6-3/8% Notes Indenture), the Floating Rate Notes and the Guarantees (as defined in the Floating Rate Notes Indenture), and the 2003 Indentures;

(2) the incurrence by the Company or any Guarantor of Acquired Subscriber Debt not to exceed \$1,750 per Acquired Subscriber (less any amount used to incur Indebtedness pursuant to clause (b) of the immediately preceding paragraph);

(3) the incurrence by the Company or any Guarantor of Deferred Payments and letters of credit with respect thereto;

(4) Indebtedness of the Company or any Guarantor in an aggregate principal amount not to exceed \$1,050,000,000 at any one time outstanding;

(5) Indebtedness between and among the Company and any Guarantor;

(6) Acquired Debt of a Person incurred prior to the date upon which such Person was acquired by the Company or any Guarantor (excluding Indebtedness incurred by such entity other than in the ordinary course of its business in connection with, or in contemplation of, such entity being so acquired) in an amount not to exceed (A) \$250 million in the aggregate for all such Persons other than those described in the immediately following clause (B); and (B) Acquired Debt owed to the Company or any of its Restricted Subsidiaries;

(7) Existing Indebtedness;

(8) the incurrence of Purchase Money Indebtedness by the Company or any Guarantor in an amount not to exceed the cost of construction, acquisition or

improvement of assets used in any business permitted under Section 4.16 of this Indenture, as well as any launch costs and insurance premiums related to such assets;

(9) the incurrence by the Company or any of its Restricted Subsidiaries of Hedging Obligations that are incurred in the ordinary course of business and not for speculative purposes, it being understood that Hedging Obligations covering the principal amount of Indebtedness entered into in order to protect the Company or any of its Restricted Subsidiaries from fluctuation in interest rates on Indebtedness are deemed to be incurred in the ordinary course of business;

(10) Indebtedness of the Company or any Restricted Subsidiary in respect of performance bonds or letters of credit of the Company or any Restricted Subsidiary or surety bonds provided by the Company or any Restricted Subsidiary incurred in the ordinary course of business and on ordinary business terms in connection with the businesses permitted under Section 4.16 of this Indenture;

(11) Indebtedness of the Company or any Guarantor the proceeds of which are used solely to finance the construction and development of a call center owned by the Company or any of its Restricted Subsidiaries or any refinancing thereof; provided that the aggregate of all Indebtedness incurred pursuant to this clause (11) shall in no event exceed \$100 million at any one time outstanding;

(12) the incurrence by the Company or any Guarantor of Indebtedness issued in exchange for, or the proceeds of which are used to extend, refinance, renew, replace, substitute or refund in whole or in part Indebtedness referred to in the first paragraph of this Section 4.09 or in clauses (1), (2), (3), (6), (7) or (8) above ("Refinancing Indebtedness"); provided, however, that:

(A) the principal amount of such Refinancing Indebtedness shall not exceed the principal amount and accrued interest of the Indebtedness so exchanged, extended, refinanced, renewed, replaced, substituted or refunded and any premiums payable and reasonable fees, expenses, commissions and costs in connection therewith;

(B) the Refinancing Indebtedness shall have a final maturity equal to or later than, and a Weighted Average Life to Maturity equal to or greater than, the final maturity and Weighted Average Life to Maturity, respectively, of the Indebtedness being exchanged, extended, refinanced, renewed, replaced, substituted or refunded; and

(C) the Refinancing Indebtedness shall be subordinated in right of payment to the Notes and the Guarantees, if at all, on terms at least as favorable to the holders of Notes as those contained in the documentation governing the Indebtedness being extended, refinanced, renewed, replaced, substituted or refunded (a "Permitted Refinancing");

(13) the guarantee by the Company or any Guarantor of Indebtedness of the Company or a Restricted Subsidiary that was permitted to be incurred by another provision of this Section 4.09;

(14) Indebtedness under Capital Lease Obligations of the Company or any Guarantor with respect to no more than five direct broadcast satellites at any time; and

(15) Indebtedness of the Company or any Restricted Subsidiary owed to (including obligations in respect of letters of credit for the benefit of) any Person in connection with workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance provided by such Person to the Company or such Restricted Subsidiary pursuant to reimbursement or indemnification obligations to such Person, in each case incurred in the ordinary course of business and consistent with industry practices.

For purposes of determining compliance with this Section 4.09, if an item of Indebtedness meets the criteria of more than one of the categories described in clauses (1) through (15) above or is permitted to be incurred pursuant to the first paragraph of this Section 4.09 and also meets the criteria of one or more of the categories described in clauses (1) through (15) above, the Company shall, in its sole discretion, classify such item of Indebtedness in any manner that complies with this Section 4.09 and may from time to time reclassify such item of Indebtedness in any manner in which such item could be incurred at the time of such reclassification. Accrual of interest and the accretion of accreted value will not be deemed to be an incurrence of Indebtedness for purposes of this Section 4.09.

SECTION 4.10. Asset Sales.

If the Company or any Restricted Subsidiary, in a single transaction or a series of related transactions:

(a) sells, leases (in a manner that has the effect of a disposition), conveys or otherwise disposes of any of its assets (including by way of a sale-and-leaseback transaction), other than:

(1) sales or other dispositions of inventory in the ordinary course of business;

(2) sales or other dispositions to the Company or a Wholly Owned Restricted Subsidiary of the Company by the Company or any Restricted Subsidiary;

(3) sales or other dispositions of accounts receivable to DNCC for cash in an amount at least equal to the fair market value of such accounts receivable;

(4) sales or other dispositions of rights to construct or launch satellites; and

(5) sales or other dispositions permitted under Section 4.19 of this Indenture (provided that the sale, lease, conveyance or other disposition of all or substantially all of the assets of the Company shall be governed by the provisions of Article 5 of this Indenture); or

(b) issues or sells Equity Interests of any Restricted Subsidiary (other than any issue or sale of Equity Interests of ETC or a Subsidiary which constitutes a Non-Core Asset permitted under Section 4.19 of this Indenture);

in either case, which assets or Equity Interests: (1) have a fair market value in excess of \$100 million (as determined in good faith by the Board of Directors evidenced by a resolution of the Board of Directors set forth in an Officers' Certificate delivered to the Trustee); or (2) are sold or otherwise disposed of for net proceeds in excess of \$100 million (each of the foregoing, an "Asset Sale"), then:

(A) the Company or such Restricted Subsidiary, as the case may be, must receive consideration at the time of such Asset Sale at least equal to the fair market value (as determined in good faith by the Board of Directors evidenced by a resolution of the Board of Directors and set forth in an Officers' Certificate delivered to the Trustee not later than ten Business Days following a request from the Trustee, which certificate shall cover each Asset Sale made in the six months preceding the date of request, as the case may be) of the assets sold or otherwise disposed of; and

(B) at least 75% of the consideration therefor received by the Company or such Restricted Subsidiary, as the case may be, must be in the form of:

(x) cash, Cash Equivalents or Marketable Securities;

(y) any asset which is promptly (and in no event later than 180 days after the date of transfer to the Company or a Restricted Subsidiary) converted into cash; provided that to the extent that such conversion is at a price that is less than the fair market value (as determined above) of such asset at the time of the Asset Sale in which such asset was acquired, the Company shall be deemed to have made a Restricted Payment in the amount by which such fair market value exceeds the cash received upon conversion; and/or

(z) properties and capital assets (including Capital Stock of an entity owning such property or assets so long as the receipt of such Capital Stock otherwise complies with Section 4.07 (other than clause (12) of the second paragraph thereof) to be used by the Company or any of its Restricted Subsidiaries in a business permitted under Section 4.16 of this Indenture;

provided, however, that up to \$100 million of assets in addition to assets specified in clauses (x), (y) or (z) above at any one time may be considered to be cash for purposes of this clause (B), so long as the provisions of the next paragraph are complied with as such non-cash assets are converted to cash. The amount of any liabilities of the Company or any Restricted Subsidiary that are assumed by or on behalf of the transferee in connection with an Asset Sale (and from which the Company or such Restricted Subsidiary are unconditionally released) shall be deemed to be cash for the purpose of this clause (B).

The Net Proceeds from such Asset Sale shall be used only: to acquire assets used in, or stock or other ownership interests in a Person that upon the consummation of such Asset Sale, becomes a Restricted Subsidiary and will be engaged primarily in, a business permitted under Section 4.16 of this Indenture, to repurchase Notes, 6-3/8% Notes, Floating Rate Notes or

EDBS Notes, to prepay, repay or purchase other senior Indebtedness or, if the Company sells any of its satellites after launch such that the Company or its Restricted Subsidiaries own fewer than three in-orbit satellites, only to purchase a replacement satellite. Any Net Proceeds from any Asset Sale that are not applied or invested as provided in the preceding sentence within 365 days after such Asset Sale shall constitute "Excess Proceeds" and shall be applied to an offer to purchase Notes and other senior Indebtedness of the Company if and when required under Section 3.08 of this Indenture.

Clause (B) of the second preceding paragraph shall not apply to all or such portion of the consideration:

(1) as is properly designated by the Company in connection with an Asset Sale as being subject to this paragraph; and

(2) with respect to which the aggregate fair market value at the time of receipt of all consideration received by the Company or any Restricted Subsidiary in all such Asset Sales so designated does not exceed the amount that the Company and its Subsidiaries are permitted to designate as a result of the cash contributions made to the Company by EchoStar pursuant to another 2003 Indenture or any of the EDBS Notes Indentures plus, to the extent any such consideration did not satisfy clause (B)(x) or (B)(z) above, upon the exchange or repayment of such consideration for or with assets which satisfy either or both such clauses, an amount equal to the fair market value of such consideration (evidenced by a resolution of the Board of Directors and set forth in an Officers' Certificate delivered to the Trustee as set forth in clause (A) above).

In addition, clause (B) above shall not apply to any Asset Sale:

(x) where assets not essential to the direct broadcast satellite business are contributed to a joint venture between the Company or one of its Restricted Subsidiaries and a third party that is not an Affiliate of EchoStar or any of its Subsidiaries; provided that following the sale, lease, conveyance or other disposition the Company or one of its Wholly Owned Restricted Subsidiaries owns at least 50% of the voting and equity interest in such joint venture;

(y) to the extent the consideration therefor received by the Company or any of its Restricted Subsidiaries would constitute Indebtedness or Equity Interests of a Person that is not an Affiliate of EchoStar, the Company or one of their respective Subsidiaries; provided that the acquisition of such Indebtedness or Equity Interests is permitted under the provisions of Section 4.07 of this Indenture; and

(z) where the assets sold are satellites, uplink centers or call centers; provided that, in the case of this clause (z), the Company and its Restricted Subsidiaries continue to own at least three satellites, one uplink center and one call center.

(c) Transactions described under clause (xii) of Section 4.11 of this Indenture shall not be subject to the requirements of this Section 4.10.

SECTION 4.11. Limitation on Transactions with Affiliates.

The Company shall not and shall not permit any Restricted Subsidiary to, sell, lease, transfer or otherwise dispose of any of its or their properties or assets to, or purchase any property or assets from, or enter into any contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate (including any Unrestricted Subsidiary) (each of the foregoing, an "Affiliate Transaction"), unless:

(a) such Affiliate Transaction is on terms that are no less favorable to the Company or its Restricted Subsidiaries than those that would have been obtained in a comparable transaction by the Company or such Subsidiaries with an unrelated Person; and

(b) if such Affiliate Transaction involves aggregate payments in excess of \$200 million, such Affiliate Transaction has either (i) been approved by a majority of the disinterested members of the Board of Directors or (ii) if there are no disinterested members of the Board of Directors, the Company or such Restricted Subsidiary has obtained the favorable opinion of an independent expert as to the fairness of such Affiliate Transaction to the Company or the relevant Restricted Subsidiary, as the case may be, from a financial point of view, and the Company delivers to the Trustee no later than ten Business Days following a request from the Trustee a resolution of the Board of Directors set forth in an Officers' Certificate certifying that such Affiliate Transaction has been so approved and complies with clause (a) above;

provided, however, that

(i) the payment of reasonable fees, compensation or employee benefit arrangements to, and any indemnity provided for the benefit of, directors, officers, consultants or employees of EchoStar and its Subsidiaries in the ordinary course of business and consistent with industry practice;

(ii) transactions between or among the Company and its Wholly Owned Subsidiaries (other than Unrestricted Subsidiaries);

(iii) any issuance of securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of employment arrangements, stock options and stock ownership plans approved by the Board of Directors;

(iv) transactions in the ordinary course of business, including loans, expense allowances, reimbursements or extensions of credit (including indemnity arrangements) between the Company or any of its Restricted Subsidiaries on the one hand, and any employee of the Company or any of its Restricted Subsidiaries, on the other hand;

(v) the granting and performance of registration rights for shares of Capital Stock of the Company under a written registration rights agreement approved by a majority of the members of the Board of Directors that are disinterested with respect to these transactions;

(vi) transactions with Affiliates solely in their capacity as holders of Indebtedness or Capital Stock of the Company or any of its Subsidiaries, so long as a significant amount of Indebtedness or Capital Stock of the same class is also held by persons that are not Affiliates of the Company and these Affiliates are treated no more favorably than holders of the Indebtedness or the Capital Stock generally;

(vii) any dividend, distribution, sale, conveyance or other disposition of any assets of, or Equity Interests in, any Non-Core Assets or ETC or the proceeds of a sale, conveyance or other disposition thereof, in accordance with the provisions of this Indenture;

(viii) Restricted Payments that are permitted by Section 4.07 of this Indenture;

(ix) any transactions pursuant to agreements in effect on the date of this Indenture and any modifications, extensions or renewals thereof that are no less favorable to the Company or the applicable Restricted Subsidiary than such agreement as in effect on the date of such Indenture;

(x) so long as it complies with clause (a) above, the provision of backhaul, uplink, transmission, billing, customer service, programming acquisition and other ordinary course services by the Company or any of its Restricted Subsidiaries to Satellite Communications Operating Corporation and to Transponder Encryption Services Corporation on a basis consistent with past practice;

(xi) the provision of services to EchoStar and its Affiliates by the Company or any of its Restricted Subsidiaries so long as no cash or other assets are transferred by the Company or its Restricted Subsidiaries in connection with such transactions (other than up to \$100 million in cash in any fiscal year and other than nonmaterial assets used in the operations of the business in the ordinary course pursuant to the agreement governing the provision of the services), and so long as such transaction or agreement is determined by a majority of the members of the Board of Directors to be fair to the Company and its Restricted Subsidiaries when taken together with all other such transactions and agreements entered into with EchoStar and its Affiliates;

(xii) the disposition of assets of the Company and its Restricted Subsidiaries in exchange for assets of EchoStar and its Affiliates so long as (i) the value to the Company in its business of the assets the Company receives is determined by a majority of the members of the Board of Directors to be substantially equivalent or greater than the value to the Company in its business of the assets disposed of, and (ii) the assets acquired by the Company and its Restricted Subsidiaries constitute properties and capital assets (including Capital Stock of an entity owning such property or assets so long as the receipt of such Capital Stock otherwise complies with Section 4.07 of this Indenture (other than clause (12) of the second paragraph thereof)) to be used by the Company or any of its Restricted Subsidiaries in a business permitted as described under Section 4.16 of this Indenture;

(xiii) sales of Equity Interests (other than Disqualified Stock) to Affiliates of the Company; and

(xiv) any transactions between the Company or any Restricted Subsidiary of the Company and any Affiliate of the Company the Equity Interests of which Affiliate are owned solely by the Company or one of its Restricted Subsidiaries, on the one hand, and by Persons who are not Affiliates of the Company or Restricted Subsidiaries of the Company, on the other hand,

shall, in each case, not be deemed Affiliate Transactions.

SECTION 4.12. Limitation on Liens.

The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create, incur, assume or suffer to exist any Lien on any asset now owned or hereafter acquired, or on any income or profits therefrom or assign or convey any right to receive income therefrom, except Permitted Liens.

SECTION 4.13. Additional Subsidiary Guarantees.

If the Company or any Guarantor transfers or causes to be transferred, in one transaction or a series of related transactions, property or assets (including, without limitation, businesses, divisions, real property, assets or equipment) having a fair market value (as determined in good faith by the Board of Directors evidenced by a resolution of the Board of Directors and set forth in an Officers' Certificate delivered to the Trustee no later than five Business Days following January 1 and July 1 of each year or ten days following a request from the Trustee, which Officers' Certificate shall cover the six months preceding January 1, July 1 or the date of request, as the case may be) exceeding the sum of \$100 million in the aggregate for all such transfers after the Issue Date (fair market value being determined as of the time of such acquisition) to Restricted Subsidiaries that are not Guarantors, the Company shall, or shall cause each of such Subsidiaries to which any amount exceeding such \$100 million (less such fair market value) is transferred to:

(i) execute and deliver to the Trustee a supplemental indenture to this Indenture in form and substance reasonably satisfactory to the Trustee pursuant to which such Subsidiary shall unconditionally guarantee all of the Company's obligations under the Notes on the terms set forth in this Indenture; and

(ii) deliver to the Trustee an Opinion of Counsel reasonably satisfactory to the Trustee that such supplemental indenture and Guarantee have been duly authorized, executed and delivered by and are valid and binding obligations of such Subsidiary or such owner, as the case may be;

provided, however, that the foregoing provisions shall not apply to transfers of property or assets (other than cash) by the Company or any Guarantor in exchange for cash, Cash Equivalents or Marketable Securities in an amount equal to the fair market value (as determined in good faith by the Board of Directors evidenced by a resolution of the Board of Directors and set forth in an Officers' Certificate delivered to the Trustee no later than five Business Days following January

1 and July 1 of each year or ten days following a request from the Trustee, which Officers' Certificate shall cover the six months preceding January 1, July 1 or the date of request, as the case may be) of such property or assets. In addition, if (i) the Company or any of its Restricted Subsidiaries acquires or creates another Restricted Subsidiary or (ii) an Unrestricted Subsidiary of the Company is redesignated as a Restricted Subsidiary or otherwise ceases to be an Unrestricted Subsidiary, such Subsidiary shall execute a supplemental indenture to this Indenture and deliver an opinion of counsel, each as required in the preceding sentence; provided that no supplemental indenture or opinion shall be required if the fair market value (as determined in good faith by the Board of Directors and set forth in an Officers' Certificate delivered to the Trustee no later than five Business Days following January 1 and July 1 of each year or ten days following a request from the Trustee, which certificate shall cover the six months preceding such January 1, July 1 or the date of request, as the case may be) of all such Restricted Subsidiaries created, acquired or designated since the Issue Date (fair market value being determined as of the time of creation, acquisition or designation) does not exceed the sum of \$100 million in the aggregate minus the fair market value of the assets transferred to any Subsidiaries of the Company which do not execute supplemental indentures pursuant to the preceding sentences; provided further that to the extent a Restricted Subsidiary is subject to the terms of any instrument governing Acquired Debt, as in effect at the time of acquisition (except to the extent such Indebtedness was incurred in connection with or in contemplation of such acquisition) which instrument or restriction prohibits such Restricted Subsidiary from issuing a Guarantee, such Restricted Subsidiary shall not be required to execute such a supplemental indenture until it is permitted to issue such Guarantee pursuant to the terms of such Acquired Debt.

SECTION 4.14. Corporate Existence.

Subject to Article 5 of this Indenture and the proviso set forth at the end of this Section 4.14, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect (i) its existence as a corporation, and subject to Sections 4.10 and 4.19, the corporate, partnership or other existence of any Restricted Subsidiary, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Company or any Restricted Subsidiary and (ii) subject to Section 4.10 and 4.19, the rights (charter and statutory), licenses and of the Company and its Restricted Subsidiaries; 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 Restricted Subsidiary if the Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders of the Notes.

SECTION 4.15. Offer To Purchase Upon Change of Control.

Upon the occurrence of a Change of Control, the Company will be required to make an offer (a "Change of Control Offer") to each Holder of Notes to repurchase all or any part (equal to \$1,000 or an integral multiple thereof) of such Holder's Notes at a purchase price equal to 101% of the aggregate principal amount thereof, together with accrued and unpaid interest thereon to the date of repurchase (the "Change of Control Payment"). Within 15 days following any Change of Control, the Company shall mail a notice to each Holder stating:

(a) that the Change of Control Offer is being made pursuant to the covenant entitled "Section 4.15 -- Offer to Purchase Upon Change of Control";

(b) the purchase price and the purchase date, which shall be no earlier than 30 days nor later than 40 days after the date such notice is mailed (the "Change of Control Payment Date");

(c) that any Notes not tendered will continue to accrue interest in accordance with the terms of this Indenture;

(d) that, unless the Company defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest after the Change of Control Payment Date;

(e) 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 setting forth the name of the Holder, the principal amount of Notes delivered for purchase, and a statement that such Holder is withdrawing his election to have such Notes purchased;

(f) that Holders whose Notes are being purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered, which unpurchased portion must be equal to \$1,000 in principal amount or an integral multiple thereof; and

(g) any other information material to such Holder's decision to tender Notes.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the repurchase of the Notes required in the event of a Change of Control.

SECTION 4.16. Limitation on Activities of the Company.

Neither the Company nor any of its Restricted Subsidiaries may engage in any business other than developing, owning, engaging in and dealing with all or any part of the business of domestic and international media, entertainment, electronics or communications, and reasonably related extensions thereof, including but not limited to the purchase, ownership, operation, leasing and selling of, and generally dealing in or with, one or more communications satellites and the transponders thereon, and communications uplink centers, the acquisition, transmission, broadcast, production and other provision of programming relating thereto and the manufacturing, distribution and financing of equipment (including consumer electronic equipment) relating thereto.

SECTION 4.17. Intentionally Omitted.

SECTION 4.18. Accounts Receivable Subsidiary.

The Company:

(a) may, and may permit any of its Subsidiaries to, notwithstanding the provisions of Section 4.07 of this Indenture, make Investments in an Accounts Receivable Subsidiary:

(i) the proceeds of which are applied within five Business Days of the making thereof solely to finance:

(A) the purchase of accounts receivable of the Company and its Subsidiaries; or

(B) payments required in connection with the termination of all then existing arrangements relating to the sale of accounts receivable or participation interests therein by an Accounts Receivable Subsidiary (provided that the Accounts Receivable Subsidiary shall receive cash, Cash Equivalents and accounts receivable having an aggregate fair market value not less than the amount of such payments in exchange therefor); and

(ii) in the form of Accounts Receivable Subsidiary Notes to the extent permitted by clause (b) below;

(b) shall not, and shall not permit any of its Subsidiaries to, sell accounts receivable to an Accounts Receivable Subsidiary except for consideration in an amount not less than that which would be obtained in an arm's length transaction and solely in the form of cash or Cash Equivalents; provided that an Accounts Receivable Subsidiary may pay the purchase price for any such accounts receivable in the form of Accounts Receivable Subsidiary Notes so long as, after giving effect to the issuance of any such Accounts Receivable Subsidiary Notes, the aggregate principal amount of all Accounts Receivable Subsidiary Notes outstanding shall not exceed 20% of the aggregate purchase price paid for all outstanding accounts receivable purchased by an Accounts Receivable Subsidiary since the Issue Date (and not written off or required to be written off in accordance with the normal business practice of an Accounts Receivable Subsidiary);

(c) shall not permit an Accounts Receivable Subsidiary to sell any accounts receivable purchased from the Company or its Subsidiaries or participation interests therein to any other Person except on an arm's length basis and solely for consideration in the form of cash or Cash Equivalents or certificates representing undivided interests of a Receivables Trust; provided an Accounts Receivable Subsidiary may not sell such certificates to any other Person except on an arm's length basis and solely for consideration in the form of cash or Cash Equivalents;

(d) shall not, and shall not permit any of its Subsidiaries to, enter into any guarantee, subject any of their respective properties or assets (other than the accounts receivable

sold by them to an Accounts Receivable Subsidiary) to the satisfaction of any liability or obligation or otherwise incur any liability or obligation (contingent or otherwise), in each case, on behalf of an Accounts Receivable Subsidiary or in connection with any sale of accounts receivable or participation interests therein by or to an Accounts Receivable Subsidiary, other than obligations relating to breaches of representations, warranties, covenants and other agreements of the Company or any of its Subsidiaries with respect to the accounts receivable sold by the Company or any of its Subsidiaries to an Accounts Receivable Subsidiary or with respect to the servicing thereof; provided that neither the Company nor any of its Subsidiaries shall at any time guarantee or be otherwise liable for the collectibility of accounts receivable sold by them;

(e) shall not permit an Accounts Receivable Subsidiary to engage in any business or transaction other than the purchase and sale of accounts receivable or participation interests therein of the Company and its Subsidiaries and activities incidental thereto;

(f) shall not permit an Accounts Receivable Subsidiary to incur any Indebtedness other than the Accounts Receivable Subsidiary Notes, Indebtedness owed to the Company and Non-Recourse Indebtedness; provided that the aggregate principal amount of all such Indebtedness of an Accounts Receivable Subsidiary shall not exceed the book value of its total assets as determined in accordance with GAAP;

(g) shall cause any Accounts Receivable Subsidiary to remit to the Company or a Restricted Subsidiary of the Company on a monthly basis as a distribution all available cash and Cash Equivalents not held in a collection account pledged to acquirers of accounts receivable or participation interests therein, to the extent not applied to:

(i) pay interest or principal on the Accounts Receivable Subsidiary Notes or any Indebtedness of such Accounts Receivable Subsidiary owed to the Company;

(ii) pay or maintain reserves for reasonable operating expenses of such Accounts Receivable Subsidiary or to satisfy reasonable minimum operating capital requirements;

(iii) to finance the purchase of additional accounts receivable of the Company and its Subsidiaries; and

(h) shall not, and shall not permit any of its Subsidiaries to, sell accounts receivable to, or enter into any other transaction with or for the benefit of, an Accounts Receivable Subsidiary:

(i) if such Accounts Receivable Subsidiary pursuant to or within the meaning of any Bankruptcy Law:

(A) commences a voluntary case;

(B) consents to the entry of an order for relief against it in an involuntary case;

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

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

(E) generally is not paying its debts as they become due, or

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

(A) is for relief against such Accounts Receivable Subsidiary in an involuntary case;

(B) appoints a Custodian of such Accounts Receivable Subsidiary or for all or substantially all of the property of such Accounts Receivable Subsidiary; or

(C) orders the liquidation of such Accounts Receivable Subsidiary, and, with respect to this clause (h)(ii), the order or decree remains unstayed and in effect for 60 consecutive days.

SECTION 4.19. Dispositions of ETC and Non-Core Assets.

Notwithstanding the provisions of Section 4.07 and Section 4.10 of this Indenture, in the event that the Indebtedness to Cash Flow Ratio of the Company would not have exceeded 6.0 to 1 on a pro forma basis after giving effect to the sale of all of the Equity Interests in or assets of ETC owned by the Company and its Subsidiaries, then:

(1) the payment of any dividend or distribution consisting of Equity Interests in or assets of ETC, or the proceeds of a sale, conveyance or other disposition of such Equity Interests or assets or the sale, conveyance or other disposition of Equity Interests in or assets of ETC or the proceeds of a sale, conveyance or other disposition of such Equity Interests or assets shall not constitute a Restricted Payment;

(2) the sale, conveyance or other disposition of the Equity Interests in or assets of ETC or the proceeds of a sale, conveyance or other disposition of such Equity Interests or assets shall not constitute an Asset Sale; and

(3) upon delivery of an Officers' Certificate to the Trustee evidencing satisfaction of the conditions to such release and a written request to the Trustee requesting such release, ETC shall be discharged and released from its Guarantee and, so long as the Company designates ETC as an Unrestricted Subsidiary, ETC shall be discharged and released from all covenants and restrictions contained in this Indenture;

provided that no such payment, sale, conveyance or other disposition (collectively, a "Payout") described in clauses (1) or (2) above shall be permitted if at the time of such Payout:

(a) after giving pro forma effect to such Payout, the Company would not have been permitted under Section 4.07 of this Indenture to make a Restricted Payment in an amount equal to the total (the "ETC Amount Due") of:

(i) the amount of all Investments (other than the contribution of:

(x) title to the headquarters building of ETC in Inverness, Colorado and the tangible assets therein to the extent used by ETC as of the date of this Indenture; and

(y) patents, trademarks and copyrights applied for or granted as of the date of this Indenture to the extent used by ETC or resulting from the business of ETC, in each case, to ETC);

made in ETC by the Company or its Restricted Subsidiaries since the date of this Indenture (which, in the case of Investments in exchange for assets, shall be valued at the fair market value of each such asset at the time each such Investment was made); minus

(ii) the amount of the after-tax value of all cash returns on such Investments paid to the Company or its Wholly Owned Restricted Subsidiaries (or, in the case of a non-Wholly Owned Restricted Subsidiary, the pro rata portion thereof attributable to the Company); minus

(iii) \$100 million; and

(b) any contract, agreement or understanding between ETC and the Company or any Restricted Subsidiary of the Company and any loan or advance to or guarantee with, or for the benefit of, ETC issued or made by the Company or one of its Restricted Subsidiaries, is on terms that are no less favorable to the Company or its Restricted Subsidiaries than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiaries with an unrelated Person, all as evidenced by a resolution of the Board of Directors set forth in an Officers' Certificate delivered to the Trustee, within ten Business Days of a request by the Trustee certifying that each such contract, agreement, understanding, loan, advance and guarantee has been approved by a majority of the members of the Board of Directors.

If at the time of such Payout, the condition set forth in clause (a) of the proviso of the preceding sentence cannot be satisfied, ETC may seek to have a Person other than the Company or one of its Restricted Subsidiaries pay in cash an amount to the Company or its Restricted Subsidiaries such that after taxes, such amount is greater than or equal to the ETC Amount Due or the portion of the ETC Amount Due which would not have been permitted to be made as a Restricted Payment by the Company; provided that such payment shall be treated for purposes of this Section 4.19 as a cash return on the Investments made in ETC; and provided further that for all purposes under this Indenture, such payment shall not be included in any calculation under clauses (ii)(A) through (iii)(E) of the first paragraph of Section 4.07 of this Indenture. To the extent that the ETC Amount Due or any portion thereof would have been permitted to be made as a Restricted Payment by the Company and was not paid by another

Person as permitted by the preceding sentence, the Company shall be deemed to have made a Restricted Payment in the amount of such ETC Amount Due or portion thereof, as the case may be.

Notwithstanding the provisions of Section 4.07 and Section 4.10 of this Indenture:

(1) the payment of any dividend or distribution consisting of Equity Interests in or assets of any Non-Core Asset or the proceeds of a sale, conveyance or other disposition of such Equity Interests or assets or the sale, conveyance or other disposition of Equity Interests in or assets of any Non-Core Asset or the proceeds of a sale, conveyance or other disposition of such Equity Interests or assets shall not constitute a Restricted Payment;

(2) the sale, conveyance or other disposition of the Equity Interests in or assets of any Non-Core Asset or the proceeds of a sale, conveyance or other disposition of such Equity Interests or assets shall not constitute an Asset Sale; and

(3) upon delivery of an Officers' Certificate to the Trustee evidencing satisfaction of the conditions to such release and a written request to the Trustee requesting such release, any such Non-Core Asset that is a Guarantor shall be discharged and released from its Guarantee and, so long as the Company designates such Non-Core Asset as an Unrestricted Subsidiary, such Non-Core Asset shall be released from all covenants and restrictions contained in this Indenture;

provided that no Payout of any Non-Core Asset shall be permitted such as described in clauses (1) and (2) above if at the time of such Payout:

(a) after giving pro forma effect to such Payout, the Company would not have been permitted under Section 4.07 of this Indenture to make a Restricted Payment in an amount equal to the total (the "Non-Core Asset Amount Due") of:

(i) the amount of all Investments made in such Non-Core Asset by the Company or its Restricted Subsidiaries since the Issue Date (which, in the case of Investments in exchange for assets, shall be valued at the fair market value of each such asset at the time each such Investment was made); minus

(ii) the amount of the after-tax value of all cash returns on such Investments paid to the Company or its Wholly Owned Restricted Subsidiaries (or, in the case of a non-Wholly Owned Restricted Subsidiary, the pro rata portion thereof attributable to the Company); minus

(iii) \$100 million in the aggregate for all such Payouts and \$25 million for any single such Payout; and

(b) any contract, agreement or understanding between or relating to a Non-Core Asset and the Company or a Restricted Subsidiary of the Company and any loan or advance to or guarantee with, or for the benefit of, a Restricted Subsidiary which is a Non-Core Asset issued or made by the Company or one of its Restricted Subsidiaries, is on terms that are less

favorable to the Company or its Restricted Subsidiaries than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiaries with an unrelated Person, all as evidenced by a resolution of the Board of Directors as set forth in an Officers' Certificate delivered to the Trustee, within ten Business Days of a request by the same, certifying that each such contract, agreement, understanding, loan, advance and guarantee has been approved by a majority of the Board of Directors.

If at the time of such Payout, the condition set forth in clause (a) of the proviso of the preceding sentence cannot be satisfied, such Restricted Subsidiary which is a Non-Core Asset may seek to have a Person other than the Company or one of its Restricted Subsidiaries pay in cash an amount to the Company such that, after taxes, such amount is greater than or equal to the Non-Core Asset Amount Due or the portion of the Non-Core Asset Amount Due which would not have been permitted to be made as a Restricted Payment by the Company; provided that such payment shall be treated for purposes of this Section 4.19 as a cash return on the Investments made in a Non-Core Asset and provided further that for all purposes under this Indenture, such payment shall not be included in any calculation under clauses (iii)(A) through (iii)(E) of the first paragraph of Section 4.07 of this Indenture. To the extent that the Non-Core Asset Amount Due or any portion thereof would have been permitted to be made as a Restricted Payment by the Company and was not paid by another Person as permitted by the preceding sentence, the Company shall be deemed to have made a Restricted Payment in the amount of such Non-Core Asset Amount Due or portion thereof, as the case may be.

Promptly after any Payout pursuant to the terms of this Section 4.19, within ten Business Days of a request by the Trustee, the Company shall deliver an Officers' Certificate to the Trustee setting forth the Investments made by the Company or its Restricted Subsidiaries in ETC or a Non-Core Asset, as the case may be, and certifying that the requirements of this Section 4.19 have been satisfied in connection with the making of such Payout.

Notwithstanding anything contained in this Section 4.19 to the contrary, any disposition of ETC or Non-Core Assets permitted pursuant to the EDBS Notes Indentures shall also be permitted pursuant to this Indenture and shall not be considered a "Restricted Payment" or "Asset Sale" for purposes of this Indenture.

SECTION 4.20. Payments For Consent.

The Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration, whether by way of interest, fee or otherwise, to any Holder of a Note for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture or the Notes unless such consideration is offered to be paid or agreed to be paid to all holders of the Notes that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or agreement.

SECTION 4.21. Termination or Suspension of Certain Covenants Under Certain Conditions.

If, on any date following the Issue Date, the Notes receive an Investment Grade rating from both Rating Agencies and no Default or Event of Default has occurred and is

continuing (a "Fall Away Event") then, beginning on that date and continuing at all times thereafter regardless of any subsequent changes in the rating of the Notes, the provisions of the Indenture contained in Sections 3.08, 4.07, 4.09, 4.10, 4.11, 4.15, 4.18 and 4.19 and clause (d) of Section 5.01 (collectively, the "Fall Away Covenants") will no longer be applicable to the Notes.

In addition to the foregoing, during any period of time in which the Notes have an Investment Grade rating from one of the Rating Agencies and no Default or Event of Default has occurred and is continuing, then the Fall Away Covenants will not apply to the Notes.

Upon the termination or suspension of the Fall Away Covenants under either of the two foregoing paragraphs, the amount of Excess Proceeds for purposes of Section 3.08 of this Indenture shall be set at zero.

ARTICLE 5

SUCCESSORS

SECTION 5.01. Merger, Consolidation, or Sale of Assets of the Company.

The Company shall not consolidate or merge with or into (whether or not the Company is the surviving entity), or 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 Person unless:

(a) the Company is the surviving Person or the Person formed by or surviving any such consolidation or merger (if other than the Company) or 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 Person formed by or surviving any such consolidation or merger (if other than the Company) or the Person to which such sale, assignment, transfer, lease, conveyance or other disposition shall have been made assumes all the obligations of the Company under this Indenture and the Notes pursuant to a supplemental indenture to this Indenture in form reasonably satisfactory to the Trustee;

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

(d) the Company or the Person formed by or surviving any such consolidation or merger (if other than the Company) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made

(i) will have Consolidated Net Worth immediately after the transaction (but prior to any purchase accounting adjustments or accrual of deferred tax liabilities resulting from the transaction) not less than the Consolidated Net Worth of the Company immediately preceding the transaction; and

(ii) would, at the time of such transaction after giving pro forma effect thereto as if such transaction had occurred at the beginning of the applicable four-quarter period, be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Indebtedness to Cash Flow Ratio test set forth in Section 4.09.

Notwithstanding the foregoing, the Company may merge with another Person if

(a) the Company is the surviving Person;

(b) the consideration issued or paid by the Company in such merger consists solely of Equity Interests (other than Disqualified Stock) of the Company or Equity Interests of EchoStar; and

(c) immediately after giving effect to such merger (determined on a pro forma basis), the Company's Indebtedness to Cash Flow Ratio either (i) does not exceed 8.0:1 or (ii) does not exceed the Company's Indebtedness to Cash Flow Ratio immediately prior to such merger.

SECTION 5.02. Successor Corporation Substituted.

Upon any consolidation or merger, or any sale, lease, conveyance or other disposition of all or substantially all of the assets of the Company in accordance with Section 5.01, the successor corporation formed by such consolidation or into or with which the Company is merged or to which such sale, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, lease, conveyance or other disposition, the provisions of this Indenture referring to the Company shall refer instead to the successor corporation and not to the Company), 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.

ARTICLE 6

DEFAULTS AND REMEDIES

SECTION 6.01. Events of Default.

Each of the following constitutes an "Event of Default":

(a) default for 30 days in the payment when due of interest on the Notes;

(b) default in the payment when due of principal of the Notes at maturity, upon repurchase, redemption or otherwise;

(c) failure to comply with the provisions of Section 4.10, Section 4.11 or Section 4.15;

(d) default under Section 4.07 or Section 4.09, which default remains uncured for 30 days, or the breach of any representation or warranty, or the making of any untrue statement, in any certificate delivered by the Company pursuant to this Indenture;

(e) failure by the Company for 60 days after notice from the Trustee or the Holders of at least 25% in principal amount then outstanding of the Notes to comply with any of its other agreements in this Indenture or the Notes;

(f) 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 Restricted Subsidiaries (or the payment of which is guaranteed by the Company and any of its Restricted Subsidiaries), which default is caused by a failure to pay when due principal or interest on such Indebtedness within the grace period provided in such Indebtedness (a "Payment Default"), and 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, aggregates \$200 million or more;

(g) 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 and any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Company or any of its Restricted Subsidiaries), which default results in the acceleration of such Indebtedness prior to its express maturity and 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 \$200 million or more; provided that any acceleration (other than an acceleration which is the result of a Payment Default under clause (f) above) of Indebtedness under the Outstanding Deferred Payments in aggregate principal amount not to exceed \$200 million shall be deemed not to constitute an acceleration pursuant to this clause (g);

(h) failure by the Company or any of its Restricted Subsidiaries to pay final judgments (other than any judgment as to which a reputable insurance company has accepted full liability) aggregating in excess of \$100 million, which judgments are not stayed within 60 days after their entry;

(i) EchoStar, the Company or any Significant Subsidiary of the Company pursuant to or within the meaning of Bankruptcy Law: (i) commences a voluntary case; (ii) consents to the entry of an order for relief against it in an involuntary case; (iii) consents to the appointment of a Custodian of it or for all or substantially all of its property; or (iv) makes a general assignment for the benefit of its creditors;

(j) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that: (i) is for relief against EchoStar, the Company or any Significant Subsidiary of the Company in an involuntary case; (ii) appoints a custodian of EchoStar, the Company or any Significant Subsidiary of the Company or for all or substantially all of the property of EchoStar, the Company or any Significant Subsidiary of the Company; or (iii) orders the liquidation of EchoStar or any Significant Subsidiary of the Company, and the order or decree remains unstayed and in effect for 60 consecutive days; and

(k) any Guarantee shall be held in a judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect, or any Guarantor, or any person acting on behalf of any Guarantor, shall deny or disaffirm its obligations under its Guarantee.

SECTION 6.02. Acceleration.

If an Event of Default (other than an Event of Default specified in clause (i) or (j) of Section 6.01) 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 written notice to the Company and the Trustee, may declare all the Notes to be due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default specified in clause (i) or (j) of Section 6.01 with respect to the Company or any Guarantor, all outstanding Notes shall become and be immediately due and payable without further action or notice. Holders of the Notes may not enforce this Indenture or the Notes except as provided in this Indenture. The Trustee may withhold from Holders of the 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 such Holders' interest. The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may on behalf of all of the Holders rescind an acceleration and its consequences if the rescission would not conflict with any judgment or decree and if all existing Events of Default (except nonpayment of principal, interest or premium that has become due solely because of the acceleration) have been cured or waived.

In the case of any Event of Default occurring by reason of any willful action (or inaction) taken (or not taken) by or on behalf of the Company or its Subsidiaries with the intention of avoiding payment of the premium that the Company would have had to pay if the Company then had elected to redeem the Notes pursuant to Section 3.07, an equivalent premium shall also become and be immediately due and payable to the extent permitted by law.

All powers of the Trustee under this Indenture will be subject to applicable provisions of the Communications Act, including without limitation, the requirements of prior approval for de facto or de jure transfer of control or assignment of Title III licenses.

SECTION 6.03. Other Remedies.

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, premium, if any, and interest on the Notes or to enforce the performance of any provision of the Notes and 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 of a Note 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 6.04. Waiver of Past Defaults.

Holders of not less than a majority in aggregate principal amount of Notes then outstanding, by notice to the Trustee, may on behalf of the Holders of all of the Notes waive an existing Default or Event of Default and its consequences under this Indenture, except a continuing Default or Event of Default in the payment of the principal of, premium, if any, or interest on, the Notes. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

SECTION 6.05. Control by Majority.

Holders of a majority in principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising 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 the law or this Indenture that the Trustee determines may be unduly prejudicial to the rights of other Holders of Notes or that may involve the Trustee in personal liability.

SECTION 6.06. Limitation on Suits.

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

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

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

(c) such Holder of a Note or Holders of Notes offer and, if requested, provide 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 and, if requested, the provision 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 of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

SECTION 6.07. Rights of Holders of Notes To Receive Payment.

Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of principal, premium, if any, 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 of the Note.

SECTION 6.08. Collection Suit by Trustee.

If an Event of Default specified in Section 6.01(a) or (b) occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal of, premium, if any, and interest remaining unpaid on the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

SECTION 6.09. Trustee May File Proofs of Claim.

The Trustee is authorized to 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 (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes), the Company's creditors or the Company's property and shall be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder of a Note to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders of the Notes, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties which the Holders of the Notes may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder of a Note any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder of a Note thereof, or to authorize the Trustee to vote in respect of the claim of any Holder of a Note in any such proceeding.

SECTION 6.10. 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, its agents and attorneys for amounts due under Section 7.07, including payment of all compensation, expense and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

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

Third: to the Company or to such party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to Holders of Notes.

SECTION 6.11. 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 does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 6.07, or a suit by Holders of more than 10% in principal amount of the then outstanding Notes.

ARTICLE 7

TRUSTEE

SECTION 7.01. 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 their 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 duties of the Trustee shall be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and 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.

(c) The Trustee may not be relieved from liabilities 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;

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

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), and (c) of this Section 7.01.

(e) No provision of this Indenture shall require the Trustee to expend or risk its own funds or incur any liability. The Trustee shall be under no obligation to exercise any of its rights and powers under this Indenture at the request of any Holder of Notes, unless such Holder shall have offered to the Trustee security and indemnity satisfactory to the Trustee 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 7.02. Rights of Trustee.

(a) The Trustee may conclusively rely upon 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. The Trustee may consult with counsel and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and 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 conferred upon it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company shall be sufficient if signed by an Officer of the Company.

(f) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities that might be incurred by it in compliance with such request or direction.

(g) Except with respect to Section 4.01, the Trustee shall have no duty to inquire as to the performance of the Company's covenants in Article 4. In addition, the Trustee shall not be deemed to have knowledge of any Default or Event of Default except (i) any Event of Default occurring pursuant to Sections 4.01, 6.01(a) and 6.01(b) or (ii) any Default or Event of Default of which the Trustee shall have received written notification or obtained actual knowledge.

(h) Delivery of reports, information and documents to the Trustee under Section 4.03 is for informational purposes only and the Trustee's receipt of the foregoing shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder.

SECTION 7.03. 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 any Affiliate of the Company with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as Trustee (if any of the Notes are registered pursuant to the Securities Act), or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to Sections 7.10 and 7.11.

SECTION 7.04. Trustee's Disclaimer.

The Trustee shall not be responsible for and 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 or any money paid to the Company or upon the Company's direction under any provision of this Indenture, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

SECTION 7.05. Notice of Defaults.

If a Default or Event of Default occurs and is continuing and if it is known to a Responsible Officer of the Trustee, the Trustee shall mail to Holders of Notes 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 of principal of, premium, if any, or interest on any Note, the Trustee may withhold the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Notes.

SECTION 7.06. Reports by Trustee to Holders of the Notes.

Within 60 days after each May 15 beginning with the May 15 following the date of this Indenture, the Trustee shall mail to the Holders of the Notes a brief report dated as of such reporting date that complies with TIA Section 313(a) (but if no event described in TIA Section 313(a) has occurred within the twelve months preceding the reporting date, no report need be transmitted). The Trustee also shall comply with TIA Section 313(b). 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 the Holders of Notes shall be mailed to the Company and filed with the SEC and each stock exchange on which any Notes are listed. The Company shall promptly notify the Trustee when any Notes are listed on any stock exchange.

SECTION 7.07. Compensation and Indemnity.

The Company shall pay to the Trustee from time to time reasonable compensation for its acceptance of this Indenture and 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 promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

The Company shall indemnify the Trustee against any and all losses, liabilities or expenses incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, except any such loss, liability or expense as may be attributable to the gross negligence, willful misconduct or bad faith of the Trustee. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company shall not relieve the Company of its obligations hereunder. 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 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 obligations of the Company under this Section 7.07 shall survive the satisfaction and discharge of this Indenture.

To secure the Company's payment obligations in this Section, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal and interest on particular Notes. Such Lien shall survive the satisfaction and discharge of this Indenture.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(i) or (j) occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

SECTION 7.08. 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.

The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Company and obtaining the prior written approval of the FCC, if so required by the Communications Act, including Section 310(d) and the rules and regulations promulgated thereunder. The Holders of at least a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Company in writing. The Company may remove the Trustee (subject to the prior written approval of the FCC, if required by the Communications Act, including Section 310(d), and the rules and regulations promulgated thereunder) if:

(a) the Trustee fails to comply with Section 7.10;

(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) the Trustee is no longer in compliance with the foreign ownership provisions of Section 310 of the Communications Act and the rules and regulations promulgated thereunder.

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

(e) 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 Notes 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 after written request by any Holder of a Note who has been a Holder of a Note for at least six months fails to comply with Section 7.10, such Holder of a Note 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 of the Notes. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, provided all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.07. Notwithstanding replacement of the Trustee pursuant to this Section 7.08, the Company's obligations under Section 7.07 shall continue for the benefit of the retiring Trustee.

SECTION 7.09. 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 7.10. Eligibility; Disqualification.

There shall at all times be a Trustee hereunder which shall be a corporation organized and doing business under the laws of the United States of America or of any state thereof authorized under such laws to exercise corporate trustee power, shall be subject to supervision or examination by federal or state authority and shall have a combined capital and surplus of at least \$25 million as set forth in its most recent published annual report of condition.

This Indenture shall always have a Trustee who satisfies the requirements of TIA Section 310(a)(1), (2) and (5). The Trustee is subject to TIA Section 310(b).

SECTION 7.11. 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 8

LEGAL DEFEASANCE AND COVENANT DEFEASANCE

SECTION 8.01. Option To Effect Legal Defeasance or Covenant Defeasance.

The Company may, at the option of its Board of Directors evidenced by a resolution set forth in an Officers' Certificate, at any time, with respect to the Notes, elect to have either Section 8.02 or 8.03 be applied to all outstanding Notes upon compliance with the conditions set forth below in this Article 8.

SECTION 8.02. Legal Defeasance and Discharge.

Upon the Company's exercise under Section 8.01 of the option applicable to this Section 8.02, the Company shall be deemed to have been discharged from its obligations with

respect to all outstanding Notes on the date the conditions set forth below are satisfied (hereinafter, "Legal Defeasance"). For this purpose, such Legal Defeasance means that the Company shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, which shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 and the other Sections of this Indenture referred to in (a) and (b) below, and to have satisfied all its other obligations under such Notes and this Indenture (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following which shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of outstanding Notes to receive payments in respect of the principal of, premium, if any, and interest on such Notes when such payments are due, or on the redemption date, as the case may be, (b) the Company's obligations with respect to such Notes under Sections 2.03, 2.04, 2.05, 2.06, 2.07, 2.08, 2.10, 2.11 and 4.02, (c) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Company's obligations in connection therewith and (d) this Article 8. Subject to compliance with this Article 8, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 with respect to the Notes.

SECTION 8.03. Covenant Defeasance.

Upon the Company's exercise under Section 8.01 of the option applicable to this Section 8.03, the Company shall be released from its obligations under the covenants contained in Sections 3.08, 4.03, 4.04, 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.13, 4.15, 4.16, 4.18, 4.19 and 5.01 with respect to the outstanding Notes on and after the date the conditions set forth below are satisfied (hereinafter, "Covenant Defeasance"), and the Notes shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes shall not be deemed outstanding for GAAP). For this purpose, such Covenant Defeasance means that, with respect to the outstanding Notes, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01(c), but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby. In addition, upon the Company's exercise under Section 8.01 of the option applicable to this Section 8.03, Sections 6.01(c) through 6.01(h) and Section 6.01(k) shall not constitute Events of Default.

SECTION 8.04. Conditions to Legal or Covenant Defeasance.

The following shall be the conditions to the application of either Section 8.02 or Section 8.03 to the outstanding Notes:

(a) The Company shall irrevocably have deposited or caused to be deposited with the Trustee (or another trustee satisfying the requirements of Section 7.10 who shall agree to comply with the provisions of this Article 8 applicable to it) as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated

solely to, the benefit of the Holders of such Notes, (i) cash in U.S. Dollars, (ii) non-callable Government Securities which through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment, cash in U.S. Dollars, or (iii) a combination thereof, in such amounts, as will be sufficient in each case, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge and which shall be applied by the Trustee (or other qualifying trustee) to pay and discharge (A) the principal of, premium, if any, and interest on the outstanding Notes on the stated maturity or on the applicable redemption date, as the case may be, of such principal or installment of principal, premium, if any, or interest and (B) any mandatory sinking fund payments or analogous payments applicable to the outstanding Notes on the day on which such payments are due and payable in accordance with the terms of this Indenture and of such Notes; provided that the Trustee shall have been irrevocably instructed to apply such money or the proceeds of such non-callable Government Securities to said payments with respect to the Notes;

(b) In the case of an election under Section 8.02, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably satisfactory to the Trustee confirming that (i) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (ii) since the Issue Date, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such opinion shall confirm that, the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(c) In the case of an election under Section 8.03, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably acceptable to the Trustee to the effect that the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(d) No Default or Event of Default with respect to the Notes shall have occurred and be continuing on the date of such deposit or, in so far as Section 6.01(i) or 6.01(j) is concerned, at any time in the period ending on the 91st day after the date of such deposit (it being understood that this condition shall not be deemed satisfied until the expiration of such period);

(e) Such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under, this Indenture or any other material agreement or instrument to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound;

(f) The Company shall have delivered to the Trustee an Officers' Certificate stating that the deposit made by the Company pursuant to its election under Section 8.02 or 8.03 was not made by the Company with the intent of preferring the Holders over any other creditors

of the Company or with the intent of defeating, hindering, delaying or defrauding any of the other creditors of the Company or others; and

(g) The Company shall have delivered to the Trustee an Officers' Certificate stating that all conditions precedent provided for or relating to either the Legal Defeasance under Section 8.02 or the Covenant Defeasance under Section 8.03 (as the case may be) have been complied with as contemplated by this Section 8.04.

SECTION 8.05. Deposited Money and Government Securities To Be Held in Trust; Other Miscellaneous Provisions.

Subject to Section 8.06, all money and Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "Trustee") pursuant to Section 8.04 in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or Government Securities deposited pursuant to Section 8.04 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

Anything in this Article 8 to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon the request of the Company any money or Government Securities held by it as provided in Section 8.04 which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(a)), are in excess of the amount thereof which would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

SECTION 8.06. Repayment to Company.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium, if any, or interest on any Note and remaining unclaimed for two years after such principal, and premium, if any, or interest has become due and payable shall be paid to the Company on its request or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter, as a secured creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustees thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in the New York Times and The Wall Street Journal (national edition), notice that such money remains unclaimed and that, after a date specified therein, which shall not be

less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining will be repaid to the Company.

SECTION 8.07. Reinstatement.

If the Trustee or Paying Agent is unable to apply any United States Dollars or Government Notes in accordance with Section 8.02 or 8.03, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03, as the case may be; provided, however, that, if the Company makes any payment of principal of, premium, if any, or interest on any Note following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE 9

AMENDMENT, SUPPLEMENT AND WAIVER

SECTION 9.01. Without Consent of Holders of Notes.

Notwithstanding Section 9.02 of this Indenture, the Company, the Guarantors and the Trustee may amend or supplement this Indenture, the Notes or the Guarantees without the consent of any Holder of a Note:

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

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

(c) to provide for the assumption of the Company's or the Guarantors' obligations to the Holders of the Notes in the case of a merger or consolidation pursuant to Article 5 or Article 10;

(d) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights hereunder of any Holder of the Notes; or

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

Upon the request of the Company accompanied by a resolution of the Board of Directors of the Company and a resolution of the board of directors of each Guarantor and upon receipt by the Trustee of the documents described in Section 11.04, the Trustee shall join with the Company and the Guarantors in the execution of any amended or supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations which may be therein contained, but the Trustee shall not be

obligated to enter into such amended or supplemental indenture which affects its own rights, duties or immunities under this Indenture or otherwise.

SECTION 9.02. With Consent of Holders of Notes.

The Company, the Guarantors and the Trustee may amend or supplement this Indenture, the Notes or the Guarantees or any amended or supplemental indenture with the written consent of the Holders of at least a majority in aggregate principal amount of the Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for the Notes), and any existing Default and its consequences or compliance with any provision of this Indenture or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes (including consents obtained in connection with a tender offer or exchange offer for the Notes). Notwithstanding the foregoing, (a) Sections 3.08, 4.10 and 4.15 of this Indenture (including, in each case, the related definitions) may not be amended or waived without the written consent of at least 66-2/3% in principal amount of the Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for the Notes) and (b) without the consent of each Holder affected, an amendment or waiver may not (with respect to any Notes held by a non-consenting Holder of Notes):

(a) reduce the aggregate 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 with respect to the redemption of the Notes;

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

(d) waive a Default or Event of Default in the payment of principal of or premium, if any, or interest on the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding 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 Notes;

(f) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of or interest on the Notes;

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

(h) make any change in the foregoing amendment and waiver provisions.

Upon the request of the Company accompanied by a resolution of the Board of Directors of the Company and a resolution of the board of directors of each Guarantor, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Notes as aforesaid, and upon receipt by the Trustee of the documents described in Section 11.04,

the Trustee shall join with the Company and the Guarantors in the execution of such amended or supplemental indenture unless such amended or supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such amended or supplemental indenture.

It shall not be necessary for the consent of the Holders of Notes under this Section 9.02 to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section becomes effective, the Company shall mail to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver. Subject to Sections 6.04 and 6.07, the Holders of a majority in aggregate principal amount of the Notes then outstanding may waive compliance in a particular instance by the Company with any provision of this Indenture or the Notes.

SECTION 9.03. Compliance with Trust Indenture Act.

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

SECTION 9.04. 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 of a Note 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 of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder of a Note.

The Company may fix a record date for determining which Holders of the Notes must consent to such amendment, supplement or waiver. If the Company fixes a record date, the record date shall be fixed at (i) the later of 30 days prior to the first solicitation of such consent or the date of the most recent list of Holders of Notes furnished to the Trustee prior to such solicitation pursuant to Section 2.05 or (ii) such other date as the Company shall designate.

SECTION 9.05. Notation on or Exchange of Notes.

The Trustee may place an appropriate notation about an amendment, supplement 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, supplement or waiver.

Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

SECTION 9.06. Trustee To Sign Amendments, Etc.

The Trustee shall sign any amended or supplemental indenture authorized pursuant to this Article 9 if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. Neither the Company nor any Guarantor may sign any amended or supplemental indenture until its board of directors approves it.

ARTICLE 10

GUARANTEES

SECTION 10.01. Guarantee.

Each of the Guarantors, jointly and severally, hereby unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the Obligations of the Company hereunder or thereunder, that:

(a) the principal of and interest on the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and

(b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, each of the Guarantors, jointly and severally, will be obligated to pay the same immediately.

Each of the Guarantors, jointly and severally, hereby agrees that its obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor.

Each of the Guarantors, jointly and severally, hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice (except that the Trustee shall provide at least ten days' prior written notice to the Company on behalf of the Guarantors before taking any action for which the Communications Act and/or the FCC rules require such notice and which right to notice is not waivable by any Guarantor) and all demands whatsoever and covenant that this Guarantee will not be discharged

except by complete performance of the Obligations guaranteed hereby. If any Holder or the Trustee is required by any court or otherwise to return to the Company or any Guarantor, or any Custodian, Trustee, liquidator or other similar official acting in relation to either the Company or any Guarantor, any amount paid by either to the Trustee or such Holder, this Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

Each of the Guarantors, jointly and severally, agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby. Each of the Guarantors, jointly and severally, further agrees that, as between such Guarantor, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the Obligations guaranteed hereby may be accelerated as provided in Article 6 for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article 6, such obligations (whether or not due and payable) shall forthwith become due and payable by each Guarantor for the purpose of this Guarantee. Notwithstanding the foregoing, in the event that any Guarantee would constitute or result in a violation of any applicable fraudulent conveyance or similar law of any relevant jurisdiction, the liability of the applicable Guarantor under its Guarantee shall be reduced to the maximum amount permissible under such fraudulent conveyance or similar law.

The Guarantors hereby agree as among themselves that each Guarantor that makes a payment or distribution under a Guarantee shall be entitled to a pro rata contribution from each other Guarantor hereunder based on the net assets of each other Guarantor. The preceding sentence shall in no way affect the rights of the Holders of Notes to the benefits of this Indenture, the Notes or the Guarantees.

Nothing in this Section 10.01 shall apply to claims of, or payments to, the Trustee under or pursuant to the provisions of Section 7.07. Nothing contained in this Section 10.01 or elsewhere in this Indenture, the Notes or the Guarantees shall impair, as between any Guarantor and the Holder of any Note, the obligation of such Guarantor, which is unconditional and absolute, to pay to the Holder thereof the principal of, premium, if any, and interest on the Notes in accordance with their terms and the terms of the Guarantee and this Indenture, nor shall anything herein or therein prevent the Trustee or the Holder of any Note from exercising all remedies otherwise permitted by applicable law or hereunder or thereunder upon the occurrence of an Event of Default.

SECTION 10.02. Execution and Delivery of Guarantees.

To evidence its Guarantee set forth in Section 10.01, each Guarantor hereby agrees that a notation of such Guarantee substantially in the form of Exhibit B shall be endorsed by an officer of such Guarantor on each Note authenticated and delivered by the Trustee and that this Indenture shall be executed on behalf of such Guarantor by its President or one of its Vice Presidents and attested to by an Officer. Each of the Guarantors, jointly and severally, hereby agrees that its Guarantee set forth in Section 10.01 shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Guarantee. If an officer or Officer whose signature is on this Indenture or on the Guarantee of a Guarantor no longer holds that office at the time the Trustee authenticates the Note on which the Guarantee of such

Guarantor is endorsed, the Guarantee of such Guarantor shall be valid nevertheless. The delivery of any Note by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Guarantees set forth in this Indenture on behalf of the Guarantors.

SECTION 10.03. Merger, Consolidation or Sale of Assets of Guarantors.

Subject to Section 10.05, a Guarantor may not, and the Company will not cause or permit any Guarantor to, consolidate or merge with or into (whether or not such Guarantor is the surviving entity), or 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 Person other than the Company or another Guarantor unless:

(a) such Guarantor is the surviving Person or the Person formed by or surviving any such consolidation or merger (if other than such Guarantor) or 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 Person formed by or surviving any such consolidation or merger (if other than such Guarantor) or the Person to which such sale, assignment, transfer, lease, conveyance or other disposition shall have been made assumes all the obligations of such Guarantor under this Indenture and the Notes pursuant to a supplemental indenture to this Indenture in form reasonably satisfactory to the Trustee; and

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

Nothing contained in this Indenture shall prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor that is a Wholly Owned Restricted Subsidiary of the Company or shall prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor that is a Wholly Owned Restricted Subsidiary of the Company. Except as set forth in Articles 4 and 5, nothing contained in this Indenture shall prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor that is a Restricted Subsidiary of the Company or shall prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor that is a Restricted Subsidiary of the Company.

SECTION 10.04. Successor Corporation Substituted.

Upon any consolidation, merger, sale or conveyance described in clauses (a) through (d) of Section 10.04, and upon the assumption by the successor corporation, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of any Guarantee previously signed by the Guarantor and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Guarantor, such successor corporation shall succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. Such successor corporation thereupon may cause to be signed any or all of the Guarantees to be issuable hereunder by such Guarantor and delivered to the Trustee. All the Guarantees so issued shall in all respects have the

same legal rank and benefit under this Indenture as the Guarantees theretofore and thereafter issued in accordance with the terms of this Indenture as though all of such Guarantees had been issued at the date of the execution of such Guarantee by such Guarantor.

SECTION 10.05. Releases from Guarantees.

If pursuant to any direct or indirect sale of assets (including, if applicable, all of the capital stock of any Guarantor) or other disposition by way of merger, consolidation or otherwise the assets sold include all or substantially all of the assets of any Guarantor or all of the capital stock of any such Guarantor, then such Guarantor or the Person acquiring the property (in the event of a sale or other disposition of all or substantially all of the assets of such a Guarantor) shall be released and relieved of its obligations under its Guarantee or Section 10.03 and Section 10.04, as the case may be; provided that in the event of an Asset Sale, the Net Proceeds from such sale or other disposition are applied in accordance with the provisions of Section 4.10. In addition, a Guarantor shall be released and relieved of its obligations under its Guarantee or Section 10.03 and Section 10.04, as the case may be (1) if such Guarantor is dissolved or liquidated in accordance with the provisions of this Indenture; (2) if the Company designates any such Guarantor as an Unrestricted Subsidiary in compliance with the terms of this Indenture; or (3) without limiting the generality of the foregoing, in the case of ETC or any Guarantor which constitutes a Non-Core Asset, upon the sale or other disposition of any Equity Interest of ETC or such Guarantor which constitutes a Non-Core Asset, respectively. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of this Indenture, including without limitation Section 4.10 or 4.20 if applicable, the Trustee shall execute any documents reasonably required in order to evidence the release of any such Guarantor from its obligations under its Guarantee. Any such Guarantor not released from its obligations under its Guarantee shall remain liable for the full amount of principal of and interest on the Notes and for the other obligations of such Guarantor under this Indenture as provided in this Article 10.

ARTICLE 11

MISCELLANEOUS

SECTION 11.01. Trust Indenture Act Controls.

If any provision of this Indenture limits, qualifies or conflicts with the duties imposed by TIA Section 318(c), the imposed duties shall control.

SECTION 11.02. Notices.

Any notice or communication by the Company, any Guarantor or the Trustee to the other is duly given if in writing and delivered in Person or mailed by first class mail (registered or certified, return receipt requested), telex, telecopier or overnight air courier guaranteeing next day delivery, to the other's address:

If to the Company or any Guarantor:

EchoStar DBS Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120
Telecopier No.: (303) 723-1699
Attention: David K. Moskowitz, Esq.

With a copy to:

Sullivan & Cromwell LLP
1870 Embarcadero Road
Palo Alto, California 94303
Telecopier No.: (650) 461-5600
Attention: Scott D. Miller, Esq.

If to the Trustee:

U.S. Bank National Association
60 Livingston Avenue
Saint Paul, Minnesota 55107
Telecopier No: (651) 495-8097
Attention: Corporate Trust Administration

The Company, any Guarantor or the Trustee, by notice to the other may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders of Notes) shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when answered back, if telexed; when receipt acknowledged, if telecopied; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

Any notice or communication to a Holder of a Note shall be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. Any notice or communication shall also be so mailed to any Person described in TIA Section 313(c), to the extent required by the TIA. Failure to mail a notice or communication to a Holder of a Note or any defect in it shall not affect its sufficiency with respect to other Holders of Notes.

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 of Notes, it shall mail a copy to the Trustee and each Agent at the same time.

SECTION 11.03. Communication by Holders of Notes with Other Holders of Notes.

Holders of the Notes may communicate pursuant to TIA Section 312(b) with other Holders of Notes 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 11.04. 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 in form and substance reasonably satisfactory to the Trustee stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and

(b) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

SECTION 11.05. 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 a certificate provided pursuant to TIA Section 314(a)(4)) shall include:

(a) a statement that the Person making such certificate or 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, he or she has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been satisfied; and

(d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied.

SECTION 11.06. Rules by Trustee and Agents.

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

SECTION 11.07. No Personal Liability of Directors, Officers, Employees, Incorporators and Stockholders.

No director, officer, employee, incorporator or stockholder of the Company, the Guarantors or any of their Affiliates, as such, shall have any liability for any obligations of the Company, the Guarantors or any of their Affiliates under the Notes, the Guarantees or this

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 issuance of the Notes. Such waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.

SECTION 11.08. Governing Law.

The internal law of the State of New York shall govern and be used to construe this Indenture, the Notes and the Guarantees.

SECTION 11.09. No Adverse Interpretation of Other Agreements.

This Indenture may not be used to interpret another indenture, loan or debt agreement of EchoStar, the Company or any of their respective Subsidiaries. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

SECTION 11.10. Successors.

All agreements of the Company and the Guarantors in this Indenture and the Notes and the Guarantees shall bind the successors of the Company and the Guarantors, respectively. All agreements of the Trustee in this Indenture shall bind its successor.

SECTION 11.11. 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 11.12. Counterpart Originals.

The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

SECTION 11.13. Table of Contents, Headings, Etc.

The Table of Contents 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 of this Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

[Signatures on following page]

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

EHOSTAR DBS CORPORATION,
a Colorado corporation

By: -s- David K. Moskowitz

Name:
Title:

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: -s- Richard H. Prokosch

Name: Richard H. Prokosch
Title: Vice President

EHOSTAR SATELLITE CORPORATION
EHOSTAR TECHNOLOGIES CORPORATION
ECHO ACCEPTANCE CORPORATION
ECHOSPHERE CORPORATION
DISH NETWORK SERVICE CORPORATION
EHOSTAR INTERNATIONAL CORPORATION
as Guarantors

By: -s- David K. Moskowitz

Name:
Title:

[Face of Note]

5-3/4% Senior Note due 2008

Cert. No.
CUSIP No. []

EchoStar DBS Corporation promises to pay to _____ or its registered assigns the principal sum of _____ Dollars on October 1, 2008

Interest Payment Dates: April 1 and October 1, commencing April 1, 2004

Record Dates: March 15 and September 15 (whether or not a Business Day).

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

Dated:

ECHOSTAR DBS CORPORATION

By: _____
Title:

By: _____
Title:

(SEAL)

This is one of the Notes referred to in the within-mentioned Indenture:

U.S. Bank National Association, as Trustee

By: _____
Authorized Signatory

Dated:

Capitalized terms used herein have the meanings assigned to them in the Indenture (as defined below) unless otherwise indicated.

(1) Interest. EchoStar DBS Corporation, a Colorado corporation (the "Company") promises to pay interest on the principal amount of this Note at the rate and in the manner specified below. Interest will accrue at 5-3/4% per annum and will be payable semi-annually in arrears in cash on each April 1 and October 1 of each year, commencing April 1, 2004, or if any such day is not a Business Day on the next succeeding Business Day (each an "Interest Payment Date") to Holders of record of the Notes at the close of business on the immediately preceding March 15 and September 15, whether or not a Business Day. Interest will be computed on the basis of a 360-day year consisting of twelve 30-day months. Interest shall accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance. To the extent lawful, the Company shall pay interest on overdue principal at the rate of the then applicable interest rate on the Notes; it shall pay interest on overdue installments of interest (without regard to any applicable grace periods) at the same rate to the extent lawful. In addition, Holders may be entitled to the benefits of certain provisions of the Registration Rights Agreement.

(2) 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 next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date. The Holder hereof must surrender this Note to a Paying Agent to collect principal payments. The Company will pay principal and interest in money of the United States of America that at the time of payment is legal tender for payment of public and private debts. The Notes will be payable both as to principal and interest at the office or agency of the Company maintained for such purpose or, at the option of the Company, payment of interest may be made by check mailed to the Holders of Notes at their respective addresses set forth in the register of Holders of Notes. Unless otherwise designated by the Company, the Company's office or agency will be the office of the Trustee maintained for such purpose.

(3) Paying Agent and Registrar. Initially, the Trustee will act as Paying Agent and Registrar. The Company may change any Paying Agent, Registrar or co-registrar without prior notice to any Holder of a Note. The Company may act in any such capacity.

(4) Indenture. The Company issued the Notes under an Indenture, dated as of October 2, 2003 (the "Indenture"), among the Company, the Guarantors and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (15 U.S. Code Sections 77aaa-77bbb), as in effect on the date of the Indenture. The Notes are subject to all such terms, and Holders of Notes are referred to the Indenture and such act for a statement of such terms. The terms of the Indenture shall govern any inconsistencies between the Indenture and the Notes. The Notes are unsecured obligations of the Company.

(5) Optional Redemption. The Notes will be subject to redemption at the option of the Company, at any time in whole, or from time to time in part, upon not less than 30 nor more than 60 days' notice, at a redemption price equal to 100% of the principal amount of such Notes plus accrued and unpaid interest, if any, to the applicable redemption date plus the "Make-Whole Premium" as set forth in the Indenture.

Notwithstanding the foregoing, at any time prior to October 1, 2006, the Company may redeem up to 35% of the aggregate principal amount of the Notes outstanding at a redemption price equal to 105.750% of the principal amount thereof on the redemption date, together with accrued and unpaid interest to such redemption date, with the net cash proceeds of any capital contributions or one or more public or private sales (including sales to EchoStar, regardless of whether EchoStar obtained such funds from an offering of Equity Interests or Indebtedness of EchoStar or otherwise) of Equity Interests (other than Disqualified Stock) of the Company (other than proceeds from a sale to any Subsidiary of the Company or any employee benefit plan in which the Company or any of its Subsidiaries participates); provided that: (a) at least 65% in aggregate of the originally issued principal amount of the Notes remains outstanding immediately after the occurrence of such redemption; and (b) the sale of such Equity Interests is made in compliance with the terms of the Indenture.

(6) Repurchase at Option of Holder. Upon the occurrence of a Change of Control, the Company will be required to offer to purchase on the Change of Control Payment Date all outstanding Notes at a purchase price equal to 101% of the aggregate principal amount thereof, together with accrued and unpaid interest thereon to the date of purchase. 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 Change of Control Payment Date and may elect to have such Notes purchased by completing the form entitled "Option of Holder to Elect Purchase" appearing below.

When the cumulative amount of Excess Proceeds that have not been applied in accordance with Section 4.10 (Asset Sales) or Section 3.08 (Offer to Purchase By Application of Excess Proceeds) of the Indenture, exceeds \$100.0 million, the Company will be required to offer to purchase the maximum principal amount of Notes that may be purchased out of such Excess Proceeds at an offer price in cash equal to 101% of the principal amount thereof, together with accrued and unpaid interest thereon to the date of purchase. To the extent the Company or a Restricted Subsidiary is required under the terms of Indebtedness of the Company or such Restricted Subsidiary which is ranked equally with the Notes to make an offer to purchase such other Indebtedness with any proceeds which constitute Excess Proceeds under the Indenture, the Company shall make a pro rata offer to the holders of all other pari passu Indebtedness (including the Notes) with such proceeds. To the extent that the principal amount of Notes and other pari passu Indebtedness surrendered by holders thereof exceeds the amount of such Excess Proceeds, the Trustee shall select the Notes and other pari passu Indebtedness to be purchased on a pro rata basis. Holders of Notes that are subject to an offer to purchase will receive an Excess Proceeds Offer from the Company prior to any related Purchase Payment Date and may elect to have such Notes purchased by completing the form entitled "Option of Holder to Elect Purchase" appearing below.

(7) Notice of Redemption. Notice of redemption shall be mailed at least 30 days but not more than 60 days before the redemption date to each Holder whose Notes are to be redeemed at its registered address. Notes may be redeemed in part but only in whole multiples of \$1,000, unless all of the Notes held by a Holder of Notes are to be redeemed. On and after the redemption date, interest ceases to accrue on Notes or portions of them called for redemption unless the Company fails to redeem such Notes or such portions thereof.

(8) 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 and the Trustee may require a Holder of a Note, 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. Also, it need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed.

(9) Persons Deemed Owners. Prior to due presentment to the Trustee for registration of the transfer of this Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name this Note is registered as its absolute owner for the purpose of receiving payment of principal of, premium, if any, and interest on this Note and for all other purposes whatsoever, whether or not this Note is overdue, and neither the Trustee, any Agent nor the Company shall be affected by notice to the contrary. The registered Holder of a Note shall be treated as its owner for all purposes.

(10) Amendments, Supplement and Waivers. Subject to certain exceptions, the Indenture or 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 the Notes), and any existing default or compliance with any provision of the Indenture or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes (including consents obtained in connection with a tender offer or exchange offer for the Notes). Notwithstanding the foregoing, (a) Sections 3.08 (Offer to Purchase by Application of Excess Proceeds), 4.10 (Asset Sales) and 4.15 (Offer to Repurchase Upon Change in Control) of the Indenture (including, in each case, the related definitions) may not be amended or waived without the written consent of at least 66 2/3% in principal amount of the Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for the Notes) and (b) without the consent of each Holder affected, an amendment or waiver may not (with respect to any Notes held by a non-consenting Holder of Notes) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver; reduce the principal of or change the fixed maturity of any Note or alter the provisions with respect to the redemption of the Notes; reduce the rate of or change the time for payment of interest on any Note; waive a Default or Event of Default in the payment of principal of or premium, if any, or interest on the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding Notes and a waiver of the payment default that resulted from such acceleration); make any Note payable in money other than that stated in the Notes; make any change in the provisions of the Indenture relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of or interest on the Notes; waive a

redemption payment or mandatory redemption with respect to any Note; or make any change in the foregoing amendment and waiver provisions. Notwithstanding the foregoing, without the consent of any Holder of a Note, the Indenture or the Notes may be amended or supplemented to cure any ambiguity, defect or inconsistency; to provide for uncertificated Notes or Guarantees in addition to or in place of certificated Notes or Guarantees; to provide for the assumption of the Company's or any Guarantor's obligations to the Holders of the Notes in case of a merger or consolidation; to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights under the Indenture of any such Holder; or to comply with the requirements of the SEC in order to effect or maintain the qualification of the Indenture under the Trust Indenture Act.

(11) Defaults and Remedies. Each of the following constitutes an Event of Default:

(a) default for 30 days in the payment when due of interest on the Notes;

(b) default in payment when due of principal of the Notes at maturity, upon repurchase, redemption or otherwise;

(c) failure to comply with the provisions described under Section 4.15 (Offer to Purchase Upon Change in Control), Section 4.11 (Limitation on Transactions with Affiliates), or Section 4.10 (Asset Sales) of the Indenture;

(d) default under the provisions described under Section 4.07 (Limitation on Restricted Payments) or Section 4.09 (Incurrence of Indebtedness) of the Indenture which default remains uncured for 30 days, or the breach of any representation or warranty, or the making of any untrue statement, in any certificate delivered by the Company pursuant to the Indenture;

(e) failure by the Company for 60 days after notice from the Trustee or the holders of at least 25% in principal amount of the then outstanding Notes to comply with any of its other agreements in the Indenture or the Notes;

(f) 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 and any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Company and any of its Restricted Subsidiaries), which default is caused by a failure to pay when due principal or interest on such Indebtedness within the grace period provided in such Indebtedness (a "Payment Default"), and 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, aggregates \$200 million or more;

(g) 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 and any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Company or any of its Restricted Subsidiaries), which default results in the acceleration of such Indebtedness prior to its express maturity and

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 \$200 million or more; provided that any acceleration (other than an acceleration which is the result of a Payment Default under clause (f) above) of Indebtedness under the Outstanding Deferred Payments in aggregate principal amount not to exceed \$200 million shall be deemed not to constitute an acceleration pursuant to this clause (g);

(h) failure by the Company or any of its Restricted Subsidiaries to pay final judgments (other than any judgment as to which a reputable insurance company has accepted full liability) aggregating in excess of \$100 million, which judgments are not stayed within 60 days after their entry;

(i) EchoStar, the Company or any Significant Subsidiary of the Company pursuant to or within the meaning of Bankruptcy Law: (i) commences a voluntary case; (ii) consents to the entry of an order for relief against it in an involuntary case; (iii) consents to the appointment of a Custodian of it or for all or substantially all of its property; or (iv) makes a general assignment for the benefit of its creditors;

(j) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that: (i) is for relief against EchoStar, the Company or any Significant Subsidiary of the Company in an involuntary case; (ii) appoints a custodian of EchoStar, the Company or any Significant Subsidiary of the Company or for all or substantially all of the property of EchoStar, the Company or any Significant Subsidiary of the Company; or (iii) orders the liquidation of EchoStar or any Significant Subsidiary of the Company, and the order or decree remains unstayed and in effect for 60 consecutive days; and

(k) any Guarantee shall be held in a judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect, or any Guarantor, or any person acting on behalf of any Guarantor, shall deny or disaffirm its obligations under its Guarantee.

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 Notes may declare all the Notes to be due and payable immediately (plus, in the case of an Event of Default that is the result of an action by the Company or any of its Subsidiaries intended to avoid restrictions on or premiums related to redemptions of the Notes contained in the Indenture or the Notes, an amount of premium that would have been applicable pursuant to the Notes or as set forth in the Indenture). Notwithstanding the foregoing, in the case of an Event of Default arising from the events of bankruptcy or insolvency with respect to the Company or any of its Subsidiaries described in (i) above, all outstanding Notes will become due and payable without further action or notice. Holders of the Notes 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 may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from holders of the 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 such holders' interest.

The holders of a majority in aggregate principal amount of the then outstanding Notes, by notice to the Trustee, may on behalf of the holders of all of the Notes 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 or premium on, or principal of, the Notes.

The Company is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Company is required upon becoming aware of any Default or Event of Default to deliver to the Trustee a statement specifying such Default or Event of Default.

All powers of the Trustee under the Indenture will be subject to applicable provisions of the Communications Act, including without limitation, the requirements of prior approval for de facto or de jure transfer of control or assignment of Title III licenses.

(12) Trustee Dealings with Company. The Trustee under the Indenture, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not Trustee; however, if the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as Trustee or resign.

(13) No Personal Liabilities of Directors, Officers, Employees, Incorporators and Stockholders. No director, officer, employee, incorporator or stockholder of the Company or any of its Affiliates, as such, shall have any liability for any obligations of the Company or any of its Affiliates under this Note 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 issuance of the Notes.

(14) Guarantees. Payment of principal and interest (including interest on overdue principal and overdue interest, if lawful) is unconditionally guaranteed, jointly and severally, by each of the Guarantors.

(15) Authentication. This Note shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

(16) Abbreviations. Customary abbreviations may be used in the name of a Holder of a Note or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entirety), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (5 Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

(17) CUSIP Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes and has directed the Trustee to use CUSIP numbers in notices of redemption as a convenience to Holders of Notes. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

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

EchoStar DBS Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120
Attention: David K. Moskowitz, Esq.

ASSIGNMENT FORM

To assign this Note, fill in the form below:

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

(Insert assignee's Soc. Sec. 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.

Date: _____

Your Signature: _____
(Sign exactly as your name
appears on the face of this
Note)

Signature Guarantee.

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have all or any part of this Note purchased by the Company pursuant to Section 3.08 or Section 4.15 of the Indenture check the appropriate box:

Section 3.08

Section 4.15

If you want to have only part of the Note purchased by the Company pursuant to Section 3.08 or Section 4.15 of the Indenture, state the amount you elect to have purchased:

\$

Date: _____

Your Signature: _____

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

Signature Guarantee.

[ATTACHMENT FOR GLOBAL NOTES]

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

DATE OF EXCHANGE	AMOUNT OF DECREASE IN PRINCIPAL AMOUNT OF THIS GLOBAL NOTE	AMOUNT OF INCREASE PRINCIPAL AMOUNT OF THE GLOBAL NOTE	PRINCIPAL AMOUNT OF THIS GLOBAL NOTE FOLLOWING SUCH DECREASE (OR INCREASE)	SIGNATURE OF AUTHORIZED OFFICER OF TRUSTEE OR NOTE CUSTODIAN
-----	-----	-----	-----	-----

FORM OF GUARANTEE

[Name of Guarantor] and its successors under the Indenture, jointly and severally with any other Guarantors, hereby irrevocably and unconditionally guarantees (i) the due and punctual payment of the principal of, premium, if any, and interest on the Notes, whether at maturity, by acceleration or otherwise, the due and punctual payment of interest on the overdue principal of and interest, if any, on the Notes, to the extent lawful, and the due and punctual performance of all other obligations of EchoStar DBS Corporation (the "Company") to the Holders or the Trustee all in accordance with the terms set forth in Article 10 of the Indenture, (ii) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise and (iii) has agreed to pay any and all costs and expenses (including reasonable attorneys' fees) incurred by the Trustee or any Holder in enforcing any rights under this Guarantee. Capitalized terms used herein have the meanings assigned to them in the Indenture unless otherwise indicated.

No stockholder, officer, director or incorporator, as such, past, present or future, of [name of Guarantor] shall have any personal liability under this Guarantee by reason of his or its status as such stockholder, officer, director or incorporator. This Guarantee shall be binding upon [name of Guarantor] and its successors and assigns and shall inure to the benefit of the successors and assigns of the Trustee and the Holders and, in the event of any transfer or assignment of rights by any Holder or the Trustee, the rights and privileges herein conferred upon that party shall automatically extend to and be vested in such transferee or assignee, all subject to the terms and conditions hereof.

This Guarantee shall not be valid or obligatory for any purpose until the certificate of authentication on the Note upon which this Guarantee is noted shall have been executed by the Trustee under the Indenture by the manual signature of one of its authorized officers.

THE TERMS OF ARTICLE 10 OF THE INDENTURE ARE INCORPORATED HEREIN BY REFERENCE.

This Guarantee shall be governed by and construed in accordance with the laws of the State of New York.

[NAME OF GUARANTOR]

By: _____
Name:
Title:

B-1

FORM OF CERTIFICATE OF TRANSFER

EchoStar DBS Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120

U.S. Bank National Association
60 Livingston Avenue
St. Paul, Minnesota 55107

Re: 5-3/4 % Senior Notes due 2008

Reference is hereby made to the Indenture, dated as of October 2, 2003 (the "Indenture"), among EchoStar DBS Corporation, as issuer (the "Company"), the Guarantors named therein and U.S. Bank National Association, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____ (the "Transferor") owns and proposes to transfer the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of \$_____ in such Note[s] or interests (the "Transfer"), to _____ (the "Transferee"), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1. CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE 144A GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO RULE 144A. The Transfer is being effected pursuant to and in accordance with Rule 144A under the United States Securities Act of 1933, as amended (the "Securities Act"), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believed and believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the 144A Global Note and/or the Definitive Note and in the Indenture and the Securities Act.
2. CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE REGULATION S GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO REGULATION S. The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act

and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a Person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act, (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Restricted Period, the transfer is not being made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on Transfer enumerated in the Private Placement Legend printed on the Regulation S Global Note and/or the Definitive Note and in the Indenture and the Securities Act.

3. CHECK AND COMPLETE IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN A DEFINITIVE NOTE PURSUANT TO ANY PROVISION OF THE SECURITIES ACT OTHER THAN RULE 144A OR REGULATION S. The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

(a) such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act; or

(b) or such Transfer is being effected to the Company or a subsidiary thereof;

or

(c) such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act.

4. CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE OR OF AN UNRESTRICTED DEFINITIVE NOTE.

(a) CHECK IF TRANSFER IS PURSUANT TO RULE 144.
(i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfe

restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(b) [] CHECK IF TRANSFER IS PURSUANT TO REGULATION S. (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(c) [] CHECK IF TRANSFER IS PURSUANT TO OTHER EXEMPTION. (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Transferor]

By: _____
Name:
Title:

Dated: _____

ANNEX A TO CERTIFICATE OF TRANSFER

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

- (a) a beneficial interest in the:
 - (i) 144A Global Note (CUSIP _____), or
 - (ii) Regulation S Global Note (CUSIP _____), or
- (b) a Restricted Definitive Note.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

- (a) a beneficial interest in the:
 - (i) 144A Global Note (CUSIP _____), or
 - (ii) Regulation S Global Note (CUSIP _____), or
 - (iii) Unrestricted Global Note (CUSIP _____), or
- (b) a Restricted Definitive Note; or
- (c) an Unrestricted Definitive Note, in accordance with the terms of the Indenture.

FORM OF CERTIFICATE OF EXCHANGE

EchoStar DBS Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120

U.S. Bank National Association
60 Livingston Avenue
St. Paul, Minnesota 55107

Re: 5-3/4% Senior Notes due 2008

(CUSIP _____)

Reference is hereby made to the Indenture, dated as of October 2, 2003 (the "Indenture"), among EchoStar DBS Corporation, as issuer (the "Company"), the Guarantors named therein and U.S. Bank National Association, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____ (the "Owner") owns and proposes to exchange the Note[s] or interest in such Note[s] specified herein, in the principal amount of \$_____ in such Note[s] or interests (the "Exchange"). In connection with the Exchange, the Owner hereby certifies that:

1. EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN A RESTRICTED GLOBAL NOTE FOR UNRESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN AN UNRESTRICTED GLOBAL NOTE.

(a) CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the United States Securities Act of 1933, as amended (the "Securities Act"), (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(b) CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in

compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(c) CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(d) CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

2. EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES FOR RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES.

(a) CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO RESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

(b) CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the [CHECK ONE] _ 144A Global Note, _ Regulation S Global Note with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's

own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Transferor]

By: _____
Name:
Title:

Dated: _____

EXECUTION COPY

ECHOSTAR DBS CORPORATION

6 3/8% SENIOR NOTES DUE 2011

INDENTURE

Dated as of October 2, 2003

U.S. Bank National Association

Trustee

CROSS-REFERENCE TABLE

TIA Section -----	Indenture Section -----
310 (a) (1).....	7.10
310 (a) (2).....	7.10
310 (a) (3).....	N/A
310 (a) (4).....	N/A
310 (b).....	7.10
310 (c).....	N/A
311 (a).....	7.11
311 (b).....	7.11
311 (c).....	N/A
312 (a).....	2.05
312 (b).....	11.03
312 (c).....	11.03
313 (a).....	7.06
313 (b) (1).....	7.06
313 (b) (2).....	7.07
313 (c).....	7.06; 11.02
313 (d).....	7.06
314 (a).....	4.03(a); 11.05
314 (4).....	4.04
314 (b).....	N/A
314 (c) (1).....	11.04
314 (c) (2).....	11.04
314 (c) (3).....	N/A
314 (d).....	N/A
314 (e).....	11.05
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315 (b).....	7.05; 11.02
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315 (d).....	7.01
315 (e).....	6.11
316 (a) (last sentence).....	2.09
316 (a) (1) (A).....	6.05
316 (a) (1) (B).....	6.04
316 (a) (2).....	N/A
316 (b).....	6.07
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317 (a) (1).....	6.08
317 (a) (2).....	6.09
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318 (a).....	11.01
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N/A means Not Applicable.

Note: This Cross-Reference Table shall not, for any purposes, be deemed to be part of this Indenture.

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EXHIBITS

EXHIBIT A FORM OF NOTE
EXHIBIT B FORM OF GUARANTEE
EXHIBIT C FORM OF CERTIFICATE OF TRANSFER
EXHIBIT D FORM OF CERTIFICATE OF EXCHANGE

INDENTURE, dated as of October 2, 2003, among EchoStar DBS Corporation (the "Company"), a Colorado corporation, the Guarantors (as hereinafter defined) and U.S. Bank National Association, as trustee (the "Trustee").

The Company, the Guarantors and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the Company's 6 3/8% Senior Notes due 2011.

RECITALS

The Company and the Guarantors have duly authorized the execution and delivery of this Indenture to provide for the issuance of the Notes and the Guarantees.

All things necessary (i) to make the Notes, when executed by the Company and authenticated and delivered hereunder and duly issued by the Company and delivered hereunder, the valid obligations of the Company, (ii) to make the Guarantees when executed by the Guarantors and delivered hereunder the valid obligations of the Guarantors, and (iii) to make this Indenture a valid agreement of the Company and the Guarantors, all in accordance with their respective terms, have been done.

For and in consideration of the premises and the purchase of the Notes by the Holders thereof, it is mutually agreed as follows for the equal and ratable benefit of the Holders of the Notes.

ARTICLE 1

DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.01. Definitions.

"144A Global Note" means one or more global Notes substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depository or its nominee, which, in the aggregate, are equal to the outstanding principal amount of the Notes initially sold in reliance on Rule 144A.

"Accounts Receivable Subsidiary" means one Unrestricted Subsidiary of the Company specifically designated as an Accounts Receivable Subsidiary for the purpose of financing the Company's accounts receivable and provided that any such designation shall not be deemed to prohibit the Company from financing accounts receivable through any other entity, including, without limitation, any other Unrestricted Subsidiary.

"Accounts Receivable Subsidiary Notes" means the notes to be issued by the Accounts Receivable Subsidiary for the purchase of accounts receivable.

"Acquired Debt" means, with respect to any specified Person, Indebtedness of any other Person existing at the time such other Person merges with or into or becomes a Subsidiary of such specified Person, or Indebtedness incurred by such specified Person in

connection with the acquisition of assets, including Indebtedness incurred in connection with, or in contemplation of, such other Person merging with or into or becoming a Subsidiary of such specified Person or the acquisition of such assets, as the case may be.

"Acquired Subscriber" means a subscriber to a telecommunications service provided by a telecommunications service provider that is not an Affiliate of the Company at the time the Company or one of its Restricted Subsidiaries purchases the right to provide telecommunications services to such subscriber from such telecommunications service provider, whether directly or through the acquisition of the entity providing telecommunications services or assets used or to be used to provide telecommunications service to such subscriber.

"Acquired Subscriber Debt" means (i) Indebtedness, the proceeds of which are used to pay the purchase price for Acquired Subscribers or to acquire the entity which has the right to provide telecommunications services to such Acquired Subscribers or to acquire from such entity or an Affiliate of such entity assets used or to be used in connection with such telecommunications business; provided that such Indebtedness is incurred within three years after the date of the acquisition of such Acquired Subscriber and (ii) Acquired Debt of any such entity being acquired; provided that in no event shall the amount of such Indebtedness and Acquired Debt for any Acquired Subscriber exceed the sum of the actual purchase price (inclusive of such Acquired Debt) for such Acquired Subscriber, such entity and such assets plus the cost of converting such Acquired Subscriber to usage of a delivery format for telecommunications services made available by the Company or any of its Restricted Subsidiaries.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For 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; provided further that no individual, other than a director of EchoStar or the Company or an officer of EchoStar or the Company with a policy making function, shall be deemed an Affiliate of the Company or any of its Subsidiaries solely by reason of such individual's employment, position or responsibilities by or with respect to EchoStar, the Company or any of their respective Subsidiaries.

"Agent" means any Registrar, Paying Agent or co-registrar.

"Applicable Procedures" means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depository, Euroclear and Clearstream that apply to such transfer or exchange.

"Bankruptcy Law" means title 11, U.S. Code or any similar federal or state law for the relief of debtors.

"Board of Directors" means the Board of Directors of the Company.

"Broker-Dealer" has the meaning set forth in the Registration Rights Agreement.

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

"Capital Lease Obligation" means, as to any Person, the obligations of such Person under a lease that are required to be classified and accounted for as capital lease obligations under GAAP and, for purposes of this definition, the amount of such obligations at the time any determination thereof is to be made shall be the amount of the liability in respect of a capital lease that would at such time be so required to be capitalized on a balance sheet in accordance with GAAP.

"Capital Stock" means any and all shares, interests, participations, rights or other equivalents, however designated, of corporate stock or partnership or membership interests, whether common or preferred.

"Cash Equivalents" means: (a) United States dollars; (b) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof having maturities of not more than one year from the date of acquisition; (c) certificates of deposit and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances with maturities not exceeding one year and overnight bank deposits, in each case with any domestic commercial bank having capital and surplus in excess of \$500 million; (d) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clauses (b) and (c) entered into with any financial institution meeting the qualifications specified in clause (c) above; (e) commercial paper rated P-1 or better, A-1 or better or the equivalent thereof by Moody's or S&P, respectively, and in each case maturing within 12 months after the date of acquisition; and (f) money market funds offered by any domestic commercial or investment bank having capital and surplus in excess of \$500 million at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses (a) through (e) of this definition.

"Change of Control" means: (a) any transaction or series of transactions the result of which is that any Person (other than the Principal or a Related Party) individually owns more than 50% of the total Equity Interest of ECC; (b) the first day on which a majority of the members of the Board of Directors of EchoStar are not Continuing Directors; or (c) any time that EchoStar shall cease to beneficially own 100% of the Equity Interests of the Company.

"Clearstream" means Clearstream Banking, societe anonyme.

"Communications Act" means the Communications Act of 1934, as amended.

"Consolidated Cash Flow" means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period, plus, to the extent deducted in computing Consolidated Net Income: (a) provision for taxes based on income or profits; (b) Consolidated Interest Expense; (c) depreciation and amortization (including amortization of goodwill and other intangibles) of such Person for such period; and (d) any extraordinary loss and any net loss realized in connection with any Asset Sale, in each case, on a consolidated basis determined in accordance with GAAP; provided that Consolidated Cash Flow shall not include interest income derived from the net proceeds of the Offering.

"Consolidated Interest Expense" means, with respect to any Person for any period, consolidated interest expense of such Person for such period, whether paid or accrued, including amortization of original issue discount and deferred financing costs, non-cash interest payments and the interest component of Capital Lease Obligations, on a consolidated basis determined in accordance with GAAP; provided, however, that with respect to the calculation of the consolidated interest expense of the Company, the interest expense of Unrestricted Subsidiaries shall be excluded.

"Consolidated Net Income" means, with respect to any Person for any period, the aggregate of the Net Income of such Person and its Subsidiaries or, if such Person is the Company, of the Company and its Restricted Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP; provided, however, that: (a) the Net Income of any Person that is not a Subsidiary or that is accounted for by the equity method of accounting shall be included only to the extent of the amount of dividends or distributions paid in cash to the referent Person, in the case of a gain, or to the extent of any contributions or other payments by the referent Person, in the case of a loss; (b) the Net Income of any Person that is a Subsidiary that is not a Wholly Owned Subsidiary shall be included only to the extent of the amount of dividends or distributions paid in cash to the referent Person; (c) the Net Income of any Person acquired in a pooling of interests transaction for any period prior to the date of such acquisition shall be excluded; (d) the Net Income of any Subsidiary of such Person shall be excluded to the extent that the declaration or payment of dividends or similar distributions is not at the time permitted by operation of the terms of its charter or bylaws or any other agreement, instrument, judgment, decree, order, statute, rule or government regulation to which it is subject; and (e) the cumulative effect of a change in accounting principles shall be excluded.

"Consolidated Net Tangible Assets" means, with respect to any Person, the aggregate amount of assets of such Person (less applicable reserves and other properly deductible items) after deducting therefrom (to the extent otherwise included therein) (a) all current liabilities and (b) all goodwill, trade names, trademarks, patents, unamortized debt discount and expense and other like intangibles, all as set forth in the books and records of such Person and its consolidated Subsidiaries as of the end of the most recently ended fiscal quarter and computed in accordance with GAAP.

"Consolidated Net Worth" means, with respect to any Person, the sum of: (a) the stockholders' equity of such Person; plus (b) the amount reported on such Person's most recent balance sheet with respect to any series of preferred stock (other than Disqualified Stock) that by its terms is not entitled to the payment of dividends unless such dividends may be declared and paid only out of net earnings in respect of the year of such declaration and payment, but only to the extent of any cash received by such Person upon issuance of such preferred stock, less: (i) all write-ups (other than write-ups resulting from foreign currency translations and write-ups of tangible assets of a going concern business made within 12 months after the acquisition of such business) subsequent to the date of this Indenture in the book value of any asset owned by such Person or a consolidated Subsidiary of such Person; and (ii) all unamortized debt discount and expense and unamortized deferred charges, all of the foregoing determined on a consolidated basis in accordance with GAAP.

"Continuing Director" means, as of any date of determination, any member of the Board of Directors of EchoStar who: (a) was a member of such Board of Directors on the date of this 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.

"Corporate Trust Office of the Trustee" shall be at the address of the Trustee specified in Section 11.02 or such other address as to which the Trustee may give notice to the Company.

"DBS" means direct broadcast satellite.

"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.

"Deferred Payments" means Indebtedness owed to satellite construction or launch contractors incurred after the date of this Indenture in connection with the construction or launch of one or more satellites of the Company or its Restricted Subsidiaries used by the Company and/or them in the businesses described in Section 4.16 in an aggregate principal amount not to exceed \$200 million at any one time outstanding.

"Definitive Note" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 of this Indenture, substantially in the form of Exhibit A hereto except that such Note shall not bear the Global Note Legend and shall not have the "Schedule of Exchanges of Interests in the Global Note" attached thereto.

"Depository" means the Depository Trust Company and any and all successors thereto appointed as depository hereunder and having become such pursuant to an applicable provision of this Indenture.

"Disqualified Stock" means any Capital Stock which, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder thereof, in whole or in part, on or prior to the date on which the Notes mature; provided, however, that any such Capital Stock may require the issuer of such Capital Stock to make an offer to purchase such Capital Stock upon the occurrence of certain events if the terms of such Capital Stock provide that such an offer may not be satisfied and the purchase of such Capital Stock may not be consummated until the 91st day after the Notes have been paid in full.

"DNCC" means Dish Network Credit Corporation, a Colorado corporation.

"EchoStar" means EchoStar Communications Corporation, a Nevada corporation, together with each Wholly Owned Subsidiary of EchoStar that beneficially owns 100% of the Equity Interests of the Company, but only so long as EchoStar beneficially owns 100% of the Equity Interests of such Subsidiary.

"EchoStar Dish Network" means the DBS service of the Company and its Subsidiaries.

"EchoStar I" means the Company's high-powered direct broadcast satellite as identified in EchoStar's Annual Report on Form 10-K for the year ended December 31, 2002 and consolidated financial statements included therein.

"EchoStar II" means the Company's high-powered direct broadcast satellite as identified in EchoStar's Annual Report on Form 10-K for the year ended December 31, 2002 and consolidated financial statements included therein.

"EchoStar III" means the high-powered direct broadcast satellite as identified in EchoStar's Annual Report on Form 10-K for the year ended December 31, 2002 and consolidated financial statements included therein.

"EchoStar IV" means the high-powered direct broadcast satellite as identified in EchoStar's Annual Report on Form 10-K for the year ended December 31, 2002 and consolidated financial statements included therein.

"EDBS Exchange Indenture" means the indenture, dated as of November 4, 2002, among the Company, the guarantors of the EDBS Exchange Notes named therein and U.S. Bank National Association, as trustee, as the same may be amended, modified or supplemented from time to time.

"EDBS Exchange Notes" means the \$1,000,000,000 aggregate principal original issue amount of 10 3/8% Senior Notes due 2007 issued by the Company.

"EDBS Notes" means the 2001 EDBS Notes, the 1999 EDBS Notes and the EDBS Exchange Notes.

"EDBS Notes Indentures" means the 2001 EDBS Notes Indenture, the 1999 EDBS Notes Indenture and the EDBS Exchange Indenture.

"Eligible Institution" means a commercial banking institution that has combined capital and surplus of not less than \$500 million or its equivalent in foreign currency, whose debt is rated Investment Grade at the time as of which any investment or rollover therein is made.

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

"ESC" means EchoStar Satellite Corporation, a Colorado corporation.

"ETC" means EchoStar Technologies Corporation, a Texas corporation.

"Euroclear" means Euroclear Bank S.A./N.V., as operator of the Euroclear system.

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

"Exchange Notes" means the Notes issued in the Exchange Offer pursuant to Section 2.06(f) or pursuant to a registered exchange offer for Notes with a Private Placement Legend issued after the Issue Date.

"Exchange Offer" has the meaning set forth in the Registration Rights Agreement with respect to the Notes.

"Exchange Offer Registration Statement" has the meaning set forth in the Registration Rights Agreement with respect to the Notes.

"Existing Indebtedness" means the Notes, the 5 3/4% Notes, the Floating Rate Notes and any other Indebtedness of the Company and its Subsidiaries in existence on the date of this Indenture until such amounts are repaid.

"FCC" means Federal Communications Commission.

"5 3/4% Notes" means the \$1,000,000,000 aggregate principal original issue amount of 5 3/4% Senior Notes due 2008 issued by the Company under the 5 3/4% Notes Indenture.

"5 3/4% Notes Indenture" means the indenture, dated as of October 2, 2003, among the Company, the guarantors of the 5 3/4% Notes named therein and U.S. Bank National Association, as trustee.

"Floating Rate Notes" means the \$500,000,000 aggregate principal original issue amount of Floating Rate Senior Notes due 2008 issued by the Company under the Floating Rate Notes Indenture.

"Floating Rate Notes Indenture" means the indenture, dated as of October 2, 2003, among the Company, the guarantors of the Floating Rate Notes named therein and U.S. Bank National Association, as trustee.

"GAAP" means United States 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 may be approved by a significant segment of the accounting profession of the United States of America, which are applicable as of the date of determination; provided that, except as otherwise specifically provided, all calculations made for purposes of determining compliance with the terms of the provisions of this Indenture shall utilize GAAP as in effect on the date of this Indenture.

"Global Note Legend" means the legend set forth in Section 2.01, which is required to be placed on all Global Notes issued under this Indenture.

"Global Notes" means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes, substantially in the form of Exhibit A hereto issued in accordance with Section 2.01 or 2.06 of this Indenture.

"Government Securities" means direct obligations of, or obligations guaranteed by, the United States of America for the payment of which guarantee or obligations the full faith and credit of the United States of America is pledged.

"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.

"Guarantee" means a guarantee of the Notes by a Guarantor.

"Guarantor" means any entity that executes a Guarantee of the obligations of the Company under the Notes, and their respective successors and assigns.

"Hedging Obligations" means, with respect to any Person, the obligations of such Person pursuant to any arrangement with any other Person, whereby, directly or indirectly, such Person is entitled to receive from time to time periodic payments calculated by applying either floating or a fixed rate of interest on a stated notional amount in exchange for periodic payments made by such other Person calculated by applying a fixed or a floating rate of interest on the same notional amount and shall include, without limitation, interest rate swaps, caps, floors, collars and similar agreements designed to protect such Person against fluctuations in interest rates.

"Holder" means a Person in whose name a Note is registered.

"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 (including pursuant to capital leases) or representing any Hedging Obligations, except any such balance that constitutes an accrued expense or trade payable, if and to the extent any of the foregoing (other than Hedging Obligations) 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 amount of all obligations of such Person with respect to the redemption, repayment or other repurchase of any Disqualified Stock or, with respect to any Subsidiary of such Person, the liquidation preference with respect to, any Preferred Equity Interests (but excluding, in each case, any accrued dividends) as well as the guarantee of items that would be included within this definition.

"Indebtedness to Cash Flow Ratio" means, with respect to any Person, the ratio of: (a) the Indebtedness of such Person and its Subsidiaries (or, if such Person is the Company, of the Company and its Restricted Subsidiaries) as of the end of the most recently ended fiscal quarter, plus the amount of any Indebtedness incurred subsequent to the end of such fiscal quarter; to (b) such Person's Consolidated Cash Flow for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such event for which such calculation is being made shall occur (the "Measurement Period"); provided, however; that if such Person or any of its Subsidiaries (or, if such Person is

the Company, any of its Restricted Subsidiaries) consummates an acquisition, merger or other business combination or an Asset Sale or other disposition of assets subsequent to the commencement of the Measurement Period for which the calculation of the Indebtedness to Cash Flow Ratio is made, then the Indebtedness to Cash Flow Ratio shall be calculated giving pro forma effect to such transaction(s) as if the same had occurred at the beginning of the applicable period.

"Indenture" means this Indenture, as amended or supplemented from time to time.

"Indirect Participant" means a Person who holds a beneficial interest in a Global Note through a Participant.

"Initial Notes" means the \$1.0 billion aggregate principal amount 6 3/8% Senior Notes due 2011 of the Company issued under this Indenture on the Issue Date.

"Initial Purchasers" means, with respect to the Notes, Banc of America LLC and Credit Suisse First Boston LLC.

"Investment Grade" means, with respect to a security, that such security is rated at least BBB- or higher by S&P or Baa3 or higher by Moody's (or, in the event of change in ratings systems, the equivalent of such ratings by S&P or Moody's), or the equivalent rating of another nationally recognized statistical rating organization.

"Investments" means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the forms of loans (including guarantees), advances or capital contributions (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities and all other items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP.

"Issue Date" means October 2, 2003, the date of original issuance of the Initial Notes.

"Legal Holiday" means a Saturday, a Sunday or a day on which banking institutions in the City of New York or at a place of payment are authorized or required by law, regulation or executive order to remain closed. 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.

"Letter of Transmittal" means the letter of transmittal to be prepared by the Company and sent to all Holders of the Notes for use by such Holders in connection with the Exchange Offer.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law (including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or

give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statute) of any jurisdiction).

"Marketable Securities" means: (a) Government Securities; (b) any certificate of deposit maturing not more than 365 days after the date of acquisition issued by, or time deposit of, an Eligible Institution; (c) commercial paper maturing not more than 365 days after the date of acquisition issued by a corporation (other than an Affiliate of the Company) with an Investment Grade rating, at the time as of which any investment therein is made, issued or offered by an Eligible Institution; (d) any bankers' acceptances or money market deposit accounts issued or offered by an Eligible Institution; and (e) any fund investing exclusively in investments of the types described in clauses (a) through (d) above.

"Maximum Secured Amount" means 3.0 times the Trailing Cash Flow Amount, or, if greater and following a Fall Away Event, 15% of the Company's Consolidated Net Tangible Assets.

"Moody's" means Moody's Investors Service, Inc.

"Net Income" means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP, excluding, however, any gain (but not loss), together with any related provision for taxes on such gain (but not loss), realized in connection with any Asset Sale (including, without limitation, dispositions pursuant to sale and leaseback transactions), and excluding any extraordinary gain (but not loss), together with any related provision for taxes on such extraordinary gain (but not loss) and excluding any unusual gain (but not loss) relating to recovery of insurance proceeds on satellites, together with any related provision for taxes on such extraordinary gain (but not loss).

"Net Proceeds" means the aggregate cash proceeds received by the Company or any of its Restricted Subsidiaries, as the case may be, in respect of any Asset Sale, net of the direct costs relating to such Asset Sale (including, without limitation, legal, accounting and investment banking fees, and sales commissions) and any relocation expenses incurred as a result thereof, taxes paid or payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements), amounts required to be applied to the repayment of Indebtedness secured by a Lien on the asset or assets that are the subject of such Asset Sale and any reserve for adjustment in respect of the sale price of such asset or assets. Net Proceeds shall exclude any non-cash proceeds received from any Asset Sale, but shall include such proceeds when and as converted by the Company or any Restricted Subsidiary to cash.

"1999 EDBS Notes" means the \$1,625,000,000 aggregate principal original issue amount of 9 3/8% Senior Notes due 2009 issued by the Company.

"1999 EDBS Notes Indenture" means the indenture dated January 25, 1999 among the Company, the guarantors of the 1999 EDBS Notes named therein and U.S. Bank National Association, as Trustee, as the same may be amended, modified or supplemented from time to time.

"Non-Core Assets" means: (1) all intangible present and possible future authorizations, rights, interests and other intangible assets related to all "western" DBS orbital

locations other than the 148 degree orbital slot (as the term "western" is used by the FCC) held by the Company and/or any of its Subsidiaries at any time, including without limitation the authorization for 3 DBS frequencies at the 157 degree orbital location; (2) all intangible present and possible future authorizations, rights, interests and other intangible assets related to the fixed satellite service in the Ku-band, Ka-band and C-band held by the Company and/or any of its Subsidiaries at any time, including without limitation the license of ESC for a two satellite Ka/Ku-band system at 83 degree and 121 degree orbital location, the application of ESC to add C-band capabilities to a Ku-band satellite authorized at 83 degree orbital location, and ESC's pending applications for Ka-band and extended Ku-band satellites related to the fixed satellite service; (3) all present and possible future intangible authorizations, rights, interests and other intangible assets related to the mobile satellite service held by the Company and/or any of its Subsidiaries at any time, including without limitation the license of E-SAT, Inc. for a low-earth orbit mobile satellite service system; (4) all present and possible future intangible authorizations, rights, interests and other intangible assets related to local multi-point distribution service; and (5) any Subsidiary of the Company the assets of which consist solely of (i) any combination of the foregoing and (ii) other assets to the extent permitted under the provision described under the second paragraph of Section 4.19.

"Non-Recourse Indebtedness" of any Person means Indebtedness of such Person that: (i) is not guaranteed by any other Person (except a Wholly Owned Subsidiary of the referent Person); (ii) is not recourse to and does not obligate any other Person (except a Wholly Owned Subsidiary of the referent Person) in any way; (iii) does not subject any property or assets of any other Person (except a Wholly Owned Subsidiary of the referent Person), directly or indirectly, contingently or otherwise, to the satisfaction thereof, and (iv) is not required by GAAP to be reflected on the financial statements of any other Person (other than a Subsidiary of the referent Person) prepared in accordance with GAAP.

"Non-U.S. Person" means a Person who is not a U.S. Person.

"Notes" means the Initial Notes, the Exchange Notes and any other notes issued after the Issue Date in accordance with the fourth paragraph of Section 2.02 of this Indenture treated as a single class of securities.

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

"Offering" means the offering of the Notes, the 5 3/4% Notes and the Floating Rate Notes pursuant to the Offering Memorandum.

"Offering Memorandum" means the Offering Memorandum, dated September 18, 2003, relating to and used in connection with the Offering.

"Officer" means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, Controller, Secretary or any Vice-President of such Person.

"Officers' Certificate" means a certificate signed on behalf of the Company by two Officers of the Company, one of whom must be the principal executive officer, principal financial officer, treasurer or principal accounting officer of the Company.

"Opinion of Counsel" means an opinion from legal counsel, who may be an employee of or counsel to the Company, any Subsidiary of the Company or the Trustee.

"Participant" means, with respect to the Depository, Euroclear or Clearstream, a Person who has an account with the Depository, Euroclear or Clearstream, respectively (and, with respect to DTC, shall include Euroclear and Clearstream).

"Permitted Investments" means: (a) Investments in the Company or in a Wholly Owned Restricted Subsidiary that is a Guarantor; (b) Investments in Cash Equivalents and Marketable Securities; and (c) Investments by the Company or any of its Subsidiaries in a Person if, as a result of such Investment: (i) such Person becomes a Wholly Owned Restricted Subsidiary and becomes a Guarantor, or (ii) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Company or a Wholly Owned Restricted Subsidiary that is a Guarantor; provided that if at any time a Restricted Subsidiary of the Company shall cease to be a Subsidiary of the Company, the Company shall be deemed to have made a Restricted Investment in the amount of its remaining investment, if any, in such former Subsidiary.

"Permitted Liens" means:

(a) Liens securing the Notes, the 5 3/4% Notes and the Floating Rate Notes and Liens securing any Guarantee, any Guarantee (as defined in the 5 3/4% Notes Indenture) and any Guarantee (as defined in the Floating Rate Notes Indenture);

(b) Liens securing the Deferred Payments;

(c) Liens securing any Indebtedness permitted under Section 4.09 of this Indenture; provided that such Liens under this clause (c) shall not secure Indebtedness in an amount exceeding the Maximum Secured Amount at the time that such Lien is incurred;

(d) Liens securing Purchase Money Indebtedness; provided that such Indebtedness was permitted to be incurred by the terms of this Indenture and such Liens do not extend to any assets of the Company or its Restricted Subsidiaries other than the assets so acquired;

(e) Liens securing Indebtedness the proceeds of which are used to develop, construct, launch or insure any satellites other than EchoStar I, EchoStar II, EchoStar III, EchoStar IV; provided that such Indebtedness was permitted to be incurred by the terms of this Indenture and such Liens do not extend to any assets of the Company or its Restricted Subsidiaries other than such satellites being developed, constructed, launched or insured, and to the related licenses, permits and construction, launch and TT&C contracts;

(f) Liens on orbital slots, licenses and other assets and rights of the Company, provided that such orbital slots, licenses and other assets and rights relate solely to the satellites referred to in clause (e) of this definition;

(g) Liens on property of a Person existing at the time such Person is merged into or consolidated with the Company or any of its Restricted Subsidiaries, provided that such Liens were not incurred in connection with, or in contemplation of, such merger or consolidation, other than in the ordinary course of business;

(h) Liens on property of an Unrestricted Subsidiary at the time that it is designated as a Restricted Subsidiary pursuant to the definition of "Unrestricted Subsidiary;" provided that such Liens were not incurred in connection with, or contemplation of, such designation;

(i) Liens on property existing at the time of acquisition thereof by the Company or any Restricted Subsidiary of the Company; provided that such Liens were not incurred in connection with, or in contemplation of, such acquisition and do not extend to any assets of the Company or any of its Restricted Subsidiaries other than the property so acquired;

(j) Liens to secure the performance of statutory obligations, surety or appeal bonds or performance bonds, or landlords', carriers', warehousemen's, mechanics', suppliers', materialmen's or other like Liens, in any case incurred in the ordinary course of business and with respect to amounts not yet delinquent or being contested in good faith by appropriate process of law, if a reserve or other appropriate provision, if any, as is required by GAAP shall have been made therefor;

(k) Liens existing on the Issue Date;

(l) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded; provided that any reserve or other appropriate provision as shall be required in conformity with GAAP shall have been made therefor;

(m) Liens incurred in the ordinary course of the business of the Company or any of its Restricted Subsidiaries (including, without limitation, Liens securing Purchase Money Indebtedness) with respect to obligations that do not exceed \$50 million in principal amount in the aggregate at any one time outstanding;

(n) Liens securing Indebtedness in an amount not to exceed \$50 million incurred pursuant to clause (11) of the second paragraph of Section 4.09 of this Indenture;

(o) Liens on any asset of the Company or any of its Restricted Subsidiaries securing Indebtedness in an amount not to exceed \$25 million;

(p) Liens securing Indebtedness permitted under clause (12) of the second paragraph of Section 4.09 of this Indenture; provided that such Liens shall not extend to assets other than the assets that secure such Indebtedness being refinanced;

(q) any interest or title of a lessor under any Capital Lease Obligations; provided that such Capital Lease Obligation is permitted under the other provisions of this Indenture;

(r) Liens permitted to be incurred under the EDBS Notes Indentures;

(s) Liens not provided for in clauses (a) through (r) above, securing Indebtedness incurred in compliance with the terms of this Indenture; provided that the Notes are secured by the assets subject to such Liens on an equal and ratable basis or on a basis prior to such Liens; provided that to the extent that such Lien secured Indebtedness that is subordinated to the Notes, such Lien shall be subordinated to and be later in priority than the Notes on the same basis; and

(t) extensions, renewals or refundings of any Liens referred to in clauses (a) through (q) above; provided that (i) any such extension, renewal or refunding does not extend to any assets or secure any Indebtedness not securing or secured by the Liens being extended, renewed or refinanced and (ii) any extension, renewal or refunding of a Lien originally incurred pursuant to clause (c) above shall not secure Indebtedness in an amount greater than the Maximum Secured Amount at the time of such extension, renewal or refunding.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust or unincorporated organization (including any subdivision or ongoing business of any such entity or substantially all of the assets of any such entity, subdivision or business).

"Preferred Equity Interest," in any Person, means an Equity Interest of any class or classes (however designated) which is preferred as to the payment of dividends or distributions, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over Equity Interests of any other class in such Person.

"Principal" means Charles W. Ergen.

"Private Placement Legend" means the legend set forth in Section 2.01 to be placed on all Notes issued under this Indenture except where otherwise permitted by the provisions of this Indenture.

"Purchase Money Indebtedness" means (i) Indebtedness of the Company, or any Guarantor incurred (within 365 days of such purchase) to finance the purchase of any assets (including the purchase of Equity Interests of Persons that are not Affiliates of the Company or the Guarantors): (a) to the extent the amount of Indebtedness thereunder does not exceed 100% of the purchase cost of such assets; and (b) to the extent that no more than \$50 million of such Indebtedness at any one time outstanding is recourse to the Company or any of its Restricted Subsidiaries or any of their respective assets, other than the assets so purchased; and (ii) Indebtedness of the Company or any Guarantor which refinances Indebtedness referred to in clause (i) of this definition, provided that such refinancing satisfies subclauses (a) and (b) of such clause (i).

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

"Rating Agencies" means: (a) S&P; (b) Moody's; or (c) if S&P or Moody's or both shall not make a rating of the Notes publicly available, a nationally recognized securities rating agency or agencies, as the case may be, selected by the Company, which shall be substituted for S&P or Moody's or both, as the case may be.

"Receivables Trust" means a trust organized solely for the purpose of securitizing the accounts receivable held by the Accounts Receivable Subsidiary that (a) shall not engage in any business other than (i) the purchase of accounts receivable or participation interests therein from the Accounts Receivable Subsidiary and the servicing thereof, (ii) the issuance of and distribution of payments with respect to the securities permitted to be issued under clause (b) below and (iii) other activities incidental to the foregoing, (b) shall not at any time incur indebtedness or issue any securities, except (i) certificates representing undivided interests in the trust issued to the Accounts Receivable Subsidiary and (ii) debt securities issued in an arm's length transaction for consideration solely in the form of cash and Cash Equivalents, all of which (net of any issuance fees and expenses) shall promptly be paid to the Accounts Receivable Subsidiary, and (c) shall distribute to the Accounts Receivable Subsidiary as a distribution on the Accounts Receivable Subsidiary's beneficial interest in the trust no less frequently than once every six months all available cash and Cash Equivalents held by it, to the extent not required for reasonable operating expenses or reserves therefor or to service any securities issued pursuant to clause (b) above that are not held by the Accounts Receivable Subsidiary.

"Registration Rights Agreement" means the Registration Rights Agreement for the Notes, the 5 3/4% Notes and the Floating Rate Notes, dated as of October 2, 2003, by and among the Company, the Guarantors, the Initial Purchasers and any other parties named on the signature pages thereof, as such agreement may be amended, modified or supplemented from time to time.

"Regulation S" means Regulation S promulgated under the Securities Act.

"Regulation S Global Note" means one or more global Notes substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depository or its nominee, which, in the aggregate, are equal to the outstanding principal amount of the Notes initially sold in reliance on Rule 903 of Regulation S.

"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.

"Responsible Officer," when used with respect to the Trustee, means any officer within the Corporate Trust Administration of the Trustee (or any successor group of the Trustee) or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

"Restricted Definitive Note" means a Definitive Note bearing the Private Placement Legend.

"Restricted Global Note" means a Global Note bearing the Private Placement Legend.

"Restricted Investment" means an Investment other than Permitted Investments.

"Restricted Period" means the 40-day distribution compliance period as defined in Regulation S.

"Restricted Subsidiary" or "Restricted Subsidiaries" 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 the Company or one or more Subsidiaries of the Company or a combination thereof, other than Unrestricted Subsidiaries.

Act. "Rule 144" means Rule 144 promulgated under the Securities

Act. "Rule 144A" means Rule 144A promulgated under the Securities

Act. "Rule 903" means Rule 903 promulgated under the Securities

Act. "Rule 904" means Rule 904 promulgated under the Securities

McGraw Hill Companies, Inc. "S&P" means Standard & Poor's Ratings Group, a division of The

receiving programming from the EchoStar Dish Network. "Satellite Receiver" means any satellite receiver capable of

"SEC" means the Securities and Exchange Commission.

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

"Shelf Registration Statement" means the Shelf Registration Statement as defined in the Registration Rights Agreement.

"Significant Subsidiary" means any Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X promulgated pursuant to the Securities Act, as such regulation is in effect on the Issue Date.

"Subsidiary" or "Subsidiaries" means, with respect to any Person, 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 such Person or one or more of the other Subsidiaries of such Person or a combination thereof.

"TIA" means the Trust Indenture Act of 1939 as in effect on the date of this Indenture.

"Trailing Cash Flow Amount" means the Consolidated Cash Flow of the Company during the most recent four fiscal quarters of the Company for which financial statements are available; provided that if the Company or any of its Restricted Subsidiaries consummates a merger, acquisition or other business combination or an Asset Sale or other disposition of assets subsequent to the commencement of such period but prior to or contemporaneously with the event for which the calculation of Trailing Cash Flow Amount is made, then Trailing Cash Flow Amount shall be calculated giving pro forma effect to such material acquisition or Asset Sale or other disposition of assets, as if the same had occurred at the beginning of the applicable period.

"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 serving hereunder.

"TT&C" means telemetry, tracking and control.

"2001 EDBS Notes" means the \$700,000,000 aggregate principal original issue amount of 9 1/8% Senior Notes due 2009 issued by the Company.

"2001 EDBS Notes Indenture" means the indenture dated December 28, 2001 among the Company and U.S. Bank National Association, as trustee, as the same may be amended, modified or supplemented from time to time.

"2003 Indentures" means this Indenture, the 5 3/4% Notes Indenture and the Floating Rate Notes Indenture.

"U.S. Person" means a U.S. Person as defined in Rule 902(k) under the Securities Act.

"Unrestricted Definitive Note" means one or more Definitive Notes that do not bear and are not required to bear the Private Placement Legend.

"Unrestricted Global Note" means a permanent global Note substantially in the form of Exhibit A attached hereto that bears the Global Note Legend and that has the "Schedule of Exchanges of Interests in the Global Note" attached thereto, and that is deposited with or on behalf of and registered in the name of the Depositary, representing Notes that do not bear the Private Placement Legend.

"Unrestricted Subsidiary" or "Unrestricted Subsidiaries" means: (A) E-Sat, Inc., Wright Travel Corporation, EchoStar Real Estate Corporation V, EchoStar International (Mauritius) Ltd., EchoStar Manufacturing & Distribution Private Ltd. India, Satrec Mauritius Ltd., Celsat America, WS Acquisition Corporation, Flextracker Sdn. Bhd., Echosphere De

Mexico S. De R.L. De C.V. and EIC Spain, S.L.; and (B) any Subsidiary of the Company designated as an Unrestricted Subsidiary in a resolution of the Board of Directors:

(a) no portion of the Indebtedness or any other obligation (contingent or otherwise) of which, immediately after such designation: (i) is guaranteed by the Company or any other Subsidiary of the Company (other than another Unrestricted Subsidiary); (ii) is recourse to or obligates the Company or any other Subsidiary of the Company (other than another Unrestricted Subsidiary) in any way; or (iii) subjects any property or asset of the Company or any other Subsidiary of the Company (other than another Unrestricted Subsidiary), directly or indirectly, contingently or otherwise, to satisfaction thereof;

(b) with which neither the Company nor any other Subsidiary of the Company (other than another Unrestricted Subsidiary) has any contract, agreement, arrangement, understanding or is subject to an obligation of any kind, written or oral, other than on terms no less favorable to the Company or such other Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Company; and

(c) with which neither the Company nor any other Subsidiary of the Company (other than another Unrestricted Subsidiary) has any obligation: (i) to subscribe for additional shares of Capital Stock or other equity interests therein; or (ii) to maintain or preserve such Subsidiary's financial condition or to cause such Subsidiary to achieve certain levels of operating results;

provided, however, that neither ESC nor Echosphere Corporation may be designated as an Unrestricted Subsidiary. If at any time after the date of this Indenture the Company designates an additional Subsidiary (other than ETC or a Subsidiary that constitutes a Non-Core Asset) as an Unrestricted Subsidiary, the Company will be deemed to have made a Restricted Investment in an amount equal to the fair market value (as determined in good faith by the Board of Directors of the Company evidenced by a resolution of the Board of Directors of the Company and set forth in an Officers' Certificate delivered to the Trustee no later than ten business days following a request from the Trustee, which certificate shall cover the six months preceding the date of the request) of such Subsidiary. An Unrestricted Subsidiary may be designated as a Restricted Subsidiary of the Company if, at the time of such designation after giving pro forma effect thereto, no Default or Event of Default shall have occurred or be continuing.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years obtained by dividing (a) the then outstanding principal amount of such Indebtedness into (b) the total of the product obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment.

"Wholly Owned Restricted Subsidiary" means a Wholly Owned Subsidiary of the Company that is a Restricted Subsidiary.

"Wholly Owned Subsidiary" means, with respect to any Person, any Subsidiary all of the outstanding voting stock (other than directors' qualifying shares) of which is owned by such Person, directly or indirectly.

SECTION 1.02. Other Definitions.

Term - - - - -	Defined in Section -----
"Affiliate Transaction".....	4.11
"Asset Sale".....	4.10
"Change of Control Offer".....	4.15
"Change of Control Payment".....	4.15
"Change of Control Payment Date".....	4.15
"Company".....	Preamble
"Covenant Defeasance".....	8.03
"DTC".....	2.01
"ETC Amount Due".....	4.19
"Event of Default".....	6.01
"Excess Proceeds".....	4.10
"Excess Proceeds Offer".....	3.08
"H.15(519) Selected Interest Rates".....	3.07
"incur".....	4.09
"Legal Defeasance".....	8.02
"Make-Whole Premium".....	3.07
"Non-Core Asset Amount Due".....	4.19
"Offer Amount".....	3.08
"Offer Period".....	3.08
"Paying Agent".....	2.03
"Payment Default".....	6.01(f)
"Payout".....	4.19
"Permitted Refinancing".....	4.09
"Private Placement Legend".....	2.01
"Purchase Date".....	3.08
"Refinancing Indebtedness".....	4.09
"Registrar".....	2.03
"Remaining Term".....	3.07
"Restricted Payments".....	4.07
"Terminated Covenants".....	4.21
"Treasury Yield".....	3.07

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;

"obligor" on the Notes means each of the Company and any successor obligor upon the Notes.

All other terms used in this Indenture that are defined by the TIA, defined by 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:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (3) "or" is not exclusive;
- (4) words in the singular include the plural, and in the plural include the singular; and
- (5) provisions apply to successive events and transactions.

ARTICLE 2

THE NOTES

SECTION 2.01. Form and Dating.

The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto, the terms of which are incorporated in and made a part of this Indenture. The Notes may have notations, legends or endorsements approved as to form by the Company, and required by law, stock exchange rule, agreements to which the Company is subject or usage. Each Note shall be dated the date of its authentication. The Notes shall be issuable only in denominations of \$1,000 and integral multiples thereof.

The Notes shall initially be issued in the form of one or more Global Notes and the Depository Trust Company ("DTC"), its nominees, and their respective successors, shall act as the Depository with respect thereto. Each Global Note shall (i) be registered in the name of the Depository for such Global Note or the nominee of such Depository, (ii) shall be delivered by the

Trustee to such Depository or pursuant to such Depository's instructions, and (iii) shall bear a legend (the "Global Note Legend") substantially to the following effect:

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

THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE OF A DEPOSITARY OR A SUCCESSOR DEPOSITARY. THIS NOTE IS NOT EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITARY OR ITS NOMINEE EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE, AND NO TRANSFER OF THIS NOTE (OTHER THAN A TRANSFER OF THIS NOTE AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY) MAY BE REGISTERED EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.

Except as permitted by Section 2.06(g), any Note not registered under the Securities Act shall bear the following legend (the "Private Placement Legend") on the face thereof:

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS NOTE NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT. THE HOLDER OF THIS NOTE BY ITS ACCEPTANCE HEREOF AGREES TO OFFER, SELL OR OTHERWISE TRANSFER SUCH NOTE, PRIOR TO THE DATE WHICH IS TWO YEARS AFTER THE LATER OF THE ORIGINAL

ISSUE DATE HEREOF AND THE LAST DATE ON WHICH THE COMPANY OR ANY AFFILIATE OF THE COMPANY WAS THE OWNER OF THIS NOTE (OR ANY PREDECESSOR OF THIS NOTE) (THE "RESALE RESTRICTION TERMINATION DATE") ONLY (A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, (B) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, (C) FOR SO LONG AS THE NOTES ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE SECURITIES ACT ("RULE 144A"), TO A PERSON IT REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) PURSUANT TO OFFERS AND SALES TO NON-U.S. PERSONS THAT OCCUR OUTSIDE THE UNITED STATES WITHIN THE MEANING OF REGULATION S UNDER THE SECURITIES ACT AND OTHERWISE IN COMPLIANCE WITH REGULATION S UNDER THE SECURITIES ACT OR (E) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE COMPANY'S AND THE TRUSTEE'S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSE (D) PRIOR TO THE END OF THE 40 DAY DISTRIBUTION COMPLIANCE PERIOD WITHIN THE MEANING OF REGULATION S UNDER THE SECURITIES ACT OR PURSUANT TO CLAUSE (E) PRIOR TO THE RESALE RESTRICTION TERMINATION DATE TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF A HOLDER AFTER THE RESALE RESTRICTION TERMINATION DATE.

The Trustee must refuse to register any transfer of a Note bearing the Private Placement Legend that would violate the restrictions described in such legend.

SECTION 2.02. Form of Execution and Authentication.

Two Officers of the Company shall sign the Notes for the Company by manual or facsimile signature. The Company's seal shall be reproduced on the Notes.

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 the Trustee. The signature of the Trustee shall be conclusive evidence that the Note has been authenticated under this Indenture.

The Trustee shall authenticate (i) Initial Notes for original issue on the Issue Date in an aggregate principal amount of \$1.0 billion, (ii) pursuant to the Exchange Offer, Exchange

Notes from time to time for issue only in exchange for a like principal amount of Initial Notes and (iii) subject to compliance with Section 4.09, one or more series of Notes for original issue after the Issue Date (such Notes to be substantially in the form of Exhibit A) in an unlimited amount (and if issued with a Private Placement Legend, the same principal amount of Exchange Notes in exchange therefor upon consummation of a registered exchange offer) in each case upon written orders of the Company in the form of an Officers' Certificate, which Officers' Certificate shall, in the case of any issuance pursuant to clause (iii) above, certify that such issuance is in compliance with Section 4.09. In addition, each such Officers' Certificate shall specify the amount of Notes to be authenticated, the date on which the Notes are to be authenticated, whether the Securities are to be Initial Notes, Exchange Notes or Notes issued under clause (iii) of the preceding sentence and the aggregate principal amount of Notes outstanding on the date of authentication, and shall further specify the amount of such Notes to be issued as a Global Note or Definitive Notes. Such Notes shall initially be in the form of one or more Global Notes, which (i) shall represent, and shall be denominated in an amount equal to the aggregate principal amount of, the Notes to be issued, (ii) shall be registered in the name of the Depository for such Global Note or Notes or its nominee and (iii) shall be delivered by the Trustee to the Depository or pursuant to the Depository's instruction. All Notes issued under this Indenture shall vote and consent together on all matters as one class and no series of Notes will have the right to vote or consent as a separate class on any matter.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. Unless limited by the terms of such appointment, 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 the Company or any Affiliate of the Company.

SECTION 2.03. Registrar and Paying Agent.

The Company shall maintain (i) an office or agency where Notes may be presented for registration of transfer or for exchange (including any co-registrar, the "Registrar") and (ii) an office or agency where Notes may be presented for payment ("Paying Agent"). The Registrar shall keep a register of the Notes and of their transfer and exchange. The Company may appoint one or more co-registrars and one or more additional paying agents. The term "Paying Agent" includes any additional paying agent. The Company may change any Paying Agent, Registrar or co-registrar without prior notice to any Holder of a Note. The Company shall notify the Trustee and the Trustee shall notify the Holders of the Notes of the name and address of any Agent not a party to this Indenture. The Company may act as Paying Agent, Registrar or co-registrar. The Company shall enter into an appropriate agency agreement with any Agent not a party to this Indenture, which shall incorporate the provisions of the TIA. The agreement shall implement the provisions of this Indenture that relate to such Agent. The Company shall notify the Trustee of the name and address of any such Agent. If the Company fails to maintain a Registrar or Paying Agent, or fails to give the foregoing notice, the Trustee shall act as such, and shall be entitled to appropriate compensation in accordance with Section 7.07.

The Company initially appoints the Trustee as Registrar, Paying Agent and agent for service of notices and demands in connection with the Notes.

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 shall hold in trust for the benefit of the Holders of the Notes or the Trustee all money held by the Paying Agent for the payment of principal of, premium, if any, and interest on the Notes, and shall 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. 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) shall have no further liability for the money delivered to the Trustee. If the Company acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders of the Notes all money held by it as Paying Agent.

SECTION 2.05. Lists of Holders of the Notes.

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 of the Notes and shall otherwise comply with TIA Section 312(a). If the Trustee is not the Registrar, the Company shall furnish to the Trustee at least seven Business Days 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 of the Notes, including the aggregate principal amount of the Notes held by each thereof, and the Company shall otherwise comply with TIA Section 312(a).

SECTION 2.06. Transfer and Exchange.

(a) Transfer and Exchange of Global Notes. A Global Note may not be transferred as a whole except by the Depository to a nominee of the Depository, by a nominee of the Depository to the Depository or to another nominee of the Depository, or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository. All Global Notes will be exchanged by the Company for Definitive Notes if (i) the Company delivers to the Trustee notice from the Depository that it is unwilling or unable to continue to act as Depository and a successor Depository is not appointed by the Company within 90 days after the date of such notice from the Depository, (ii) the Depository has ceased to be a clearing agency registered under the Exchange Act, (iii) the Company in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and delivers a written notice to such effect to the Trustee or (iv) there shall have occurred and be continuing a Default or an Event of Default under this Indenture. In any such case, the Company will notify the Trustee in writing that, upon surrender by the Direct Participants and Indirect Participants of their interest in such Global Note, Certificated Notes will be issued to each Person that such Direct Participants and Indirect Participants and DTC identify as being the beneficial owner of the related Notes. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 of this Indenture. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10 of this Indenture, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as

provided in this Section 2.06. However, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b), (c) or (f) of this Indenture.

(b) Transfer and Exchange of Beneficial Interests in the Global Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes shall be subject to restrictions on transfer comparable to those set forth in this Indenture to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(i) Transfer of Beneficial Interests in the Same Global Note. Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend; provided, however, that prior to the expiration of the Restricted Period, no transfer of beneficial interests in the Regulation S Global Note may be made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser) unless permitted by applicable law and made in compliance with subparagraphs (ii) and (iii) below. Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(i) unless specifically stated above.

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(i) above, the transferor of such beneficial interest must deliver to the Registrar either (A) (1) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or, (B) (1) if Definitive Notes are at such time permitted to be issued pursuant to this Indenture, a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above. Upon consummation of an Exchange Offer by the Company in accordance with Section 2.06(f), the requirements of this Section 2.06(b)(ii) shall be deemed to have been satisfied upon receipt by the Registrar of the instructions contained in the Letter of Transmittal delivered by the Holder of such beneficial interests in the Restricted Global Notes. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the

Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(h).

(iii) Transfer of Beneficial Interests to Another Restricted Global Note. A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.06(b)(ii) above and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in the 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit C hereto, including the certifications in item (1) thereof; and

(B) if the transferee will take delivery in the form of a beneficial interest in the Regulation S Global Note, then the transferor must deliver a certificate in the form of Exhibit C hereto, including the certifications in item (2) thereof.

(iv) Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note. A beneficial interest in any Restricted Global Note may be exchanged by any Holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.06(b)(ii) above and:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder of the beneficial interest to be transferred, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an "affiliate" (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to a Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to an Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(y) if the Holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such Holder in the form of Exhibit D hereto, including the certifications in item (1)(a) thereof, or

(z) if the Holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained in this Indenture and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected pursuant to subparagraph (B) or (D) above at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02, the Trustee shall authenticate, one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to subparagraph (B) or (D) above.

Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(c) Transfer or Exchange of Beneficial Interests for Definitive Notes.

(i) Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes. If any Holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such Holder in the form of Exhibit D hereto, including the certifications in item (2)(a) thereof;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (3)(a) thereof;

(E) if such beneficial interest is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (3)(b) thereof; or

(F) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h), and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Restricted Definitive Note in the appropriate principal amount. Any Restricted Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c) shall be registered in such name or names and in such authorized denomination or denominations as the Holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Restricted Definitive Notes to the Persons in whose names such Notes are so registered. Any Restricted Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c)(1) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(ii) Beneficial Interests in Restricted Global Notes to Unrestricted Definitive Notes. A Holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note only if:

(A) such exchange or transfer is effected pursuant to an Exchange Offer in accordance with the Registration Rights Agreement and the Holder of such beneficial interest, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an "affiliate" (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to a Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(y) if the Holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Definitive Note that does not bear the Private Placement Legend, a certificate from such Holder in the form of Exhibit D hereto, including the certifications in item (1)(b) thereof; or

(z) if the Holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a Definitive Note that does not bear the Private Placement Legend, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (4) thereof,

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained in this Indenture and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected pursuant to subparagraph (B) or (D) above at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to subparagraph (B) or (D) above.

(iii) Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes. If any Holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth in Section 2.06(b)(ii), the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h), and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iii) shall be registered in such name or names and in such authorized denomination or denominations as the Holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iii) shall not bear the Private Placement Legend.

(d) Transfer and Exchange of Definitive Notes for Beneficial Interests.

(i) Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes. If any Holder of a Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder in the form of Exhibit D hereto, including the certifications in item (2)(b) thereof;

(B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (1) thereof; or

(C) if such Restricted Definitive Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (2) thereof,

the Trustee shall cancel the Restricted Definitive Note, increase or cause to be increased the aggregate principal amount of, in the case of clause (A) above, the appropriate Restricted Global Note, in the case of clause (B) above, the 144A Global Note, and in the case of clause (C) above, the Regulation S Global Note.

(ii) Restricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of a Restricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an "affiliate" (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to a Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to an Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

following: (D) the Registrar receives the

(y) if the Holder of such Definitive Notes proposes to exchange such Notes for a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit D hereto, including the certifications in item (1)(c) thereof; or

(z) if the Holder of such Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained in this Indenture and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the conditions of any of the subparagraphs in this Section 2.06(d)(ii), the Trustee shall cancel the Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(iii) Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of an Unrestricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Unrestricted Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes.

If any such exchange or transfer from an Unrestricted Definitive Note or a Restricted Definitive Note, as the case may be, to a beneficial interest is effected pursuant to subparagraphs (ii)(B), (ii)(D) or (iii) above at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 of this Indenture, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of Unrestricted Definitive Notes or Restricted Definitive Notes, as the case may be, so transferred.

(e) Transfer and Exchange of Definitive Notes for Definitive Notes. Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar shall register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly

authorized in writing. In addition, the requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.06(e).

(i) Restricted Definitive Notes to Restricted Definitive Notes. Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer will be made pursuant to Rule 144A under the Securities Act, then the transferor must deliver a certificate in the form of Exhibit C hereto, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904, then the transferor must deliver a certificate in the form of Exhibit C hereto, including the certifications in item (2) thereof; and

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit C hereto, including, if the Registrar so requests, a certification or Opinion of Counsel in form reasonably acceptable to the Company to the effect that such transfer is in compliance with the Securities Act.

(ii) Restricted Definitive Notes to Unrestricted Definitive Notes. Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note if:

(A) such exchange or transfer is effected pursuant to an Exchange Offer in accordance with the Registration Rights Agreement and the Holder, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an "affiliate" (as defined in Rule 144) of the Company;

(B) any such transfer is effected pursuant to a Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) any such transfer is effected by a Broker-Dealer pursuant to an Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(y) if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for an Unrestricted Definitive

Note, a certificate from such Holder in the form of Exhibit D hereto, including the certifications in item (1)(d) thereof; or

(z) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (4) thereof; and, in each such case set forth in this subparagraph (D), if the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained in this Indenture and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) Unrestricted Definitive Notes to Unrestricted Definitive Notes. A Holder of Unrestricted Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the Holder thereof.

(f) Exchange Offer. Upon the occurrence of an Exchange Offer in accordance with the Registration Rights Agreement, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02, the Trustee shall authenticate (i) one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of the beneficial interests in the Restricted Global Notes tendered for acceptance by Persons that certify in the applicable Letters of Transmittal that (x) they are not broker-dealers, (y) they are not participating in a distribution of the Exchange Notes and (z) they are not "affiliates" (as defined in Rule 144) of the Company, and accepted for exchange in an Exchange Offer and (ii) Definitive Notes in an aggregate principal amount equal to the principal amount of the Restricted Definitive Notes accepted for exchange in an Exchange Offer. Concurrently with the issuance of such Notes, the Trustee shall cause the aggregate principal amount of the applicable Restricted Global Notes to be reduced accordingly, and the Company shall execute and the Trustee shall authenticate and deliver to the Persons designated by the Holders of Restricted Definitive Notes so accepted Unrestricted Definitive Notes in the appropriate principal amount.

(g) Legends. The following legends shall appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture.

(i) Private Placement Legend.

(A) Except as permitted by subparagraph (B) below, each Global Note (other than an Unrestricted Global Note) and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof) shall bear the Private Placement Legend.

(B) Notwithstanding the foregoing, any Global Note or Definitive Note issued pursuant to subparagraphs (b)(iv), (c)(ii), (c)(iii), (d)(ii), (d)(iii), (e)(ii), (e)(iii) or (f) to this Section 2.06 (and all Notes issued in exchange therefor or substitution thereof) shall not bear the Private Placement Legend.

(ii) Global Note Legend. Each Global Note shall bear the Global Note Legend.

(h) Cancellation and/or Adjustment of Global Notes. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(i) General Provisions Relating to Transfers and Exchanges.

(i) To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon the Company's order or at the Registrar's request.

(ii) No service charge shall be made to a Holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, 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 taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06, 3.08 and 9.05).

(iii) The Registrar shall not be required to register the transfer of or exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

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

(v) The Company shall not be required (A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business

on a Business Day 15 days before the day of any selection of Notes for redemption under Section 3.02 of this Indenture and ending at the close of business on the day of selection or (B) to register the transfer of or to exchange any Note so selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(vi) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

(vii) The Trustee shall authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 2.02 of this Indenture.

(viii) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06 to effect a registration of transfer or exchange may be submitted by facsimile.

SECTION 2.07. Replacement Notes.

If any mutilated Note is surrendered to the Trustee, or the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Note, the Company shall issue and the Trustee, upon the written order of the Company signed by two Officers of the Company, shall authenticate a replacement Note if the Trustee's requirements for replacements of Notes are met. If required by the Trustee or the Company, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Company 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. Each of the Company and the Trustee may charge for its expenses in replacing a Note.

Every replacement Note is an obligation of the Company.

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 pursuant to Section 2.07, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a protected purchaser.

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

Subject to Section 2.09, a Note does not cease to be outstanding because the Company, a Subsidiary of 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, any Subsidiary of the Company or any Affiliate of the Company shall be considered as though not outstanding, except that for purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes which a Responsible Officer knows to be so owned shall be so considered. Notwithstanding the foregoing, Notes that are to be acquired by the Company, any Subsidiary of the Company or an Affiliate of the Company pursuant to an exchange offer, tender offer or other agreement shall not be deemed to be owned by the Company, a Subsidiary of the Company or an Affiliate of the Company until legal title to such Notes passes to the Company, such Subsidiary or such Affiliate, as the case may be.

SECTION 2.10. Temporary Notes.

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 and the Trustee consider appropriate for temporary Notes. Without unreasonable delay, the Company shall prepare and the Trustee, upon receipt of the written order of the Company signed by two Officers of the Company, shall authenticate definitive Notes in exchange for temporary Notes. Until such exchange, temporary Notes shall be entitled to the same rights, benefits and privileges as definitive Notes.

SECTION 2.11. Cancellation.

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee shall cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and shall destroy canceled Notes (subject to the record retention requirement of the Exchange Act), unless the Company directs canceled Notes to be returned to it. The Company may not issue new Notes to replace Notes that it has redeemed or paid or that have been delivered to the Trustee for cancellation. All canceled Notes held by the Trustee shall be destroyed and certification of their destruction delivered to the Company, unless by a written order, signed by two Officers of the Company, the Company shall direct that canceled Notes be returned to it.

SECTION 2.12. Defaulted Interest.

If the Company defaults in a payment of interest on the Notes, it shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, to the Persons who are Holders of the Notes on a subsequent special record date, which date shall be at the earliest practicable date but in all events at least five Business Days prior to the payment date, in each case at the rate provided in the Notes. The Company shall, with the consent of the Trustee, fix or cause to be fixed each such special record date and payment date. At least 15 days before the special record date, the Company (or the Trustee, in

the name of and at the expense of the Company) shall mail to Holders of the Notes a notice that states the special record date, the related payment date and the amount of such interest to be paid.

SECTION 2.13. Record Date.

The record date for purposes of determining the identity of Holders of the Notes entitled to vote or consent to any action by vote or consent authorized or permitted under this Indenture shall be determined as provided for in TIA Section 316(c).

SECTION 2.14. CUSIP Number.

The Company in issuing the Notes may use a "CUSIP" number and, if it does so, the Trustee shall use the CUSIP number in notices of redemption or exchange as a convenience to Holders; provided that any such notice may state that no representation is made as to the correctness or accuracy of the CUSIP number printed in the notice or on the Notes and that reliance may be placed only on the other identification numbers printed on the Notes. The Company will promptly notify the Trustee of any change in the CUSIP number.

ARTICLE 3
REDEMPTION

SECTION 3.01. Notices to Trustee.

If the Company elects to redeem Notes pursuant to the optional redemption provisions of Section 3.07, it shall furnish to the Trustee, at least 35 days (unless a shorter period is acceptable to the Trustee) but not more than 60 days before a redemption date, an Officers' Certificate setting forth (i) the redemption date, (ii) the principal amount of Notes to be redeemed and (iii) the redemption price. If the Company is required to make the redemption pursuant to Section 3.08, it shall furnish the Trustee, at least one but not more than 10 Business Days before a redemption date, an Officers' Certificate setting forth (i) the redemption date and (ii) the redemption price.

SECTION 3.02. Selection of Notes To Be Redeemed.

If less than all of the Notes are to be redeemed at any time, the selection of Notes for redemption will be made by the Trustee in compliance with the requirements of the principal national securities exchange, if any, on which the Notes are listed, or if the Notes are not so listed on a pro rata basis, by lot or in accordance with any other method the Trustee deems fair and appropriate, provided that no Notes with a principal amount of \$1,000 or less shall be redeemed in part. In the event of partial redemption by lot, the particular Notes to be redeemed shall be selected, unless otherwise provided herein, not less than 30 nor more than 60 days prior to the redemption date by the Trustee from the outstanding Notes not previously called for redemption.

The Trustee shall promptly notify the Company in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount thereof to be redeemed. Notes and portions of them selected shall be in amounts of \$1,000 or

whole multiples of \$1,000; except that if all of the Notes of a Holder are to be redeemed, the entire outstanding amount of Notes held by such Holder, even if not a multiple of \$1,000, shall be redeemed. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption.

SECTION 3.03. Notice of Redemption.

Subject to the provisions of Sections 3.08, at least 30 days but not more than 60 days before a redemption date, the Company shall mail or cause to be mailed, 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:

- (i) the redemption date;
- (ii) the redemption price;
- (iii) if any Note is being redeemed in part only, the portion of the principal amount of such Note to be redeemed and that, after the redemption date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion shall be issued in the name of the Holder thereof upon cancellation of the original Note;
- (iv) the name and address of the Paying Agent;
- (v) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;
- (vi) that, unless the Company defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the redemption date;
- (vii) the paragraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed; and
- (viii) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes.

At the Company's request, the Trustee shall give the notice of redemption in the Company's name and at its expense; provided that the Company shall have delivered to the Trustee, at least 35 days (unless a shorter period is acceptable to the Trustee) 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, Notes called for redemption become due and payable on the redemption date at the redemption price.

SECTION 3.05. Deposit of Redemption Price.

On or prior to any 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. The Trustee or the Paying Agent shall promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the redemption price of, and accrued interest on, all Notes to be redeemed.

On and after the redemption date, if the Company does not default in the payment of the redemption price, interest shall cease to accrue on the Notes or the portions of Notes called for redemption. If a Note is redeemed on or after an interest record date but on or prior to the related interest payment date, then any accrued and unpaid interest shall be paid to the Person in whose name such Note was registered at the close of business on such record date. If any Note called for redemption shall not be so paid upon surrender for redemption because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the redemption date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes.

SECTION 3.06. Notes Redeemed in Part.

Upon surrender and cancellation of a Note that is redeemed in part, the Company shall issue and the Trustee shall authenticate for the Holder of the Notes 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 Notes will be subject to redemption at the option of the Company, at any time in whole, or from time to time in part, upon not less than 30 nor more than 60 days' notice, at a redemption price equal to 100% of the principal amount of such Notes plus accrued and unpaid interest, if any, to the applicable redemption date plus the "Make-Whole Premium." The "Make-Whole Premium," with respect to any Note or any portion of any Note to be redeemed shall be equal to the greater of:

- (a) 1% of the principal amount of such Note or such portion of a Note being redeemed and
- (b) the excess, if any, of
 - (i) the sum of the present values, calculated as of the redemption date, of:
 - (A) each interest payment that, but for the redemption, would have been payable on the Note, or portion of a Note, being redeemed on each interest payment date occurring after the redemption date, excluding any accrued interest for the period prior to the redemption date, plus

(B) the principal amount that, but for the redemption, would have been payable on the maturity date of the Note, or portion of a Note, being redeemed; over

(ii) the principal amount of the Note, or portion of a Note, being redeemed.

The present values of interest and principal payments referred to in clause (b)(i) above will be determined in accordance with generally accepted principles of financial analysis. The present values will be calculated by discounting the amount of each payment of interest or principal from the date that each such payment would have been payable, but for the redemption, to the redemption date at a discount rate equal to the Treasury Yield, as defined below, plus 50 basis points.

The Company shall appoint an independent investment banking institution of national standing to calculate the Make-Whole Premium; provided that if the Company fails to appoint such an institution at least 45 days prior to the date set for redemption or if the institution that the Company appoints is unwilling or unable to make such calculation, such calculation shall be made by Banc of America Securities LLC or, if such firm is unwilling or unable to make such calculation, by an independent investment banking institution of national standing appointed by the Trustee.

For purposes of determining the Make-Whole Premium, "Treasury Yield" shall refer to an annual rate of interest equal to the weekly average yield to maturity of United States Treasury Notes that have a constant maturity that corresponds to the remaining term to maturity of the Notes being redeemed, calculated to the nearest 1/12th of a year (the "Remaining Term"). The Treasury Yield shall be determined as of the third Business Day immediately preceding the applicable redemption date.

The weekly average yields of United States Treasury Notes shall be determined by reference to the most recent statistical release published by the Federal Reserve Bank of New York and designated "H.15(519) Selected Interest Rates" or any successor release (the "H.15 Statistical Release"). If the H.15 Statistical Release sets forth a weekly average yield for United States Treasury Notes having a constant maturity that is the same as the Remaining Term, then the Treasury Yield shall be equal to such weekly average yield. In all other cases, the Treasury Yield shall be calculated by interpolation, on a straight-line basis, between the weekly average yields on the United States Treasury Notes that have a constant maturity closest to and greater than the Remaining Term and the United States Treasury Notes that have a constant maturity closest to and less than the Remaining Term, in each case as set forth in the H.15 Statistical Release. Any weekly average yields as calculated by interpolation shall be rounded to the nearest 0.01%, with any figure of 0.005% or more being rounded upward. If weekly average yields for United States Treasury Notes are not available in the H.15 Statistical Release or otherwise, then the Treasury Yield shall be calculated by interpolation of comparable rates selected by the independent investment banking institution.

Additionally, (i) Holders of record on the relevant record date shall have the right to receive interest due on any interest payment date that is on or prior to the redemption date and

(ii) the redemption price shall never be less than 100% of the principal amount of the Notes being redeemed plus accrued interest to the redemption date.

Notwithstanding the foregoing, at any time prior to October 1, 2006, the Company may redeem up to 35% of the aggregate principal amount of the Notes outstanding at a redemption price equal to 106.375% of the principal amount thereof on the redemption date, together with accrued and unpaid interest to such redemption date, with the net cash proceeds of any capital contributions or one or more public or private sales (including sales to EchoStar, regardless of whether EchoStar obtained such funds from an offering of Equity Interests or Indebtedness of EchoStar or otherwise) of Equity Interests (other than Disqualified Stock) of the Company (other than proceeds from a sale to any Subsidiary of the Company or any employee benefit plan in which the Company or any of its Subsidiaries participates); provided that: (a) at least 65% in aggregate of the originally issued principal amount of the Notes remains outstanding immediately after the occurrence of such redemption; and (b) the sale of such Equity Interests is made in compliance with the terms of this Indenture.

SECTION 3.08. Offer To Purchase by Application of Excess Proceeds.

When the cumulative amount of Excess Proceeds that have not been applied in accordance with Section 4.10 or this Section 3.08 exceeds \$100.0 million, the Company shall be obligated to make an offer to all Holders of the Notes (an "Excess Proceeds Offer") to purchase the maximum principal amount of Notes that may be purchased out of such Excess Proceeds at an offer price in cash in an amount equal to 101% of the principal amount thereof, together with accrued and unpaid interest to the date fixed for the closing of such offer in accordance with the procedures set forth in this Indenture. To the extent the Company or a Restricted Subsidiary is required under the terms of Indebtedness of the Company or such Restricted Subsidiary which is ranked equally with the Notes to make an offer to purchase such other Indebtedness with any proceeds which constitute Excess Proceeds under this Indenture, the Company shall make a pro rata offer to the holders of all other pari passu Indebtedness (including the Notes) with such proceeds. If the aggregate principal amount of Notes and other pari passu Indebtedness surrendered by holders thereof exceeds the amount of such Excess Proceeds, the Trustee shall select the Notes and other pari passu Indebtedness to be purchased on a pro rata basis.

The Excess Proceeds Offer shall remain open for a period of 20 Business Days following its commencement and no longer, except to the extent that a longer period is required by applicable law (the "Offer Period"). No later than five Business Days after the termination of the Offer Period (the "Purchase Date"), the Company shall purchase the maximum principal amount of Notes that may be purchased with such Excess Proceeds (which maximum principal amount of Notes shall be the "Offer Amount") or, if less than the Offer Amount has been tendered, all Notes tendered in response to the Excess Proceeds Offer.

If the Purchase Date is on or after an interest 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 shall be payable to Holders who tender Notes pursuant to the Excess Proceeds Offer.

Upon the commencement of any Excess Proceeds Offer, the Company shall send, by first class mail, a notice to each of the Holders of the Notes, with a copy to the Trustee. The notice shall contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Excess Proceeds Offer. The notice, which shall govern the terms of the Excess Proceeds Offer, shall state:

(i) that the Excess Proceeds Offer is being made pursuant to this Section 3.08 and the length of time the Excess Proceeds Offer shall remain open;

(ii) the Offer Amount, the purchase price and the Purchase Date;

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

(iv) that any Note accepted for payment pursuant to the Excess Proceeds Offer shall cease to accrue interest after the Purchase Date;

(v) that Holders electing to have a Note purchased pursuant to any Excess Proceeds Offer shall 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 at least three business days before the Purchase Date;

(vi) that Holders shall be entitled to withdraw their election if the Company, depository or Paying Agent, as the case may be, receives, not later than the expiration of the Offer Period, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have the Note purchased;

(vii) that, if the aggregate principal amount of Notes surrendered by Holders exceeds the Offer Amount, the Company shall select the Notes to be purchased on a pro rata basis (with such adjustments as may be deemed appropriate by the Company so that only Notes in denominations of \$1,000, or integral multiples thereof, shall be purchased); and

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

On or before the Purchase Date, the Company shall, to the extent lawful, accept for payment, on a pro rata basis to the extent necessary, the Offer Amount of Notes or portions thereof tendered pursuant to the Excess Proceeds Offer, or if less than the Offer Amount has been tendered, all Notes or portion thereof tendered, and deliver to the Trustee an Officers' Certificate stating that such Notes or portions thereof were accepted for payment by the Company in accordance with the terms of this Section 3.08. The Company, Depository or Paying Agent, as the case may be, shall promptly (but in any case not later than five days after the Purchase Date) mail or deliver to each tendering Holder an amount equal to the purchase price of

the Note tendered by such Holder and accepted by the Company for purchase, and the Company shall promptly issue a new Note, and the Trustee shall authenticate and mail or deliver such new Note, to such Holder equal in principal amount to any unpurchased portion of the Note surrendered. Any Note not so accepted shall be promptly mailed or delivered by the Company to the Holder thereof. The Company shall publicly announce the results of the Excess Proceeds Offer on the Purchase Date. To the extent that the aggregate principal amount of Notes tendered pursuant to an Excess Proceeds Offer is less than the amount of such Excess Proceeds, the Company may use any remaining Excess Proceeds for general corporate purposes. Upon completion of an Excess Proceeds Offer, the amount of Excess Proceeds shall be reset at zero.

Other than as specifically provided in this Section 3.08, any purchase pursuant to this Section 3.08 shall be made pursuant to the provisions of Sections 3.01 through 3.06.

ARTICLE 4

COVENANTS

SECTION 4.01. Payment of Notes.

The Company shall pay or cause to be paid 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, if other than the Company, holds as of 10:00 a.m. Eastern Time on the due date money deposited by or on behalf of the Company in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due.

The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to the then applicable interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace period) at the same rate to the extent lawful.

SECTION 4.02. Maintenance of Office or Agency.

The Company shall maintain an office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where Notes may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

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

such designation or rescission and of any change in the location of any such other office or agency.

The Company hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Company in accordance with Section 2.03.

SECTION 4.03. Reports.

(a) Whether or not required by the rules and regulations of the SEC, so long as any of the Notes remain outstanding, the Company shall cause copies of all quarterly and annual financial reports and of the information, documents, and other reports (or copies of such portions of any of the foregoing as the SEC may by rules and regulations prescribe) which the Company is required to file with the SEC on Forms 10-Q and 10-K to be filed with the SEC and the Trustee and mailed to the Holders at their addresses appearing in the register of Notes maintained by the Registrar, in each case, within 15 days of filing with the SEC. If the Company is not required to file reports on Form 10-Q and 10-K, the Company shall nevertheless continue to cause the annual and quarterly financial statements, including any notes thereto (and, with respect to annual reports, an auditors' report by an accounting firm of established national reputation) and a "Management's Discussion and Analysis of Financial Condition and Results of Operations," comparable to that which would have been required to appear in Forms 10-Q and 10-K, to be so filed with the SEC for public availability (to the extent permitted by the SEC) and the Trustee and mailed to the Holders within 120 days after the end of the Company's fiscal years and within 60 days after the end of each of the first three quarters of each such fiscal year. The Company shall also comply with the provisions of TIA Section 314(a).

(b) The Company shall provide the Trustee with a sufficient number of copies of all reports and other documents and information that the Trustee may be required to deliver to the Holders of the Notes under this Section 4.03.

SECTION 4.04. Compliance Certificate.

(a) The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year, 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 each has kept, observed, performed and fulfilled its obligations under this Indenture and further stating, as to each such Officer signing such certificate, that to the best of his or her knowledge each entity has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions of this Indenture including, without limitation, a default in the performance or breach of Section 4.07, Section 4.09, Section 4.10 or Section 4.15 (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action each is taking or proposes to take with respect thereto) and that to the best of his or her knowledge no event has occurred and remains in existence by reason of which payments on account of the principal of or interest, if any, on the Notes is prohibited or if such event has occurred, a description of the event and what action each is taking or proposes to take with respect thereto.

(b) The Company shall, so long as any of the Notes are outstanding, deliver to the Trustee, forthwith upon any Officer becoming aware of (i) any Default or Event of Default, or (ii) any default under any Indebtedness referred to in Section 6.01(f) or (g) of this Indenture, an Officers' Certificate specifying such Default, Event of Default or default and what action the Company or any of its Affiliates is taking or proposes to take with respect thereto.

SECTION 4.05. Taxes.

The Company shall pay, 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 or where the failure to effect such payment is not adverse in any material respect to the Holders of the Notes.

SECTION 4.06. Stay, Extension and Usury Laws.

The Company covenants (to the extent that it may lawfully do so) that it shall 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, that may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law has been enacted.

SECTION 4.07. Limitation on Restricted Payments.

Neither the Company nor any of its Restricted Subsidiaries may, directly or indirectly:

(a) declare or pay any dividend or make any distribution on account of any Equity Interests of the Company other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Company;

(b) purchase, redeem or otherwise acquire or retire for value any Equity Interests of EchoStar, the Company or any of their respective Subsidiaries or Affiliates, other than any such Equity Interests owned by the Company or by any Wholly Owned Restricted Subsidiary;

(c) purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness that is expressly subordinated in right of payment to the Notes or the Guarantees, except:

(i) in accordance with the scheduled mandatory redemption, sinking fund or repayment provisions set forth in the original documentation governing such Indebtedness and

(ii) the purchase, repurchase or other acquisition of subordinated Indebtedness with a stated maturity earlier than the maturity of the Notes or the

Guarantees purchased in anticipation of satisfying a payment of principal at the stated maturity thereof, within one year of such stated maturity;

(d) declare or pay any dividend or make any distribution on account of any Equity Interests of any Restricted Subsidiary, other than:

(i) to the Company or any Wholly Owned Restricted Subsidiary; or

(ii) to all holders of any class or series of Equity Interests of such Restricted Subsidiary on a pro rata basis; provided that in the case of this clause (ii), such dividends or distributions may not be in the form of Indebtedness or Disqualified Stock; or

(e) make any Restricted Investment

(all such prohibited payments and other actions set forth in clauses (a) through (e) being collectively referred to as "Restricted Payments"), unless, at the time of such Restricted Payment:

(i) no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof;

(ii) after giving effect to such Restricted Payment and the incurrence of any Indebtedness the net proceeds of which are used to finance such Restricted Payment, the Indebtedness to Cash Flow Ratio of the Company would not have exceeded 8.0 to 1; and

(iii) such Restricted Payment, together with the aggregate of all other Restricted Payments made by the Company after December 28, 2001, is less than the sum of:

(A) the difference of

(x) the cumulative Consolidated Cash Flow of the Company determined at the time of such Restricted Payment (or, in case such Consolidated Cash Flow shall be a deficit, minus 100% of such deficit); minus

(y) 120% of Consolidated Interest Expense of the Company,

each as determined for the period (taken as one accounting period) from January 1, 2002 to the end of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment; plus

(B) an amount equal to 100% of the aggregate net cash proceeds and, in the case of proceeds consisting of assets used in or constituting a

business permitted under Section 4.16 of this Indenture, 100% of the fair market value of the aggregate net proceeds other than cash received by the Company either from capital contributions from EchoStar, or from the issue or sale (including an issue or sale to EchoStar) of Equity Interests (other than Disqualified Stock) of the Company (other than Equity Interests sold to any Subsidiary of the Company), since December 28, 2001; plus

(C) if any Unrestricted Subsidiary is designated by the Company as a Restricted Subsidiary, an amount equal to the fair market value of the net Investment by the Company or a Restricted Subsidiary in such Subsidiary at the time of such designation; provided, however, that the foregoing sum shall not exceed the amount of the Investments made by the Company or any Restricted Subsidiary in any such Unrestricted Subsidiary since December 28, 2001; plus

(D) 100% of any cash dividends and other cash distributions received by the Company and its Wholly Owned Restricted Subsidiaries from an Unrestricted Subsidiary since December 28, 2001 to the extent not included in cumulative Consolidated Cash Flow of the Company; plus

(E) to the extent not included in clauses (A) through (D) above, an amount equal to the net reduction in Investments of the Company and its Restricted Subsidiaries since December 28, 2001 resulting from payments in cash of interest on Indebtedness, dividends, or repayment of loans or advances, or other transfers of property, in each case, to the Company or to a Wholly Owned Restricted Subsidiary or from the net cash proceeds from the sale, conveyance or other disposition of any such Investment; provided, however, that the foregoing amount shall not exceed, with respect to any Person in whom such Investment was made, the amount of Investments previously made by the Company or any Restricted Subsidiary in such Person which were included in computations made pursuant to this clause (iii).

The foregoing provisions will not prohibit the following (provided that with respect to clauses (2), (3), (5), (6), (7), (8), (9), (11), and (12) below, no Default or Event of Default shall have occurred and be continuing):

(1) the payment of any dividend or distribution within 60 days after the date of declaration thereof, if at such date of declaration such payment would have complied with the provisions of this Indenture;

(2) the redemption, repurchase, retirement or other acquisition of any Equity Interests of the Company in exchange for, or out of the net proceeds of the substantially concurrent capital contribution from EchoStar or from the substantially concurrent issue or sale (including to EchoStar) of Equity Interests (other than Disqualified Stock) of the Company (other than Equity Interests issued or sold to any Subsidiary of the Company);

(3) Investments in an aggregate amount not to exceed \$500 million plus, to the extent not included in Consolidated Cash Flow, an amount equal to the net reduction in such Investments resulting from payments in cash of interest on Indebtedness, dividends or repayment of loans or advances, or other transfers of property, in each case, to the Company or to a Wholly Owned Restricted Subsidiary or from the net cash proceeds from the sale, conveyance or other disposition of any such Investment; provided, however, that the foregoing amount shall not exceed, with respect to any Person in whom such Investment was made, the amount of Investments previously made by the Company or any Restricted Subsidiary in such Person pursuant to this clause (3);

(4) Investments to fund the financing activity of DNCC in the ordinary course of its business in an amount not to exceed, as of the date of determination, the sum of (A) \$100 million plus (B) 50% of the aggregate cost to DNCC for each Satellite Receiver purchased by DNCC and leased by DNCC to a retail consumer in excess of 100,000 units;

(5) cash dividends or distributions to EchoStar to the extent required for the purchase, redemption, repurchase or other acquisition or retirement for value of employee stock options to purchase Capital Stock of EchoStar, or Capital Stock of EchoStar issued pursuant to any management equity plan, stock option plan or other management or employee benefit plan or agreement, in an aggregate amount not to exceed \$25 million in any calendar year;

(6) a Permitted Refinancing;

(7) Investments in an amount equal to 100% of the aggregate net proceeds (whether or not in cash) received by the Company or any Wholly Owned Restricted Subsidiary from capital contributions from EchoStar or from the issue and sale (including a sale to EchoStar) of Equity Interests (other than Disqualified Stock) of the Company (other than Equity Interests issued or sold to a Subsidiary of EchoStar), on or after December 28, 2001; plus, to the extent not included in Consolidated Cash Flow, an amount equal to the net reduction in such Investments resulting from payments in cash of interest on Indebtedness, dividends, or repayment of loans or advances, or other transfers of property, in each case, to the Company or to a Wholly Owned Restricted Subsidiary or from the net cash proceeds from the sale, conveyance, or other disposition of any such Investment; provided that the foregoing amount shall not exceed, with respect to any Person in whom such Investment was made, the amount of Investments previously made by the Company or any Restricted Subsidiary in such Person pursuant to this clause (7) in each case, provided that such Investments are in businesses of the type described under Section 4.16 of this Indenture;

(8) Investments in any Restricted Subsidiary which is not a Wholly Owned Restricted Subsidiary, but which is a Guarantor and Investments in the form of intercompany debt with any direct or indirect parent company or any Wholly Owned Subsidiary of such direct or indirect parent company provided that such debt is incurred in the ordinary course of business and is used in a business described in Section 4.16 of this Indenture;

(9) Investments in businesses strategically related to businesses described in Section 4.16 of this Indenture in an aggregate amount not to exceed \$250 million;

(10) cash dividends or distributions to EchoStar to the extent required for the purchase of odd-lots of Equity Interests of EchoStar, in an aggregate amount not to exceed \$15 million in any calendar year;

(11) the making of any Restricted Payment (including the receipt of any Investment) permitted under or resulting from any transaction permitted under Section 4.19 of this Indenture; provided that all conditions to any such Restricted Payment set forth in such Section 4.19 are satisfied;

(12) Investments made as a result of the receipt of non-cash proceeds from Asset Sales made in compliance with Section 4.10 of this Indenture and Investments entered into in connection with an acquisition of assets used in or constituting a business permitted under Section 4.16 of this Indenture as a result of "earn-outs" or other deferred payments or similar obligations;

(13) any Restricted Payment permitted under another 2003 Indenture or any of the EDBS Notes Indentures;

(14) Investments which are used to pay for the construction, launch, operation or insurance of satellites owned or leased by the Company or any Subsidiaries of the Company in an amount not to exceed \$500 million;

(15) Investments in a foreign direct-to-home satellite provider in an amount not to exceed \$200 million; provided that the Investments are made through the supply of satellite receivers and related equipment to the provider, or the proceeds from the Investments are used to purchase satellite receivers and related equipment from EchoStar or a Subsidiary of EchoStar;

(16) the redemption, repurchase, defeasance or other acquisition or retirement for value of subordinated Indebtedness, including premium, if any, and accrued and unpaid interest, with the proceeds of, or in exchange for: (a) the proceeds of a capital contribution or a substantially concurrent offering of, shares of Capital Stock of the Company (or options, warrants or other rights to acquire such Capital Stock), or (b) Indebtedness that is at least as subordinated in right of payment to the Notes, including premium, if any, and accrued and unpaid interest, as the Indebtedness being redeemed, repurchased, defeased, acquired or retired and with a final maturity equal to or greater than, and a Weighted Average Life to Maturity equal to or greater than, the final maturity and Weighted Average Life to Maturity, respectively, of the Indebtedness being redeemed, repurchased, defeased, acquired or retired;

(17) repurchases of Equity Interests deemed to occur upon (a) the exercise of stock options, warrants or convertible securities issued as compensation if such Equity Interests represent a portion of the exercise price thereof and (b) the withholding of a portion of the Equity Interests granted or awarded to an employee to pay taxes associated

therewith (or a dividend or distribution to finance such a deemed repurchase by EchoStar);

(18) amounts paid by the Company to EchoStar or any other person with which the Company is included in a consolidated tax return equal to the amount of federal, state and local income taxes payable in respect of the income of the Company and its Subsidiaries, including without limitation, any payments made in accordance with tax allocation agreements between the Company and its Affiliates in effect from time to time; and

(19) the making of a Restricted Payment so long as after giving effect to such Restricted Payment and the incurrence of any Indebtedness the net proceeds of which are used to finance such Restricted Payment, the Company's Indebtedness to Cash Flow Ratio would not exceed 3.5 to 1.

Restricted Payments made pursuant to clauses (1), (2), (4), (7), (16) (but only to the extent that net proceeds received by the Company as set forth in such clause (2), (7) or (16) were included in the computations made in clause (iii)(B) of the first paragraph of this Section 4.07), (10) or (13) (but only to the extent such Restricted Payment is included as a Restricted Payment in any computation made pursuant to clause (iii) of the first paragraph of Section 4.07 of the other 2003 Indentures and in the EDBS Notes Indenture), shall be included as Restricted Payments in any computation made pursuant to clause (iii) of the first paragraph of this Section 4.07.

Restricted Payments made pursuant to clauses (3), (5), (6), (7), (16) (but only to the extent that net proceeds received by the Company as set forth in such clause (7) or (16) were not included in the computations made in clause (iii)(B) of the first paragraph of this Section 4.07), (8), (9), (11), (12), (13) (but only to the extent such Restricted Payment is not included as a Restricted Payment in any computation made pursuant to clause (iii) of the first paragraph of Section 4.07 of another 2003 Indenture or in an EDBS Notes Indenture), (14), (15), (17), (18) or (19) shall not be included as Restricted Payments in any computation made pursuant clause (iii) of the first paragraph of this Section 4.07.

If the Company or any Restricted Subsidiary makes an Investment which was included in computations made pursuant to this Section 4.07 and the Person in which such Investment was made subsequently becomes a Restricted Subsidiary that is a Guarantor, to the extent such Investment resulted in a reduction in the amounts calculated under clause (iii) of the first paragraph of or under any other provision of this Section 4.07, then such amount shall be increased by the amount of such reduction.

Not later than ten Business Days following a request from the Trustee, the Company shall deliver to the Trustee an Officers' Certificate stating that each Restricted Payment made in the six months preceding the date of the request was permitted and setting forth the basis upon which the calculations required by this Section 4.07 were computed, which calculations shall be based upon the Company's latest available financial statements.

SECTION 4.08. Limitations on Dividend and Other Payment Restrictions Affecting Subsidiaries.

The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any encumbrance or restriction on the ability of any Restricted Subsidiary to:

(a) pay dividends or make any other distribution to the Company or any of its Restricted Subsidiaries on its Capital Stock or with respect to any other interest or participation in, or measured by, its profits, or pay any Indebtedness owed to the Company or any of the Company's Subsidiaries;

(b) make loans or advances to the Company or any of its Subsidiaries; or

(c) transfer any of its properties or assets to the Company or any of its Subsidiaries; except for such encumbrances or restrictions existing under or by reasons of:

(i) Existing Indebtedness and existing agreements as in effect on the Issue Date;

(ii) applicable law or regulation;

(iii) any instrument governing Acquired Debt as in effect at the time of acquisition (except to the extent such Indebtedness was incurred in connection with, or in contemplation of, such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired, provided that the Consolidated Cash Flow of such Person shall not be taken into account in determining whether such acquisition was permitted by the terms of this Indenture, except to the extent that dividends or other distributions are permitted notwithstanding such encumbrance or restriction and could have been distributed;

(iv) by reason of customary non-assignment provisions in leases entered into in the ordinary course of business and consistent with past practices;

(v) Refinancing Indebtedness (as defined in Section 4.09 of this Indenture); provided that the restrictions contained in the agreements governing such Refinancing Indebtedness are no more restrictive than those contained in the agreements governing the Indebtedness being refinanced;

(vi) any of the 2003 Indentures or any of the Notes, the 5 3/4% Notes or the Floating Rate Notes;

(vii) Permitted Liens; or

(viii) any agreement for the sale of any Subsidiary or its assets that restricts distributions by that Subsidiary pending its sale; provided that during the entire

period in which such encumbrance or restriction is effective, such sale (together with any other sales pending) would be permitted under the terms of this Indenture.

SECTION 4.09. Limitation on Incurrence of Indebtedness.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable with respect to (collectively, "incur") any Indebtedness (including Acquired Debt); provided, however, that, notwithstanding the foregoing the Company and any Guarantor may incur Indebtedness (including Acquired Debt), if, after giving effect to the incurrence of such Indebtedness and the application of the net proceeds thereof on a pro forma basis (including, in the case of an acquisition, merger or other business combination giving pro forma effect to such transaction), either (a) the Indebtedness to Cash Flow Ratio of the Company would not have exceeded 8.0 to 1 or (b) the aggregate amount of Indebtedness of the Company and the Guarantors would not exceed \$1,500 per Subscriber.

The foregoing limitation will not apply to any of the following incurrences of Indebtedness:

(1) Indebtedness in an aggregate principal amount of \$2.5 billion represented by any of the Notes and the Guarantees thereof, the 5 3/4% Notes and the Guarantees (as defined in the 5 3/4% Notes Indenture), the Floating Rate Notes and the Guarantees (as defined in the Floating Rate Notes Indenture), and the 2003 Indentures;

(2) the incurrence by the Company or any Guarantor of Acquired Subscriber Debt not to exceed \$1,750 per Acquired Subscriber (less any amount used to incur Indebtedness pursuant to clause (b) of the immediately preceding paragraph);

(3) the incurrence by the Company or any Guarantor of Deferred Payments and letters of credit with respect thereto;

(4) Indebtedness of the Company or any Guarantor in an aggregate principal amount not to exceed \$1,050,000,000 at any one time outstanding;

(5) Indebtedness between and among the Company and any Guarantor;

(6) Acquired Debt of a Person incurred prior to the date upon which such Person was acquired by the Company or any Guarantor (excluding Indebtedness incurred by such entity other than in the ordinary course of its business in connection with, or in contemplation of, such entity being so acquired) in an amount not to exceed (A) \$250 million in the aggregate for all such Persons other than those described in the immediately following clause (B); and (B) Acquired Debt owed to the Company or any of its Restricted Subsidiaries;

(7) Existing Indebtedness;

(8) the incurrence of Purchase Money Indebtedness by the Company or any Guarantor in an amount not to exceed the cost of construction, acquisition or

improvement of assets used in any business permitted under Section 4.16 of this Indenture, as well as any launch costs and insurance premiums related to such assets;

(9) the incurrence by the Company or any of its Restricted Subsidiaries of Hedging Obligations that are incurred in the ordinary course of business and not for speculative purposes, it being understood that Hedging Obligations covering the principal amount of Indebtedness entered into in order to protect the Company or any of its Restricted Subsidiaries from fluctuation in interest rates on Indebtedness are deemed to be incurred in the ordinary course of business;

(10) Indebtedness of the Company or any Restricted Subsidiary in respect of performance bonds or letters of credit of the Company or any Restricted Subsidiary or surety bonds provided by the Company or any Restricted Subsidiary incurred in the ordinary course of business and on ordinary business terms in connection with the businesses permitted under Section 4.16 of this Indenture;

(11) Indebtedness of the Company or any Guarantor the proceeds of which are used solely to finance the construction and development of a call center owned by the Company or any of its Restricted Subsidiaries or any refinancing thereof; provided that the aggregate of all Indebtedness incurred pursuant to this clause (11) shall in no event exceed \$100 million at any one time outstanding;

(12) the incurrence by the Company or any Guarantor of Indebtedness issued in exchange for, or the proceeds of which are used to extend, refinance, renew, replace, substitute or refund in whole or in part Indebtedness referred to in the first paragraph of this Section 4.09 or in clauses (1), (2), (3), (6), (7) or (8) above ("Refinancing Indebtedness"); provided, however, that:

(A) the principal amount of such Refinancing Indebtedness shall not exceed the principal amount and accrued interest of the Indebtedness so exchanged, extended, refinanced, renewed, replaced, substituted or refunded and any premiums payable and reasonable fees, expenses, commissions and costs in connection therewith;

(B) the Refinancing Indebtedness shall have a final maturity equal to or later than, and a Weighted Average Life to Maturity equal to or greater than, the final maturity and Weighted Average Life to Maturity, respectively, of the Indebtedness being exchanged, extended, refinanced, renewed, replaced, substituted or refunded; and

(C) the Refinancing Indebtedness shall be subordinated in right of payment to the Notes and the Guarantees, if at all, on terms at least as favorable to the holders of Notes as those contained in the documentation governing the Indebtedness being extended, refinanced, renewed, replaced, substituted or refunded (a "Permitted Refinancing");

(13) the guarantee by the Company or any Guarantor of Indebtedness of the Company or a Restricted Subsidiary that was permitted to be incurred by another provision of this Section 4.09;

(14) Indebtedness under Capital Lease Obligations of the Company or any Guarantor with respect to no more than five direct broadcast satellites at any time; and

(15) Indebtedness of the Company or any Restricted Subsidiary owed to (including obligations in respect of letters of credit for the benefit of) any Person in connection with workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance provided by such Person to the Company or such Restricted Subsidiary pursuant to reimbursement or indemnification obligations to such Person, in each case incurred in the ordinary course of business and consistent with industry practices.

For purposes of determining compliance with this Section 4.09, if an item of Indebtedness meets the criteria of more than one of the categories described in clauses (1) through (15) above or is permitted to be incurred pursuant to the first paragraph of this Section 4.09 and also meets the criteria of one or more of the categories described in clauses (1) through (15) above, the Company shall, in its sole discretion, classify such item of Indebtedness in any manner that complies with this Section 4.09 and may from time to time reclassify such item of Indebtedness in any manner in which such item could be incurred at the time of such reclassification. Accrual of interest and the accretion of accreted value will not be deemed to be an incurrence of Indebtedness for purposes of this Section 4.09.

SECTION 4.10. Asset Sales.

If the Company or any Restricted Subsidiary, in a single transaction or a series of related transactions:

(a) sells, leases (in a manner that has the effect of a disposition), conveys or otherwise disposes of any of its assets (including by way of a sale-and-leaseback transaction), other than:

(1) sales or other dispositions of inventory in the ordinary course of business;

(2) sales or other dispositions to the Company or a Wholly Owned Restricted Subsidiary of the Company by the Company or any Restricted Subsidiary;

(3) sales or other dispositions of accounts receivable to DNCC for cash in an amount at least equal to the fair market value of such accounts receivable;

(4) sales or other dispositions of rights to construct or launch satellites; and

(5) sales or other dispositions permitted under Section 4.19 of this Indenture (provided that the sale, lease, conveyance or other disposition of all or substantially all of the assets of the Company shall be governed by the provisions of Article 5 of this Indenture); or

(b) issues or sells Equity Interests of any Restricted Subsidiary (other than any issue or sale of Equity Interests of ETC or a Subsidiary which constitutes a Non-Core Asset permitted under Section 4.19 of this Indenture);

in either case, which assets or Equity Interests: (1) have a fair market value in excess of \$100 million (as determined in good faith by the Board of Directors evidenced by a resolution of the Board of Directors set forth in an Officers' Certificate delivered to the Trustee); or (2) are sold or otherwise disposed of for net proceeds in excess of \$100 million (each of the foregoing, an "Asset Sale"), then:

(A) the Company or such Restricted Subsidiary, as the case may be, must receive consideration at the time of such Asset Sale at least equal to the fair market value (as determined in good faith by the Board of Directors evidenced by a resolution of the Board of Directors and set forth in an Officers' Certificate delivered to the Trustee not later than ten Business Days following a request from the Trustee, which certificate shall cover each Asset Sale made in the six months preceding the date of request, as the case may be) of the assets sold or otherwise disposed of; and

(B) at least 75% of the consideration therefor received by the Company or such Restricted Subsidiary, as the case may be, must be in the form of:

(x) cash, Cash Equivalents or Marketable Securities;

(y) any asset which is promptly (and in no event later than 180 days after the date of transfer to the Company or a Restricted Subsidiary) converted into cash; provided that to the extent that such conversion is at a price that is less than the fair market value (as determined above) of such asset at the time of the Asset Sale in which such asset was acquired, the Company shall be deemed to have made a Restricted Payment in the amount by which such fair market value exceeds the cash received upon conversion; and/or

(z) properties and capital assets (including Capital Stock of an entity owning such property or assets so long as the receipt of such Capital Stock otherwise complies with Section 4.07 (other than clause (12) of the second paragraph thereof) to be used by the Company or any of its Restricted Subsidiaries in a business permitted under Section 4.16 of this Indenture;

provided, however, that up to \$100 million of assets in addition to assets specified in clauses (x), (y) or (z) above at any one time may be considered to be cash for purposes of this clause (B), so long as the provisions of the next paragraph are complied with as such non-cash assets are converted to cash. The amount of any liabilities of the Company or any Restricted Subsidiary that are assumed by or on behalf of the transferee in connection with an Asset Sale (and from which the Company or such Restricted Subsidiary are unconditionally released) shall be deemed to be cash for the purpose of this clause (B).

The Net Proceeds from such Asset Sale shall be used only: to acquire assets used in, or stock or other ownership interests in a Person that upon the consummation of such Asset Sale, becomes a Restricted Subsidiary and will be engaged primarily in, a business permitted under Section 4.16 of this Indenture, to repurchase Notes, 5 3/4% Notes, Floating Rate Notes or

EDBS Notes, to prepay, repay or purchase other senior Indebtedness or, if the Company sells any of its satellites after launch such that the Company or its Restricted Subsidiaries own fewer than three in-orbit satellites, only to purchase a replacement satellite. Any Net Proceeds from any Asset Sale that are not applied or invested as provided in the preceding sentence within 365 days after such Asset Sale shall constitute "Excess Proceeds" and shall be applied to an offer to purchase Notes and other senior Indebtedness of the Company if and when required under Section 3.08 of this Indenture.

Clause (B) of the second preceding paragraph shall not apply to all or such portion of the consideration:

(1) as is properly designated by the Company in connection with an Asset Sale as being subject to this paragraph; and

(2) with respect to which the aggregate fair market value at the time of receipt of all consideration received by the Company or any Restricted Subsidiary in all such Asset Sales so designated does not exceed the amount that the Company and its Subsidiaries are permitted to designate as a result of the cash contributions made to the Company by EchoStar pursuant to another 2003 Indenture or any of the EDBS Notes Indentures plus, to the extent any such consideration did not satisfy clause (B)(x) or (B)(z) above, upon the exchange or repayment of such consideration for or with assets which satisfy either or both such clauses, an amount equal to the fair market value of such consideration (evidenced by a resolution of the Board of Directors and set forth in an Officers' Certificate delivered to the Trustee as set forth in clause (A) above).

In addition, clause (B) above shall not apply to any Asset

Sale:

(x) where assets not essential to the direct broadcast satellite business are contributed to a joint venture between the Company or one of its Restricted Subsidiaries and a third party that is not an Affiliate of EchoStar or any of its Subsidiaries; provided that following the sale, lease, conveyance or other disposition the Company or one of its Wholly Owned Restricted Subsidiaries owns at least 50% of the voting and equity interest in such joint venture;

(y) to the extent the consideration therefor received by the Company or any of its Restricted Subsidiaries would constitute Indebtedness or Equity Interests of a Person that is not an Affiliate of EchoStar, the Company or one of their respective Subsidiaries; provided that the acquisition of such Indebtedness or Equity Interests is permitted under the provisions of Section 4.07 of this Indenture; and

(z) where the assets sold are satellites, uplink centers or call centers; provided that, in the case of this clause (z), the Company and its Restricted Subsidiaries continue to own at least three satellites, one uplink center and one call center.

(c) Transactions described under clause (xii) of Section 4.11 of this Indenture shall not be subject to the requirements of this Section 4.10.

SECTION 4.11. Limitation on Transactions with Affiliates.

The Company shall not and shall not permit any Restricted Subsidiary to, sell, lease, transfer or otherwise dispose of any of its or their properties or assets to, or purchase any property or assets from, or enter into any contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate (including any Unrestricted Subsidiary) (each of the foregoing, an "Affiliate Transaction"), unless:

(a) such Affiliate Transaction is on terms that are no less favorable to the Company or its Restricted Subsidiaries than those that would have been obtained in a comparable transaction by the Company or such Subsidiaries with an unrelated Person; and

(b) if such Affiliate Transaction involves aggregate payments in excess of \$200 million, such Affiliate Transaction has either (i) been approved by a majority of the disinterested members of the Board of Directors or (ii) if there are no disinterested members of the Board of Directors, the Company or such Restricted Subsidiary has obtained the favorable opinion of an independent expert as to the fairness of such Affiliate Transaction to the Company or the relevant Restricted Subsidiary, as the case may be, from a financial point of view, and the Company delivers to the Trustee no later than ten Business Days following a request from the Trustee a resolution of the Board of Directors set forth in an Officers' Certificate certifying that such Affiliate Transaction has been so approved and complies with clause (a) above;

provided, however, that

(i) the payment of reasonable fees, compensation or employee benefit arrangements to, and any indemnity provided for the benefit of, directors, officers, consultants or employees of EchoStar and its Subsidiaries in the ordinary course of business and consistent with industry practice;

(ii) transactions between or among the Company and its Wholly Owned Subsidiaries (other than Unrestricted Subsidiaries);

(iii) any issuance of securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of employment arrangements, stock options and stock ownership plans approved by the Board of Directors;

(iv) transactions in the ordinary course of business, including loans, expense allowances, reimbursements or extensions of credit (including indemnity arrangements) between the Company or any of its Restricted Subsidiaries on the one hand, and any employee of the Company or any of its Restricted Subsidiaries, on the other hand;

(v) the granting and performance of registration rights for shares of Capital Stock of the Company under a written registration rights agreement approved by a majority of the members of the Board of Directors that are disinterested with respect to these transactions;

(vi) transactions with Affiliates solely in their capacity as holders of Indebtedness or Capital Stock of the Company or any of its Subsidiaries, so long as a significant amount of Indebtedness or Capital Stock of the same class is also held by persons that are not Affiliates of the Company and these Affiliates are treated no more favorably than holders of the Indebtedness or the Capital Stock generally;

(vii) any dividend, distribution, sale, conveyance or other disposition of any assets of, or Equity Interests in, any Non-Core Assets or ETC or the proceeds of a sale, conveyance or other disposition thereof, in accordance with the provisions of this Indenture;

(viii) Restricted Payments that are permitted by Section 4.07 of this Indenture;

(ix) any transactions pursuant to agreements in effect on the date of this Indenture and any modifications, extensions or renewals thereof that are no less favorable to the Company or the applicable Restricted Subsidiary than such agreement as in effect on the date of such Indenture;

(x) so long as it complies with clause (a) above, the provision of backhaul, uplink, transmission, billing, customer service, programming acquisition and other ordinary course services by the Company or any of its Restricted Subsidiaries to Satellite Communications Operating Corporation and to Transponder Encryption Services Corporation on a basis consistent with past practice;

(xi) the provision of services to EchoStar and its Affiliates by the Company or any of its Restricted Subsidiaries so long as no cash or other assets are transferred by the Company or its Restricted Subsidiaries in connection with such transactions (other than up to \$100 million in cash in any fiscal year and other than nonmaterial assets used in the operations of the business in the ordinary course pursuant to the agreement governing the provision of the services), and so long as such transaction or agreement is determined by a majority of the members of the Board of Directors to be fair to the Company and its Restricted Subsidiaries when taken together with all other such transactions and agreements entered into with EchoStar and its Affiliates;

(xii) the disposition of assets of the Company and its Restricted Subsidiaries in exchange for assets of EchoStar and its Affiliates so long as (i) the value to the Company in its business of the assets the Company receives is determined by a majority of the members of the Board of Directors to be substantially equivalent or greater than the value to the Company in its business of the assets disposed of, and (ii) the assets acquired by the Company and its Restricted Subsidiaries constitute properties and capital assets (including Capital Stock of an entity owning such property or assets so long as the receipt of such Capital Stock otherwise complies with Section 4.07 of this Indenture (other than clause (12) of the second paragraph thereof)) to be used by the Company or any of its Restricted Subsidiaries in a business permitted as described under Section 4.16 of this Indenture;

(xiii) sales of Equity Interests (other than Disqualified Stock) to Affiliates of the Company; and

(xiv) any transactions between the Company or any Restricted Subsidiary of the Company and any Affiliate of the Company the Equity Interests of which Affiliate are owned solely by the Company or one of its Restricted Subsidiaries, on the one hand, and by Persons who are not Affiliates of the Company or Restricted Subsidiaries of the Company, on the other hand,

shall, in each case, not be deemed Affiliate Transactions.

SECTION 4.12. Limitation on Liens.

The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create, incur, assume or suffer to exist any Lien on any asset now owned or hereafter acquired, or on any income or profits therefrom or assign or convey any right to receive income therefrom, except Permitted Liens.

SECTION 4.13. Additional Subsidiary Guarantees.

If the Company or any Guarantor transfers or causes to be transferred, in one transaction or a series of related transactions, property or assets (including, without limitation, businesses, divisions, real property, assets or equipment) having a fair market value (as determined in good faith by the Board of Directors evidenced by a resolution of the Board of Directors and set forth in an Officers' Certificate delivered to the Trustee no later than five Business Days following January 1 and July 1 of each year or ten days following a request from the Trustee, which Officers' Certificate shall cover the six months preceding January 1, July 1 or the date of request, as the case may be) exceeding the sum of \$100 million in the aggregate for all such transfers after the Issue Date (fair market value being determined as of the time of such acquisition) to Restricted Subsidiaries that are not Guarantors, the Company shall, or shall cause each of such Subsidiaries to which any amount exceeding such \$100 million (less such fair market value) is transferred to:

(i) execute and deliver to the Trustee a supplemental indenture to this Indenture in form and substance reasonably satisfactory to the Trustee pursuant to which such Subsidiary shall unconditionally guarantee all of the Company's obligations under the Notes on the terms set forth in this Indenture; and

(ii) deliver to the Trustee an Opinion of Counsel reasonably satisfactory to the Trustee that such supplemental indenture and Guarantee have been duly authorized, executed and delivered by and are valid and binding obligations of such Subsidiary or such owner, as the case may be;

provided, however, that the foregoing provisions shall not apply to transfers of property or assets (other than cash) by the Company or any Guarantor in exchange for cash, Cash Equivalents or Marketable Securities in an amount equal to the fair market value (as determined in good faith by the Board of Directors evidenced by a resolution of the Board of Directors and set forth in an Officers' Certificate delivered to the Trustee no later than five Business Days following January

1 and July 1 of each year or ten days following a request from the Trustee, which Officers' Certificate shall cover the six months preceding January 1, July 1 or the date of request, as the case may be) of such property or assets. In addition, if (i) the Company or any of its Restricted Subsidiaries acquires or creates another Restricted Subsidiary or (ii) an Unrestricted Subsidiary of the Company is redesignated as a Restricted Subsidiary or otherwise ceases to be an Unrestricted Subsidiary, such Subsidiary shall execute a supplemental indenture to this Indenture and deliver an opinion of counsel, each as required in the preceding sentence; provided that no supplemental indenture or opinion shall be required if the fair market value (as determined in good faith by the Board of Directors and set forth in an Officers' Certificate delivered to the Trustee no later than five Business Days following January 1 and July 1 of each year or ten days following a request from the Trustee, which certificate shall cover the six months preceding such January 1, July 1 or the date of request, as the case may be) of all such Restricted Subsidiaries created, acquired or designated since the Issue Date (fair market value being determined as of the time of creation, acquisition or designation) does not exceed the sum of \$100 million in the aggregate minus the fair market value of the assets transferred to any Subsidiaries of the Company which do not execute supplemental indentures pursuant to the preceding sentences; provided further that to the extent a Restricted Subsidiary is subject to the terms of any instrument governing Acquired Debt, as in effect at the time of acquisition (except to the extent such Indebtedness was incurred in connection with or in contemplation of such acquisition) which instrument or restriction prohibits such Restricted Subsidiary from issuing a Guarantee, such Restricted Subsidiary shall not be required to execute such a supplemental indenture until it is permitted to issue such Guarantee pursuant to the terms of such Acquired Debt.

SECTION 4.14. Corporate Existence.

Subject to Article 5 of this Indenture and the proviso set forth at the end of this Section 4.14, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect (i) its existence as a corporation, and subject to Sections 4.10 and 4.19, the corporate, partnership or other existence of any Restricted Subsidiary, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Company or any Restricted Subsidiary and (ii) subject to Section 4.10 and 4.19, the rights (charter and statutory), licenses and of the Company and its Restricted Subsidiaries; 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 Restricted Subsidiary if the Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders of the Notes.

SECTION 4.15. Offer To Purchase Upon Change of Control.

Upon the occurrence of a Change of Control, the Company will be required to make an offer (a "Change of Control Offer") to each Holder of Notes to repurchase all or any part (equal to \$1,000 or an integral multiple thereof) of such Holder's Notes at a purchase price equal to 101% of the aggregate principal amount thereof, together with accrued and unpaid interest thereon to the date of repurchase (the "Change of Control Payment"). Within 15 days following any Change of Control, the Company shall mail a notice to each Holder stating:

(a) that the Change of Control Offer is being made pursuant to the covenant entitled "Section 4.15 -- Offer to Purchase Upon Change of Control";

(b) the purchase price and the purchase date, which shall be no earlier than 30 days nor later than 40 days after the date such notice is mailed (the "Change of Control Payment Date");

(c) that any Notes not tendered will continue to accrue interest in accordance with the terms of this Indenture;

(d) that, unless the Company defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest after the Change of Control Payment Date;

(e) 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 setting forth the name of the Holder, the principal amount of Notes delivered for purchase, and a statement that such Holder is withdrawing his election to have such Notes purchased;

(f) that Holders whose Notes are being purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered, which unpurchased portion must be equal to \$1,000 in principal amount or an integral multiple thereof; and

(g) any other information material to such Holder's decision to tender Notes.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the repurchase of the Notes required in the event of a Change of Control.

SECTION 4.16. Limitation on Activities of the Company.

Neither the Company nor any of its Restricted Subsidiaries may engage in any business other than developing, owning, engaging in and dealing with all or any part of the business of domestic and international media, entertainment, electronics or communications, and reasonably related extensions thereof, including but not limited to the purchase, ownership, operation, leasing and selling of, and generally dealing in or with, one or more communications satellites and the transponders thereon, and communications uplink centers, the acquisition, transmission, broadcast, production and other provision of programming relating thereto and the manufacturing, distribution and financing of equipment (including consumer electronic equipment) relating thereto.

SECTION 4.17. Intentionally Omitted.

SECTION 4.18. Accounts Receivable Subsidiary.

The Company:

(a) may, and may permit any of its Subsidiaries to, notwithstanding the provisions of Section 4.07 of this Indenture, make Investments in an Accounts Receivable Subsidiary:

(i) the proceeds of which are applied within five Business Days of the making thereof solely to finance:

(A) the purchase of accounts receivable of the Company and its Subsidiaries; or

(B) payments required in connection with the termination of all then existing arrangements relating to the sale of accounts receivable or participation interests therein by an Accounts Receivable Subsidiary (provided that the Accounts Receivable Subsidiary shall receive cash, Cash Equivalents and accounts receivable having an aggregate fair market value not less than the amount of such payments in exchange therefor); and

(ii) in the form of Accounts Receivable Subsidiary Notes to the extent permitted by clause (b) below;

(b) shall not, and shall not permit any of its Subsidiaries to, sell accounts receivable to an Accounts Receivable Subsidiary except for consideration in an amount not less than that which would be obtained in an arm's length transaction and solely in the form of cash or Cash Equivalents; provided that an Accounts Receivable Subsidiary may pay the purchase price for any such accounts receivable in the form of Accounts Receivable Subsidiary Notes so long as, after giving effect to the issuance of any such Accounts Receivable Subsidiary Notes, the aggregate principal amount of all Accounts Receivable Subsidiary Notes outstanding shall not exceed 20% of the aggregate purchase price paid for all outstanding accounts receivable purchased by an Accounts Receivable Subsidiary since the Issue Date (and not written off or required to be written off in accordance with the normal business practice of an Accounts Receivable Subsidiary);

(c) shall not permit an Accounts Receivable Subsidiary to sell any accounts receivable purchased from the Company or its Subsidiaries or participation interests therein to any other Person except on an arm's length basis and solely for consideration in the form of cash or Cash Equivalents or certificates representing undivided interests of a Receivables Trust; provided an Accounts Receivable Subsidiary may not sell such certificates to any other Person except on an arm's length basis and solely for consideration in the form of cash or Cash Equivalents;

(d) shall not, and shall not permit any of its Subsidiaries to, enter into any guarantee, subject any of their respective properties or assets (other than the accounts receivable

sold by them to an Accounts Receivable Subsidiary) to the satisfaction of any liability or obligation or otherwise incur any liability or obligation (contingent or otherwise), in each case, on behalf of an Accounts Receivable Subsidiary or in connection with any sale of accounts receivable or participation interests therein by or to an Accounts Receivable Subsidiary, other than obligations relating to breaches of representations, warranties, covenants and other agreements of the Company or any of its Subsidiaries with respect to the accounts receivable sold by the Company or any of its Subsidiaries to an Accounts Receivable Subsidiary or with respect to the servicing thereof; provided that neither the Company nor any of its Subsidiaries shall at any time guarantee or be otherwise liable for the collectibility of accounts receivable sold by them;

(e) shall not permit an Accounts Receivable Subsidiary to engage in any business or transaction other than the purchase and sale of accounts receivable or participation interests therein of the Company and its Subsidiaries and activities incidental thereto;

(f) shall not permit an Accounts Receivable Subsidiary to incur any Indebtedness other than the Accounts Receivable Subsidiary Notes, Indebtedness owed to the Company and Non-Recourse Indebtedness; provided that the aggregate principal amount of all such Indebtedness of an Accounts Receivable Subsidiary shall not exceed the book value of its total assets as determined in accordance with GAAP;

(g) shall cause any Accounts Receivable Subsidiary to remit to the Company or a Restricted Subsidiary of the Company on a monthly basis as a distribution all available cash and Cash Equivalents not held in a collection account pledged to acquirers of accounts receivable or participation interests therein, to the extent not applied to:

(i) pay interest or principal on the Accounts Receivable Subsidiary Notes or any Indebtedness of such Accounts Receivable Subsidiary owed to the Company;

(ii) pay or maintain reserves for reasonable operating expenses of such Accounts Receivable Subsidiary or to satisfy reasonable minimum operating capital requirements;

(iii) to finance the purchase of additional accounts receivable of the Company and its Subsidiaries; and

(h) shall not, and shall not permit any of its Subsidiaries to, sell accounts receivable to, or enter into any other transaction with or for the benefit of, an Accounts Receivable Subsidiary:

(i) if such Accounts Receivable Subsidiary pursuant to or within the meaning of any Bankruptcy Law:

(A) commences a voluntary case;

(B) consents to the entry of an order for relief against it in an involuntary case;

- (C) consents to the appointment of a custodian of it or for all or substantially all of its property;
- (D) makes a general assignment for the benefit of its creditors; or
- (E) generally is not paying its debts as they become due, or
- (ii) if a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that
 - (A) is for relief against such Accounts Receivable Subsidiary in an involuntary case;
 - (B) appoints a Custodian of such Accounts Receivable Subsidiary or for all or substantially all of the property of such Accounts Receivable Subsidiary; or
 - (C) orders the liquidation of such Accounts Receivable Subsidiary, and, with respect to this clause (h)(ii), the order or decree remains unstayed and in effect for 60 consecutive days.

SECTION 4.19. Dispositions of ETC and Non-Core Assets.

Notwithstanding the provisions of Section 4.07 and Section 4.10 of this Indenture, in the event that the Indebtedness to Cash Flow Ratio of the Company would not have exceeded 6.0 to 1 on a pro forma basis after giving effect to the sale of all of the Equity Interests in or assets of ETC owned by the Company and its Subsidiaries, then:

- (1) the payment of any dividend or distribution consisting of Equity Interests in or assets of ETC, or the proceeds of a sale, conveyance or other disposition of such Equity Interests or assets or the sale, conveyance or other disposition of Equity Interests in or assets of ETC or the proceeds of a sale, conveyance or other disposition of such Equity Interests or assets shall not constitute a Restricted Payment;
- (2) the sale, conveyance or other disposition of the Equity Interests in or assets of ETC or the proceeds of a sale, conveyance or other disposition of such Equity Interests or assets shall not constitute an Asset Sale; and
- (3) upon delivery of an Officers' Certificate to the Trustee evidencing satisfaction of the conditions to such release and a written request to the Trustee requesting such release, ETC shall be discharged and released from its Guarantee and, so long as the Company designates ETC as an Unrestricted Subsidiary, ETC shall be discharged and released from all covenants and restrictions contained in this Indenture;

provided that no such payment, sale, conveyance or other disposition (collectively, a "Payout") described in clauses (1) or (2) above shall be permitted if at the time of such Payout:

(a) after giving pro forma effect to such Payout, the Company would not have been permitted under Section 4.07 of this Indenture to make a Restricted Payment in an amount equal to the total (the "ETC Amount Due") of:

(i) the amount of all Investments (other than the contribution of:

(x) title to the headquarters building of ETC in Inverness, Colorado and the tangible assets therein to the extent used by ETC as of the date of this Indenture; and

(y) patents, trademarks and copyrights applied for or granted as of the date of this Indenture to the extent used by ETC or resulting from the business of ETC, in each case, to ETC);

made in ETC by the Company or its Restricted Subsidiaries since the date of this Indenture (which, in the case of Investments in exchange for assets, shall be valued at the fair market value of each such asset at the time each such Investment was made); minus

(ii) the amount of the after-tax value of all cash returns on such Investments paid to the Company or its Wholly Owned Restricted Subsidiaries (or, in the case of a non-Wholly Owned Restricted Subsidiary, the pro rata portion thereof attributable to the Company); minus

(iii) \$100 million; and

(b) any contract, agreement or understanding between ETC and the Company or any Restricted Subsidiary of the Company and any loan or advance to or guarantee with, or for the benefit of, ETC issued or made by the Company or one of its Restricted Subsidiaries, is on terms that are no less favorable to the Company or its Restricted Subsidiaries than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiaries with an unrelated Person, all as evidenced by a resolution of the Board of Directors set forth in an Officers' Certificate delivered to the Trustee, within ten Business Days of a request by the Trustee certifying that each such contract, agreement, understanding, loan, advance and guarantee has been approved by a majority of the members of the Board of Directors.

If at the time of such Payout, the condition set forth in clause (a) of the proviso of the preceding sentence cannot be satisfied, ETC may seek to have a Person other than the Company or one of its Restricted Subsidiaries pay in cash an amount to the Company or its Restricted Subsidiaries such that after taxes, such amount is greater than or equal to the ETC Amount Due or the portion of the ETC Amount Due which would not have been permitted to be made as a Restricted Payment by the Company; provided that such payment shall be treated for purposes of this Section 4.19 as a cash return on the Investments made in ETC; and provided further that for all purposes under this Indenture, such payment shall not be included in any calculation under clauses (iii)(A) through (iii)(E) of the first paragraph of Section 4.07 of this Indenture. To the extent that the ETC Amount Due or any portion thereof would have been permitted to be made as a Restricted Payment by the Company and was not paid by another

Person as permitted by the preceding sentence, the Company shall be deemed to have made a Restricted Payment in the amount of such ETC Amount Due or portion thereof, as the case may be.

Notwithstanding the provisions of Section 4.07 and Section 4.10 of this Indenture:

(1) the payment of any dividend or distribution consisting of Equity Interests in or assets of any Non-Core Asset or the proceeds of a sale, conveyance or other disposition of such Equity Interests or assets or the sale, conveyance or other disposition of Equity Interests in or assets of any Non-Core Asset or the proceeds of a sale, conveyance or other disposition of such Equity Interests or assets shall not constitute a Restricted Payment;

(2) the sale, conveyance or other disposition of the Equity Interests in or assets of any Non-Core Asset or the proceeds of a sale, conveyance or other disposition of such Equity Interests or assets shall not constitute an Asset Sale; and

(3) upon delivery of an Officers' Certificate to the Trustee evidencing satisfaction of the conditions to such release and a written request to the Trustee requesting such release, any such Non-Core Asset that is a Guarantor shall be discharged and released from its Guarantee and, so long as the Company designates such Non-Core Asset as an Unrestricted Subsidiary, such Non-Core Asset shall be released from all covenants and restrictions contained in this Indenture;

provided that no Payout of any Non-Core Asset shall be permitted such as described in clauses (1) and (2) above if at the time of such Payout:

(a) after giving pro forma effect to such Payout, the Company would not have been permitted under Section 4.07 of this Indenture to make a Restricted Payment in an amount equal to the total (the "Non-Core Asset Amount Due") of:

(i) the amount of all Investments made in such Non-Core Asset by the Company or its Restricted Subsidiaries since the Issue Date (which, in the case of Investments in exchange for assets, shall be valued at the fair market value of each such asset at the time each such Investment was made); minus

(ii) the amount of the after-tax value of all cash returns on such Investments paid to the Company or its Wholly Owned Restricted Subsidiaries (or, in the case of a non-Wholly Owned Restricted Subsidiary, the pro rata portion thereof attributable to the Company); minus

(iii) \$100 million in the aggregate for all such Payouts and \$25 million for any single such Payout; and

(b) any contract, agreement or understanding between or relating to a Non-Core Asset and the Company or a Restricted Subsidiary of the Company and any loan or advance to or guarantee with, or for the benefit of, a Restricted Subsidiary which is a Non-Core Asset issued or made by the Company or one of its Restricted Subsidiaries, is on terms that are less

favorable to the Company or its Restricted Subsidiaries than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiaries with an unrelated Person, all as evidenced by a resolution of the Board of Directors as set forth in an Officers' Certificate delivered to the Trustee, within ten Business Days of a request by the same, certifying that each such contract, agreement, understanding, loan, advance and guarantee has been approved by a majority of the Board of Directors.

If at the time of such Payout, the condition set forth in clause (a) of the proviso of the preceding sentence cannot be satisfied, such Restricted Subsidiary which is a Non-Core Asset may seek to have a Person other than the Company or one of its Restricted Subsidiaries pay in cash an amount to the Company such that, after taxes, such amount is greater than or equal to the Non-Core Asset Amount Due or the portion of the Non-Core Asset Amount Due which would not have been permitted to be made as a Restricted Payment by the Company; provided that such payment shall be treated for purposes of this Section 4.19 as a cash return on the Investments made in a Non-Core Asset and provided further that for all purposes under this Indenture, such payment shall not be included in any calculation under clauses (iii)(A) through (iii)(E) of the first paragraph of Section 4.07 of this Indenture. To the extent that the Non-Core Asset Amount Due or any portion thereof would have been permitted to be made as a Restricted Payment by the Company and was not paid by another Person as permitted by the preceding sentence, the Company shall be deemed to have made a Restricted Payment in the amount of such Non-Core Asset Amount Due or portion thereof, as the case may be.

Promptly after any Payout pursuant to the terms of this Section 4.19, within ten Business Days of a request by the Trustee, the Company shall deliver an Officers' Certificate to the Trustee setting forth the Investments made by the Company or its Restricted Subsidiaries in ETC or a Non-Core Asset, as the case may be, and certifying that the requirements of this Section 4.19 have been satisfied in connection with the making of such Payout.

Notwithstanding anything contained in this Section 4.19 to the contrary, any disposition of ETC or Non-Core Assets permitted pursuant to the EDBS Notes Indentures shall also be permitted pursuant to this Indenture and shall not be considered a "Restricted Payment" or "Asset Sale" for purposes of this Indenture.

SECTION 4.20. Payments For Consent.

The Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration, whether by way of interest, fee or otherwise, to any Holder of a Note for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture or the Notes unless such consideration is offered to be paid or agreed to be paid to all holders of the Notes that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or agreement.

SECTION 4.21. Termination or Suspension of Certain Covenants Under Certain Conditions.

If, on any date following the Issue Date, the Notes receive an Investment Grade rating from both Rating Agencies and no Default or Event of Default has occurred and is

continuing (a "Fall Away Event") then, beginning on that date and continuing at all times thereafter regardless of any subsequent changes in the rating of the Notes, the provisions of the Indenture contained in Sections 3.08, 4.07, 4.09, 4.10, 4.11, 4.15, 4.18 and 4.19 and clause (d) of Section 5.01 (collectively, the "Fall Away Covenants") will no longer be applicable to the Notes.

In addition to the foregoing, during any period of time in which the Notes have an Investment Grade rating from one of the Rating Agencies and no Default or Event of Default has occurred and is continuing, then the Fall Away Covenants will not apply to the Notes.

Upon the termination or suspension of the Fall Away Covenants under either of the two foregoing paragraphs, the amount of Excess Proceeds for purposes of Section 3.08 of this Indenture shall be set at zero.

ARTICLE 5

SUCCESSORS

SECTION 5.01. Merger, Consolidation, or Sale of Assets of the Company.

The Company shall not consolidate or merge with or into (whether or not the Company is the surviving entity), or 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 Person unless:

(a) the Company is the surviving Person or the Person formed by or surviving any such consolidation or merger (if other than the Company) or 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 Person formed by or surviving any such consolidation or merger (if other than the Company) or the Person to which such sale, assignment, transfer, lease, conveyance or other disposition shall have been made assumes all the obligations of the Company under this Indenture and the Notes pursuant to a supplemental indenture to this Indenture in form reasonably satisfactory to the Trustee;

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

(d) the Company or the Person formed by or surviving any such consolidation or merger (if other than the Company) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made

(i) will have Consolidated Net Worth immediately after the transaction (but prior to any purchase accounting adjustments or accrual of deferred tax liabilities resulting from the transaction) not less than the Consolidated Net Worth of the Company immediately preceding the transaction; and

(ii) would, at the time of such transaction after giving pro forma effect thereto as if such transaction had occurred at the beginning of the applicable four-quarter period, be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Indebtedness to Cash Flow Ratio test set forth in Section 4.09.

Notwithstanding the foregoing, the Company may merge with another Person if

(a) the Company is the surviving Person;

(b) the consideration issued or paid by the Company in such merger consists solely of Equity Interests (other than Disqualified Stock) of the Company or Equity Interests of EchoStar; and

(c) immediately after giving effect to such merger (determined on a pro forma basis), the Company's Indebtedness to Cash Flow Ratio either (i) does not exceed 8.0:1 or (ii) does not exceed the Company's Indebtedness to Cash Flow Ratio immediately prior to such merger.

SECTION 5.02. Successor Corporation Substituted.

Upon any consolidation or merger, or any sale, lease, conveyance or other disposition of all or substantially all of the assets of the Company in accordance with Section 5.01, the successor corporation formed by such consolidation or into or with which the Company is merged or to which such sale, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, lease, conveyance or other disposition, the provisions of this Indenture referring to the Company shall refer instead to the successor corporation and not to the Company), 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.

ARTICLE 6

DEFAULTS AND REMEDIES

SECTION 6.01. Events of Default.

Each of the following constitutes an "Event of Default":

(a) default for 30 days in the payment when due of interest on the Notes;

(b) default in the payment when due of principal of the Notes at maturity, upon repurchase, redemption or otherwise;

(c) failure to comply with the provisions of Section 4.10, Section 4.11 or Section 4.15;

(d) default under Section 4.07 or Section 4.09, which default remains uncured for 30 days, or the breach of any representation or warranty, or the making of any untrue statement, in any certificate delivered by the Company pursuant to this Indenture;

(e) failure by the Company for 60 days after notice from the Trustee or the Holders of at least 25% in principal amount then outstanding of the Notes to comply with any of its other agreements in this Indenture or the Notes;

(f) 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 Restricted Subsidiaries (or the payment of which is guaranteed by the Company and any of its Restricted Subsidiaries), which default is caused by a failure to pay when due principal or interest on such Indebtedness within the grace period provided in such Indebtedness (a "Payment Default"), and 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, aggregates \$200 million or more;

(g) 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 and any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Company or any of its Restricted Subsidiaries), which default results in the acceleration of such Indebtedness prior to its express maturity and 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 \$200 million or more; provided that any acceleration (other than an acceleration which is the result of a Payment Default under clause (f) above) of Indebtedness under the Outstanding Deferred Payments in aggregate principal amount not to exceed \$200 million shall be deemed not to constitute an acceleration pursuant to this clause (g);

(h) failure by the Company or any of its Restricted Subsidiaries to pay final judgments (other than any judgment as to which a reputable insurance company has accepted full liability) aggregating in excess of \$100 million, which judgments are not stayed within 60 days after their entry;

(i) EchoStar, the Company or any Significant Subsidiary of the Company pursuant to or within the meaning of Bankruptcy Law: (i) commences a voluntary case; (ii) consents to the entry of an order for relief against it in an involuntary case; (iii) consents to the appointment of a Custodian of it or for all or substantially all of its property; or (iv) makes a general assignment for the benefit of its creditors;

(j) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that: (i) is for relief against EchoStar, the Company or any Significant Subsidiary of the Company in an involuntary case; (ii) appoints a custodian of EchoStar, the Company or any Significant Subsidiary of the Company or for all or substantially all of the property of EchoStar, the Company or any Significant Subsidiary of the Company; or (iii) orders the liquidation of EchoStar or any Significant Subsidiary of the Company, and the order or decree remains unstayed and in effect for 60 consecutive days; and

(k) any Guarantee shall be held in a judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect, or any Guarantor, or any person acting on behalf of any Guarantor, shall deny or disaffirm its obligations under its Guarantee.

SECTION 6.02. Acceleration.

If an Event of Default (other than an Event of Default specified in clause (i) or (j) of Section 6.01) 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 written notice to the Company and the Trustee, may declare all the Notes to be due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default specified in clause (i) or (j) of Section 6.01 with respect to the Company or any Guarantor, all outstanding Notes shall become and be immediately due and payable without further action or notice. Holders of the Notes may not enforce this Indenture or the Notes except as provided in this Indenture. The Trustee may withhold from Holders of the 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 such Holders' interest. The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may on behalf of all of the Holders rescind an acceleration and its consequences if the rescission would not conflict with any judgment or decree and if all existing Events of Default (except nonpayment of principal, interest or premium that has become due solely because of the acceleration) have been cured or waived.

In the case of any Event of Default occurring by reason of any willful action (or inaction) taken (or not taken) by or on behalf of the Company or its Subsidiaries with the intention of avoiding payment of the premium that the Company would have had to pay if the Company then had elected to redeem the Notes pursuant to Section 3.07, an equivalent premium shall also become and be immediately due and payable to the extent permitted by law.

All powers of the Trustee under this Indenture will be subject to applicable provisions of the Communications Act, including without limitation, the requirements of prior approval for de facto or de jure transfer of control or assignment of Title III licenses.

SECTION 6.03. Other Remedies.

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, premium, if any, and interest on the Notes or to enforce the performance of any provision of the Notes and 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 of a Note 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 6.04. Waiver of Past Defaults.

Holders of not less than a majority in aggregate principal amount of Notes then outstanding, by notice to the Trustee, may on behalf of the Holders of all of the Notes waive an existing Default or Event of Default and its consequences under this Indenture, except a continuing Default or Event of Default in the payment of the principal of, premium, if any, or interest on, the Notes. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

SECTION 6.05. Control by Majority.

Holders of a majority in principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising 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 the law or this Indenture that the Trustee determines may be unduly prejudicial to the rights of other Holders of Notes or that may involve the Trustee in personal liability.

SECTION 6.06. Limitation on Suits.

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

- (a) the Holder of a Note gives to the Trustee written notice of a continuing Event of Default;
- (b) the Holders of at least 25% in principal amount of the then outstanding Notes make a written request to the Trustee to pursue the remedy;
- (c) such Holder of a Note or Holders of Notes offer and, if requested, provide 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 and, if requested, the provision 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 of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

SECTION 6.07. Rights of Holders of Notes To Receive Payment.

Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of principal, premium, if any, 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 of the Note.

SECTION 6.08. Collection Suit by Trustee.

If an Event of Default specified in Section 6.01(a) or (b) occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal of, premium, if any, and interest remaining unpaid on the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

SECTION 6.09. Trustee May File Proofs of Claim.

The Trustee is authorized to 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 (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes), the Company's creditors or the Company's property and shall be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder of a Note to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders of the Notes, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties which the Holders of the Notes may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder of a Note any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder of a Note thereof, or to authorize the Trustee to vote in respect of the claim of any Holder of a Note in any such proceeding.

SECTION 6.10. 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, its agents and attorneys for amounts due under Section 7.07, including payment of all compensation, expense and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

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

Third: to the Company or to such party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to Holders of Notes.

SECTION 6.11. 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 does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 6.07, or a suit by Holders of more than 10% in principal amount of the then outstanding Notes.

ARTICLE 7

TRUSTEE

SECTION 7.01. 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 their 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 duties of the Trustee shall be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and 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.

(c) The Trustee may not be relieved from liabilities 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;

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

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), and (c) of this Section 7.01.

(e) No provision of this Indenture shall require the Trustee to expend or risk its own funds or incur any liability. The Trustee shall be under no obligation to exercise any of its rights and powers under this Indenture at the request of any Holder of Notes, unless such Holder shall have offered to the Trustee security and indemnity satisfactory to the Trustee 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 7.02. Rights of Trustee.

(a) The Trustee may conclusively rely upon 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. The Trustee may consult with counsel and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and 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 conferred upon it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company shall be sufficient if signed by an Officer of the Company.

(f) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities that might be incurred by it in compliance with such request or direction.

(g) Except with respect to Section 4.01, the Trustee shall have no duty to inquire as to the performance of the Company's covenants in Article 4. In addition, the Trustee shall not be deemed to have knowledge of any Default or Event of Default except (i) any Event of Default occurring pursuant to Sections 4.01, 6.01(a) and 6.01(b) or (ii) any Default or Event of Default of which the Trustee shall have received written notification or obtained actual knowledge.

(h) Delivery of reports, information and documents to the Trustee under Section 4.03 is for informational purposes only and the Trustee's receipt of the foregoing shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder.

SECTION 7.03. 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 any Affiliate of the Company with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as Trustee (if any of the Notes are registered pursuant to the Securities Act), or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to Sections 7.10 and 7.11.

SECTION 7.04. Trustee's Disclaimer.

The Trustee shall not be responsible for and 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 or any money paid to the Company or upon the Company's direction under any provision of this Indenture, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

SECTION 7.05. Notice of Defaults.

If a Default or Event of Default occurs and is continuing and if it is known to a Responsible Officer of the Trustee, the Trustee shall mail to Holders of Notes 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 of principal of, premium, if any, or interest on any Note, the Trustee may withhold the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Notes.

SECTION 7.06. Reports by Trustee to Holders of the Notes.

Within 60 days after each May 15 beginning with the May 15 following the date of this Indenture, the Trustee shall mail to the Holders of the Notes a brief report dated as of such reporting date that complies with TIA Section 313(a) (but if no event described in TIA Section 313(a) has occurred within the twelve months preceding the reporting date, no report need be transmitted). The Trustee also shall comply with TIA Section 313(b). 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 the Holders of Notes shall be mailed to the Company and filed with the SEC and each stock exchange on which any Notes are listed. The Company shall promptly notify the Trustee when any Notes are listed on any stock exchange.

SECTION 7.07. Compensation and Indemnity.

The Company shall pay to the Trustee from time to time reasonable compensation for its acceptance of this Indenture and 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 promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

The Company shall indemnify the Trustee against any and all losses, liabilities or expenses incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, except any such loss, liability or expense as may be attributable to the gross negligence, willful misconduct or bad faith of the Trustee. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company shall not relieve the Company of its obligations hereunder. 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 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 obligations of the Company under this Section 7.07 shall survive the satisfaction and discharge of this Indenture.

To secure the Company's payment obligations in this Section, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal and interest on particular Notes. Such Lien shall survive the satisfaction and discharge of this Indenture.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(i) or (j) occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

SECTION 7.08. 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.

The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Company and obtaining the prior written approval of the FCC, if so required by the Communications Act, including Section 310(d) and the rules and regulations promulgated thereunder. The Holders of at least a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Company in writing. The Company may remove the Trustee (subject to the prior written approval of the FCC, if required by the Communications Act, including Section 310(d), and the rules and regulations promulgated thereunder) if:

(a) the Trustee fails to comply with Section 7.10;

(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) the Trustee is no longer in compliance with the foreign ownership provisions of Section 310 of the Communications Act and the rules and regulations promulgated thereunder.

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

(e) 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 Notes 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 after written request by any Holder of a Note who has been a Holder of a Note for at least six months fails to comply with Section 7.10, such Holder of a Note 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 of the Notes. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, provided all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.07. Notwithstanding replacement of the Trustee pursuant to this Section 7.08, the Company's obligations under Section 7.07 shall continue for the benefit of the retiring Trustee.

SECTION 7.09. 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 7.10. Eligibility; Disqualification.

There shall at all times be a Trustee hereunder which shall be a corporation organized and doing business under the laws of the United States of America or of any state thereof authorized under such laws to exercise corporate trustee power, shall be subject to supervision or examination by federal or state authority and shall have a combined capital and surplus of at least \$25 million as set forth in its most recent published annual report of condition.

This Indenture shall always have a Trustee who satisfies the requirements of TIA Section 310(a)(1), (2) and (5). The Trustee is subject to TIA Section 310(b).

SECTION 7.11. 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 8

LEGAL DEFEASANCE AND COVENANT DEFEASANCE

SECTION 8.01. Option To Effect Legal Defeasance or Covenant Defeasance.

The Company may, at the option of its Board of Directors evidenced by a resolution set forth in an Officers' Certificate, at any time, with respect to the Notes, elect to have either Section 8.02 or 8.03 be applied to all outstanding Notes upon compliance with the conditions set forth below in this Article 8.

SECTION 8.02. Legal Defeasance and Discharge.

Upon the Company's exercise under Section 8.01 of the option applicable to this Section 8.02, the Company shall be deemed to have been discharged from its obligations with

respect to all outstanding Notes on the date the conditions set forth below are satisfied (hereinafter, "Legal Defeasance"). For this purpose, such Legal Defeasance means that the Company shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, which shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 and the other Sections of this Indenture referred to in (a) and (b) below, and to have satisfied all its other obligations under such Notes and this Indenture (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following which shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of outstanding Notes to receive payments in respect of the principal of, premium, if any, and interest on such Notes when such payments are due, or on the redemption date, as the case may be, (b) the Company's obligations with respect to such Notes under Sections 2.03, 2.04, 2.05, 2.06, 2.07, 2.08, 2.10, 2.11 and 4.02, (c) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Company's obligations in connection therewith and (d) this Article 8. Subject to compliance with this Article 8, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 with respect to the Notes.

SECTION 8.03. Covenant Defeasance.

Upon the Company's exercise under Section 8.01 of the option applicable to this Section 8.03, the Company shall be released from its obligations under the covenants contained in Sections 3.08, 4.03, 4.04, 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.13, 4.15, 4.16, 4.18, 4.19 and 5.01 with respect to the outstanding Notes on and after the date the conditions set forth below are satisfied (hereinafter, "Covenant Defeasance"), and the Notes shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes shall not be deemed outstanding for GAAP). For this purpose, such Covenant Defeasance means that, with respect to the outstanding Notes, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01(c), but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby. In addition, upon the Company's exercise under Section 8.01 of the option applicable to this Section 8.03, Sections 6.01(c) through 6.01(h) and Section 6.01(k) shall not constitute Events of Default.

SECTION 8.04. Conditions to Legal or Covenant Defeasance.

The following shall be the conditions to the application of either Section 8.02 or Section 8.03 to the outstanding Notes:

(a) The Company shall irrevocably have deposited or caused to be deposited with the Trustee (or another trustee satisfying the requirements of Section 7.10 who shall agree to comply with the provisions of this Article 8 applicable to it) as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated

solely to, the benefit of the Holders of such Notes, (i) cash in U.S. Dollars, (ii) non-callable Government Securities which through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment, cash in U.S. Dollars, or (iii) a combination thereof, in such amounts, as will be sufficient in each case, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge and which shall be applied by the Trustee (or other qualifying trustee) to pay and discharge (A) the principal of, premium, if any, and interest on the outstanding Notes on the stated maturity or on the applicable redemption date, as the case may be, of such principal or installment of principal, premium, if any, or interest and (B) any mandatory sinking fund payments or analogous payments applicable to the outstanding Notes on the day on which such payments are due and payable in accordance with the terms of this Indenture and of such Notes; provided that the Trustee shall have been irrevocably instructed to apply such money or the proceeds of such non-callable Government Securities to said payments with respect to the Notes;

(b) In the case of an election under Section 8.02, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably satisfactory to the Trustee confirming that (i) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (ii) since the Issue Date, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such opinion shall confirm that, the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(c) In the case of an election under Section 8.03, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably acceptable to the Trustee to the effect that the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(d) No Default or Event of Default with respect to the Notes shall have occurred and be continuing on the date of such deposit or, in so far as Section 6.01(i) or 6.01(j) is concerned, at any time in the period ending on the 91st day after the date of such deposit (it being understood that this condition shall not be deemed satisfied until the expiration of such period);

(e) Such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under, this Indenture or any other material agreement or instrument to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound;

(f) The Company shall have delivered to the Trustee an Officers' Certificate stating that the deposit made by the Company pursuant to its election under Section 8.02 or 8.03 was not made by the Company with the intent of preferring the Holders over any other creditors

of the Company or with the intent of defeating, hindering, delaying or defrauding any of the other creditors of the Company or others; and

(g) The Company shall have delivered to the Trustee an Officers' Certificate stating that all conditions precedent provided for or relating to either the Legal Defeasance under Section 8.02 or the Covenant Defeasance under Section 8.03 (as the case may be) have been complied with as contemplated by this Section 8.04.

SECTION 8.05. Deposited Money and Government Securities To Be Held in Trust; Other Miscellaneous Provisions.

Subject to Section 8.06, all money and Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "Trustee") pursuant to Section 8.04 in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or Government Securities deposited pursuant to Section 8.04 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

Anything in this Article 8 to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon the request of the Company any money or Government Securities held by it as provided in Section 8.04 which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(a)), are in excess of the amount thereof which would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

SECTION 8.06. Repayment to Company.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium, if any, or interest on any Note and remaining unclaimed for two years after such principal, and premium, if any, or interest has become due and payable shall be paid to the Company on its request or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter, as a secured creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustees thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in the New York Times and The Wall Street Journal (national edition), notice that such money remains unclaimed and that, after a date specified therein, which shall not be

less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining will be repaid to the Company.

SECTION 8.07. Reinstatement.

If the Trustee or Paying Agent is unable to apply any United States Dollars or Government Notes in accordance with Section 8.02 or 8.03, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03, as the case may be; provided, however, that, if the Company makes any payment of principal of, premium, if any, or interest on any Note following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE 9

AMENDMENT, SUPPLEMENT AND WAIVER

SECTION 9.01. Without Consent of Holders of Notes.

Notwithstanding Section 9.02 of this Indenture, the Company, the Guarantors and the Trustee may amend or supplement this Indenture, the Notes or the Guarantees without the consent of any Holder of a Note:

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

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

(c) to provide for the assumption of the Company's or the Guarantors' obligations to the Holders of the Notes in the case of a merger or consolidation pursuant to Article 5 or Article 10;

(d) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights hereunder of any Holder of the Notes; or

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

Upon the request of the Company accompanied by a resolution of the Board of Directors of the Company and a resolution of the board of directors of each Guarantor and upon receipt by the Trustee of the documents described in Section 11.04, the Trustee shall join with the Company and the Guarantors in the execution of any amended or supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations which may be therein contained, but the Trustee shall not be

obligated to enter into such amended or supplemental indenture which affects its own rights, duties or immunities under this Indenture or otherwise.

SECTION 9.02. With Consent of Holders of Notes.

The Company, the Guarantors and the Trustee may amend or supplement this Indenture, the Notes or the Guarantees or any amended or supplemental indenture with the written consent of the Holders of at least a majority in aggregate principal amount of the Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for the Notes), and any existing Default and its consequences or compliance with any provision of this Indenture or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes (including consents obtained in connection with a tender offer or exchange offer for the Notes). Notwithstanding the foregoing, (a) Sections 3.08, 4.10 and 4.15 of this Indenture (including, in each case, the related definitions) may not be amended or waived without the written consent of at least 66-2/3% in principal amount of the Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for the Notes) and (b) without the consent of each Holder affected, an amendment or waiver may not (with respect to any Notes held by a non-consenting Holder of Notes):

- (a) reduce the aggregate 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 with respect to the redemption of the Notes;
- (c) reduce the rate of or change the time for payment of interest on any Note;
- (d) waive a Default or Event of Default in the payment of principal of or premium, if any, or interest on the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding 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 Notes;
- (f) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of or interest on the Notes;
- (g) waive a redemption payment or mandatory redemption with respect to any Note; or
- (h) make any change in the foregoing amendment and waiver provisions.

Upon the request of the Company accompanied by a resolution of the Board of Directors of the Company and a resolution of the board of directors of each Guarantor, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Notes as aforesaid, and upon receipt by the Trustee of the documents described in Section 11.04,

the Trustee shall join with the Company and the Guarantors in the execution of such amended or supplemental indenture unless such amended or supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such amended or supplemental indenture.

It shall not be necessary for the consent of the Holders of Notes under this Section 9.02 to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section becomes effective, the Company shall mail to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver. Subject to Sections 6.04 and 6.07, the Holders of a majority in aggregate principal amount of the Notes then outstanding may waive compliance in a particular instance by the Company with any provision of this Indenture or the Notes.

SECTION 9.03. Compliance with Trust Indenture Act.

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

SECTION 9.04. 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 of a Note 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 of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder of a Note.

The Company may fix a record date for determining which Holders of the Notes must consent to such amendment, supplement or waiver. If the Company fixes a record date, the record date shall be fixed at (i) the later of 30 days prior to the first solicitation of such consent or the date of the most recent list of Holders of Notes furnished to the Trustee prior to such solicitation pursuant to Section 2.05 or (ii) such other date as the Company shall designate.

SECTION 9.05. Notation on or Exchange of Notes.

The Trustee may place an appropriate notation about an amendment, supplement 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, supplement or waiver.

Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

SECTION 9.06. Trustee To Sign Amendments, Etc.

The Trustee shall sign any amended or supplemental indenture authorized pursuant to this Article 9 if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. Neither the Company nor any Guarantor may sign any amended or supplemental indenture until its board of directors approves it.

ARTICLE 10

GUARANTEES

SECTION 10.01. Guarantee.

Each of the Guarantors, jointly and severally, hereby unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the Obligations of the Company hereunder or thereunder, that:

(a) the principal of and interest on the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and

(b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, each of the Guarantors, jointly and severally, will be obligated to pay the same immediately.

Each of the Guarantors, jointly and severally, hereby agrees that its obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor.

Each of the Guarantors, jointly and severally, hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice (except that the Trustee shall provide at least ten days' prior written notice to the Company on behalf of the Guarantors before taking any action for which the Communications Act and/or the FCC rules require such notice and which right to notice is not waivable by any Guarantor) and all demands whatsoever and covenant that this Guarantee will not be discharged

except by complete performance of the Obligations guaranteed hereby. If any Holder or the Trustee is required by any court or otherwise to return to the Company or any Guarantor, or any Custodian, Trustee, liquidator or other similar official acting in relation to either the Company or any Guarantor, any amount paid by either to the Trustee or such Holder, this Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

Each of the Guarantors, jointly and severally, agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby. Each of the Guarantors, jointly and severally, further agrees that, as between such Guarantor, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the Obligations guaranteed hereby may be accelerated as provided in Article 6 for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article 6, such obligations (whether or not due and payable) shall forthwith become due and payable by each Guarantor for the purpose of this Guarantee. Notwithstanding the foregoing, in the event that any Guarantee would constitute or result in a violation of any applicable fraudulent conveyance or similar law of any relevant jurisdiction, the liability of the applicable Guarantor under its Guarantee shall be reduced to the maximum amount permissible under such fraudulent conveyance or similar law.

The Guarantors hereby agree as among themselves that each Guarantor that makes a payment or distribution under a Guarantee shall be entitled to a pro rata contribution from each other Guarantor hereunder based on the net assets of each other Guarantor. The preceding sentence shall in no way affect the rights of the Holders of Notes to the benefits of this Indenture, the Notes or the Guarantees.

Nothing in this Section 10.01 shall apply to claims of, or payments to, the Trustee under or pursuant to the provisions of Section 7.07. Nothing contained in this Section 10.01 or elsewhere in this Indenture, the Notes or the Guarantees shall impair, as between any Guarantor and the Holder of any Note, the obligation of such Guarantor, which is unconditional and absolute, to pay to the Holder thereof the principal of, premium, if any, and interest on the Notes in accordance with their terms and the terms of the Guarantee and this Indenture, nor shall anything herein or therein prevent the Trustee or the Holder of any Note from exercising all remedies otherwise permitted by applicable law or hereunder or thereunder upon the occurrence of an Event of Default.

SECTION 10.02. Execution and Delivery of Guarantees.

To evidence its Guarantee set forth in Section 10.01, each Guarantor hereby agrees that a notation of such Guarantee substantially in the form of Exhibit B shall be endorsed by an officer of such Guarantor on each Note authenticated and delivered by the Trustee and that this Indenture shall be executed on behalf of such Guarantor by its President or one of its Vice Presidents and attested to by an Officer. Each of the Guarantors, jointly and severally, hereby agrees that its Guarantee set forth in Section 10.01 shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Guarantee. If an officer or Officer whose signature is on this Indenture or on the Guarantee of a Guarantor no longer holds that office at the time the Trustee authenticates the Note on which the Guarantee of such

Guarantor is endorsed, the Guarantee of such Guarantor shall be valid nevertheless. The delivery of any Note by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Guarantees set forth in this Indenture on behalf of the Guarantors.

SECTION 10.03. Merger, Consolidation or Sale of Assets of Guarantors.

Subject to Section 10.05, a Guarantor may not, and the Company will not cause or permit any Guarantor to, consolidate or merge with or into (whether or not such Guarantor is the surviving entity), or 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 Person other than the Company or another Guarantor unless:

(a) such Guarantor is the surviving Person or the Person formed by or surviving any such consolidation or merger (if other than such Guarantor) or 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 Person formed by or surviving any such consolidation or merger (if other than such Guarantor) or the Person to which such sale, assignment, transfer, lease, conveyance or other disposition shall have been made assumes all the obligations of such Guarantor under this Indenture and the Notes pursuant to a supplemental indenture to this Indenture in form reasonably satisfactory to the Trustee; and

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

Nothing contained in this Indenture shall prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor that is a Wholly Owned Restricted Subsidiary of the Company or shall prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor that is a Wholly Owned Restricted Subsidiary of the Company. Except as set forth in Articles 4 and 5, nothing contained in this Indenture shall prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor that is a Restricted Subsidiary of the Company or shall prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor that is a Restricted Subsidiary of the Company.

SECTION 10.04. Successor Corporation Substituted.

Upon any consolidation, merger, sale or conveyance described in clauses (a) through (d) of Section 10.04, and upon the assumption by the successor corporation, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of any Guarantee previously signed by the Guarantor and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Guarantor, such successor corporation shall succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. Such successor corporation thereupon may cause to be signed any or all of the Guarantees to be issuable hereunder by such Guarantor and delivered to the Trustee. All the Guarantees so issued shall in all respects have the

same legal rank and benefit under this Indenture as the Guarantees theretofore and thereafter issued in accordance with the terms of this Indenture as though all of such Guarantees had been issued at the date of the execution of such Guarantee by such Guarantor.

SECTION 10.05. Releases from Guarantees.

If pursuant to any direct or indirect sale of assets (including, if applicable, all of the capital stock of any Guarantor) or other disposition by way of merger, consolidation or otherwise the assets sold include all or substantially all of the assets of any Guarantor or all of the capital stock of any such Guarantor, then such Guarantor or the Person acquiring the property (in the event of a sale or other disposition of all or substantially all of the assets of such a Guarantor) shall be released and relieved of its obligations under its Guarantee or Section 10.03 and Section 10.04, as the case may be; provided that in the event of an Asset Sale, the Net Proceeds from such sale or other disposition are applied in accordance with the provisions of Section 4.10. In addition, a Guarantor shall be released and relieved of its obligations under its Guarantee or Section 10.03 and Section 10.04, as the case may be (1) if such Guarantor is dissolved or liquidated in accordance with the provisions of this Indenture; (2) if the Company designates any such Guarantor as an Unrestricted Subsidiary in compliance with the terms of this Indenture; or (3) without limiting the generality of the foregoing, in the case of ETC or any Guarantor which constitutes a Non-Core Asset, upon the sale or other disposition of any Equity Interest of ETC or such Guarantor which constitutes a Non-Core Asset, respectively. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of this Indenture, including without limitation Section 4.10 or 4.20 if applicable, the Trustee shall execute any documents reasonably required in order to evidence the release of any such Guarantor from its obligations under its Guarantee. Any such Guarantor not released from its obligations under its Guarantee shall remain liable for the full amount of principal of and interest on the Notes and for the other obligations of such Guarantor under this Indenture as provided in this Article 10.

ARTICLE 11

MISCELLANEOUS

SECTION 11.01. Trust Indenture Act Controls.

If any provision of this Indenture limits, qualifies or conflicts with the duties imposed by TIA Section 318(c), the imposed duties shall control.

SECTION 11.02. Notices.

Any notice or communication by the Company, any Guarantor or the Trustee to the other is duly given if in writing and delivered in Person or mailed by first class mail (registered or certified, return receipt requested), telex, telecopier or overnight air courier guaranteeing next day delivery, to the other's address:

If to the Company or any Guarantor:

EchoStar DBS Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120
Telecopier No.: (303) 723-1699
Attention: David K. Moskowitz, Esq.

With a copy to:

Sullivan & Cromwell LLP
1870 Embarcadero Road
Palo Alto, California 94303
Telecopier No.: (650) 461-5600
Attention: Scott D. Miller, Esq.

If to the Trustee:

U.S. Bank National Association
60 Livingston Avenue
Saint Paul, Minnesota 55107
Telecopier No: (651) 495-8097
Attention: Corporate Trust Administration

The Company, any Guarantor or the Trustee, by notice to the other may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders of Notes) shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when answered back, if telexed; when receipt acknowledged, if telecopied; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

Any notice or communication to a Holder of a Note shall be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. Any notice or communication shall also be so mailed to any Person described in TIA Section 313(c), to the extent required by the TIA. Failure to mail a notice or communication to a Holder of a Note or any defect in it shall not affect its sufficiency with respect to other Holders of Notes.

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 of Notes, it shall mail a copy to the Trustee and each Agent at the same time.

SECTION 11.03. Communication by Holders of Notes with Other Holders of Notes.

Holders of the Notes may communicate pursuant to TIA Section 312(b) with other Holders of Notes 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 11.04. 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 in form and substance reasonably satisfactory to the Trustee stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and

(b) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

SECTION 11.05. 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 a certificate provided pursuant to TIA Section 314(a)(4)) shall include:

(a) a statement that the Person making such certificate or 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, he or she has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been satisfied; and

(d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied.

SECTION 11.06. Rules by Trustee and Agents.

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

SECTION 11.07. No Personal Liability of Directors, Officers, Employees, Incorporators and Stockholders.

No director, officer, employee, incorporator or stockholder of the Company, the Guarantors or any of their Affiliates, as such, shall have any liability for any obligations of the Company, the Guarantors or any of their Affiliates under the Notes, the Guarantees or this

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 issuance of the Notes. Such waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.

SECTION 11.08. Governing Law.

The internal law of the State of New York shall govern and be used to construe this Indenture, the Notes and the Guarantees.

SECTION 11.09. No Adverse Interpretation of Other Agreements.

This Indenture may not be used to interpret another indenture, loan or debt agreement of EchoStar, the Company or any of their respective Subsidiaries. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

SECTION 11.10. Successors.

All agreements of the Company and the Guarantors in this Indenture and the Notes and the Guarantees shall bind the successors of the Company and the Guarantors, respectively. All agreements of the Trustee in this Indenture shall bind its successor.

SECTION 11.11. 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 11.12. Counterpart Originals.

The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

SECTION 11.13. Table of Contents, Headings, Etc.

The Table of Contents 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 of this Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

[Signatures on following page]

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

ECHOSTAR DBS CORPORATION,
a Colorado corporation

By: -s- David K. Moskowitz

Name:
Title:

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: -s- Richard H. Prokosch

Name: Richard H. Prokosch
Title: Vice President

ECHOSTAR SATELLITE CORPORATION
ECHOSTAR TECHNOLOGIES CORPORATION
ECHO ACCEPTANCE CORPORATION
ECHOSPHERE CORPORATION
DISH NETWORK SERVICE CORPORATION
ECHOSTAR INTERNATIONAL CORPORATION
as Guarantors

By: -s- David K. Moskowitz

Name:
Title:

[Face of Note]

6 3/8% Senior Note due 2011

Cert. No.
CUSIP No. []

EchoStar DBS Corporation promises to pay to _____ or its registered assigns the principal sum of _____ Dollars on October 1, 2011

Interest Payment Dates: April 1 and October 1, commencing April 1, 2004

Record Dates: March 15 and September 15 (whether or not a Business Day).

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

Dated:

ECHOSTAR DBS CORPORATION

By: _____
Title:

By: _____
Title:

(SEAL)

This is one of the Notes referred to in the within-mentioned Indenture:

U.S. Bank National Association, as Trustee

By: _____
Authorized Signatory

Dated:

Capitalized terms used herein have the meanings assigned to them in the Indenture (as defined below) unless otherwise indicated.

(1) Interest. EchoStar DBS Corporation, a Colorado corporation (the "Company") promises to pay interest on the principal amount of this Note at the rate and in the manner specified below. Interest will accrue at 6 3/8% per annum and will be payable semi-annually in arrears in cash on each April 1 and October 1 of each year, commencing April 1, 2004, or if any such day is not a Business Day on the next succeeding Business Day (each an "Interest Payment Date") to Holders of record of the Notes at the close of business on the immediately preceding March 15 and September 15, whether or not a Business Day. Interest will be computed on the basis of a 360-day year consisting of twelve 30-day months. Interest shall accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance. To the extent lawful, the Company shall pay interest on overdue principal at the rate of the then applicable interest rate on the Notes; it shall pay interest on overdue installments of interest (without regard to any applicable grace periods) at the same rate to the extent lawful. In addition, Holders may be entitled to the benefits of certain provisions of the Registration Rights Agreement.

(2) 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 next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date. The Holder hereof must surrender this Note to a Paying Agent to collect principal payments. The Company will pay principal and interest in money of the United States of America that at the time of payment is legal tender for payment of public and private debts. The Notes will be payable both as to principal and interest at the office or agency of the Company maintained for such purpose or, at the option of the Company, payment of interest may be made by check mailed to the Holders of Notes at their respective addresses set forth in the register of Holders of Notes. Unless otherwise designated by the Company, the Company's office or agency will be the office of the Trustee maintained for such purpose.

(3) Paying Agent and Registrar. Initially, the Trustee will act as Paying Agent and Registrar. The Company may change any Paying Agent, Registrar or co-registrar without prior notice to any Holder of a Note. The Company may act in any such capacity.

(4) Indenture. The Company issued the Notes under an Indenture, dated as of October 2, 2003 (the "Indenture"), among the Company, the Guarantors and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (15 U.S. Code Sections 77aaa-77bbb), as in effect on the date of the Indenture. The Notes are subject to all such terms, and Holders of Notes are referred to the Indenture and such act for a statement of such terms. The terms of the Indenture shall govern any inconsistencies between the Indenture and the Notes. The Notes are unsecured obligations of the Company.

(5) Optional Redemption. The Notes will be subject to redemption at the option of the Company, at any time in whole, or from time to time in part, upon not less than 30 nor more than 60 days' notice, at a redemption price equal to 100% of the principal amount of such Notes plus accrued and unpaid interest, if any, to the applicable redemption date plus the "Make-Whole Premium" as set forth in the Indenture.

Notwithstanding the foregoing, at any time prior to October 1, 2006, the Company may redeem up to 35% of the aggregate principal amount of the Notes outstanding at a redemption price equal to 106.375% of the principal amount thereof on the redemption date, together with accrued and unpaid interest to such redemption date, with the net cash proceeds of any capital contributions or one or more public or private sales (including sales to EchoStar, regardless of whether EchoStar obtained such funds from an offering of Equity Interests or Indebtedness of EchoStar or otherwise) of Equity Interests (other than Disqualified Stock) of the Company (other than proceeds from a sale to any Subsidiary of the Company or any employee benefit plan in which the Company or any of its Subsidiaries participates); provided that: (a) at least 65% in aggregate of the originally issued principal amount of the Notes remains outstanding immediately after the occurrence of such redemption; and (b) the sale of such Equity Interests is made in compliance with the terms of the Indenture.

(6) Repurchase at Option of Holder. Upon the occurrence of a Change of Control, the Company will be required to offer to purchase on the Change of Control Payment Date all outstanding Notes at a purchase price equal to 101% of the aggregate principal amount thereof, together with accrued and unpaid interest thereon to the date of purchase. 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 Change of Control Payment Date and may elect to have such Notes purchased by completing the form entitled "Option of Holder to Elect Purchase" appearing below.

When the cumulative amount of Excess Proceeds that have not been applied in accordance with Section 4.10 (Asset Sales) or Section 3.08 (Offer to Purchase By Application of Excess Proceeds) of the Indenture, exceeds \$100.0 million, the Company will be required to offer to purchase the maximum principal amount of Notes that may be purchased out of such Excess Proceeds at an offer price in cash equal to 101% of the principal amount thereof, together with accrued and unpaid interest thereon to the date of purchase. To the extent the Company or a Restricted Subsidiary is required under the terms of Indebtedness of the Company or such Restricted Subsidiary which is ranked equally with the Notes to make an offer to purchase such other Indebtedness with any proceeds which constitute Excess Proceeds under the Indenture, the Company shall make a pro rata offer to the holders of all other pari passu Indebtedness (including the Notes) with such proceeds. To the extent that the principal amount of Notes and other pari passu Indebtedness surrendered by holders thereof exceeds the amount of such Excess Proceeds, the Trustee shall select the Notes and other pari passu Indebtedness to be purchased on a pro rata basis. Holders of Notes that are subject to an offer to purchase will receive an Excess Proceeds Offer from the Company prior to any related Purchase Payment Date and may elect to have such Notes purchased by completing the form entitled "Option of Holder to Elect Purchase" appearing below.

(7) Notice of Redemption. Notice of redemption shall be mailed at least 30 days but not more than 60 days before the redemption date to each Holder whose Notes are to be redeemed at its registered address. Notes may be redeemed in part but only in whole multiples of \$1,000, unless all of the Notes held by a Holder of Notes are to be redeemed. On and after the redemption date, interest ceases to accrue on Notes or portions of them called for redemption unless the Company fails to redeem such Notes or such portions thereof.

(8) 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 and the Trustee may require a Holder of a Note, 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. Also, it need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed.

(9) Persons Deemed Owners. Prior to due presentment to the Trustee for registration of the transfer of this Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name this Note is registered as its absolute owner for the purpose of receiving payment of principal of, premium, if any, and interest on this Note and for all other purposes whatsoever, whether or not this Note is overdue, and neither the Trustee, any Agent nor the Company shall be affected by notice to the contrary. The registered Holder of a Note shall be treated as its owner for all purposes.

(10) Amendments, Supplement and Waivers. Subject to certain exceptions, the Indenture or 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 the Notes), and any existing default or compliance with any provision of the Indenture or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes (including consents obtained in connection with a tender offer or exchange offer for the Notes). Notwithstanding the foregoing, (a) Sections 3.08 (Offer to Purchase by Application of Excess Proceeds), 4.10 (Asset Sales) and 4.15 (Offer to Repurchase Upon Change in Control) of the Indenture (including, in each case, the related definitions) may not be amended or waived without the written consent of at least 66 2/3% in principal amount of the Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for the Notes) and (b) without the consent of each Holder affected, an amendment or waiver may not (with respect to any Notes held by a non-consenting Holder of Notes) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver; reduce the principal of or change the fixed maturity of any Note or alter the provisions with respect to the redemption of the Notes; reduce the rate of or change the time for payment of interest on any Note; waive a Default or Event of Default in the payment of principal of or premium, if any, or interest on the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding Notes and a waiver of the payment default that resulted from such acceleration); make any Note payable in money other than that stated in the Notes; make any change in the provisions of the Indenture relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of or interest on the Notes; waive a

redemption payment or mandatory redemption with respect to any Note; or make any change in the foregoing amendment and waiver provisions. Notwithstanding the foregoing, without the consent of any Holder of a Note, the Indenture or the Notes may be amended or supplemented to cure any ambiguity, defect or inconsistency; to provide for uncertificated Notes or Guarantees in addition to or in place of certificated Notes or Guarantees; to provide for the assumption of the Company's or any Guarantor's obligations to the Holders of the Notes in case of a merger or consolidation; to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights under the Indenture of any such Holder; or to comply with the requirements of the SEC in order to effect or maintain the qualification of the Indenture under the Trust Indenture Act.

(11) Defaults and Remedies. Each of the following constitutes an Event of Default:

(a) default for 30 days in the payment when due of interest on the Notes;

(b) default in payment when due of principal of the Notes at maturity, upon repurchase, redemption or otherwise;

(c) failure to comply with the provisions described under Section 4.15 (Offer to Purchase Upon Change in Control), Section 4.11 (Limitation on Transactions with Affiliates), or Section 4.10 (Asset Sales) of the Indenture;

(d) default under the provisions described under Section 4.07 (Limitation on Restricted Payments) or Section 4.09 (Incurrence of Indebtedness) of the Indenture which default remains uncured for 30 days, or the breach of any representation or warranty, or the making of any untrue statement, in any certificate delivered by the Company pursuant to the Indenture;

(e) failure by the Company for 60 days after notice from the Trustee or the holders of at least 25% in principal amount of the then outstanding Notes to comply with any of its other agreements in the Indenture or the Notes;

(f) 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 and any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Company and any of its Restricted Subsidiaries), which default is caused by a failure to pay when due principal or interest on such Indebtedness within the grace period provided in such Indebtedness (a "Payment Default"), and 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, aggregates \$200 million or more;

(g) 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 and any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Company or any of its Restricted Subsidiaries), which default results in the acceleration of such Indebtedness prior to its express maturity and

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 \$200 million or more; provided that any acceleration (other than an acceleration which is the result of a Payment Default under clause (f) above) of Indebtedness under the Outstanding Deferred Payments in aggregate principal amount not to exceed \$200 million shall be deemed not to constitute an acceleration pursuant to this clause (g);

(h) failure by the Company or any of its Restricted Subsidiaries to pay final judgments (other than any judgment as to which a reputable insurance company has accepted full liability) aggregating in excess of \$100 million, which judgments are not stayed within 60 days after their entry;

(i) EchoStar, the Company or any Significant Subsidiary of the Company pursuant to or within the meaning of Bankruptcy Law: (i) commences a voluntary case; (ii) consents to the entry of an order for relief against it in an involuntary case; (iii) consents to the appointment of a Custodian of it or for all or substantially all of its property; or (iv) makes a general assignment for the benefit of its creditors;

(j) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that: (i) is for relief against EchoStar, the Company or any Significant Subsidiary of the Company in an involuntary case; (ii) appoints a custodian of EchoStar, the Company or any Significant Subsidiary of the Company or for all or substantially all of the property of EchoStar, the Company or any Significant Subsidiary of the Company; or (iii) orders the liquidation of EchoStar or any Significant Subsidiary of the Company, and the order or decree remains unstayed and in effect for 60 consecutive days; and

(k) any Guarantee shall be held in a judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect, or any Guarantor, or any person acting on behalf of any Guarantor, shall deny or disaffirm its obligations under its Guarantee.

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 Notes may declare all the Notes to be due and payable immediately (plus, in the case of an Event of Default that is the result of an action by the Company or any of its Subsidiaries intended to avoid restrictions on or premiums related to redemptions of the Notes contained in the Indenture or the Notes, an amount of premium that would have been applicable pursuant to the Notes or as set forth in the Indenture). Notwithstanding the foregoing, in the case of an Event of Default arising from the events of bankruptcy or insolvency with respect to the Company or any of its Subsidiaries described in (i) above, all outstanding Notes will become due and payable without further action or notice. Holders of the Notes 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 may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from holders of the 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 such holders' interest.

The holders of a majority in aggregate principal amount of the then outstanding Notes, by notice to the Trustee, may on behalf of the holders of all of the Notes 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 or premium on, or principal of, the Notes.

The Company is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Company is required upon becoming aware of any Default or Event of Default to deliver to the Trustee a statement specifying such Default or Event of Default.

All powers of the Trustee under the Indenture will be subject to applicable provisions of the Communications Act, including without limitation, the requirements of prior approval for de facto or de jure transfer of control or assignment of Title III licenses.

(12) Trustee Dealings with Company. The Trustee under the Indenture, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not Trustee; however, if the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as Trustee or resign.

(13) No Personal Liabilities of Directors, Officers, Employees, Incorporators and Stockholders. No director, officer, employee, incorporator or stockholder of the Company or any of its Affiliates, as such, shall have any liability for any obligations of the Company or any of its Affiliates under this Note 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 issuance of the Notes.

(14) Guarantees. Payment of principal and interest (including interest on overdue principal and overdue interest, if lawful) is unconditionally guaranteed, jointly and severally, by each of the Guarantors.

(15) Authentication. This Note shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

(16) Abbreviations. Customary abbreviations may be used in the name of a Holder of a Note or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entirety), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (5 Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

(17) CUSIP Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes and has directed the Trustee to use CUSIP numbers in notices of redemption as a convenience to Holders of Notes. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

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

EchoStar DBS Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120
Attention: David K. Moskowitz, Esq.

ASSIGNMENT FORM

To assign this Note, fill in the form below:

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

(Insert assignee's Soc. Sec. 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.

Date: _____

Your Signature: _____
(Sign exactly as your name
appears on the face of this
Note)

Signature Guarantee.

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have all or any part of this Note purchased by the Company pursuant to Section 3.08 or Section 4.15 of the Indenture check the appropriate box:

Section 3.08

Section 4.15

If you want to have only part of the Note purchased by the Company pursuant to Section 3.08 or Section 4.15 of the Indenture, state the amount you elect to have purchased:

\$

Date: _____

Your Signature: _____
(Sign exactly as your name
appears on the face of this Note)

Signature Guarantee.

[ATTACHMENT FOR GLOBAL NOTES]

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

DATE OF EXCHANGE	AMOUNT OF DECREASE IN PRINCIPAL AMOUNT OF THIS GLOBAL NOTE	AMOUNT OF INCREASE PRINCIPAL AMOUNT OF THE GLOBAL NOTE	PRINCIPAL AMOUNT OF THIS GLOBAL NOTE FOLLOWING SUCH DECREASE (OR INCREASE)	SIGNATURE OF AUTHORIZED OFFICER OF TRUSTEE OR NOTE CUSTODIAN
------------------	--	--	--	--

FORM OF GUARANTEE

[Name of Guarantor] and its successors under the Indenture, jointly and severally with any other Guarantors, hereby irrevocably and unconditionally guarantees (i) the due and punctual payment of the principal of, premium, if any, and interest on the Notes, whether at maturity, by acceleration or otherwise, the due and punctual payment of interest on the overdue principal of and interest, if any, on the Notes, to the extent lawful, and the due and punctual performance of all other obligations of EchoStar DBS Corporation (the "Company") to the Holders or the Trustee all in accordance with the terms set forth in Article 10 of the Indenture, (ii) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise and (iii) has agreed to pay any and all costs and expenses (including reasonable attorneys' fees) incurred by the Trustee or any Holder in enforcing any rights under this Guarantee. Capitalized terms used herein have the meanings assigned to them in the Indenture unless otherwise indicated.

No stockholder, officer, director or incorporator, as such, past, present or future, of [name of Guarantor] shall have any personal liability under this Guarantee by reason of his or its status as such stockholder, officer, director or incorporator. This Guarantee shall be binding upon [name of Guarantor] and its successors and assigns and shall inure to the benefit of the successors and assigns of the Trustee and the Holders and, in the event of any transfer or assignment of rights by any Holder or the Trustee, the rights and privileges herein conferred upon that party shall automatically extend to and be vested in such transferee or assignee, all subject to the terms and conditions hereof.

This Guarantee shall not be valid or obligatory for any purpose until the certificate of authentication on the Note upon which this Guarantee is noted shall have been executed by the Trustee under the Indenture by the manual signature of one of its authorized officers.

THE TERMS OF ARTICLE 10 OF THE INDENTURE ARE INCORPORATED HEREIN BY REFERENCE.

This Guarantee shall be governed by and construed in accordance with the laws of the State of New York.

[NAME OF GUARANTOR]

By: _____
 Name:
 Title:

B-1

FORM OF CERTIFICATE OF TRANSFER

EchoStar DBS Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120

U.S. Bank National Association
60 Livingston Avenue
St. Paul, Minnesota 55107

Re: 6 3/8% Senior Notes due 2011

Reference is hereby made to the Indenture, dated as of October 2, 2003 (the "Indenture"), among EchoStar DBS Corporation, as issuer (the "Company"), the Guarantors named therein and U.S. Bank National Association, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____ (the "Transferor") owns and proposes to transfer the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of \$_____ in such Note[s] or interests (the "Transfer"), to _____ (the "Transferee"), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1. CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE 144A GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO RULE 144A. The Transfer is being effected pursuant to and in accordance with Rule 144A under the United States Securities Act of 1933, as amended (the "Securities Act"), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believed and believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the 144A Global Note and/or the Definitive Note and in the Indenture and the Securities Act.
2. CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE REGULATION S GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO REGULATION S. The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act

and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a Person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act, (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Restricted Period, the transfer is not being made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on Transfer enumerated in the Private Placement Legend printed on the Regulation S Global Note and/or the Definitive Note and in the Indenture and the Securities Act.

3. CHECK AND COMPLETE IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN A DEFINITIVE NOTE PURSUANT TO ANY PROVISION OF THE SECURITIES ACT OTHER THAN RULE 144A OR REGULATION S. The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

- (a) such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act; or
- (b) or such Transfer is being effected to the Company or a subsidiary thereof;
- or
- (c) such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act.

4. CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE OR OF AN UNRESTRICTED DEFINITIVE NOTE.

- (a) CHECK IF TRANSFER IS PURSUANT TO RULE 144.
(i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfe

restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(b) CHECK IF TRANSFER IS PURSUANT TO REGULATION S. (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(c) CHECK IF TRANSFER IS PURSUANT TO OTHER EXEMPTION. (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Transferor]

By: _____
Name:
Title:

Dated: _____

ANNEX A TO CERTIFICATE OF TRANSFER

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

- (a) a beneficial interest in the:
 - (i) 144A Global Note (CUSIP _____), or
 - (ii) Regulation S Global Note (CUSIP _____), or
- (b) a Restricted Definitive Note.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

- (a) a beneficial interest in the:
 - (i) 144A Global Note (CUSIP _____), or
 - (ii) Regulation S Global Note (CUSIP _____), or
 - (iii) Unrestricted Global Note (CUSIP _____), or
- (b) a Restricted Definitive Note; or
- (c) an Unrestricted Definitive Note, in accordance with the terms of the Indenture.

FORM OF CERTIFICATE OF EXCHANGE

EchoStar DBS Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120

U.S. Bank National Association
60 Livingston Avenue
St. Paul, Minnesota 55107

Re: 6 3/8% Senior Notes due 2011

(CUSIP _____)

Reference is hereby made to the Indenture, dated as of October 2, 2003 (the "Indenture"), among EchoStar DBS Corporation, as issuer (the "Company"), the Guarantors named therein and U.S. Bank National Association, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____ (the "Owner") owns and proposes to exchange the Note[s] or interest in such Note[s] specified herein, in the principal amount of \$_____ in such Note[s] or interests (the "Exchange"). In connection with the Exchange, the Owner hereby certifies that:

1. EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN A RESTRICTED GLOBAL NOTE FOR UNRESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN AN UNRESTRICTED GLOBAL NOTE.

(a) CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the United States Securities Act of 1933, as amended (the "Securities Act"), (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(b) CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in

compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(c) CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(d) CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

2. EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES FOR RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES.

(a) CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO RESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

(b) CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the [CHECK ONE] _ 144A Global Note, _ Regulation S Global Note with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's

own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Transferor]

By: _____
Name:
Title:

Dated: _____

ECHOSTAR DBS CORPORATION
FLOATING RATE SENIOR NOTES DUE 2008

INDENTURE

Dated as of October 2, 2003

U.S. Bank National Association

Trustee

CROSS-REFERENCE TABLE

TIA Section -----	Indenture Section -----
310(a)(1).....	7.10
(a)(2).....	7.10
(a)(3).....	N/A
(a)(4).....	N/A
(b).....	7.10
(c).....	N/A
311(a).....	7.11
(b).....	7.11
(c).....	N/A
312(a).....	2.05
(b).....	11.03
(c).....	11.03
313(a).....	7.06
(b)(1).....	7.06
(b)(2).....	7.07
(c).....	7.06; 11.02
(d).....	7.06
314(a).....	4.03(a); 11.05
(4).....	4.04
(b).....	N/A
(c)(1).....	11.04
(c)(2).....	11.04
(c)(3).....	N/A
(d).....	N/A
(e).....	11.05
(f).....	N/A
315(a).....	7.01(b)
(b).....	7.05; 11.02
(c).....	7.01(a)
(d).....	7.01
(e).....	6.11
316(a) (last sentence).....	2.09
(a)(1)(A).....	6.05
(a)(1)(B).....	6.04
(a)(2).....	N/A
(b).....	6.07
(c).....	2.12
317(a)(1).....	6.08
(a)(2).....	6.09
(b).....	2.04
318(a).....	11.01
(c).....	11.01

N/A means Not Applicable.

Note: This Cross-Reference Table shall not, for any purposes, be deemed to be part of this Indenture.

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EXHIBITS

EXHIBIT A FORM OF NOTE
EXHIBIT B FORM OF GUARANTEE
EXHIBIT C FORM OF CERTIFICATE OF TRANSFER
EXHIBIT D FORM OF CERTIFICATE OF EXCHANGE

INDENTURE, dated as of October 2, 2003, among EchoStar DBS Corporation (the "Company"), a Colorado corporation, the Guarantors (as hereinafter defined) and U.S. Bank National Association, as trustee (the "Trustee").

The Company, the Guarantors and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the Company's Floating Rate Senior Notes due 2008.

RECITALS

The Company and the Guarantors have duly authorized the execution and delivery of this Indenture to provide for the issuance of the Notes and the Guarantees.

All things necessary (i) to make the Notes, when executed by the Company and authenticated and delivered hereunder and duly issued by the Company and delivered hereunder, the valid obligations of the Company, (ii) to make the Guarantees when executed by the Guarantors and delivered hereunder the valid obligations of the Guarantors, and (iii) to make this Indenture a valid agreement of the Company and the Guarantors, all in accordance with their respective terms, have been done.

For and in consideration of the premises and the purchase of the Notes by the Holders thereof, it is mutually agreed as follows for the equal and ratable benefit of the Holders of the Notes.

ARTICLE 1

DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.01 Definitions.

"144A Global Note" means one or more global Notes substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depository or its nominee, which, in the aggregate, are equal to the outstanding principal amount of the Notes initially sold in reliance on Rule 144A.

"Accounts Receivable Subsidiary" means one Unrestricted Subsidiary of the Company specifically designated as an Accounts Receivable Subsidiary for the purpose of financing the Company's accounts receivable and provided that any such designation shall not be deemed to prohibit the Company from financing accounts receivable through any other entity, including, without limitation, any other Unrestricted Subsidiary.

"Accounts Receivable Subsidiary Notes" means the notes to be issued by the Accounts Receivable Subsidiary for the purchase of accounts receivable.

"Acquired Debt" means, with respect to any specified Person, Indebtedness of any other Person existing at the time such other Person merges with or into or becomes a Subsidiary of such specified Person, or Indebtedness incurred by such specified Person in

connection with the acquisition of assets, including Indebtedness incurred in connection with, or in contemplation of, such other Person merging with or into or becoming a Subsidiary of such specified Person or the acquisition of such assets, as the case may be.

"Acquired Subscriber" means a subscriber to a telecommunications service provided by a telecommunications service provider that is not an Affiliate of the Company at the time the Company or one of its Restricted Subsidiaries purchases the right to provide telecommunications services to such subscriber from such telecommunications service provider, whether directly or through the acquisition of the entity providing telecommunications services or assets used or to be used to provide telecommunications service to such subscriber.

"Acquired Subscriber Debt" means (i) Indebtedness, the proceeds of which are used to pay the purchase price for Acquired Subscribers or to acquire the entity which has the right to provide telecommunications services to such Acquired Subscribers or to acquire from such entity or an Affiliate of such entity assets used or to be used in connection with such telecommunications business; provided that such Indebtedness is incurred within three years after the date of the acquisition of such Acquired Subscriber and (ii) Acquired Debt of any such entity being acquired; provided that in no event shall the amount of such Indebtedness and Acquired Debt for any Acquired Subscriber exceed the sum of the actual purchase price (inclusive of such Acquired Debt) for such Acquired Subscriber, such entity and such assets plus the cost of converting such Acquired Subscriber to usage of a delivery format for telecommunications services made available by the Company or any of its Restricted Subsidiaries.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For 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; provided further that no individual, other than a director of EchoStar or the Company or an officer of EchoStar or the Company with a policy making function, shall be deemed an Affiliate of the Company or any of its Subsidiaries solely by reason of such individual's employment, position or responsibilities by or with respect to EchoStar, the Company or any of their respective Subsidiaries.

"Agent" means any Registrar, Paying Agent or co-registrar.

"Applicable Eurodollar Rate" means, for each Interest Period, the applicable LIBOR rate for deposits in U.S. dollars for a period of three months for the applicable Interest Period plus 3.25% per annum as determined by the Calculation Agent in accordance with the following provisions:

(i) LIBOR for any Interest Period will equal the rate, as determined by the Calculation Agent, for three month U.S. dollar deposits which appears on the Telerate Page 3750 as of 11:00 a.m., London time, on the applicable LIBOR

Determination Date, as reported by Bloomberg Financial Markets Commodities News;

(ii) if, on any LIBOR Determination Date, such rate does not appear on the Telerate Page 3750, the Calculation Agent will determine the arithmetic mean of the offered quotations of the Reference Banks to prime banks in the London interbank market for Eurodollar deposits for the relevant term by reference to requests for quotations as of approximately 11:00 a.m., London time, on such LIBOR Determination Date made by the Calculation Agent to the Reference Banks; provided, however, if, on the LIBOR Determination Date, at least two of the Reference Banks provide such quotations, LIBOR will equal such arithmetic mean; provided, further, if, on any LIBOR Determination Date, only one or none of the Reference Banks provide such quotations, LIBOR will be deemed to be the arithmetic mean of the offered quotations that the leading banks in New York City selected by the Calculation Agent, after consultation with the Company, are quoting on the relevant LIBOR Determination Date for U.S. dollar deposits for the relevant term, to the principal London offices of leading banks in the London interbank market; and

(iii) if the Calculation Agent is required but is unable to determine a rate in accordance with at least one of the procedures provided above, LIBOR with respect to such Interest Period will be LIBOR as calculated on the immediately preceding LIBOR Determination Date.

For the purpose of clause (ii) above, all percentages resulting from such calculations will be rounded, if necessary, to the nearest one thirty-second of a percentage point and, for purposes of clause (iii) above, all percentages resulting from such calculations will be rounded, if necessary, to the nearest one hundred thousandth of a percentage point.

"Applicable Procedures" means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depository, Euroclear and Clearstream that apply to such transfer or exchange.

"Bankruptcy Law" means title 11, U.S. Code or any similar federal or state law for the relief of debtors.

"Board of Directors" means the Board of Directors of the Company.

"Broker-Dealer" has the meaning set forth in the Registration Rights Agreement.

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

"Calculation Agent" means a financial institution appointed by the Company to calculate the interest rate payable on the Notes in respect of each Interest Period, which shall initially be the Trustee.

"Capital Lease Obligation" means, as to any Person, the obligations of such Person under a lease that are required to be classified and accounted for as capital lease

obligations under GAAP and, for purposes of this definition, the amount of such obligations at the time any determination thereof is to be made shall be the amount of the liability in respect of a capital lease that would at such time be so required to be capitalized on a balance sheet in accordance with GAAP.

"Capital Stock" means any and all shares, interests, participations, rights or other equivalents, however designated, of corporate stock or partnership or membership interests, whether common or preferred.

"Cash Equivalents" means: (a) United States dollars; (b) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof having maturities of not more than one year from the date of acquisition; (c) certificates of deposit and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances with maturities not exceeding one year and overnight bank deposits, in each case with any domestic commercial bank having capital and surplus in excess of \$500 million; (d) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clauses (b) and (c) entered into with any financial institution meeting the qualifications specified in clause (c) above; (e) commercial paper rated P-1 or better, A-1 or better or the equivalent thereof by Moody's or S&P, respectively, and in each case maturing within 12 months after the date of acquisition; and (f) money market funds offered by any domestic commercial or investment bank having capital and surplus in excess of \$500 million at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses (a) through (e) of this definition.

"Change of Control" means: (a) any transaction or series of transactions the result of which is that any Person (other than the Principal or a Related Party) individually owns more than 50% of the total Equity Interest of ECC; (b) the first day on which a majority of the members of the Board of Directors of EchoStar are not Continuing Directors; or (c) any time that EchoStar shall cease to beneficially own 100% of the Equity Interests of the Company.

"Clearstream" means Clearstream Banking, societe anonyne.

"Communications Act" means the Communications Act of 1934, as amended.

"Consolidated Cash Flow" means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period, plus, to the extent deducted in computing Consolidated Net Income: (a) provision for taxes based on income or profits; (b) Consolidated Interest Expense; (c) depreciation and amortization (including amortization of goodwill and other intangibles) of such Person for such period; and (d) any extraordinary loss and any net loss realized in connection with any Asset Sale, in each case, on a consolidated basis determined in accordance with GAAP; provided that Consolidated Cash Flow shall not include interest income derived from the net proceeds of the Offering.

"Consolidated Interest Expense" means, with respect to any Person for any period, consolidated interest expense of such Person for such period, whether paid or accrued, including amortization of original issue discount and deferred financing costs, non-cash interest payments and the interest component of Capital Lease Obligations, on a consolidated basis

determined in accordance with GAAP; provided, however, that with respect to the calculation of the consolidated interest expense of the Company, the interest expense of Unrestricted Subsidiaries shall be excluded.

"Consolidated Net Income" means, with respect to any Person for any period, the aggregate of the Net Income of such Person and its Subsidiaries or, if such Person is the Company, of the Company and its Restricted Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP; provided, however, that: (a) the Net Income of any Person that is not a Subsidiary or that is accounted for by the equity method of accounting shall be included only to the extent of the amount of dividends or distributions paid in cash to the referent Person, in the case of a gain, or to the extent of any contributions or other payments by the referent Person, in the case of a loss; (b) the Net Income of any Person that is a Subsidiary that is not a Wholly Owned Subsidiary shall be included only to the extent of the amount of dividends or distributions paid in cash to the referent Person; (c) the Net Income of any Person acquired in a pooling of interests transaction for any period prior to the date of such acquisition shall be excluded; (d) the Net Income of any Subsidiary of such Person shall be excluded to the extent that the declaration or payment of dividends or similar distributions is not at the time permitted by operation of the terms of its charter or bylaws or any other agreement, instrument, judgment, decree, order, statute, rule or government regulation to which it is subject; and (e) the cumulative effect of a change in accounting principles shall be excluded.

"Consolidated Net Tangible Assets" means, with respect to any Person, the aggregate amount of assets of such Person (less applicable reserves and other properly deductible items) after deducting therefrom (to the extent otherwise included therein) (a) all current liabilities and (b) all goodwill, trade names, trademarks, patents, unamortized debt discount and expense and other like intangibles, all as set forth in the books and records of such Person and its consolidated Subsidiaries as of the end of the most recently ended fiscal quarter and computed in accordance with GAAP.

"Consolidated Net Worth" means, with respect to any Person, the sum of: (a) the stockholders' equity of such Person; plus (b) the amount reported on such Person's most recent balance sheet with respect to any series of preferred stock (other than Disqualified Stock) that by its terms is not entitled to the payment of dividends unless such dividends may be declared and paid only out of net earnings in respect of the year of such declaration and payment, but only to the extent of any cash received by such Person upon issuance of such preferred stock, less: (i) all write-ups (other than write-ups resulting from foreign currency translations and write-ups of tangible assets of a going concern business made within 12 months after the acquisition of such business) subsequent to the date of this Indenture in the book value of any asset owned by such Person or a consolidated Subsidiary of such Person; and (ii) all unamortized debt discount and expense and unamortized deferred charges, all of the foregoing determined on a consolidated basis in accordance with GAAP.

"Continuing Director" means, as of any date of determination, any member of the Board of Directors of EchoStar who: (a) was a member of such Board of Directors on the date of this 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.

"Corporate Trust Office of the Trustee" shall be at the address of the Trustee specified in Section 11.02 or such other address as to which the Trustee may give notice to the Company.

"DBS" means direct broadcast satellite.

"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.

"Deferred Payments" means Indebtedness owed to satellite construction or launch contractors incurred after the date of this Indenture in connection with the construction or launch of one or more satellites of the Company or its Restricted Subsidiaries used by the Company and/or them in the businesses described in Section 4.16 in an aggregate principal amount not to exceed \$200 million at any one time outstanding.

"Definitive Note" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 of this Indenture, substantially in the form of Exhibit A hereto except that such Note shall not bear the Global Note Legend and shall not have the "Schedule of Exchanges of Interests in the Global Note" attached thereto.

"Depository" means the Depository Trust Company and any and all successors thereto appointed as depository hereunder and having become such pursuant to an applicable provision of this Indenture.

"Disqualified Stock" means any Capital Stock which, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder thereof, in whole or in part, on or prior to the date on which the Notes mature; provided, however, that any such Capital Stock may require the issuer of such Capital Stock to make an offer to purchase such Capital Stock upon the occurrence of certain events if the terms of such Capital Stock provide that such an offer may not be satisfied and the purchase of such Capital Stock may not be consummated until the 91st day after the Notes have been paid in full.

"DNCC" means Dish Network Credit Corporation, a Colorado corporation.

"EchoStar" means EchoStar Communications Corporation, a Nevada corporation, together with each Wholly Owned Subsidiary of EchoStar that beneficially owns 100% of the Equity Interests of the Company, but only so long as EchoStar beneficially owns 100% of the Equity Interests of such Subsidiary.

"EchoStar Dish Network" means the DBS service of the Company and its Subsidiaries.

"EchoStar I" means the Company's high-powered direct broadcast satellite as identified in EchoStar's Annual Report on Form 10-K for the year ended December 31, 2002 and consolidated financial statements included therein.

"EchoStar II" means the Company's high-powered direct broadcast satellite as identified in EchoStar's Annual Report on Form 10-K for the year ended December 31, 2002 and consolidated financial statements included therein.

"EchoStar III" means the high-powered direct broadcast satellite as identified in EchoStar's Annual Report on Form 10-K for the year ended December 31, 2002 and consolidated financial statements included therein.

"EchoStar IV" means the high-powered direct broadcast satellite as identified in EchoStar's Annual Report on Form 10-K for the year ended December 31, 2002 and consolidated financial statements included therein.

"EDBS Exchange Indenture" means the indenture, dated as of November 4, 2002, among the Company, the guarantors of the EDBS Exchange Notes named therein and U.S. Bank National Association, as trustee, as the same may be amended, modified or supplemented from time to time.

"EDBS Exchange Notes" means the \$1,000,000,000 aggregate principal original issue amount of 10-3/8% Senior Notes due 2007 issued by the Company.

"EDBS Notes" means the 2001 EDBS Notes, the 1999 EDBS Notes and the EDBS Exchange Notes.

"EDBS Notes Indentures" means the 2001 EDBS Notes Indenture, the 1999 EDBS Notes Indenture and the EDBS Exchange Indenture.

"Eligible Institution" means a commercial banking institution that has combined capital and surplus of not less than \$500 million or its equivalent in foreign currency, whose debt is rated Investment Grade at the time as of which any investment or rollover therein is made.

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

"ESC" means EchoStar Satellite Corporation, a Colorado corporation.

"ETC" means EchoStar Technologies Corporation, a Texas corporation.

"Euroclear" means Euroclear Bank S.A./N.V., as operator of the Euroclear system.

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

"Exchange Notes" means the Notes issued in the Exchange Offer pursuant to Section 2.06(f) or pursuant to a registered exchange offer for Notes with a Private Placement Legend issued after the Issue Date.

"Exchange Offer" has the meaning set forth in the Registration Rights Agreement with respect to the Notes.

"Exchange Offer Registration Statement" has the meaning set forth in the Registration Rights Agreement with respect to the Notes.

"Existing Indebtedness" means the Notes, the 5 3/4% Notes, the 6 3/8% Notes and any other Indebtedness of the Company and its Subsidiaries in existence on the date of this Indenture until such amounts are repaid.

"FCC" means Federal Communications Commission.

"5 3/4% Notes" means the \$1,000,000,000 aggregate principal original issue amount of 5 3/4% Senior Notes due 2008 issued by the Company under the 5 3/4% Notes Indenture.

"5 3/4% Notes Indenture" means the indenture, dated as of October 2, 2003, among the Company, the guarantors of the 5 3/4% Notes named therein and U.S. Bank National Association, as trustee.

"GAAP" means United States 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 may be approved by a significant segment of the accounting profession of the United States of America, which are applicable as of the date of determination; provided that, except as otherwise specifically provided, all calculations made for purposes of determining compliance with the terms of the provisions of this Indenture shall utilize GAAP as in effect on the date of this Indenture.

"Global Note Legend" means the legend set forth in Section 2.01, which is required to be placed on all Global Notes issued under this Indenture.

"Global Notes" means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes, substantially in the form of Exhibit A hereto issued in accordance with Section 2.01 or 2.06 of this Indenture.

"Government Securities" means direct obligations of, or obligations guaranteed by, the United States of America for the payment of which guarantee or obligations the full faith and credit of the United States of America is pledged.

"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.

"Guarantee" means a guarantee of the Notes by a Guarantor.

"Guarantor" means any entity that executes a Guarantee of the obligations of the Company under the Notes, and their respective successors and assigns.

"Hedging Obligations" means, with respect to any Person, the obligations of such Person pursuant to any arrangement with any other Person, whereby, directly or indirectly, such Person is entitled to receive from time to time periodic payments calculated by applying either floating or a fixed rate of interest on a stated notional amount in exchange for periodic payments made by such other Person calculated by applying a fixed or a floating rate of interest on the same notional amount and shall include, without limitation, interest rate swaps, caps, floors, collars and similar agreements designed to protect such Person against fluctuations in interest rates.

"Holder" means a Person in whose name a Note is registered.

"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 (including pursuant to capital leases) or representing any Hedging Obligations, except any such balance that constitutes an accrued expense or trade payable, if and to the extent any of the foregoing (other than Hedging Obligations) 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 amount of all obligations of such Person with respect to the redemption, repayment or other repurchase of any Disqualified Stock or, with respect to any Subsidiary of such Person, the liquidation preference with respect to, any Preferred Equity Interests (but excluding, in each case, any accrued dividends) as well as the guarantee of items that would be included within this definition.

"Indebtedness to Cash Flow Ratio" means, with respect to any Person, the ratio of: (a) the Indebtedness of such Person and its Subsidiaries (or, if such Person is the Company, of the Company and its Restricted Subsidiaries) as of the end of the most recently ended fiscal quarter, plus the amount of any Indebtedness incurred subsequent to the end of such fiscal quarter; to (b) such Person's Consolidated Cash Flow for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such event for which such calculation is being made shall occur (the "Measurement Period"); provided, however; that if such Person or any of its Subsidiaries (or, if such Person is the Company, any of its Restricted Subsidiaries) consummates an acquisition, merger or other business combination or an Asset Sale or other disposition of assets subsequent to the commencement of the Measurement Period for which the calculation of the Indebtedness to Cash Flow Ratio is made, then the Indebtedness to Cash Flow Ratio shall be calculated giving pro forma effect to such transaction(s) as if the same had occurred at the beginning of the applicable period.

"Indenture" means this Indenture, as amended or supplemented from time to time.

"Indirect Participant" means a Person who holds a beneficial interest in a Global Note through a Participant.

"Initial Notes" means the \$500.0 million aggregate principal amount Floating Rate Senior Notes due 2008 of the Company issued under this Indenture on the Issue Date.

"Initial Purchasers" means, with respect to the Notes, Banc of America LLC and Credit Suisse First Boston LLC.

"Interest Period" means the period from and including the date of issuance of the Notes to but excluding the first Interest Payment Date after the issuance of the Notes, and each successive three month period from and including each Interest Payment Date to but excluding the following Interest Payment Date.

"Investment Grade" means, with respect to a security, that such security is rated at least BBB- or higher by S&P or Baa3 or higher by Moody's (or, in the event of change in ratings systems, the equivalent of such ratings by S&P or Moody's), or the equivalent rating of another nationally recognized statistical rating organization.

"Investments" means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the forms of loans (including guarantees), advances or capital contributions (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities and all other items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP.

"Issue Date" means October 2, 2003, the date of original issuance of the Initial Notes.

"Legal Holiday" means a Saturday, a Sunday or a day on which banking institutions in the City of New York or at a place of payment are authorized or required by law, regulation or executive order to remain closed. 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.

"Letter of Transmittal" means the letter of transmittal to be prepared by the Company and sent to all Holders of the Notes for use by such Holders in connection with the Exchange Offer.

"LIBOR Determination Date" means, with respect to any Interest Period, the second London Banking Day prior to the first day of such Interest Period.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law (including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statute) of any jurisdiction).

"London Banking Day" means any day on which commercial banks are open for business, including dealings in foreign exchange and foreign currency deposits, in London.

"Marketable Securities" means: (a) Government Securities; (b) any certificate of deposit maturing not more than 365 days after the date of acquisition issued by, or time deposit of, an Eligible Institution; (c) commercial paper maturing not more than 365 days after the date of acquisition issued by a corporation (other than an Affiliate of the Company) with an Investment Grade rating, at the time as of which any investment therein is made, issued or offered by an Eligible Institution; (d) any bankers' acceptances or money market deposit accounts issued or offered by an Eligible Institution; and (e) any fund investing exclusively in investments of the types described in clauses (a) through (d) above.

"Maximum Secured Amount" means 3.0 times the Trailing Cash Flow Amount, or, if greater and following a Fall Away Event, 15% of the Company's Consolidated Net Tangible Assets.

"Moody's" means Moody's Investors Service, Inc.

"Net Income" means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP, excluding, however, any gain (but not loss), together with any related provision for taxes on such gain (but not loss), realized in connection with any Asset Sale (including, without limitation, dispositions pursuant to sale and leaseback transactions), and excluding any extraordinary gain (but not loss), together with any related provision for taxes on such extraordinary gain (but not loss) and excluding any unusual gain (but not loss) relating to recovery of insurance proceeds on satellites, together with any related provision for taxes on such extraordinary gain (but not loss).

"Net Proceeds" means the aggregate cash proceeds received by the Company or any of its Restricted Subsidiaries, as the case may be, in respect of any Asset Sale, net of the direct costs relating to such Asset Sale (including, without limitation, legal, accounting and investment banking fees, and sales commissions) and any relocation expenses incurred as a result thereof, taxes paid or payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements), amounts required to be applied to the repayment of Indebtedness secured by a Lien on the asset or assets that are the subject of such Asset Sale and any reserve for adjustment in respect of the sale price of such asset or assets. Net Proceeds shall exclude any non-cash proceeds received from any Asset Sale, but shall include such proceeds when and as converted by the Company or any Restricted Subsidiary to cash.

"1999 EDBS Notes" means the \$1,625,000,000 aggregate principal original issue amount of 9-3/8% Senior Notes due 2009 issued by the Company.

"1999 EDBS Notes Indenture" means the indenture dated January 25, 1999 among the Company, the guarantors of the 1999 EDBS Notes named therein and U.S. Bank National Association, as Trustee, as the same may be amended, modified or supplemented from time to time.

"Non-Core Assets" means: (1) all intangible present and possible future authorizations, rights, interests and other intangible assets related to all "western" DBS orbital

Locations other than the 148 degree orbital slot (as the term "western" is used by the FCC) held by the Company and/or any of its Subsidiaries at any time, including without limitation the authorization for 3 DBS frequencies at the 157 degree orbital location; (2) all intangible present and possible future authorizations, rights, interests and other intangible assets related to the fixed satellite service in the Ku-band, Ka-band and C-band held by the Company and/or any of its Subsidiaries at any time, including without limitation the license of ESC for a two satellite Ka/Ku-band system at 83 degree and 121 degree orbital location, the application of ESC to add C-band capabilities to a Ku-band satellite authorized at 83 degree orbital location, and ESC's pending applications for Ka-band and extended Ku-band satellites related to the fixed satellite service; (3) all present and possible future intangible authorizations, rights, interests and other intangible assets related to the mobile satellite service held by the Company and/or any of its Subsidiaries at any time, including without limitation the license of E-SAT, Inc. for a low-earth orbit mobile satellite service system; (4) all present and possible future intangible authorizations, rights, interests and other intangible assets related to local multi-point distribution service; and (5) any Subsidiary of the Company the assets of which consist solely of (i) any combination of the foregoing and (ii) other assets to the extent permitted under the provision described under the second paragraph of Section 4.19.

"Non-Recourse Indebtedness" of any Person means Indebtedness of such Person that: (i) is not guaranteed by any other Person (except a Wholly Owned Subsidiary of the referent Person); (ii) is not recourse to and does not obligate any other Person (except a Wholly Owned Subsidiary of the referent Person) in any way; (iii) does not subject any property or assets of any other Person (except a Wholly Owned Subsidiary of the referent Person), directly or indirectly, contingently or otherwise, to the satisfaction thereof, and (iv) is not required by GAAP to be reflected on the financial statements of any other Person (other than a Subsidiary of the referent Person) prepared in accordance with GAAP.

"Non-U.S. Person" means a Person who is not a U.S. Person.

"Notes" means the Initial Notes, the Exchange Notes and any other notes issued after the Issue Date in accordance with the fourth paragraph of Section 2.02 of this Indenture treated as a single class of securities.

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

"Offering" means the offering of the Notes, the 6 3/8% Notes and the 5 3/4% Notes pursuant to the Offering Memorandum.

"Offering Memorandum" means the Offering Memorandum, dated September 18, 2003, relating to and used in connection with the Offering.

"Officer" means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, Controller, Secretary or any Vice-President of such Person.

"Officers' Certificate" means a certificate signed on behalf of the Company by two Officers of the Company, one of whom must be the principal executive officer, principal financial officer, treasurer or principal accounting officer of the Company.

"Opinion of Counsel" means an opinion from legal counsel, who may be an employee of or counsel to the Company, any Subsidiary of the Company or the Trustee.

"Participant" means, with respect to the Depository, Euroclear or Clearstream, a Person who has an account with the Depository, Euroclear or Clearstream, respectively (and, with respect to DTC, shall include Euroclear and Clearstream).

"Permitted Investments" means: (a) Investments in the Company or in a Wholly Owned Restricted Subsidiary that is a Guarantor; (b) Investments in Cash Equivalents and Marketable Securities; and (c) Investments by the Company or any of its Subsidiaries in a Person if, as a result of such Investment: (i) such Person becomes a Wholly Owned Restricted Subsidiary and becomes a Guarantor, or (ii) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Company or a Wholly Owned Restricted Subsidiary that is a Guarantor; provided that if at any time a Restricted Subsidiary of the Company shall cease to be a Subsidiary of the Company, the Company shall be deemed to have made a Restricted Investment in the amount of its remaining investment, if any, in such former Subsidiary.

"Permitted Liens" means:

(a) Liens securing the Notes, the 6 3/8% Notes and the 5 3/4% Notes and Liens securing any Guarantee, any Guarantee (as defined in the 5 3/4% Notes Indenture) and any Guarantee (as defined in the 6 3/8% Notes Indenture);

(b) Liens securing the Deferred Payments;

(c) Liens securing any Indebtedness permitted under Section 4.09 of this Indenture; provided that such Liens under this clause (c) shall not secure Indebtedness in an amount exceeding the Maximum Secured Amount at the time that such Lien is incurred;

(d) Liens securing Purchase Money Indebtedness; provided that such Indebtedness was permitted to be incurred by the terms of this Indenture and such Liens do not extend to any assets of the Company or its Restricted Subsidiaries other than the assets so acquired;

(e) Liens securing Indebtedness the proceeds of which are used to develop, construct, launch or insure any satellites other than EchoStar I, EchoStar II, EchoStar III, EchoStar IV; provided that such Indebtedness was permitted to be incurred by the terms of this Indenture and such Liens do not extend to any assets of the Company or its Restricted Subsidiaries other than such satellites being developed, constructed, launched or insured, and to the related licenses, permits and construction, launch and TT&C contracts;

(f) Liens on orbital slots, licenses and other assets and rights of the Company, provided that such orbital slots, licenses and other assets and rights relate solely to the satellites referred to in clause (e) of this definition;

(g) Liens on property of a Person existing at the time such Person is merged into or consolidated with the Company or any of its Restricted Subsidiaries, provided that such Liens were not incurred in connection with, or in contemplation of, such merger or consolidation, other than in the ordinary course of business;

(h) Liens on property of an Unrestricted Subsidiary at the time that it is designated as a Restricted Subsidiary pursuant to the definition of "Unrestricted Subsidiary;" provided that such Liens were not incurred in connection with, or contemplation of, such designation;

(i) Liens on property existing at the time of acquisition thereof by the Company or any Restricted Subsidiary of the Company; provided that such Liens were not incurred in connection with, or in contemplation of, such acquisition and do not extend to any assets of the Company or any of its Restricted Subsidiaries other than the property so acquired;

(j) Liens to secure the performance of statutory obligations, surety or appeal bonds or performance bonds, or landlords', carriers', warehousemen's, mechanics', suppliers', materialmen's or other like Liens, in any case incurred in the ordinary course of business and with respect to amounts not yet delinquent or being contested in good faith by appropriate process of law, if a reserve or other appropriate provision, if any, as is required by GAAP shall have been made therefor;

(k) Liens existing on the Issue Date;

(l) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded; provided that any reserve or other appropriate provision as shall be required in conformity with GAAP shall have been made therefor;

(m) Liens incurred in the ordinary course of the business of the Company or any of its Restricted Subsidiaries (including, without limitation, Liens securing Purchase Money Indebtedness) with respect to obligations that do not exceed \$50 million in principal amount in the aggregate at any one time outstanding;

(n) Liens securing Indebtedness in an amount not to exceed \$50 million incurred pursuant to clause (11) of the second paragraph of Section 4.09 of this Indenture;

(o) Liens on any asset of the Company or any of its Restricted Subsidiaries securing Indebtedness in an amount not to exceed \$25 million;

(p) Liens securing Indebtedness permitted under clause (12) of the second paragraph of Section 4.09 of this Indenture; provided that such Liens shall not extend to assets other than the assets that secure such Indebtedness being refinanced;

(q) any interest or title of a lessor under any Capital Lease Obligations; provided that such Capital Lease Obligation is permitted under the other provisions of this Indenture;

(r) Liens permitted to be incurred under the EDBS Notes Indentures;

(s) Liens not provided for in clauses (a) through (r) above, securing Indebtedness incurred in compliance with the terms of this Indenture; provided that the Notes are secured by the assets subject to such Liens on an equal and ratable basis or on a basis prior to such Liens; provided that to the extent that such Lien secured Indebtedness that is subordinated to the Notes, such Lien shall be subordinated to and be later in priority than the Notes on the same basis; and

(t) extensions, renewals or refundings of any Liens referred to in clauses (a) through (q) above; provided that (i) any such extension, renewal or refunding does not extend to any assets or secure any Indebtedness not securing or secured by the Liens being extended, renewed or refinanced and (ii) any extension, renewal or refunding of a Lien originally incurred pursuant to clause (c) above shall not secure Indebtedness in an amount greater than the Maximum Secured Amount at the time of such extension, renewal or refunding.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust or unincorporated organization (including any subdivision or ongoing business of any such entity or substantially all of the assets of any such entity, subdivision or business).

"Preferred Equity Interest," in any Person, means an Equity Interest of any class or classes (however designated) which is preferred as to the payment of dividends or distributions, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over Equity Interests of any other class in such Person.

"Principal" means Charles W. Ergen.

"Private Placement Legend" means the legend set forth in Section 2.01 to be placed on all Notes issued under this Indenture except where otherwise permitted by the provisions of this Indenture.

"Purchase Money Indebtedness" means (i) Indebtedness of the Company, or any Guarantor incurred (within 365 days of such purchase) to finance the purchase of any assets (including the purchase of Equity Interests of Persons that are not Affiliates of the Company or the Guarantors): (a) to the extent the amount of Indebtedness thereunder does not exceed 100% of the purchase cost of such assets; and (b) to the extent that no more than \$50 million of such Indebtedness at any one time outstanding is recourse to the Company or any of its Restricted Subsidiaries or any of their respective assets, other than the assets so purchased; and (ii) Indebtedness of the Company or any Guarantor which refinances Indebtedness referred to in clause (i) of this definition, provided that such refinancing satisfies subclauses (a) and (b) of such clause (i).

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

"Rating Agencies" means: (a) S&P; (b) Moody's; or (c) if S&P or Moody's or both shall not make a rating of the Notes publicly available, a nationally recognized securities rating agency or agencies, as the case may be, selected by the Company, which shall be substituted for S&P or Moody's or both, as the case may be.

"Receivables Trust" means a trust organized solely for the purpose of securitizing the accounts receivable held by the Accounts Receivable Subsidiary that (a) shall not engage in any business other than (i) the purchase of accounts receivable or participation interests therein from the Accounts Receivable Subsidiary and the servicing thereof, (ii) the issuance of and distribution of payments with respect to the securities permitted to be issued under clause (b) below and (iii) other activities incidental to the foregoing, (b) shall not at any time incur indebtedness or issue any securities, except (i) certificates representing undivided interests in the trust issued to the Accounts Receivable Subsidiary and (ii) debt securities issued in an arm's length transaction for consideration solely in the form of cash and Cash Equivalents, all of which (net of any issuance fees and expenses) shall promptly be paid to the Accounts Receivable Subsidiary, and (c) shall distribute to the Accounts Receivable Subsidiary as a distribution on the Accounts Receivable Subsidiary's beneficial interest in the trust no less frequently than once every six months all available cash and Cash Equivalents held by it, to the extent not required for reasonable operating expenses or reserves therefor or to service any securities issued pursuant to clause (b) above that are not held by the Accounts Receivable Subsidiary.

"Reference Banks" means four major banks in the London Interbank market selected by the Calculation Agent.

"Registration Rights Agreement" means the Registration Rights Agreement for the Notes, the 6 3/8% Notes and the 5 3/4% Notes, dated as of October 2, 2003, by and among the Company, the Guarantors, the Initial Purchasers and any other parties named on the signature pages thereof, as such agreement may be amended, modified or supplemented from time to time.

"Regulation S" means Regulation S promulgated under the Securities Act.

"Regulation S Global Note" means one or more global Notes substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depositary or its nominee, which, in the aggregate, are equal to the outstanding principal amount of the Notes initially sold in reliance on Rule 903 of Regulation S.

"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.

"Responsible Officer," when used with respect to the Trustee, means any officer within the Corporate Trust Administration of the Trustee (or any successor group of the Trustee) or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

"Restricted Definitive Note" means a Definitive Note bearing the Private Placement Legend.

"Restricted Global Note" means a Global Note bearing the Private Placement Legend.

"Restricted Investment" means an Investment other than Permitted Investments.

"Restricted Period" means the 40-day distribution compliance period as defined in Regulation S.

"Restricted Subsidiary" or "Restricted Subsidiaries" 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 the Company or one or more Subsidiaries of the Company or a combination thereof, other than Unrestricted Subsidiaries.

"Rule 144" means Rule 144 promulgated under the Securities Act.

"Rule 144A" means Rule 144A promulgated under the Securities Act.

"Rule 903" means Rule 903 promulgated under the Securities Act.

"Rule 904" means Rule 904 promulgated under the Securities Act.

"S&P" means Standard & Poor's Ratings Group, a division of The McGraw Hill Companies, Inc.

"Satellite Receiver" means any satellite receiver capable of receiving programming from the EchoStar Dish Network.

"SEC" means the Securities and Exchange Commission.

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

"Shelf Registration Statement" means the Shelf Registration Statement as defined in the Registration Rights Agreement.

"Significant Subsidiary" means any Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X promulgated pursuant to the Securities Act, as such regulation is in effect on the Issue Date.

"6 3/8% Notes" means the \$1,000,000,000 aggregate principal original issue amount of 6 3/8% Senior Notes due 2011 issued by the Company under the 6 3/8% Notes Indenture.

"6 3/8% Notes Indenture" means the indenture, dated as of October 2, 2003, among the Company, the guarantors of the 6 3/8% Notes named therein and U.S. Bank National Association, as trustee.

"Subsidiary" or "Subsidiaries" means, with respect to any Person, 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 such Person or one or more of the other Subsidiaries of such Person or a combination thereof.

"Telerate Page 3750" means the display page currently so designated on the Moneyline Telerate Service or such other page as may replace such page on such service for the purpose of displaying comparable rates.

"TIA" means the Trust Indenture Act of 1939 as in effect on the date of this Indenture.

"Trailing Cash Flow Amount" means the Consolidated Cash Flow of the Company during the most recent four fiscal quarters of the Company for which financial statements are available; provided that if the Company or any of its Restricted Subsidiaries consummates a merger, acquisition or other business combination or an Asset Sale or other disposition of assets subsequent to the commencement of such period but prior to or contemporaneously with the event for which the calculation of Trailing Cash Flow Amount is made, then Trailing Cash Flow Amount shall be calculated giving pro forma effect to such material acquisition or Asset Sale or other disposition of assets, as if the same had occurred at the beginning of the applicable period.

"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 serving hereunder.

"TT&C" means telemetry, tracking and control.

"2001 EDBS Notes" means the \$700,000,000 aggregate principal original issue amount of 9-1/8% Senior Notes due 2009 issued by the Company.

"2001 EDBS Notes Indenture" means the indenture dated December 28, 2001 among the Company and U.S. Bank National Association, as trustee, as the same may be amended, modified or supplemented from time to time.

"2003 Indentures" means this Indenture, the 6 3/8% Notes Indenture and the 5-3/4% Notes Indenture.

"U.S. Person" means a U.S. Person as defined in Rule 902(k) under the Securities Act.

"Unrestricted Definitive Note" means one or more Definitive Notes that do not bear and are not required to bear the Private Placement Legend.

"Unrestricted Global Note" means a permanent global Note substantially in the form of Exhibit A attached hereto that bears the Global Note Legend and that has the "Schedule

of Exchanges of Interests in the Global Note" attached thereto, and that is deposited with or on behalf of and registered in the name of the Depository, representing Notes that do not bear the Private Placement Legend.

"Unrestricted Subsidiary" or "Unrestricted Subsidiaries"

means: (A) E-Sat, Inc., Wright Travel Corporation, EchoStar Real Estate Corporation V, EchoStar International (Mauritius) Ltd., EchoStar Manufacturing & Distribution Private Ltd. India, Satrec Mauritius Ltd., Celsat America, WS Acquisition Corporation, Flextracker Sdn. Bhd., Echosphere De Mexico S. De R.L. De C.V. and EIC Spain, S.L.; and (B) any Subsidiary of the Company designated as an Unrestricted Subsidiary in a resolution of the Board of Directors:

(a) no portion of the Indebtedness or any other obligation (contingent or otherwise) of which, immediately after such designation: (i) is guaranteed by the Company or any other Subsidiary of the Company (other than another Unrestricted Subsidiary); (ii) is recourse to or obligates the Company or any other Subsidiary of the Company (other than another Unrestricted Subsidiary) in any way; or (iii) subjects any property or asset of the Company or any other Subsidiary of the Company (other than another Unrestricted Subsidiary), directly or indirectly, contingently or otherwise, to satisfaction thereof;

(b) with which neither the Company nor any other Subsidiary of the Company (other than another Unrestricted Subsidiary) has any contract, agreement, arrangement, understanding or is subject to an obligation of any kind, written or oral, other than on terms no less favorable to the Company or such other Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Company; and

(c) with which neither the Company nor any other Subsidiary of the Company (other than another Unrestricted Subsidiary) has any obligation: (i) to subscribe for additional shares of Capital Stock or other equity interests therein; or (ii) to maintain or preserve such Subsidiary's financial condition or to cause such Subsidiary to achieve certain levels of operating results;

provided, however, that neither ESC nor Echosphere Corporation may be designated as an Unrestricted Subsidiary. If at any time after the date of this Indenture the Company designates an additional Subsidiary (other than ETC or a Subsidiary that constitutes a Non-Core Asset) as an Unrestricted Subsidiary, the Company will be deemed to have made a Restricted Investment in an amount equal to the fair market value (as determined in good faith by the Board of Directors of the Company evidenced by a resolution of the Board of Directors of the Company and set forth in an Officers' Certificate delivered to the Trustee no later than ten business days following a request from the Trustee, which certificate shall cover the six months preceding the date of the request) of such Subsidiary. An Unrestricted Subsidiary may be designated as a Restricted Subsidiary of the Company if, at the time of such designation after giving pro forma effect thereto, no Default or Event of Default shall have occurred or be continuing.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years obtained by dividing (a) the then outstanding principal amount of

such Indebtedness into (b) the total of the product obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment.

"Wholly Owned Restricted Subsidiary" means a Wholly Owned Subsidiary of the Company that is a Restricted Subsidiary.

"Wholly Owned Subsidiary" means, with respect to any Person, any Subsidiary all of the outstanding voting stock (other than directors' qualifying shares) of which is owned by such Person, directly or indirectly.

SECTION 1.02. Other Definitions.

Term -----	Defined in Section -----
"Affiliate Transaction".....	4.11
"Asset Sale".....	4.10
"Change of Control Offer".....	4.15
"Change of Control Payment".....	4.15
"Change of Control Payment Date".....	4.15
"Company".....	Preamble
"Covenant Defeasance".....	8.03
"DTC".....	2.01
"ETC Amount Due".....	4.19
"Event of Default".....	6.01
"Excess Proceeds".....	4.10
"Excess Proceeds Offer".....	3.08
"incur".....	4.09
"Legal Defeasance".....	8.02
"Non-Core Asset Amount Due".....	4.19
"Offer Amount".....	3.08
"Offer Period".....	3.08
"Paying Agent".....	2.03
"Payment Default".....	6.01(f)
"Payout".....	4.19
"Permitted Refinancing".....	4.09
"Private Placement Legend".....	2.01
"Purchase Date".....	3.08
"Refinancing Indebtedness".....	4.09
"Registrar".....	2.03
"Restricted Payments".....	4.07
"Terminated Covenants".....	4.21

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;

"obligor" on the Notes means each of the Company and any successor obligor upon the Notes.

All other terms used in this Indenture that are defined by the TIA, defined by 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:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (3) "or" is not exclusive;
- (4) words in the singular include the plural, and in the plural include the singular; and
- (5) provisions apply to successive events and transactions.

ARTICLE 2

THE NOTES

SECTION 2.01. Form and Dating.

The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto, the terms of which are incorporated in and made a part of this Indenture. The Notes may have notations, legends or endorsements approved as to form by the Company, and required by law, stock exchange rule, agreements to which the Company is

subject or usage. Each Note shall be dated the date of its authentication. The Notes shall be issuable only in denominations of \$1,000 and integral multiples thereof.

The Notes shall initially be issued in the form of one or more Global Notes and the Depository Trust Company ("DTC"), its nominees, and their respective successors, shall act as the Depository with respect thereto. Each Global Note shall (i) be registered in the name of the Depository for such Global Note or the nominee of such Depository, (ii) shall be delivered by the Trustee to such Depository or pursuant to such Depository's instructions, and (iii) shall bear a legend (the "Global Note Legend") substantially to the following effect:

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

THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE OF A DEPOSITARY OR A SUCCESSOR DEPOSITARY. THIS NOTE IS NOT EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITARY OR ITS NOMINEE EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE, AND NO TRANSFER OF THIS NOTE (OTHER THAN A TRANSFER OF THIS NOTE AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY) MAY BE REGISTERED EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.

Except as permitted by Section 2.06(g), any Note not registered under the Securities Act shall bear the following legend (the "Private Placement Legend") on the face thereof:

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS NOTE NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE OFFERED, SOLD, ASSIGNED,

TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT. THE HOLDER OF THIS NOTE BY ITS ACCEPTANCE HEREOF AGREES TO OFFER, SELL OR OTHERWISE TRANSFER SUCH NOTE, PRIOR TO THE DATE WHICH IS TWO YEARS AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF AND THE LAST DATE ON WHICH THE COMPANY OR ANY AFFILIATE OF THE COMPANY WAS THE OWNER OF THIS NOTE (OR ANY PREDECESSOR OF THIS NOTE) (THE "RESALE RESTRICTION TERMINATION DATE") ONLY (A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, (B) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, (C) FOR SO LONG AS THE NOTES ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE SECURITIES ACT ("RULE 144A"), TO A PERSON IT REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) PURSUANT TO OFFERS AND SALES TO NON-U.S. PERSONS THAT OCCUR OUTSIDE THE UNITED STATES WITHIN THE MEANING OF REGULATIONS UNDER THE SECURITIES ACT AND OTHERWISE IN COMPLIANCE WITH REGULATIONS UNDER THE SECURITIES ACT OR (E) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE COMPANY'S AND THE TRUSTEE'S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSE (D) PRIOR TO THE END OF THE 40 DAY DISTRIBUTION COMPLIANCE PERIOD WITHIN THE MEANING OF REGULATIONS UNDER THE SECURITIES ACT OR PURSUANT TO CLAUSE (E) PRIOR TO THE RESALE RESTRICTION TERMINATION DATE TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF A HOLDER AFTER THE RESALE RESTRICTION TERMINATION DATE.

The Trustee must refuse to register any transfer of a Note bearing the Private Placement Legend that would violate the restrictions described in such legend.

SECTION 2.02. Form of Execution and Authentication.

Two Officers of the Company shall sign the Notes for the Company by manual or facsimile signature. The Company's seal shall be reproduced on the Notes.

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 the Trustee. The signature of the Trustee shall be conclusive evidence that the Note has been authenticated under this Indenture.

The Trustee shall authenticate (i) Initial Notes for original issue on the Issue Date in an aggregate principal amount of \$500.0 million, (ii) pursuant to the Exchange Offer, Exchange Notes from time to time for issue only in exchange for a like principal amount of Initial Notes and (iii) subject to compliance with Section 4.09, one or more series of Notes for original issue after the Issue Date (such Notes to be substantially in the form of Exhibit A) in an unlimited amount (and if issued with a Private Placement Legend, the same principal amount of Exchange Notes in exchange therefor upon consummation of a registered exchange offer) in each case upon written orders of the Company in the form of an Officers' Certificate, which Officers' Certificate shall, in the case of any issuance pursuant to clause (iii) above, certify that such issuance is in compliance with Section 4.09. In addition, each such Officers' Certificate shall specify the amount of Notes to be authenticated, the date on which the Notes are to be authenticated, whether the Securities are to be Initial Notes, Exchange Notes or Notes issued under clause (iii) of the preceding sentence and the aggregate principal amount of Notes outstanding on the date of authentication, and shall further specify the amount of such Notes to be issued as a Global Note or Definitive Notes. Such Notes shall initially be in the form of one or more Global Notes, which (i) shall represent, and shall be denominated in an amount equal to the aggregate principal amount of, the Notes to be issued, (ii) shall be registered in the name of the Depository for such Global Note or Notes or its nominee and (iii) shall be delivered by the Trustee to the Depository or pursuant to the Depository's instruction. All Notes issued under this Indenture shall vote and consent together on all matters as one class and no series of Notes will have the right to vote or consent as a separate class on any matter.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. Unless limited by the terms of such appointment, 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 the Company or any Affiliate of the Company.

SECTION 2.03. Registrar and Paying Agent.

The Company shall maintain (i) an office or agency where Notes may be presented for registration of transfer or for exchange (including any co-registrar, the "Registrar") and (ii) an office or agency where Notes may be presented for payment ("Paying Agent"). The Registrar shall keep a register of the Notes and of their transfer and exchange. The Company may appoint one or more co-registrars and one or more additional paying agents. The term "Paying Agent" includes any additional paying agent. The Company may change any Paying Agent, Registrar or co-registrar without prior notice to any Holder of a Note. The Company shall notify the Trustee and the Trustee shall notify the Holders of the Notes of the name and address of any Agent not a party to this Indenture. The Company may act as Paying Agent, Registrar or co-registrar. The Company shall enter into an appropriate agency agreement with any Agent not a party to this Indenture, which shall incorporate the provisions of the TIA. The agreement shall implement the provisions of this Indenture that relate to such Agent. The Company shall notify the Trustee of the name and address of any such Agent. If the Company fails to maintain a

Registrar or Paying Agent, or fails to give the foregoing notice, the Trustee shall act as such, and shall be entitled to appropriate compensation in accordance with Section 7.07.

The Company initially appoints the Trustee as Registrar, Paying Agent and agent for service of notices and demands in connection with the Notes.

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 shall hold in trust for the benefit of the Holders of the Notes or the Trustee all money held by the Paying Agent for the payment of principal of, premium, if any, and interest on the Notes, and shall 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. 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) shall have no further liability for the money delivered to the Trustee. If the Company acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders of the Notes all money held by it as Paying Agent.

SECTION 2.05. Lists of Holders of the Notes.

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 of the Notes and shall otherwise comply with TIA Section 312(a). If the Trustee is not the Registrar, the Company shall furnish to the Trustee at least seven Business Days 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 of the Notes, including the aggregate principal amount of the Notes held by each thereof, and the Company shall otherwise comply with TIA Section 312(a).

SECTION 2.06. Transfer and Exchange.

(a) Transfer and Exchange of Global Notes. A Global Note may not be transferred as a whole except by the Depository to a nominee of the Depository, by a nominee of the Depository to the Depository or to another nominee of the Depository, or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository. All Global Notes will be exchanged by the Company for Definitive Notes if (i) the Company delivers to the Trustee notice from the Depository that it is unwilling or unable to continue to act as Depository and a successor Depository is not appointed by the Company within 90 days after the date of such notice from the Depository, (ii) the Depository has ceased to be a clearing agency registered under the Exchange Act, (iii) the Company in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and delivers a written notice to such effect to the Trustee or (iv) there shall have occurred and be continuing a Default or an Event of Default under this Indenture. In any such case, the Company will notify the Trustee in writing that, upon surrender by the Direct Participants and Indirect Participants of their interest in such Global Note, Certificated Notes will be issued to each Person that such Direct Participants and Indirect Participants and DTC identify as being the beneficial

owner of the related Notes. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 of this Indenture. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10 of this Indenture, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06. However, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b), (c) or (f) of this Indenture.

(b) Transfer and Exchange of Beneficial Interests in the Global Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes shall be subject to restrictions on transfer comparable to those set forth in this Indenture to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(i) Transfer of Beneficial Interests in the Same Global Note. Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend; provided, however, that prior to the expiration of the Restricted Period, no transfer of beneficial interests in the Regulation S Global Note may be made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser) unless permitted by applicable law and made in compliance with subparagraphs (ii) and (iii) below. Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(i) unless specifically stated above.

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(i) above, the transferor of such beneficial interest must deliver to the Registrar either (A) (1) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or, (B) (1) if Definitive Notes are at such time permitted to be issued pursuant to this Indenture, a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above. Upon consummation of an Exchange Offer by the Company in accordance with Section 2.06(f), the

requirements of this Section 2.06(b)(ii) shall be deemed to have been satisfied upon receipt by the Registrar of the instructions contained in the Letter of Transmittal delivered by the Holder of such beneficial interests in the Restricted Global Notes. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(h).

(iii) Transfer of Beneficial Interests to Another Restricted Global Note. A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.06(b)(ii) above and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in the 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit C hereto, including the certifications in item (1) thereof; and

(B) if the transferee will take delivery in the form of a beneficial interest in the Regulation S Global Note, then the transferor must deliver a certificate in the form of Exhibit C hereto, including the certifications in item (2) thereof.

(iv) Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note. A beneficial interest in any Restricted Global Note may be exchanged by any Holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.06(b)(ii) above and:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder of the beneficial interest to be transferred, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an "affiliate" (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to a Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to an Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(y) if the Holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such Holder in the form of Exhibit D hereto, including the certifications in item (1)(a) thereof, or

(z) if the Holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained in this Indenture and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected pursuant to subparagraph (B) or (D) above at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02, the Trustee shall authenticate, one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to subparagraph (B) or (D) above.

Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(c) Transfer or Exchange of Beneficial Interests for Definitive Notes.

(i) Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes. If any Holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such Holder in the form of Exhibit D hereto, including the certifications in item (2)(a) thereof;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (3)(a) thereof;

(E) if such beneficial interest is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (3)(b) thereof; or

(F) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h), and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Restricted Definitive Note in the appropriate principal amount. Any Restricted Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c) shall be registered in such name or names and in such authorized denomination or denominations as the Holder of such beneficial interest shall instruct the Registrar through instructions from the Depository and the Participant or Indirect Participant. The Trustee shall deliver such Restricted Definitive Notes to the Persons in whose names such Notes are so registered. Any Restricted Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c)(i) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(ii) Beneficial Interests in Restricted Global Notes to Unrestricted Definitive Notes. A Holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note only if:

(A) such exchange or transfer is effected pursuant to an Exchange Offer in accordance with the Registration Rights Agreement and the Holder of such beneficial interest, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an "affiliate" (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to a Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(y) if the Holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Definitive Note that does not bear the Private Placement Legend, a certificate from such Holder in the form of Exhibit D hereto, including the certifications in item (1)(b) thereof; or

(z) if the Holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a Definitive Note that does not bear the Private Placement Legend, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (4) thereof,

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained in this Indenture and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected pursuant to subparagraph (B) or (D) above at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to subparagraph (B) or (D) above.

(iii) Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes. If any Holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth in Section 2.06(b)(ii), the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h), and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iii) shall be registered in such name or names and in such authorized denomination or denominations as the Holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes

to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iii) shall not bear the Private Placement Legend.

(d) Transfer and Exchange of Definitive Notes for Beneficial Interests.

(i) Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes. If any Holder of a Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder in the form of Exhibit D hereto, including the certifications in item (2)(b) thereof;

(B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (1) thereof; or

(C) if such Restricted Definitive Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (2) thereof,

the Trustee shall cancel the Restricted Definitive Note, increase or cause to be increased the aggregate principal amount of, in the case of clause (A) above, the appropriate Restricted Global Note, in the case of clause (B) above, the 144A Global Note, and in the case of clause (C) above, the Regulation S Global Note.

(ii) Restricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of a Restricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an "affiliate" (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to a Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to an Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(y) if the Holder of such Definitive Notes proposes to exchange such Notes for a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit D hereto, including the certifications in item (1)(c) thereof; or

(z) if the Holder of such Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained in this Indenture and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the conditions of any of the subparagraphs in this Section 2.06(d)(ii), the Trustee shall cancel the Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(iii) Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of an Unrestricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Unrestricted Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes.

If any such exchange or transfer from an Unrestricted Definitive Note or a Restricted Definitive Note, as the case may be, to a beneficial interest is effected pursuant to subparagraphs (ii)(B), (ii)(D) or (iii) above at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 of this Indenture, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of Unrestricted Definitive Notes or Restricted Definitive Notes, as the case may be, so transferred.

(e) Transfer and Exchange of Definitive Notes for Definitive Notes. Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar shall register the transfer or exchange of Definitive Notes. Prior to

such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.06(e).

(i) Restricted Definitive Notes to Restricted Definitive Notes. Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer will be made pursuant to Rule 144A under the Securities Act, then the transferor must deliver a certificate in the form of Exhibit C hereto, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904, then the transferor must deliver a certificate in the form of Exhibit C hereto, including the certifications in item (2) thereof; and

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit C hereto, including, if the Registrar so requests, a certification or Opinion of Counsel in form reasonably acceptable to the Company to the effect that such transfer is in compliance with the Securities Act.

(ii) Restricted Definitive Notes to Unrestricted Definitive Notes. Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note if:

(A) such exchange or transfer is effected pursuant to an Exchange Offer in accordance with the Registration Rights Agreement and the Holder, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an "affiliate" (as defined in Rule 144) of the Company;

(B) any such transfer is effected pursuant to a Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) any such transfer is effected by a Broker-Dealer pursuant to an Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(y) if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit D hereto, including the certifications in item (1)(d) thereof; or

(z) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (4) thereof; and, in each such case set forth in this subparagraph (D), if the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained in this Indenture and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) Unrestricted Definitive Notes to Unrestricted Definitive Notes. A Holder of Unrestricted Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the Holder thereof.

(f) Exchange Offer. Upon the occurrence of an Exchange Offer in accordance with the Registration Rights Agreement, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02, the Trustee shall authenticate (i) one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of the beneficial interests in the Restricted Global Notes tendered for acceptance by Persons that certify in the applicable Letters of Transmittal that (x) they are not broker-dealers, (y) they are not participating in a distribution of the Exchange Notes and (z) they are not "affiliates" (as defined in Rule 144) of the Company, and accepted for exchange in an Exchange Offer and (ii) Definitive Notes in an aggregate principal amount equal to the principal amount of the Restricted Definitive Notes accepted for exchange in an Exchange Offer. Concurrently with the issuance of such Notes, the Trustee shall cause the aggregate principal amount of the applicable Restricted Global Notes to be reduced accordingly, and the Company shall execute and the Trustee shall authenticate and deliver to the Persons designated by the Holders of Restricted Definitive Notes so accepted Unrestricted Definitive Notes in the appropriate principal amount.

(g) Legends. The following legends shall appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture.

(i) Private Placement Legend.

(A) Except as permitted by subparagraph (B) below, each Global Note (other than an Unrestricted Global Note) and each Definitive Note

(and all Notes issued in exchange therefor or substitution thereof) shall bear the Private Placement Legend.

(B) Notwithstanding the foregoing, any Global Note or Definitive Note issued pursuant to subparagraphs (b)(iv), (c)(ii), (c)(iii), (d)(ii), (d)(iii), (e)(ii), (e)(iii) or (f) to this Section 2.06 (and all Notes issued in exchange therefor or substitution thereof) shall not bear the Private Placement Legend.

(ii) Global Note Legend. Each Global Note shall bear the Global Note Legend.

(h) Cancellation and/or Adjustment of Global Notes. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(i) General Provisions Relating to Transfers and Exchanges.

(i) To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon the Company's order or at the Registrar's request.

(ii) No service charge shall be made to a Holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, 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 taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06, 3.08 and 9.05).

(iii) The Registrar shall not be required to register the transfer of or exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

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

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

(vi) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

(vii) The Trustee shall authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 2.02 of this Indenture.

(viii) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06 to effect a registration of transfer or exchange may be submitted by facsimile.

SECTION 2.07. Replacement Notes.

If any mutilated Note is surrendered to the Trustee, or the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Note, the Company shall issue and the Trustee, upon the written order of the Company signed by two Officers of the Company, shall authenticate a replacement Note if the Trustee's requirements for replacements of Notes are met. If required by the Trustee or the Company, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Company 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. Each of the Company and the Trustee may charge for its expenses in replacing a Note.

Every replacement Note is an obligation of the Company.

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 pursuant to Section 2.07, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a protected purchaser.

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

Subject to Section 2.09, a Note does not cease to be outstanding because the Company, a Subsidiary of 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, any Subsidiary of the Company or any Affiliate of the Company shall be considered as though not outstanding, except that for purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes which a Responsible Officer knows to be so owned shall be so considered. Notwithstanding the foregoing, Notes that are to be acquired by the Company, any Subsidiary of the Company or an Affiliate of the Company pursuant to an exchange offer, tender offer or other agreement shall not be deemed to be owned by the Company, a Subsidiary of the Company or an Affiliate of the Company until legal title to such Notes passes to the Company, such Subsidiary or such Affiliate, as the case may be.

SECTION 2.10. Temporary Notes.

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 and the Trustee consider appropriate for temporary Notes. Without unreasonable delay, the Company shall prepare and the Trustee, upon receipt of the written order of the Company signed by two Officers of the Company, shall authenticate definitive Notes in exchange for temporary Notes. Until such exchange, temporary Notes shall be entitled to the same rights, benefits and privileges as definitive Notes.

SECTION 2.11. Cancellation.

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee shall cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and shall destroy canceled Notes (subject to the record retention requirement of the Exchange Act), unless the Company directs canceled Notes to be returned to it. The Company may not issue new Notes to replace Notes that it has redeemed or paid or that have been delivered to the Trustee for cancellation. All canceled Notes held by the Trustee shall be destroyed and certification of their destruction delivered to the Company, unless by a written order, signed by two Officers of the Company, the Company shall direct that canceled Notes be returned to it.

SECTION 2.12. Defaulted Interest.

If the Company defaults in a payment of interest on the Notes, it shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, to the Persons who are Holders of the Notes on a subsequent special record date, which date shall be at the earliest practicable date but in all events at least five Business Days prior to the payment date, in each case at the rate provided in the Notes. The Company shall, with the consent of the Trustee, fix or cause to be fixed each such special record date and

payment date. At least 15 days before the special record date, the Company (or the Trustee, in the name of and at the expense of the Company) shall mail to Holders of the Notes a notice that states the special record date, the related payment date and the amount of such interest to be paid.

SECTION 2.13. Record Date.

The record date for purposes of determining the identity of Holders of the Notes entitled to vote or consent to any action by vote or consent authorized or permitted under this Indenture shall be determined as provided for in TIA Section 316(c).

SECTION 2.14. CUSIP Number.

The Company in issuing the Notes may use a "CUSIP" number and, if it does so, the Trustee shall use the CUSIP number in notices of redemption or exchange as a convenience to Holders; provided that any such notice may state that no representation is made as to the correctness or accuracy of the CUSIP number printed in the notice or on the Notes and that reliance may be placed only on the other identification numbers printed on the Notes. The Company will promptly notify the Trustee of any change in the CUSIP number.

ARTICLE 3

REDEMPTION

SECTION 3.01. Notices to Trustee.

If the Company elects to redeem Notes pursuant to the optional redemption provisions of Section 3.07, it shall furnish to the Trustee, at least 35 days (unless a shorter period is acceptable to the Trustee) but not more than 60 days before a redemption date, an Officers' Certificate setting forth (i) the redemption date, (ii) the principal amount of Notes to be redeemed and (iii) the redemption price. If the Company is required to make the redemption pursuant to Section 3.08, it shall furnish the Trustee, at least one but not more than 10 Business Days before a redemption date, an Officers' Certificate setting forth (i) the redemption date and (ii) the redemption price.

SECTION 3.02. Selection of Notes To Be Redeemed.

If less than all of the Notes are to be redeemed at any time, the selection of Notes for redemption will be made by the Trustee in compliance with the requirements of the principal national securities exchange, if any, on which the Notes are listed, or if the Notes are not so listed on a pro rata basis, by lot or in accordance with any other method the Trustee deems fair and appropriate, provided that no Notes with a principal amount of \$1,000 or less shall be redeemed in part. In the event of partial redemption by lot, the particular Notes to be redeemed shall be selected, unless otherwise provided herein, not less than 30 nor more than 60 days prior to the redemption date by the Trustee from the outstanding Notes not previously called for redemption.

The Trustee shall promptly notify the Company in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount

thereof to be redeemed. Notes and portions of them selected shall be in amounts of \$1,000 or whole multiples of \$1,000; except that if all of the Notes of a Holder are to be redeemed, the entire outstanding amount of Notes held by such Holder, even if not a multiple of \$1,000, shall be redeemed. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption.

SECTION 3.03. Notice of Redemption.

Subject to the provisions of Sections 3.08, at least 30 days but not more than 60 days before a redemption date, the Company shall mail or cause to be mailed, 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:

- (i) the redemption date;
- (ii) the redemption price;
- (iii) if any Note is being redeemed in part only, the portion of the principal amount of such Note to be redeemed and that, after the redemption date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion shall be issued in the name of the Holder thereof upon cancellation of the original Note;
- (iv) the name and address of the Paying Agent;
- (v) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;
- (vi) that, unless the Company defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the redemption date;
- (vii) the paragraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed; and
- (viii) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes.

At the Company's request, the Trustee shall give the notice of redemption in the Company's name and at its expense; provided that the Company shall have delivered to the Trustee, at least 35 days (unless a shorter period is acceptable to the Trustee) 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, Notes called for redemption become due and payable on the redemption date at the redemption price.

SECTION 3.05. Deposit of Redemption Price.

On or prior to any 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. The Trustee or the Paying Agent shall promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the redemption price of, and accrued interest on, all Notes to be redeemed.

On and after the redemption date, if the Company does not default in the payment of the redemption price, interest shall cease to accrue on the Notes or the portions of Notes called for redemption. If a Note is redeemed on or after an interest record date but on or prior to the related interest payment date, then any accrued and unpaid interest shall be paid to the Person in whose name such Note was registered at the close of business on such record date. If any Note called for redemption shall not be so paid upon surrender for redemption because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the redemption date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes.

SECTION 3.06. Notes Redeemed in Part.

Upon surrender and cancellation of a Note that is redeemed in part, the Company shall issue and the Trustee shall authenticate for the Holder of the Notes 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.

Except as provided in the next paragraph, the Notes will not be redeemable at the Company's option prior to October 1, 2005. Thereafter, the Notes will be subject to redemption at the option of the Company, in whole, or from time to time in part, upon not less than 30 nor more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below, together with accrued and unpaid interest thereon to the applicable redemption date, if redeemed during the 12-month period beginning on October 1 of the years indicated below:

Year ----	Percentage -----
2005.....	102.000%
2006.....	101.000%
2007.....	100.000%

Notwithstanding the foregoing, at any time prior to October 1, 2005, the Company may redeem up to 35% of the aggregate principal amount of the Notes outstanding at a redemption price equal to 100.000% of the principal amount thereof plus a premium equal to the interest rate per annum on the Notes applicable on the date on which the notice of redemption is given pursuant to Section 3.03 hereof, payable in each case on the redemption date, together with accrued and unpaid interest to such redemption date, with the net cash proceeds of any capital contributions or one or more public or private sales (including sales to EchoStar, regardless of whether EchoStar obtained such funds from an offering of Equity Interests or Indebtedness of EchoStar or otherwise) of Equity Interests (other than Disqualified Stock) of the Company (other than proceeds from a sale to any Subsidiary of the Company or any employee benefit plan in which the Company or any of its Subsidiaries participates); provided that: (a) at least 65% in aggregate of the originally issued principal amount of the Notes remains outstanding immediately after the occurrence of such redemption; and (b) the sale of such Equity Interests is made in compliance with the terms of this Indenture.

SECTION 3.08. Offer To Purchase by Application of Excess Proceeds.

When the cumulative amount of Excess Proceeds that have not been applied in accordance with Section 4.10 or this Section 3.08 exceeds \$100.0 million, the Company shall be obligated to make an offer to all Holders of the Notes (an "Excess Proceeds Offer") to purchase the maximum principal amount of Notes that may be purchased out of such Excess Proceeds at an offer price in cash in an amount equal to 101% of the principal amount thereof, together with accrued and unpaid interest to the date fixed for the closing of such offer in accordance with the procedures set forth in this Indenture. To the extent the Company or a Restricted Subsidiary is required under the terms of Indebtedness of the Company or such Restricted Subsidiary which is ranked equally with the Notes to make an offer to purchase such other Indebtedness with any proceeds which constitute Excess Proceeds under this Indenture, the Company shall make a pro rata offer to the holders of all other pari passu Indebtedness (including the Notes) with such proceeds. If the aggregate principal amount of Notes and other pari passu Indebtedness surrendered by holders thereof exceeds the amount of such Excess Proceeds, the Trustee shall select the Notes and other pari passu Indebtedness to be purchased on a pro rata basis.

The Excess Proceeds Offer shall remain open for a period of 20 Business Days following its commencement and no longer, except to the extent that a longer period is required by applicable law (the "Offer Period"). No later than five Business Days after the termination of the Offer Period (the "Purchase Date"), the Company shall purchase the maximum principal amount of Notes that may be purchased with such Excess Proceeds (which maximum principal amount of Notes shall be the "Offer Amount") or, if less than the Offer Amount has been tendered, all Notes tendered in response to the Excess Proceeds Offer.

If the Purchase Date is on or after an interest 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 shall be payable to Holders who tender Notes pursuant to the Excess Proceeds Offer.

Upon the commencement of any Excess Proceeds Offer, the Company shall send, by first class mail, a notice to each of the Holders of the Notes, with a copy to the Trustee. The

notice shall contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Excess Proceeds Offer. The notice, which shall govern the terms of the Excess Proceeds Offer, shall state:

(i) that the Excess Proceeds Offer is being made pursuant to this Section 3.08 and the length of time the Excess Proceeds Offer shall remain open;

(ii) the Offer Amount, the purchase price and the Purchase Date;

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

(iv) that any Note accepted for payment pursuant to the Excess Proceeds Offer shall cease to accrue interest after the Purchase Date;

(v) that Holders electing to have a Note purchased pursuant to any Excess Proceeds Offer shall 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 at least three business days before the Purchase Date;

(vi) that Holders shall be entitled to withdraw their election if the Company, depository or Paying Agent, as the case may be, receives, not later than the expiration of the Offer Period, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have the Note purchased;

(vii) that, if the aggregate principal amount of Notes surrendered by Holders exceeds the Offer Amount, the Company shall select the Notes to be purchased on a pro rata basis (with such adjustments as may be deemed appropriate by the Company so that only Notes in denominations of \$1,000, or integral multiples thereof, shall be purchased); and

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

On or before the Purchase Date, the Company shall, to the extent lawful, accept for payment, on a pro rata basis to the extent necessary, the Offer Amount of Notes or portions thereof tendered pursuant to the Excess Proceeds Offer, or if less than the Offer Amount has been tendered, all Notes or portion thereof tendered, and deliver to the Trustee an Officers' Certificate stating that such Notes or portions thereof were accepted for payment by the Company in accordance with the terms of this Section 3.08. The Company, Depository or Paying Agent, as the case may be, shall promptly (but in any case not later than five days after the Purchase Date) mail or deliver to each tendering Holder an amount equal to the purchase price of the Note tendered by such Holder and accepted by the Company for purchase, and the Company shall promptly issue a new Note, and the Trustee shall authenticate and mail or deliver such new

Note, to such Holder equal in principal amount to any unpurchased portion of the Note surrendered. Any Note not so accepted shall be promptly mailed or delivered by the Company to the Holder thereof. The Company shall publicly announce the results of the Excess Proceeds Offer on the Purchase Date. To the extent that the aggregate principal amount of Notes tendered pursuant to an Excess Proceeds Offer is less than the amount of such Excess Proceeds, the Company may use any remaining Excess Proceeds for general corporate purposes. Upon completion of an Excess Proceeds Offer, the amount of Excess Proceeds shall be reset at zero.

Other than as specifically provided in this Section 3.08, any purchase pursuant to this Section 3.08 shall be made pursuant to the provisions of Sections 3.01 through 3.06.

ARTICLE 4

COVENANTS

SECTION 4.01. Payment of Notes.

The Company shall pay or cause to be paid 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, if other than the Company, holds as of 10:00 a.m. Eastern Time on the due date money deposited by or on behalf of the Company in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due.

The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to the then applicable interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace period) at the same rate to the extent lawful.

SECTION 4.02. Maintenance of Office or Agency.

The Company shall maintain an office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where Notes may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

The Company may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; provided, however, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency for such purposes. The Company shall give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

The Company hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Company in accordance with Section 2.03.

SECTION 4.03. Reports.

(a) Whether or not required by the rules and regulations of the SEC, so long as any of the Notes remain outstanding, the Company shall cause copies of all quarterly and annual financial reports and of the information, documents, and other reports (or copies of such portions of any of the foregoing as the SEC may by rules and regulations prescribe) which the Company is required to file with the SEC on Forms 10-Q and 10-K to be filed with the SEC and the Trustee and mailed to the Holders at their addresses appearing in the register of Notes maintained by the Registrar, in each case, within 15 days of filing with the SEC. If the Company is not required to file reports on Form 10-Q and 10-K, the Company shall nevertheless continue to cause the annual and quarterly financial statements, including any notes thereto (and, with respect to annual reports, an auditors' report by an accounting firm of established national reputation) and a "Management's Discussion and Analysis of Financial Condition and Results of Operations," comparable to that which would have been required to appear in Forms 10-Q and 10-K, to be so filed with the SEC for public availability (to the extent permitted by the SEC) and the Trustee and mailed to the Holders within 120 days after the end of the Company's fiscal year and within 60 days after the end of each of the first three quarters of each such fiscal year. The Company shall also comply with the provisions of TIA Section 314(a).

(b) The Company shall provide the Trustee with a sufficient number of copies of all reports and other documents and information that the Trustee may be required to deliver to the Holders of the Notes under this Section 4.03.

SECTION 4.04. Compliance Certificate.

(a) The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year, 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 each has kept, observed, performed and fulfilled its obligations under this Indenture and further stating, as to each such Officer signing such certificate, that to the best of his or her knowledge each entity has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions of this Indenture including, without limitation, a default in the performance or breach of Section 4.07, Section 4.09, Section 4.10 or Section 4.15 (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action each is taking or proposes to take with respect thereto) and that to the best of his or her knowledge no event has occurred and remains in existence by reason of which payments on account of the principal of or interest, if any, on the Notes is prohibited or if such event has occurred, a description of the event and what action each is taking or proposes to take with respect thereto.

(b) The Company shall, so long as any of the Notes are outstanding, deliver to the Trustee, forthwith upon any Officer becoming aware of (i) any Default or Event of Default,

or (ii) any default under any Indebtedness referred to in Section 6.01(f) or (g) of this Indenture, an Officers' Certificate specifying such Default, Event of Default or default and what action the Company or any of its Affiliates is taking or proposes to take with respect thereto.

SECTION 4.05. Taxes.

The Company shall pay, 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 or where the failure to effect such payment is not adverse in any material respect to the Holders of the Notes.

SECTION 4.06. Stay, Extension and Usury Laws.

The Company covenants (to the extent that it may lawfully do so) that it shall 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, that may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law has been enacted.

SECTION 4.07. Limitation on Restricted Payments.

Neither the Company nor any of its Restricted Subsidiaries may, directly or indirectly:

(a) declare or pay any dividend or make any distribution on account of any Equity Interests of the Company other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Company;

(b) purchase, redeem or otherwise acquire or retire for value any Equity Interests of EchoStar, the Company or any of their respective Subsidiaries or Affiliates, other than any such Equity Interests owned by the Company or by any Wholly Owned Restricted Subsidiary;

(c) purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness that is expressly subordinated in right of payment to the Notes or the Guarantees, except:

(i) in accordance with the scheduled mandatory redemption, sinking fund or repayment provisions set forth in the original documentation governing such Indebtedness and

(ii) the purchase, repurchase or other acquisition of subordinated Indebtedness with a stated maturity earlier than the maturity of the Notes or the Guarantees purchased in anticipation of satisfying a payment of principal at the stated maturity thereof, within one year of such stated maturity;

(d) declare or pay any dividend or make any distribution on account of any Equity Interests of any Restricted Subsidiary, other than:

(i) to the Company or any Wholly Owned Restricted Subsidiary; or

(ii) to all holders of any class or series of Equity Interests of such Restricted Subsidiary on a pro rata basis; provided that in the case of this clause (ii), such dividends or distributions may not be in the form of Indebtedness or Disqualified Stock; or

(e) make any Restricted Investment

(all such prohibited payments and other actions set forth in clauses (a) through (e) being collectively referred to as "Restricted Payments"), unless, at the time of such Restricted Payment:

(i) no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof;

(ii) after giving effect to such Restricted Payment and the incurrence of any Indebtedness the net proceeds of which are used to finance such Restricted Payment, the Indebtedness to Cash Flow Ratio of the Company would not have exceeded 8.0 to 1; and

(iii) such Restricted Payment, together with the aggregate of all other Restricted Payments made by the Company after December 28, 2001, is less than the sum of:

(A) the difference of

(x) the cumulative Consolidated Cash Flow of the Company determined at the time of such Restricted Payment (or, in case such Consolidated Cash Flow shall be a deficit, minus 100% of such deficit); minus

(y) 120% of Consolidated Interest Expense of the Company, each as determined for the period (taken as one accounting period) from January 1, 2002 to the end of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment; plus

(B) an amount equal to 100% of the aggregate net cash proceeds and, in the case of proceeds consisting of assets used in or constituting a business permitted under Section 4.16 of this Indenture, 100% of the fair market value of the aggregate net proceeds other than cash received by the Company either from capital contributions from EchoStar, or from the issue or sale (including an issue or sale to EchoStar) of Equity Interests (other than

Disqualified Stock) of the Company (other than Equity Interests sold to any Subsidiary of the Company), since December 28, 2001; plus

(C) if any Unrestricted Subsidiary is designated by the Company as a Restricted Subsidiary, an amount equal to the fair market value of the net Investment by the Company or a Restricted Subsidiary in such Subsidiary at the time of such designation; provided, however, that the foregoing sum shall not exceed the amount of the Investments made by the Company or any Restricted Subsidiary in any such Unrestricted Subsidiary since December 28, 2001; plus

(D) 100% of any cash dividends and other cash distributions received by the Company and its Wholly Owned Restricted Subsidiaries from an Unrestricted Subsidiary since December 28, 2001 to the extent not included in cumulative Consolidated Cash Flow of the Company; plus

(E) to the extent not included in clauses (A) through (D) above, an amount equal to the net reduction in Investments of the Company and its Restricted Subsidiaries since December 28, 2001 resulting from payments in cash of interest on Indebtedness, dividends, or repayment of loans or advances, or other transfers of property, in each case, to the Company or to a Wholly Owned Restricted Subsidiary or from the net cash proceeds from the sale, conveyance or other disposition of any such Investment; provided, however, that the foregoing amount shall not exceed, with respect to any Person in whom such Investment was made, the amount of Investments previously made by the Company or any Restricted Subsidiary in such Person which were included in computations made pursuant to this clause (iii).

The foregoing provisions will not prohibit the following (provided that with respect to clauses (2), (3), (5), (6), (7), (8), (9), (11), and (12) below, no Default or Event of Default shall have occurred and be continuing):

(1) the payment of any dividend or distribution within 60 days after the date of declaration thereof, if at such date of declaration such payment would have complied with the provisions of this Indenture;

(2) the redemption, repurchase, retirement or other acquisition of any Equity Interests of the Company in exchange for, or out of the net proceeds of the substantially concurrent capital contribution from EchoStar or from the substantially concurrent issue or sale (including to EchoStar) of Equity Interests (other than Disqualified Stock) of the Company (other than Equity Interests issued or sold to any Subsidiary of the Company);

(3) Investments in an aggregate amount not to exceed \$500 million plus, to the extent not included in Consolidated Cash Flow, an amount equal to the net reduction in such Investments resulting from payments in cash of interest on Indebtedness, dividends or repayment of loans or advances, or other transfers of property, in each case, to the Company or to a Wholly Owned Restricted Subsidiary or from the net cash

proceeds from the sale, conveyance or other disposition of any such Investment; provided, however, that the foregoing amount shall not exceed, with respect to any Person in whom such Investment was made, the amount of Investments previously made by the Company or any Restricted Subsidiary in such Person pursuant to this clause (3);

(4) Investments to fund the financing activity of DNCC in the ordinary course of its business in an amount not to exceed, as of the date of determination, the sum of (A) \$100 million plus (B) 50% of the aggregate cost to DNCC for each Satellite Receiver purchased by DNCC and leased by DNCC to a retail consumer in excess of 100,000 units;

(5) cash dividends or distributions to EchoStar to the extent required for the purchase, redemption, repurchase or other acquisition or retirement for value of employee stock options to purchase Capital Stock of EchoStar, or Capital Stock of EchoStar issued pursuant to any management equity plan, stock option plan or other management or employee benefit plan or agreement, in an aggregate amount not to exceed \$25 million in any calendar year;

(6) a Permitted Refinancing;

(7) Investments in an amount equal to 100% of the aggregate net proceeds (whether or not in cash) received by the Company or any Wholly Owned Restricted Subsidiary from capital contributions from EchoStar or from the issue and sale (including a sale to EchoStar) of Equity Interests (other than Disqualified Stock) of the Company (other than Equity Interests issued or sold to a Subsidiary of EchoStar), on or after December 28, 2001; plus, to the extent not included in Consolidated Cash Flow, an amount equal to the net reduction in such Investments resulting from payments in cash of interest on Indebtedness, dividends, or repayment of loans or advances, or other transfers of property, in each case, to the Company or to a Wholly Owned Restricted Subsidiary or from the net cash proceeds from the sale, conveyance, or other disposition of any such Investment; provided that the foregoing amount shall not exceed, with respect to any Person in whom such Investment was made, the amount of Investments previously made by the Company or any Restricted Subsidiary in such Person pursuant to this clause (7) in each case, provided that such Investments are in businesses of the type described under Section 4.16 of this Indenture;

(8) Investments in any Restricted Subsidiary which is not a Wholly Owned Restricted Subsidiary, but which is a Guarantor and Investments in the form of intercompany debt with any direct or indirect parent company or any Wholly Owned Subsidiary of such direct or indirect parent company provided that such debt is incurred in the ordinary course of business and is used in a business described in Section 4.16 of this Indenture;

(9) Investments in businesses strategically related to businesses described in Section 4.16 of this Indenture in an aggregate amount not to exceed \$250 million;

(10) cash dividends or distributions to EchoStar to the extent required for the purchase of odd-lots of Equity Interests of EchoStar, in an aggregate amount not to exceed \$15 million in any calendar year;

(11) the making of any Restricted Payment (including the receipt of any Investment) permitted under or resulting from any transaction permitted under Section 4.19 of this Indenture; provided that all conditions to any such Restricted Payment set forth in such Section 4.19 are satisfied;

(12) Investments made as a result of the receipt of non-cash proceeds from Asset Sales made in compliance with Section 4.10 of this Indenture and Investments entered into in connection with an acquisition of assets used in or constituting a business permitted under Section 4.16 of this Indenture as a result of "earn-outs" or other deferred payments or similar obligations;

(13) any Restricted Payment permitted under another 2003 Indenture or any of the EDBS Notes Indentures;

(14) Investments which are used to pay for the construction, launch, operation or insurance of satellites owned or leased by the Company or any Subsidiaries of the Company in an amount not to exceed \$500 million;

(15) Investments in a foreign direct-to-home satellite provider in an amount not to exceed \$200 million; provided that the Investments are made through the supply of satellite receivers and related equipment to the provider, or the proceeds from the Investments are used to purchase satellite receivers and related equipment from EchoStar or a Subsidiary of EchoStar;

(16) the redemption, repurchase, defeasance or other acquisition or retirement for value of subordinated Indebtedness, including premium, if any, and accrued and unpaid interest, with the proceeds of, or in exchange for: (a) the proceeds of a capital contribution or a substantially concurrent offering of, shares of Capital Stock of the Company (or options, warrants or other rights to acquire such Capital Stock), or (b) Indebtedness that is at least as subordinated in right of payment to the Notes, including premium, if any, and accrued and unpaid interest, as the Indebtedness being redeemed, repurchased, defeased, acquired or retired and with a final maturity equal to or greater than, and a Weighted Average Life to Maturity equal to or greater than, the final maturity and Weighted Average Life to Maturity, respectively, of the Indebtedness being redeemed, repurchased, defeased, acquired or retired;

(17) repurchases of Equity Interests deemed to occur upon (a) the exercise of stock options, warrants or convertible securities issued as compensation if such Equity Interests represent a portion of the exercise price thereof and (b) the withholding of a portion of the Equity Interests granted or awarded to an employee to pay taxes associated therewith (or a dividend or distribution to finance such a deemed repurchase by EchoStar);

(18) amounts paid by the Company to EchoStar or any other person with which the Company is included in a consolidated tax return equal to the amount of federal, state and local income taxes payable in respect of the income of the Company and its Subsidiaries, including without limitation, any payments made in accordance with tax allocation agreements between the Company and its Affiliates in effect from time to time; and

(19) the making of a Restricted Payment so long as after giving effect to such Restricted Payment and the incurrence of any Indebtedness the net proceeds of which are used to finance such Restricted Payment, the Company's Indebtedness to Cash Flow Ratio would not exceed 3.5 to 1.

Restricted Payments made pursuant to clauses (1), (2), (4), (7), (16) (but only to the extent that net proceeds received by the Company as set forth in such clause (2), (7) or (16) were included in the computations made in clause (iii)(B) of the first paragraph of this Section 4.07), (10) or (13) (but only to the extent such Restricted Payment is included as a Restricted Payment in any computation made pursuant to clause (iii) of the first paragraph of Section 4.07 of the other 2003 Indentures and in the EDBS Notes Indenture), shall be included as Restricted Payments in any computation made pursuant to clause (iii) of the first paragraph of this Section 4.07.

Restricted Payments made pursuant to clauses (3), (5), (6), (7), (16) (but only to the extent that net proceeds received by the Company as set forth in such clause (7) or (16) were not included in the computations made in clause (iii)(B) of the first paragraph of this Section 4.07), (8), (9), (11), (12), (13) (but only to the extent such Restricted Payment is not included as a Restricted Payment in any computation made pursuant to clause (iii) of the first paragraph of Section 4.07 of another 2003 Indenture or in an EDBS Notes Indenture), (14), (15), (17), (18) or (19) shall not be included as Restricted Payments in any computation made pursuant clause (iii) of the first paragraph of this Section 4.07.

If the Company or any Restricted Subsidiary makes an Investment which was included in computations made pursuant to this Section 4.07 and the Person in which such Investment was made subsequently becomes a Restricted Subsidiary that is a Guarantor, to the extent such Investment resulted in a reduction in the amounts calculated under clause (iii) of the first paragraph of or under any other provision of this Section 4.07, then such amount shall be increased by the amount of such reduction.

Not later than ten Business Days following a request from the Trustee, the Company shall deliver to the Trustee an Officers' Certificate stating that each Restricted Payment made in the six months preceding the date of the request was permitted and setting forth the basis upon which the calculations required by this Section 4.07 were computed, which calculations shall be based upon the Company's latest available financial statements.

SECTION 4.08. Limitations on Dividend and Other Payment Restrictions Affecting Subsidiaries.

The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any encumbrance or restriction on the ability of any Restricted Subsidiary to:

(a) pay dividends or make any other distribution to the Company or any of its Restricted Subsidiaries on its Capital Stock or with respect to any other interest or participation in, or measured by, its profits, or pay any Indebtedness owed to the Company or any of the Company's Subsidiaries;

(b) make loans or advances to the Company or any of its Subsidiaries; or

(c) transfer any of its properties or assets to the Company or any of its Subsidiaries; except for such encumbrances or restrictions existing under or by reasons of:

(i) Existing Indebtedness and existing agreements as in effect on the Issue Date;

(ii) applicable law or regulation;

(iii) any instrument governing Acquired Debt as in effect at the time of acquisition (except to the extent such Indebtedness was incurred in connection with, or in contemplation of, such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired, provided that the Consolidated Cash Flow of such Person shall not be taken into account in determining whether such acquisition was permitted by the terms of this Indenture, except to the extent that dividends or other distributions are permitted notwithstanding such encumbrance or restriction and could have been distributed;

(iv) by reason of customary non-assignment provisions in leases entered into in the ordinary course of business and consistent with past practices;

(v) Refinancing Indebtedness (as defined in Section 4.09 of this Indenture); provided that the restrictions contained in the agreements governing such Refinancing Indebtedness are no more restrictive than those contained in the agreements governing the Indebtedness being refinanced;

(vi) any of the 2003 Indentures or any of the Notes, the 6 3/8% Notes or the 5 3/4% Notes;

(vii) Permitted Liens; or

(viii) any agreement for the sale of any Subsidiary or its assets that restricts distributions by that Subsidiary pending its sale; provided that during the entire

period in which such encumbrance or restriction is effective, such sale (together with any other sales pending) would be permitted under the terms of this Indenture.

SECTION 4.09. Limitation on Incurrence of Indebtedness.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable with respect to (collectively, "incur") any Indebtedness (including Acquired Debt); provided, however, that, notwithstanding the foregoing the Company and any Guarantor may incur Indebtedness (including Acquired Debt), if, after giving effect to the incurrence of such Indebtedness and the application of the net proceeds thereof on a pro forma basis (including, in the case of an acquisition, merger or other business combination giving pro forma effect to such transaction), either (a) the Indebtedness to Cash Flow Ratio of the Company would not have exceeded 8.0 to 1 or (b) the aggregate amount of Indebtedness of the Company and the Guarantors would not exceed \$1,500 per Subscriber.

The foregoing limitation will not apply to any of the following incurrences of Indebtedness:

(1) Indebtedness in an aggregate principal amount of \$2.5 billion represented by any of the Notes, the Guarantees thereof, the 6 3/8% Notes and the Guarantees (as defined in the 6 3/8% Notes Indenture), the 5 3/4% Notes and the Guarantees (as defined in the 5 3/4% Notes Indenture), and the 2003 Indentures;

(2) the incurrence by the Company or any Guarantor of Acquired Subscriber Debt not to exceed \$1,750 per Acquired Subscriber (less any amount used to incur Indebtedness pursuant to clause (b) of the immediately preceding paragraph);

(3) the incurrence by the Company or any Guarantor of Deferred Payments and letters of credit with respect thereto;

(4) Indebtedness of the Company or any Guarantor in an aggregate principal amount not to exceed \$1,050,000,000 at any one time outstanding;

(5) Indebtedness between and among the Company and any Guarantor;

(6) Acquired Debt of a Person incurred prior to the date upon which such Person was acquired by the Company or any Guarantor (excluding Indebtedness incurred by such entity other than in the ordinary course of its business in connection with, or in contemplation of, such entity being so acquired) in an amount not to exceed (A) \$250 million in the aggregate for all such Persons other than those described in the immediately following clause (B); and (B) Acquired Debt owed to the Company or any of its Restricted Subsidiaries;

(7) Existing Indebtedness;

(8) the incurrence of Purchase Money Indebtedness by the Company or any Guarantor in an amount not to exceed the cost of construction, acquisition or

improvement of assets used in any business permitted under Section 4.16 of this Indenture, as well as any launch costs and insurance premiums related to such assets;

(9) the incurrence by the Company or any of its Restricted Subsidiaries of Hedging Obligations that are incurred in the ordinary course of business and not for speculative purposes, it being understood that Hedging Obligations covering the principal amount of Indebtedness entered into in order to protect the Company or any of its Restricted Subsidiaries from fluctuation in interest rates on Indebtedness are deemed to be incurred in the ordinary course of business;

(10) Indebtedness of the Company or any Restricted Subsidiary in respect of performance bonds or letters of credit of the Company or any Restricted Subsidiary or surety bonds provided by the Company or any Restricted Subsidiary incurred in the ordinary course of business and on ordinary business terms in connection with the businesses permitted under Section 4.16 of this Indenture;

(11) Indebtedness of the Company or any Guarantor the proceeds of which are used solely to finance the construction and development of a call center owned by the Company or any of its Restricted Subsidiaries or any refinancing thereof; provided that the aggregate of all Indebtedness incurred pursuant to this clause (11) shall in no event exceed \$100 million at any one time outstanding;

(12) the incurrence by the Company or any Guarantor of Indebtedness issued in exchange for, or the proceeds of which are used to extend, refinance, renew, replace, substitute or refund in whole or in part Indebtedness referred to in the first paragraph of this Section 4.09 or in clauses (1), (2), (3), (6), (7) or (8) above ("Refinancing Indebtedness"); provided, however, that:

(A) the principal amount of such Refinancing Indebtedness shall not exceed the principal amount and accrued interest of the Indebtedness so exchanged, extended, refinanced, renewed, replaced, substituted or refunded and any premiums payable and reasonable fees, expenses, commissions and costs in connection therewith;

(B) the Refinancing Indebtedness shall have a final maturity equal to or later than, and a Weighted Average Life to Maturity equal to or greater than, the final maturity and Weighted Average Life to Maturity, respectively, of the Indebtedness being exchanged, extended, refinanced, renewed, replaced, substituted or refunded; and

(C) the Refinancing Indebtedness shall be subordinated in right of payment to the Notes and the Guarantees, if at all, on terms at least as favorable to the holders of Notes as those contained in the documentation governing the Indebtedness being extended, refinanced, renewed, replaced, substituted or refunded (a "Permitted Refinancing");

(13) the guarantee by the Company or any Guarantor of Indebtedness of the Company or a Restricted Subsidiary that was permitted to be incurred by another provision of this Section 4.09;

(14) Indebtedness under Capital Lease Obligations of the Company or any Guarantor with respect to no more than five direct broadcast satellites at any time; and

(15) Indebtedness of the Company or any Restricted Subsidiary owed to (including obligations in respect of letters of credit for the benefit of) any Person in connection with workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance provided by such Person to the Company or such Restricted Subsidiary pursuant to reimbursement or indemnification obligations to such Person, in each case incurred in the ordinary course of business and consistent with industry practices.

For purposes of determining compliance with this Section 4.09, if an item of Indebtedness meets the criteria of more than one of the categories described in clauses (1) through (15) above or is permitted to be incurred pursuant to the first paragraph of this Section 4.09 and also meets the criteria of one or more of the categories described in clauses (1) through (15) above, the Company shall, in its sole discretion, classify such item of Indebtedness in any manner that complies with this Section 4.09 and may from time to time reclassify such item of Indebtedness in any manner in which such item could be incurred at the time of such reclassification. Accrual of interest and the accretion of accreted value will not be deemed to be an incurrence of Indebtedness for purposes of this Section 4.09.

SECTION 4.10. Asset Sales.

If the Company or any Restricted Subsidiary, in a single transaction or a series of related transactions:

(a) sells, leases (in a manner that has the effect of a disposition), conveys or otherwise disposes of any of its assets (including by way of a sale-and-leaseback transaction), other than:

(1) sales or other dispositions of inventory in the ordinary course of business;

(2) sales or other dispositions to the Company or a Wholly Owned Restricted Subsidiary of the Company by the Company or any Restricted Subsidiary;

(3) sales or other dispositions of accounts receivable to DNCC for cash in an amount at least equal to the fair market value of such accounts receivable;

(4) sales or other dispositions of rights to construct or launch satellites; and

(5) sales or other dispositions permitted under Section 4.19 of this Indenture (provided that the sale, lease, conveyance or other disposition of all or substantially all of the assets of the Company shall be governed by the provisions of Article 5 of this Indenture); or

(b) issues or sells Equity Interests of any Restricted Subsidiary (other than any issue or sale of Equity Interests of ETC or a Subsidiary which constitutes a Non-Core Asset permitted under Section 4.19 of this Indenture);

in either case, which assets or Equity Interests: (1) have a fair market value in excess of \$100 million (as determined in good faith by the Board of Directors evidenced by a resolution of the Board of Directors set forth in an Officers' Certificate delivered to the Trustee); or (2) are sold or otherwise disposed of for net proceeds in excess of \$100 million (each of the foregoing, an "Asset Sale"), then:

(A) the Company or such Restricted Subsidiary, as the case may be, must receive consideration at the time of such Asset Sale at least equal to the fair market value (as determined in good faith by the Board of Directors evidenced by a resolution of the Board of Directors and set forth in an Officers' Certificate delivered to the Trustee not later than ten Business Days following a request from the Trustee, which certificate shall cover each Asset Sale made in the six months preceding the date of request, as the case may be) of the assets sold or otherwise disposed of; and

(B) at least 75% of the consideration therefor received by the Company or such Restricted Subsidiary, as the case may be, must be in the form of:

(x) cash, Cash Equivalents or Marketable Securities;

(y) any asset which is promptly (and in no event later than 180 days after the date of transfer to the Company or a Restricted Subsidiary) converted into cash; provided that to the extent that such conversion is at a price that is less than the fair market value (as determined above) of such asset at the time of the Asset Sale in which such asset was acquired, the Company shall be deemed to have made a Restricted Payment in the amount by which such fair market value exceeds the cash received upon conversion; and/or

(z) properties and capital assets (including Capital Stock of an entity owning such property or assets so long as the receipt of such Capital Stock otherwise complies with Section 4.07 (other than clause (12) of the second paragraph thereof) to be used by the Company or any of its Restricted Subsidiaries in a business permitted under Section 4.16 of this Indenture;

provided, however, that up to \$100 million of assets in addition to assets specified in clauses (x), (y) or (z) above at any one time may be considered to be cash for purposes of this clause (B), so long as the provisions of the next paragraph are complied with as such non-cash assets are converted to cash. The amount of any liabilities of the Company or any Restricted Subsidiary that are assumed by or on behalf of the transferee in connection with an Asset Sale (and from which the Company or such Restricted Subsidiary are unconditionally released) shall be deemed to be cash for the purpose of this clause (B).

The Net Proceeds from such Asset Sale shall be used only: to acquire assets used in, or stock or other ownership interests in a Person that upon the consummation of such Asset Sale, becomes a Restricted Subsidiary and will be engaged primarily in, a business permitted under Section 4.16 of this Indenture, to repurchase Notes, 6 3/8% Notes, 5 3/4% Notes or EDBS

Notes, to prepay, repay or purchase other senior Indebtedness or, if the Company sells any of its satellites after launch such that the Company or its Restricted Subsidiaries own fewer than three in-orbit satellites, only to purchase a replacement satellite. Any Net Proceeds from any Asset Sale that are not applied or invested as provided in the preceding sentence within 365 days after such Asset Sale shall constitute "Excess Proceeds" and shall be applied to an offer to purchase Notes and other senior Indebtedness of the Company if and when required under Section 3.08 of this Indenture.

Clause (B) of the second preceding paragraph shall not apply to all or such portion of the consideration:

(1) as is properly designated by the Company in connection with an Asset Sale as being subject to this paragraph; and

(2) with respect to which the aggregate fair market value at the time of receipt of all consideration received by the Company or any Restricted Subsidiary in all such Asset Sales so designated does not exceed the amount that the Company and its Subsidiaries are permitted to designate as a result of the cash contributions made to the Company by EchoStar pursuant to another 2003 Indenture or any of the EDBS Notes Indentures plus, to the extent any such consideration did not satisfy clause (B)(x) or (B)(z) above, upon the exchange or repayment of such consideration for or with assets which satisfy either or both such clauses, an amount equal to the fair market value of such consideration (evidenced by a resolution of the Board of Directors and set forth in an Officers' Certificate delivered to the Trustee as set forth in clause (A) above).

In addition, clause (B) above shall not apply to any Asset

Sale:

(x) where assets not essential to the direct broadcast satellite business are contributed to a joint venture between the Company or one of its Restricted Subsidiaries and a third party that is not an Affiliate of EchoStar or any of its Subsidiaries; provided that following the sale, lease, conveyance or other disposition the Company or one of its Wholly Owned Restricted Subsidiaries owns at least 50% of the voting and equity interest in such joint venture;

(y) to the extent the consideration therefor received by the Company or any of its Restricted Subsidiaries would constitute Indebtedness or Equity Interests of a Person that is not an Affiliate of EchoStar, the Company or one of their respective Subsidiaries; provided that the acquisition of such Indebtedness or Equity Interests is permitted under the provisions of Section 4.07 of this Indenture; and

(z) where the assets sold are satellites, uplink centers or call centers; provided that, in the case of this clause (z), the Company and its Restricted Subsidiaries continue to own at least three satellites, one uplink center and one call center.

(c) Transactions described under clause (xii) of Section 4.11 of this Indenture shall not be subject to the requirements of this Section 4.10.

SECTION 4.11. Limitation on Transactions with Affiliates.

The Company shall not and shall not permit any Restricted Subsidiary to, sell, lease, transfer or otherwise dispose of any of its or their properties or assets to, or purchase any property or assets from, or enter into any contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate (including any Unrestricted Subsidiary) (each of the foregoing, an "Affiliate Transaction"), unless:

(a) such Affiliate Transaction is on terms that are no less favorable to the Company or its Restricted Subsidiaries than those that would have been obtained in a comparable transaction by the Company or such Subsidiaries with an unrelated Person; and

(b) if such Affiliate Transaction involves aggregate payments in excess of \$200 million, such Affiliate Transaction has either (i) been approved by a majority of the disinterested members of the Board of Directors or (ii) if there are no disinterested members of the Board of Directors, the Company or such Restricted Subsidiary has obtained the favorable opinion of an independent expert as to the fairness of such Affiliate Transaction to the Company or the relevant Restricted Subsidiary, as the case may be, from a financial point of view, and the Company delivers to the Trustee no later than ten Business Days following a request from the Trustee a resolution of the Board of Directors set forth in an Officers' Certificate certifying that such Affiliate Transaction has been so approved and complies with clause (a) above;

provided, however, that

(i) the payment of reasonable fees, compensation or employee benefit arrangements to, and any indemnity provided for the benefit of, directors, officers, consultants or employees of EchoStar and its Subsidiaries in the ordinary course of business and consistent with industry practice;

(ii) transactions between or among the Company and its Wholly Owned Subsidiaries (other than Unrestricted Subsidiaries);

(iii) any issuance of securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of employment arrangements, stock options and stock ownership plans approved by the Board of Directors;

(iv) transactions in the ordinary course of business, including loans, expense allowances, reimbursements or extensions of credit (including indemnity arrangements) between the Company or any of its Restricted Subsidiaries on the one hand, and any employee of the Company or any of its Restricted Subsidiaries, on the other hand;

(v) the granting and performance of registration rights for shares of Capital Stock of the Company under a written registration rights agreement approved by a majority of the members of the Board of Directors that are disinterested with respect to these transactions;

(vi) transactions with Affiliates solely in their capacity as holders of Indebtedness or Capital Stock of the Company or any of its Subsidiaries, so long as a significant amount of Indebtedness or Capital Stock of the same class is also held by persons that are not Affiliates of the Company and these Affiliates are treated no more favorably than holders of the Indebtedness or the Capital Stock generally;

(vii) any dividend, distribution, sale, conveyance or other disposition of any assets of, or Equity Interests in, any Non-Core Assets or ETC or the proceeds of a sale, conveyance or other disposition thereof, in accordance with the provisions of this Indenture;

(viii) Restricted Payments that are permitted by Section 4.07 of this Indenture;

(ix) any transactions pursuant to agreements in effect on the date of this Indenture and any modifications, extensions or renewals thereof that are no less favorable to the Company or the applicable Restricted Subsidiary than such agreement as in effect on the date of such Indenture;

(x) so long as it complies with clause (a) above, the provision of backhaul, uplink, transmission, billing, customer service, programming acquisition and other ordinary course services by the Company or any of its Restricted Subsidiaries to Satellite Communications Operating Corporation and to Transponder Encryption Services Corporation on a basis consistent with past practice;

(xi) the provision of services to EchoStar and its Affiliates by the Company or any of its Restricted Subsidiaries so long as no cash or other assets are transferred by the Company or its Restricted Subsidiaries in connection with such transactions (other than up to \$100 million in cash in any fiscal year and other than nonmaterial assets used in the operations of the business in the ordinary course pursuant to the agreement governing the provision of the services), and so long as such transaction or agreement is determined by a majority of the members of the Board of Directors to be fair to the Company and its Restricted Subsidiaries when taken together with all other such transactions and agreements entered into with EchoStar and its Affiliates;

(xii) the disposition of assets of the Company and its Restricted Subsidiaries in exchange for assets of EchoStar and its Affiliates so long as (i) the value to the Company in its business of the assets the Company receives is determined by a majority of the members of the Board of Directors to be substantially equivalent or greater than the value to the Company in its business of the assets disposed of, and (ii) the assets acquired by the Company and its Restricted Subsidiaries constitute properties and capital assets (including Capital Stock of an entity owning such property or assets so long as the receipt of such Capital Stock otherwise complies with Section 4.07 of this Indenture (other than clause (12) of the second paragraph thereof)) to be used by the Company or any of its Restricted Subsidiaries in a business permitted as described under Section 4.16 of this Indenture;

(xiii) sales of Equity Interests (other than Disqualified Stock) to Affiliates of the Company; and

(xiv) any transactions between the Company or any Restricted Subsidiary of the Company and any Affiliate of the Company the Equity Interests of which Affiliate are owned solely by the Company or one of its Restricted Subsidiaries, on the one hand, and by Persons who are not Affiliates of the Company or Restricted Subsidiaries of the Company, on the other hand,

shall, in each case, not be deemed Affiliate Transactions.

SECTION 4.12. Limitation on Liens.

The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create, incur, assume or suffer to exist any Lien on any asset now owned or hereafter acquired, or on any income or profits therefrom or assign or convey any right to receive income therefrom, except Permitted Liens.

SECTION 4.13. Additional Subsidiary Guarantees.

If the Company or any Guarantor transfers or causes to be transferred, in one transaction or a series of related transactions, property or assets (including, without limitation, businesses, divisions, real property, assets or equipment) having a fair market value (as determined in good faith by the Board of Directors evidenced by a resolution of the Board of Directors and set forth in an Officers' Certificate delivered to the Trustee no later than five Business Days following January 1 and July 1 of each year or ten days following a request from the Trustee, which Officers' Certificate shall cover the six months preceding January 1, July 1 or the date of request, as the case may be) exceeding the sum of \$100 million in the aggregate for all such transfers after the Issue Date (fair market value being determined as of the time of such acquisition) to Restricted Subsidiaries that are not Guarantors, the Company shall, or shall cause each of such Subsidiaries to which any amount exceeding such \$100 million (less such fair market value) is transferred to:

(i) execute and deliver to the Trustee a supplemental indenture to this Indenture in form and substance reasonably satisfactory to the Trustee pursuant to which such Subsidiary shall unconditionally guarantee all of the Company's obligations under the Notes on the terms set forth in this Indenture; and

(ii) deliver to the Trustee an Opinion of Counsel reasonably satisfactory to the Trustee that such supplemental indenture and Guarantee have been duly authorized, executed and delivered by and are valid and binding obligations of such Subsidiary or such owner, as the case may be;

provided, however, that the foregoing provisions shall not apply to transfers of property or assets (other than cash) by the Company or any Guarantor in exchange for cash, Cash Equivalents or Marketable Securities in an amount equal to the fair market value (as determined in good faith by the Board of Directors evidenced by a resolution of the Board of Directors and set forth in an Officers' Certificate delivered to the Trustee no later than five Business Days following January

1 and July 1 of each year or ten days following a request from the Trustee, which Officers' Certificate shall cover the six months preceding January 1, July 1 or the date of request, as the case may be) of such property or assets. In addition, if (i) the Company or any of its Restricted Subsidiaries acquires or creates another Restricted Subsidiary or (ii) an Unrestricted Subsidiary of the Company is redesignated as a Restricted Subsidiary or otherwise ceases to be an Unrestricted Subsidiary, such Subsidiary shall execute a supplemental indenture to this Indenture and deliver an opinion of counsel, each as required in the preceding sentence; provided that no supplemental indenture or opinion shall be required if the fair market value (as determined in good faith by the Board of Directors and set forth in an Officers' Certificate delivered to the Trustee no later than five Business Days following January 1 and July 1 of each year or ten days following a request from the Trustee, which certificate shall cover the six months preceding such January 1, July 1 or the date of request, as the case may be) of all such Restricted Subsidiaries created, acquired or designated since the Issue Date (fair market value being determined as of the time of creation, acquisition or designation) does not exceed the sum of \$100 million in the aggregate minus the fair market value of the assets transferred to any Subsidiaries of the Company which do not execute supplemental indentures pursuant to the preceding sentences; provided further that to the extent a Restricted Subsidiary is subject to the terms of any instrument governing Acquired Debt, as in effect at the time of acquisition (except to the extent such Indebtedness was incurred in connection with or in contemplation of such acquisition) which instrument or restriction prohibits such Restricted Subsidiary from issuing a Guarantee, such Restricted Subsidiary shall not be required to execute such a supplemental indenture until it is permitted to issue such Guarantee pursuant to the terms of such Acquired Debt.

SECTION 4.14. Corporate Existence.

Subject to Article 5 of this Indenture and the proviso set forth at the end of this Section 4.14, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect (i) its existence as a corporation, and subject to Sections 4.10 and 4.19, the corporate, partnership or other existence of any Restricted Subsidiary, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Company or any Restricted Subsidiary and (ii) subject to Section 4.10 and 4.19, the rights (charter and statutory), licenses and of the Company and its Restricted Subsidiaries; 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 Restricted Subsidiary if the Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders of the Notes.

SECTION 4.15. Offer To Purchase Upon Change of Control.

Upon the occurrence of a Change of Control, the Company will be required to make an offer (a "Change of Control Offer") to each Holder of Notes to repurchase all or any part (equal to \$1,000 or an integral multiple thereof) of such Holder's Notes at a purchase price equal to 101% of the aggregate principal amount thereof, together with accrued and unpaid interest thereon to the date of repurchase (the "Change of Control Payment"). Within 15 days following any Change of Control, the Company shall mail a notice to each Holder stating:

(a) that the Change of Control Offer is being made pursuant to the covenant entitled "Section 4.15 -- Offer to Purchase Upon Change of Control";

(b) the purchase price and the purchase date, which shall be no earlier than 30 days nor later than 40 days after the date such notice is mailed (the "Change of Control Payment Date");

(c) that any Notes not tendered will continue to accrue interest in accordance with the terms of this Indenture;

(d) that, unless the Company defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest after the Change of Control Payment Date;

(e) 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 setting forth the name of the Holder, the principal amount of Notes delivered for purchase, and a statement that such Holder is withdrawing his election to have such Notes purchased;

(f) that Holders whose Notes are being purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered, which unpurchased portion must be equal to \$1,000 in principal amount or an integral multiple thereof; and

(g) any other information material to such Holder's decision to tender Notes.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the repurchase of the Notes required in the event of a Change of Control.

SECTION 4.16. Limitation on Activities of the Company.

Neither the Company nor any of its Restricted Subsidiaries may engage in any business other than developing, owning, engaging in and dealing with all or any part of the business of domestic and international media, entertainment, electronics or communications, and reasonably related extensions thereof, including but not limited to the purchase, ownership, operation, leasing and selling of, and generally dealing in or with, one or more communications satellites and the transponders thereon, and communications uplink centers, the acquisition, transmission, broadcast, production and other provision of programming relating thereto and the manufacturing, distribution and financing of equipment (including consumer electronic equipment) relating thereto.

SECTION 4.17. Intentionally Omitted.

SECTION 4.18. Accounts Receivable Subsidiary.

The Company:

(a) may, and may permit any of its Subsidiaries to, notwithstanding the provisions of Section 4.07 of this Indenture, make Investments in an Accounts Receivable Subsidiary:

(i) the proceeds of which are applied within five Business Days of the making thereof solely to finance:

(A) the purchase of accounts receivable of the Company and its Subsidiaries; or

(B) payments required in connection with the termination of all then existing arrangements relating to the sale of accounts receivable or participation interests therein by an Accounts Receivable Subsidiary (provided that the Accounts Receivable Subsidiary shall receive cash, Cash Equivalents and accounts receivable having an aggregate fair market value not less than the amount of such payments in exchange therefor); and

(ii) in the form of Accounts Receivable Subsidiary Notes to the extent permitted by clause (b) below;

(b) shall not, and shall not permit any of its Subsidiaries to, sell accounts receivable to an Accounts Receivable Subsidiary except for consideration in an amount not less than that which would be obtained in an arm's length transaction and solely in the form of cash or Cash Equivalents; provided that an Accounts Receivable Subsidiary may pay the purchase price for any such accounts receivable in the form of Accounts Receivable Subsidiary Notes so long as, after giving effect to the issuance of any such Accounts Receivable Subsidiary Notes, the aggregate principal amount of all Accounts Receivable Subsidiary Notes outstanding shall not exceed 20% of the aggregate purchase price paid for all outstanding accounts receivable purchased by an Accounts Receivable Subsidiary since the Issue Date (and not written off or required to be written off in accordance with the normal business practice of an Accounts Receivable Subsidiary);

(c) shall not permit an Accounts Receivable Subsidiary to sell any accounts receivable purchased from the Company or its Subsidiaries or participation interests therein to any other Person except on an arm's length basis and solely for consideration in the form of cash or Cash Equivalents or certificates representing undivided interests of a Receivables Trust; provided an Accounts Receivable Subsidiary may not sell such certificates to any other Person except on an arm's length basis and solely for consideration in the form of cash or Cash Equivalents;

(d) shall not, and shall not permit any of its Subsidiaries to, enter into any guarantee, subject any of their respective properties or assets (other than the accounts receivable

sold by them to an Accounts Receivable Subsidiary) to the satisfaction of any liability or obligation or otherwise incur any liability or obligation (contingent or otherwise), in each case, on behalf of an Accounts Receivable Subsidiary or in connection with any sale of accounts receivable or participation interests therein by or to an Accounts Receivable Subsidiary, other than obligations relating to breaches of representations, warranties, covenants and other agreements of the Company or any of its Subsidiaries with respect to the accounts receivable sold by the Company or any of its Subsidiaries to an Accounts Receivable Subsidiary or with respect to the servicing thereof; provided that neither the Company nor any of its Subsidiaries shall at any time guarantee or be otherwise liable for the collectibility of accounts receivable sold by them;

(e) shall not permit an Accounts Receivable Subsidiary to engage in any business or transaction other than the purchase and sale of accounts receivable or participation interests therein of the Company and its Subsidiaries and activities incidental thereto;

(f) shall not permit an Accounts Receivable Subsidiary to incur any Indebtedness other than the Accounts Receivable Subsidiary Notes, Indebtedness owed to the Company and Non-Recourse Indebtedness; provided that the aggregate principal amount of all such Indebtedness of an Accounts Receivable Subsidiary shall not exceed the book value of its total assets as determined in accordance with GAAP;

(g) shall cause any Accounts Receivable Subsidiary to remit to the Company or a Restricted Subsidiary of the Company on a monthly basis as a distribution all available cash and Cash Equivalents not held in a collection account pledged to acquirers of accounts receivable or participation interests therein, to the extent not applied to:

(i) pay interest or principal on the Accounts Receivable Subsidiary Notes or any Indebtedness of such Accounts Receivable Subsidiary owed to the Company;

(ii) pay or maintain reserves for reasonable operating expenses of such Accounts Receivable Subsidiary or to satisfy reasonable minimum operating capital requirements;

(iii) to finance the purchase of additional accounts receivable of the Company and its Subsidiaries; and

(h) shall not, and shall not permit any of its Subsidiaries to, sell accounts receivable to, or enter into any other transaction with or for the benefit of, an Accounts Receivable Subsidiary:

(i) if such Accounts Receivable Subsidiary pursuant to or within the meaning of any Bankruptcy Law:

(A) commences a voluntary case;

(B) consents to the entry of an order for relief against it in an involuntary case;

- (C) consents to the appointment of a custodian of it or for all or substantially all of its property;
- (D) makes a general assignment for the benefit of its creditors; or
- (E) generally is not paying its debts as they become due, or
- (ii) if a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that
 - (A) is for relief against such Accounts Receivable Subsidiary in an involuntary case;
 - (B) appoints a Custodian of such Accounts Receivable Subsidiary or for all or substantially all of the property of such Accounts Receivable Subsidiary; or
 - (C) orders the liquidation of such Accounts Receivable Subsidiary, and, with respect to this clause (h)(ii), the order or decree remains unstayed and in effect for 60 consecutive days.

SECTION 4.19. Dispositions of ETC and Non-Core Assets.

Notwithstanding the provisions of Section 4.07 and Section 4.10 of this Indenture, in the event that the Indebtedness to Cash Flow Ratio of the Company would not have exceeded 6.0 to 1 on a pro forma basis after giving effect to the sale of all of the Equity Interests in or assets of ETC owned by the Company and its Subsidiaries, then:

- (1) the payment of any dividend or distribution consisting of Equity Interests in or assets of ETC, or the proceeds of a sale, conveyance or other disposition of such Equity Interests or assets or the sale, conveyance or other disposition of Equity Interests in or assets of ETC or the proceeds of a sale, conveyance or other disposition of such Equity Interests or assets shall not constitute a Restricted Payment;
- (2) the sale, conveyance or other disposition of the Equity Interests in or assets of ETC or the proceeds of a sale, conveyance or other disposition of such Equity Interests or assets shall not constitute an Asset Sale; and
- (3) upon delivery of an Officers' Certificate to the Trustee evidencing satisfaction of the conditions to such release and a written request to the Trustee requesting such release, ETC shall be discharged and released from its Guarantee and, so long as the Company designates ETC as an Unrestricted Subsidiary, ETC shall be discharged and released from all covenants and restrictions contained in this Indenture;

provided that no such payment, sale, conveyance or other disposition (collectively, a "Payout") described in clauses (1) or (2) above shall be permitted if at the time of such Payout:

(a) after giving pro forma effect to such Payout, the Company would not have been permitted under Section 4.07 of this Indenture to make a Restricted Payment in an amount equal to the total (the "ETC Amount Due") of:

(i) the amount of all Investments (other than the contribution of:

(x) title to the headquarters building of ETC in Inverness, Colorado and the tangible assets therein to the extent used by ETC as of the date of this Indenture; and

(y) patents, trademarks and copyrights applied for or granted as of the date of this Indenture to the extent used by ETC or resulting from the business of ETC, in each case, to ETC);

made in ETC by the Company or its Restricted Subsidiaries since the date of this Indenture (which, in the case of Investments in exchange for assets, shall be valued at the fair market value of each such asset at the time each such Investment was made); minus

(ii) the amount of the after-tax value of all cash returns on such Investments paid to the Company or its Wholly Owned Restricted Subsidiaries (or, in the case of a non-Wholly Owned Restricted Subsidiary, the pro rata portion thereof attributable to the Company); minus

(iii) \$100 million; and

(b) any contract, agreement or understanding between ETC and the Company or any Restricted Subsidiary of the Company and any loan or advance to or guarantee with, or for the benefit of, ETC issued or made by the Company or one of its Restricted Subsidiaries, is on terms that are no less favorable to the Company or its Restricted Subsidiaries than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiaries with an unrelated Person, all as evidenced by a resolution of the Board of Directors set forth in an Officers' Certificate delivered to the Trustee, within ten Business Days of a request by the Trustee certifying that each such contract, agreement, understanding, loan, advance and guarantee has been approved by a majority of the members of the Board of Directors.

If at the time of such Payout, the condition set forth in clause (a) of the proviso of the preceding sentence cannot be satisfied, ETC may seek to have a Person other than the Company or one of its Restricted Subsidiaries pay in cash an amount to the Company or its Restricted Subsidiaries such that after taxes, such amount is greater than or equal to the ETC Amount Due or the portion of the ETC Amount Due which would not have been permitted to be made as a Restricted Payment by the Company; provided that such payment shall be treated for purposes of this Section 4.19 as a cash return on the Investments made in ETC; and provided further that for all purposes under this Indenture, such payment shall not be included in any calculation under clauses (iii)(A) through (iii)(E) of the first paragraph of Section 4.07 of this Indenture. To the extent that the ETC Amount Due or any portion thereof would have been permitted to be made as a Restricted Payment by the Company and was not paid by another

Person as permitted by the preceding sentence, the Company shall be deemed to have made a Restricted Payment in the amount of such ETC Amount Due or portion thereof, as the case may be.

Notwithstanding the provisions of Section 4.07 and Section 4.10 of this Indenture:

(1) the payment of any dividend or distribution consisting of Equity Interests in or assets of any Non-Core Asset or the proceeds of a sale, conveyance or other disposition of such Equity Interests or assets or the sale, conveyance or other disposition of Equity Interests in or assets of any Non-Core Asset or the proceeds of a sale, conveyance or other disposition of such Equity Interests or assets shall not constitute a Restricted Payment;

(2) the sale, conveyance or other disposition of the Equity Interests in or assets of any Non-Core Asset or the proceeds of a sale, conveyance or other disposition of such Equity Interests or assets shall not constitute an Asset Sale; and

(3) upon delivery of an Officers' Certificate to the Trustee evidencing satisfaction of the conditions to such release and a written request to the Trustee requesting such release, any such Non-Core Asset that is a Guarantor shall be discharged and released from its Guarantee and, so long as the Company designates such Non-Core Asset as an Unrestricted Subsidiary, such Non-Core Asset shall be released from all covenants and restrictions contained in this Indenture;

provided that no Payout of any Non-Core Asset shall be permitted such as described in clauses (1) and (2) above if at the time of such Payout:

(a) after giving pro forma effect to such Payout, the Company would not have been permitted under Section 4.07 of this Indenture to make a Restricted Payment in an amount equal to the total (the "Non-Core Asset Amount Due") of:

(i) the amount of all Investments made in such Non-Core Asset by the Company or its Restricted Subsidiaries since the Issue Date (which, in the case of Investments in exchange for assets, shall be valued at the fair market value of each such asset at the time each such Investment was made); minus

(ii) the amount of the after-tax value of all cash returns on such Investments paid to the Company or its Wholly Owned Restricted Subsidiaries (or, in the case of a non-Wholly Owned Restricted Subsidiary, the pro rata portion thereof attributable to the Company); minus

(iii) \$100 million in the aggregate for all such Payouts and \$25 million for any single such Payout; and

(b) any contract, agreement or understanding between or relating to a Non-Core Asset and the Company or a Restricted Subsidiary of the Company and any loan or advance to or guarantee with, or for the benefit of, a Restricted Subsidiary which is a Non-Core Asset issued or made by the Company or one of its Restricted Subsidiaries, is on terms that are less

favorable to the Company or its Restricted Subsidiaries than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiaries with an unrelated Person, all as evidenced by a resolution of the Board of Directors as set forth in an Officers' Certificate delivered to the Trustee, within ten Business Days of a request by the same, certifying that each such contract, agreement, understanding, loan, advance and guarantee has been approved by a majority of the Board of Directors.

If at the time of such Payout, the condition set forth in clause (a) of the proviso of the preceding sentence cannot be satisfied, such Restricted Subsidiary which is a Non-Core Asset may seek to have a Person other than the Company or one of its Restricted Subsidiaries pay in cash an amount to the Company such that, after taxes, such amount is greater than or equal to the Non-Core Asset Amount Due or the portion of the Non-Core Asset Amount Due which would not have been permitted to be made as a Restricted Payment by the Company; provided that such payment shall be treated for purposes of this Section 4.19 as a cash return on the Investments made in a Non-Core Asset and provided further that for all purposes under this Indenture, such payment shall not be included in any calculation under clauses (iii)(A) through (iii)(E) of the first paragraph of Section 4.07 of this Indenture. To the extent that the Non-Core Asset Amount Due or any portion thereof would have been permitted to be made as a Restricted Payment by the Company and was not paid by another Person as permitted by the preceding sentence, the Company shall be deemed to have made a Restricted Payment in the amount of such Non-Core Asset Amount Due or portion thereof, as the case may be.

Promptly after any Payout pursuant to the terms of this Section 4.19, within ten Business Days of a request by the Trustee, the Company shall deliver an Officers' Certificate to the Trustee setting forth the Investments made by the Company or its Restricted Subsidiaries in ETC or a Non-Core Asset, as the case may be, and certifying that the requirements of this Section 4.19 have been satisfied in connection with the making of such Payout.

Notwithstanding anything contained in this Section 4.19 to the contrary, any disposition of ETC or Non-Core Assets permitted pursuant to the EDBS Notes Indentures shall also be permitted pursuant to this Indenture and shall not be considered a "Restricted Payment" or "Asset Sale" for purposes of this Indenture.

SECTION 4.20. Payments For Consent.

The Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration, whether by way of interest, fee or otherwise, to any Holder of a Note for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture or the Notes unless such consideration is offered to be paid or agreed to be paid to all holders of the Notes that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or agreement.

SECTION 4.21. Termination or Suspension of Certain Covenants Under Certain Conditions.

If, on any date following the Issue Date, the Notes receive an Investment Grade rating from both Rating Agencies and no Default or Event of Default has occurred and is

continuing (a "Fall Away Event") then, beginning on that date and continuing at all times thereafter regardless of any subsequent changes in the rating of the Notes, the provisions of the Indenture contained in Sections 3.08, 4.07, 4.09, 4.10, 4.11, 4.15, 4.18 and 4.19 and clause (d) of Section 5.01 (collectively, the "Fall Away Covenants") will no longer be applicable to the Notes.

In addition to the foregoing, during any period of time in which the Notes have an Investment Grade rating from one of the Rating Agencies and no Default or Event of Default has occurred and is continuing, then the Fall Away Covenants will not apply to the Notes.

Upon the termination or suspension of the Fall Away Covenants under either of the two foregoing paragraphs, the amount of Excess Proceeds for purposes of Section 3.08 of this Indenture shall be set at zero.

ARTICLE 5

SUCCESSORS

SECTION 5.01. Merger, Consolidation, or Sale of Assets of the Company.

The Company shall not consolidate or merge with or into (whether or not the Company is the surviving entity), or 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 Person unless:

(a) the Company is the surviving Person or the Person formed by or surviving any such consolidation or merger (if other than the Company) or 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 Person formed by or surviving any such consolidation or merger (if other than the Company) or the Person to which such sale, assignment, transfer, lease, conveyance or other disposition shall have been made assumes all the obligations of the Company under this Indenture and the Notes pursuant to a supplemental indenture to this Indenture in form reasonably satisfactory to the Trustee;

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

(d) the Company or the Person formed by or surviving any such consolidation or merger (if other than the Company) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made

(i) will have Consolidated Net Worth immediately after the transaction (but prior to any purchase accounting adjustments or accrual of deferred tax liabilities resulting from the transaction) not less than the Consolidated Net Worth of the Company immediately preceding the transaction; and

(ii) would, at the time of such transaction after giving pro forma effect thereto as if such transaction had occurred at the beginning of the applicable four-quarter period, be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Indebtedness to Cash Flow Ratio test set forth in Section 4.09.

Notwithstanding the foregoing, the Company may merge with another Person if

(a) the Company is the surviving Person;

(b) the consideration issued or paid by the Company in such merger consists solely of Equity Interests (other than Disqualified Stock) of the Company or Equity Interests of EchoStar; and

(c) immediately after giving effect to such merger (determined on a pro forma basis), the Company's Indebtedness to Cash Flow Ratio either (i) does not exceed 8.0:1 or (ii) does not exceed the Company's Indebtedness to Cash Flow Ratio immediately prior to such merger.

SECTION 5.02. Successor Corporation Substituted.

Upon any consolidation or merger, or any sale, lease, conveyance or other disposition of all or substantially all of the assets of the Company in accordance with Section 5.01, the successor corporation formed by such consolidation or into or with which the Company is merged or to which such sale, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, lease, conveyance or other disposition, the provisions of this Indenture referring to the Company shall refer instead to the successor corporation and not to the Company), 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.

ARTICLE 6

DEFAULTS AND REMEDIES

SECTION 6.01. Events of Default.

Each of the following constitutes an "Event of Default":

(a) default for 30 days in the payment when due of interest on the Notes;

(b) default in the payment when due of principal of the Notes at maturity, upon repurchase, redemption or otherwise;

(c) failure to comply with the provisions of Section 4.10, Section 4.11 or Section 4.15;

(d) default under Section 4.07 or Section 4.09, which default remains uncured for 30 days, or the breach of any representation or warranty, or the making of any untrue statement, in any certificate delivered by the Company pursuant to this Indenture;

(e) failure by the Company for 60 days after notice from the Trustee or the Holders of at least 25% in principal amount then outstanding of the Notes to comply with any of its other agreements in this Indenture or the Notes;

(f) 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 Restricted Subsidiaries (or the payment of which is guaranteed by the Company and any of its Restricted Subsidiaries), which default is caused by a failure to pay when due principal or interest on such Indebtedness within the grace period provided in such Indebtedness (a "Payment Default"), and 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, aggregates \$200 million or more;

(g) 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 and any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Company or any of its Restricted Subsidiaries), which default results in the acceleration of such Indebtedness prior to its express maturity and 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 \$200 million or more; provided that any acceleration (other than an acceleration which is the result of a Payment Default under clause (f) above) of Indebtedness under the Outstanding Deferred Payments in aggregate principal amount not to exceed \$200 million shall be deemed not to constitute an acceleration pursuant to this clause (g);

(h) failure by the Company or any of its Restricted Subsidiaries to pay final judgments (other than any judgment as to which a reputable insurance company has accepted full liability) aggregating in excess of \$100 million, which judgments are not stayed within 60 days after their entry;

(i) EchoStar, the Company or any Significant Subsidiary of the Company pursuant to or within the meaning of Bankruptcy Law: (i) commences a voluntary case; (ii) consents to the entry of an order for relief against it in an involuntary case; (iii) consents to the appointment of a Custodian of it or for all or substantially all of its property; or (iv) makes a general assignment for the benefit of its creditors;

(j) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that: (i) is for relief against EchoStar, the Company or any Significant Subsidiary of the Company in an involuntary case; (ii) appoints a custodian of EchoStar, the Company or any Significant Subsidiary of the Company or for all or substantially all of the property of EchoStar, the Company or any Significant Subsidiary of the Company; or (iii) orders the liquidation of EchoStar or any Significant Subsidiary of the Company, and the order or decree remains unstayed and in effect for 60 consecutive days; and

(k) any Guarantee shall be held in a judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect, or any Guarantor, or any person acting on behalf of any Guarantor, shall deny or disaffirm its obligations under its Guarantee.

SECTION 6.02. Acceleration.

If an Event of Default (other than an Event of Default specified in clause (i) or (j) of Section 6.01) 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 written notice to the Company and the Trustee, may declare all the Notes to be due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default specified in clause (i) or (j) of Section 6.01 with respect to the Company or any Guarantor, all outstanding Notes shall become and be immediately due and payable without further action or notice. Holders of the Notes may not enforce this Indenture or the Notes except as provided in this Indenture. The Trustee may withhold from Holders of the 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 such Holders' interest. The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may on behalf of all of the Holders rescind an acceleration and its consequences if the rescission would not conflict with any judgment or decree and if all existing Events of Default (except nonpayment of principal, interest or premium that has become due solely because of the acceleration) have been cured or waived.

In the case of any Event of Default occurring by reason of any willful action (or inaction) taken (or not taken) by or on behalf of the Company or its Subsidiaries with the intention of avoiding payment of the premium that the Company would have had to pay if the Company then had elected to redeem the Notes pursuant to Section 3.07, an equivalent premium shall also become and be immediately due and payable to the extent permitted by law.

All powers of the Trustee under this Indenture will be subject to applicable provisions of the Communications Act, including without limitation, the requirements of prior approval for de facto or de jure transfer of control or assignment of Title III licenses.

SECTION 6.03. Other Remedies.

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, premium, if any, and interest on the Notes or to enforce the performance of any provision of the Notes and 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 of a Note 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 6.04. Waiver of Past Defaults.

Holders of not less than a majority in aggregate principal amount of Notes then outstanding, by notice to the Trustee, may on behalf of the Holders of all of the Notes waive an existing Default or Event of Default and its consequences under this Indenture, except a continuing Default or Event of Default in the payment of the principal of, premium, if any, or interest on, the Notes. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

SECTION 6.05. Control by Majority.

Holders of a majority in principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising 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 the law or this Indenture that the Trustee determines may be unduly prejudicial to the rights of other Holders of Notes or that may involve the Trustee in personal liability.

SECTION 6.06. Limitation on Suits

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

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

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

(c) such Holder of a Note or Holders of Notes offer and, if requested, provide 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 and, if requested, the provision 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 of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

SECTION 6.07. Rights of Holders of Notes To Receive Payment.

Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of principal, premium, if any, 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 of the Note.

SECTION 6.08. Collection Suit by Trustee.

If an Event of Default specified in Section 6.01(a) or (b) occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal of, premium, if any, and interest remaining unpaid on the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

SECTION 6.09. Trustee May File Proofs of Claim.

The Trustee is authorized to 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 (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes), the Company's creditors or the Company's property and shall be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder of a Note to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders of the Notes, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties which the Holders of the Notes may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder of a Note any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder of a Note thereof, or to authorize the Trustee to vote in respect of the claim of any Holder of a Note in any such proceeding.

SECTION 6.10. 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, its agents and attorneys for amounts due under Section 7.07, including payment of all compensation, expense and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

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

Third: to the Company or to such party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to Holders of Notes.

SECTION 6.11. 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 does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 6.07, or a suit by Holders of more than 10% in principal amount of the then outstanding Notes.

ARTICLE 7

TRUSTEE

SECTION 7.01. 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 their 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 duties of the Trustee shall be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and 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.

(c) The Trustee may not be relieved from liabilities 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;

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

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), and (c) of this Section 7.01.

(e) No provision of this Indenture shall require the Trustee to expend or risk its own funds or incur any liability. The Trustee shall be under no obligation to exercise any of its rights and powers under this Indenture at the request of any Holder of Notes, unless such Holder shall have offered to the Trustee security and indemnity satisfactory to the Trustee 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 7.02. Rights of Trustee.

(a) The Trustee may conclusively rely upon 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. The Trustee may consult with counsel and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and 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 conferred upon it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company shall be sufficient if signed by an Officer of the Company.

(f) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities that might be incurred by it in compliance with such request or direction.

(g) Except with respect to Section 4.01, the Trustee shall have no duty to inquire as to the performance of the Company's covenants in Article 4. In addition, the Trustee shall not be deemed to have knowledge of any Default or Event of Default except (i) any Event of Default occurring pursuant to Sections 4.01, 6.01(a) and 6.01(b) or (ii) any Default or Event of Default of which the Trustee shall have received written notification or obtained actual knowledge.

(h) Delivery of reports, information and documents to the Trustee under Section 4.03 is for informational purposes only and the Trustee's receipt of the foregoing shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder.

SECTION 7.03. 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 any Affiliate of the Company with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as Trustee (if any of the Notes are registered pursuant to the Securities Act), or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to Sections 7.10 and 7.11.

SECTION 7.04. Trustee's Disclaimer.

The Trustee shall not be responsible for and 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 or any money paid to the Company or upon the Company's direction under any provision of this Indenture, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

SECTION 7.05. Notice of Defaults.

If a Default or Event of Default occurs and is continuing and if it is known to a Responsible Officer of the Trustee, the Trustee shall mail to Holders of Notes 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 of principal of, premium, if any, or interest on any Note, the Trustee may withhold the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Notes.

SECTION 7.06. Reports by Trustee to Holders of the Notes.

Within 60 days after each May 15 beginning with the May 15 following the date of this Indenture, the Trustee shall mail to the Holders of the Notes a brief report dated as of such reporting date that complies with TIA Section 313(a) (but if no event described in TIA Section 313(a) has occurred within the twelve months preceding the reporting date, no report need be transmitted). The Trustee also shall comply with TIA Section 313(b). 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 the Holders of Notes shall be mailed to the Company and filed with the SEC and each stock exchange on which any Notes are listed. The Company shall promptly notify the Trustee when any Notes are listed on any stock exchange.

SECTION 7.07. Compensation and Indemnity.

The Company shall pay to the Trustee from time to time reasonable compensation for its acceptance of this Indenture and 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 promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

The Company shall indemnify the Trustee against any and all losses, liabilities or expenses incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, except any such loss, liability or expense as may be attributable to the gross negligence, willful misconduct or bad faith of the Trustee. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company shall not relieve the Company of its obligations hereunder. 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 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 obligations of the Company under this Section 7.07 shall survive the satisfaction and discharge of this Indenture.

To secure the Company's payment obligations in this Section, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal and interest on particular Notes. Such Lien shall survive the satisfaction and discharge of this Indenture.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(i) or (j) occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

SECTION 7.08. 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.

The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Company and obtaining the prior written approval of the FCC, if so required by the Communications Act, including Section 310(d) and the rules and regulations promulgated thereunder. The Holders of at least a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Company in writing. The Company may remove the Trustee (subject to the prior written approval of the FCC, if required by the Communications Act, including Section 310(d), and the rules and regulations promulgated thereunder) if:

(a) the Trustee fails to comply with Section 7.10;

(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) the Trustee is no longer in compliance with the foreign ownership provisions of Section 310 of the Communications Act and the rules and regulations promulgated thereunder.

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

(e) 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 Notes 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 after written request by any Holder of a Note who has been a Holder of a Note for at least six months fails to comply with Section 7.10, such Holder of a Note 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 of the Notes. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, provided all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.07. Notwithstanding replacement of the Trustee pursuant to this Section 7.08, the Company's obligations under Section 7.07 shall continue for the benefit of the retiring Trustee.

SECTION 7.09. 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 7.10. Eligibility; Disqualification.

There shall at all times be a Trustee hereunder which shall be a corporation organized and doing business under the laws of the United States of America or of any state thereof authorized under such laws to exercise corporate trustee power, shall be subject to supervision or examination by federal or state authority and shall have a combined capital and surplus of at least \$25 million as set forth in its most recent published annual report of condition.

This Indenture shall always have a Trustee who satisfies the requirements of TIA Section 310(a)(1), (2) and (5). The Trustee is subject to TIA Section 310(b).

SECTION 7.11. 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 8

LEGAL DEFEASANCE AND COVENANT DEFEASANCE

SECTION 8.01. Option To Effect Legal Defeasance or Covenant Defeasance.

The Company may, at the option of its Board of Directors evidenced by a resolution set forth in an Officers' Certificate, at any time, with respect to the Notes, elect to have either Section 8.02 or 8.03 be applied to all outstanding Notes upon compliance with the conditions set forth below in this Article 8.

SECTION 8.02. Legal Defeasance and Discharge.

Upon the Company's exercise under Section 8.01 of the option applicable to this Section 8.02, the Company shall be deemed to have been discharged from its obligations with

respect to all outstanding Notes on the date the conditions set forth below are satisfied (hereinafter, "Legal Defeasance"). For this purpose, such Legal Defeasance means that the Company shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, which shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 and the other Sections of this Indenture referred to in (a) and (b) below, and to have satisfied all its other obligations under such Notes and this Indenture (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following which shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of outstanding Notes to receive payments in respect of the principal of, premium, if any, and interest on such Notes when such payments are due, or on the redemption date, as the case may be, (b) the Company's obligations with respect to such Notes under Sections 2.03, 2.04, 2.05, 2.06, 2.07, 2.08, 2.10, 2.11 and 4.02, (c) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Company's obligations in connection therewith and (d) this Article 8. Subject to compliance with this Article 8, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 with respect to the Notes.

SECTION 8.03. Covenant Defeasance.

Upon the Company's exercise under Section 8.01 of the option applicable to this Section 8.03, the Company shall be released from its obligations under the covenants contained in Sections 3.08, 4.03, 4.04, 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.13, 4.15, 4.16, 4.18, 4.19 and 5.01 with respect to the outstanding Notes on and after the date the conditions set forth below are satisfied (hereinafter, "Covenant Defeasance"), and the Notes shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes shall not be deemed outstanding for GAAP). For this purpose, such Covenant Defeasance means that, with respect to the outstanding Notes, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01(c), but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby. In addition, upon the Company's exercise under Section 8.01 of the option applicable to this Section 8.03, Sections 6.01(c) through 6.01(h) and Section 6.01(k) shall not constitute Events of Default.

SECTION 8.04. Conditions to Legal or Covenant Defeasance.

The following shall be the conditions to the application of either Section 8.02 or Section 8.03 to the outstanding Notes:

(a) The Company shall irrevocably have deposited or caused to be deposited with the Trustee (or another trustee satisfying the requirements of Section 7.10 who shall agree to comply with the provisions of this Article 8 applicable to it) as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated

solely to, the benefit of the Holders of such Notes, (i) cash in U.S. Dollars, (ii) non-callable Government Securities which through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment, cash in U.S. Dollars, or (iii) a combination thereof, in such amounts, as will be sufficient in each case, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge and which shall be applied by the Trustee (or other qualifying trustee) to pay and discharge (A) the principal of, premium, if any, and interest on the outstanding Notes on the stated maturity or on the applicable redemption date, as the case may be, of such principal or installment of principal, premium, if any, or interest and (B) any mandatory sinking fund payments or analogous payments applicable to the outstanding Notes on the day on which such payments are due and payable in accordance with the terms of this Indenture and of such Notes; provided that the Trustee shall have been irrevocably instructed to apply such money or the proceeds of such non-callable Government Securities to said payments with respect to the Notes;

(b) In the case of an election under Section 8.02, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably satisfactory to the Trustee confirming that (i) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (ii) since the Issue Date, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such opinion shall confirm that, the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(c) In the case of an election under Section 8.03, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably acceptable to the Trustee to the effect that the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(d) No Default or Event of Default with respect to the Notes shall have occurred and be continuing on the date of such deposit or, in so far as Section 6.01(i) or 6.01(j) is concerned, at any time in the period ending on the 91st day after the date of such deposit (it being understood that this condition shall not be deemed satisfied until the expiration of such period);

(e) Such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under, this Indenture or any other material agreement or instrument to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound;

(f) The Company shall have delivered to the Trustee an Officers' Certificate stating that the deposit made by the Company pursuant to its election under Section 8.02 or 8.03 was not made by the Company with the intent of preferring the Holders over any other creditors

of the Company or with the intent of defeating, hindering, delaying or defrauding any of the other creditors of the Company or others; and

(g) The Company shall have delivered to the Trustee an Officers' Certificate stating that all conditions precedent provided for or relating to either the Legal Defeasance under Section 8.02 or the Covenant Defeasance under Section 8.03 (as the case may be) have been complied with as contemplated by this Section 8.04.

SECTION 8.05. Deposited Money and Government Securities To Be Held in Trust; Other Miscellaneous Provisions.

Subject to Section 8.06, all money and Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "Trustee") pursuant to Section 8.04 in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or Government Securities deposited pursuant to Section 8.04 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

Anything in this Article 8 to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon the request of the Company any money or Government Securities held by it as provided in Section 8.04 which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(a)), are in excess of the amount thereof which would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

SECTION 8.06. Repayment to Company.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium, if any, or interest on any Note and remaining unclaimed for two years after such principal, and premium, if any, or interest has become due and payable shall be paid to the Company on its request or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter, as a secured creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustees thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in the New York Times and The Wall Street Journal (national edition), notice that such money remains unclaimed and that, after a date specified therein, which shall not be

less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining will be repaid to the Company.

SECTION 8.07. Reinstatement.

If the Trustee or Paying Agent is unable to apply any United States Dollars or Government Notes in accordance with Section 8.02 or 8.03, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03, as the case may be; provided, however, that, if the Company makes any payment of principal of, premium, if any, or interest on any Note following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE 9

AMENDMENT, SUPPLEMENT AND WAIVER

SECTION 9.01. Without Consent of Holders of Notes.

Notwithstanding Section 9.02 of this Indenture, the Company, the Guarantors and the Trustee may amend or supplement this Indenture, the Notes or the Guarantees without the consent of any Holder of a Note:

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

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

(c) to provide for the assumption of the Company's or the Guarantors' obligations to the Holders of the Notes in the case of a merger or consolidation pursuant to Article 5 or Article 10;

(d) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights hereunder of any Holder of the Notes; or

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

Upon the request of the Company accompanied by a resolution of the Board of Directors of the Company and a resolution of the board of directors of each Guarantor and upon receipt by the Trustee of the documents described in Section 11.04, the Trustee shall join with the Company and the Guarantors in the execution of any amended or supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations which may be therein contained, but the Trustee shall not be

obligated to enter into such amended or supplemental indenture which affects its own rights, duties or immunities under this Indenture or otherwise.

SECTION 9.02. With Consent of Holders of Notes.

The Company, the Guarantors and the Trustee may amend or supplement this Indenture, the Notes or the Guarantees or any amended or supplemental indenture with the written consent of the Holders of at least a majority in aggregate principal amount of the Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for the Notes), and any existing Default and its consequences or compliance with any provision of this Indenture or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes (including consents obtained in connection with a tender offer or exchange offer for the Notes). Notwithstanding the foregoing, (a) Sections 3.08, 4.10 and 4.15 of this Indenture (including, in each case, the related definitions) may not be amended or waived without the written consent of at least 66-2/3% in principal amount of the Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for the Notes) and (b) without the consent of each Holder affected, an amendment or waiver may not (with respect to any Notes held by a non-consenting Holder of Notes):

- (a) reduce the aggregate 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 with respect to the redemption of the Notes;
- (c) reduce the rate of or change the time for payment of interest on any Note;
- (d) waive a Default or Event of Default in the payment of principal of or premium, if any, or interest on the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding 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 Notes;
- (f) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of or interest on the Notes;
- (g) waive a redemption payment or mandatory redemption with respect to any Note; or
- (h) make any change in the foregoing amendment and waiver provisions.

Upon the request of the Company accompanied by a resolution of the Board of Directors of the Company and a resolution of the board of directors of each Guarantor, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Notes as aforesaid, and upon receipt by the Trustee of the documents described in Section 11.04,

the Trustee shall join with the Company and the Guarantors in the execution of such amended or supplemental indenture unless such amended or supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such amended or supplemental indenture.

It shall not be necessary for the consent of the Holders of Notes under this Section 9.02 to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section becomes effective, the Company shall mail to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver. Subject to Sections 6.04 and 6.07, the Holders of a majority in aggregate principal amount of the Notes then outstanding may waive compliance in a particular instance by the Company with any provision of this Indenture or the Notes.

SECTION 9.03. Compliance with Trust Indenture Act.

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

SECTION 9.04. 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 of a Note 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 of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder of a Note.

The Company may fix a record date for determining which Holders of the Notes must consent to such amendment, supplement or waiver. If the Company fixes a record date, the record date shall be fixed at (i) the later of 30 days prior to the first solicitation of such consent or the date of the most recent list of Holders of Notes furnished to the Trustee prior to such solicitation pursuant to Section 2.05 or (ii) such other date as the Company shall designate.

SECTION 9.05. Notation on or Exchange of Notes.

The Trustee may place an appropriate notation about an amendment, supplement 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, supplement or waiver.

Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

SECTION 9.06. Trustee To Sign Amendments, Etc.

The Trustee shall sign any amended or supplemental indenture authorized pursuant to this Article 9 if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. Neither the Company nor any Guarantor may sign any amended or supplemental indenture until its board of directors approves it.

ARTICLE 10

GUARANTEES

SECTION 10.01. Guarantee.

Each of the Guarantors, jointly and severally, hereby unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the Obligations of the Company hereunder or thereunder, that:

(a) the principal of and interest on the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and

(b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, each of the Guarantors, jointly and severally, will be obligated to pay the same immediately.

Each of the Guarantors, jointly and severally, hereby agrees that its obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor.

Each of the Guarantors, jointly and severally, hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice (except that the Trustee shall provide at least ten days' prior written notice to the Company on behalf of the Guarantors before taking any action for which the Communications Act and/or the FCC rules require such notice and which right to notice is not waivable by any Guarantor) and all demands whatsoever and covenant that this Guarantee will not be discharged

except by complete performance of the Obligations guaranteed hereby. If any Holder or the Trustee is required by any court or otherwise to return to the Company or any Guarantor, or any Custodian, Trustee, liquidator or other similar official acting in relation to either the Company or any Guarantor, any amount paid by either to the Trustee or such Holder, this Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

Each of the Guarantors, jointly and severally, agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby. Each of the Guarantors, jointly and severally, further agrees that, as between such Guarantor, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the Obligations guaranteed hereby may be accelerated as provided in Article 6 for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article 6, such obligations (whether or not due and payable) shall forthwith become due and payable by each Guarantor for the purpose of this Guarantee. Notwithstanding the foregoing, in the event that any Guarantee would constitute or result in a violation of any applicable fraudulent conveyance or similar law of any relevant jurisdiction, the liability of the applicable Guarantor under its Guarantee shall be reduced to the maximum amount permissible under such fraudulent conveyance or similar law.

The Guarantors hereby agree as among themselves that each Guarantor that makes a payment or distribution under a Guarantee shall be entitled to a pro rata contribution from each other Guarantor hereunder based on the net assets of each other Guarantor. The preceding sentence shall in no way affect the rights of the Holders of Notes to the benefits of this Indenture, the Notes or the Guarantees.

Nothing in this Section 10.01 shall apply to claims of, or payments to, the Trustee under or pursuant to the provisions of Section 7.07. Nothing contained in this Section 10.01 or elsewhere in this Indenture, the Notes or the Guarantees shall impair, as between any Guarantor and the Holder of any Note, the obligation of such Guarantor, which is unconditional and absolute, to pay to the Holder thereof the principal of, premium, if any, and interest on the Notes in accordance with their terms and the terms of the Guarantee and this Indenture, nor shall anything herein or therein prevent the Trustee or the Holder of any Note from exercising all remedies otherwise permitted by applicable law or hereunder or thereunder upon the occurrence of an Event of Default.

SECTION 10.02. Execution and Delivery of Guarantees.

To evidence its Guarantee set forth in Section 10.01, each Guarantor hereby agrees that a notation of such Guarantee substantially in the form of Exhibit B shall be endorsed by an officer of such Guarantor on each Note authenticated and delivered by the Trustee and that this Indenture shall be executed on behalf of such Guarantor by its President or one of its Vice Presidents and attested to by an Officer. Each of the Guarantors, jointly and severally, hereby agrees that its Guarantee set forth in Section 10.01 shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Guarantee. If an officer or Officer whose signature is on this Indenture or on the Guarantee of a Guarantor no longer holds that office at the time the Trustee authenticates the Note on which the Guarantee of such

Guarantor is endorsed, the Guarantee of such Guarantor shall be valid nevertheless. The delivery of any Note by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Guarantees set forth in this Indenture on behalf of the Guarantors.

SECTION 10.03. Merger, Consolidation or Sale of Assets of Guarantors.

Subject to Section 10.05, a Guarantor may not, and the Company will not cause or permit any Guarantor to, consolidate or merge with or into (whether or not such Guarantor is the surviving entity), or 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 Person other than the Company or another Guarantor unless:

(a) such Guarantor is the surviving Person or the Person formed by or surviving any such consolidation or merger (if other than such Guarantor) or 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 Person formed by or surviving any such consolidation or merger (if other than such Guarantor) or the Person to which such sale, assignment, transfer, lease, conveyance or other disposition shall have been made assumes all the obligations of such Guarantor under this Indenture and the Notes pursuant to a supplemental indenture to this Indenture in form reasonably satisfactory to the Trustee; and

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

Nothing contained in this Indenture shall prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor that is a Wholly Owned Restricted Subsidiary of the Company or shall prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor that is a Wholly Owned Restricted Subsidiary of the Company. Except as set forth in Articles 4 and 5, nothing contained in this Indenture shall prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor that is a Restricted Subsidiary of the Company or shall prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor that is a Restricted Subsidiary of the Company.

SECTION 10.04. Successor Corporation Substituted.

Upon any consolidation, merger, sale or conveyance described in clauses (a) through (d) of Section 10.04, and upon the assumption by the successor corporation, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of any Guarantee previously signed by the Guarantor and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Guarantor, such successor corporation shall succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. Such successor corporation thereupon may cause to be signed any or all of the Guarantees to be issuable hereunder by such Guarantor and delivered to the Trustee. All the Guarantees so issued shall in all respects have the

same legal rank and benefit under this Indenture as the Guarantees theretofore and thereafter issued in accordance with the terms of this Indenture as though all of such Guarantees had been issued at the date of the execution of such Guarantee by such Guarantor.

SECTION 10.05. Releases from Guarantees.

If pursuant to any direct or indirect sale of assets (including, if applicable, all of the capital stock of any Guarantor) or other disposition by way of merger, consolidation or otherwise the assets sold include all or substantially all of the assets of any Guarantor or all of the capital stock of any such Guarantor, then such Guarantor or the Person acquiring the property (in the event of a sale or other disposition of all or substantially all of the assets of such a Guarantor) shall be released and relieved of its obligations under its Guarantee or Section 10.03 and Section 10.04, as the case may be; provided that in the event of an Asset Sale, the Net Proceeds from such sale or other disposition are applied in accordance with the provisions of Section 4.10. In addition, a Guarantor shall be released and relieved of its obligations under its Guarantee or Section 10.03 and Section 10.04, as the case may be (1) if such Guarantor is dissolved or liquidated in accordance with the provisions of this Indenture; (2) if the Company designates any such Guarantor as an Unrestricted Subsidiary in compliance with the terms of this Indenture; or (3) without limiting the generality of the foregoing, in the case of ETC or any Guarantor which constitutes a Non-Core Asset, upon the sale or other disposition of any Equity Interest of ETC or such Guarantor which constitutes a Non-Core Asset, respectively. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of this Indenture, including without limitation Section 4.10 or 4.20 if applicable, the Trustee shall execute any documents reasonably required in order to evidence the release of any such Guarantor from its obligations under its Guarantee. Any such Guarantor not released from its obligations under its Guarantee shall remain liable for the full amount of principal of and interest on the Notes and for the other obligations of such Guarantor under this Indenture as provided in this Article 10.

ARTICLE 11

MISCELLANEOUS

SECTION 11.01. Trust Indenture Act Controls.

If any provision of this Indenture limits, qualifies or conflicts with the duties imposed by TIA Section 318(c), the imposed duties shall control.

SECTION 11.02. Notices.

Any notice or communication by the Company, any Guarantor or the Trustee to the other is duly given if in writing and delivered in Person or mailed by first class mail (registered or certified, return receipt requested), telex, telecopier or overnight air courier guaranteeing next day delivery, to the other's address:

If to the Company or any Guarantor:

EchoStar DBS Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120
Telecopier No.: (303) 723-1699
Attention: David K. Moskowitz, Esq.

With a copy to:

Sullivan & Cromwell LLP
1870 Embarcadero Road
Palo Alto, California 94303
Telecopier No.: (650) 461-5600
Attention: Scott D. Miller, Esq.

If to the Trustee:

U.S. Bank National Association
60 Livingston Avenue
Saint Paul, Minnesota 55107
Telecopier No: (651) 495-8097
Attention: Corporate Trust Administration

The Company, any Guarantor or the Trustee, by notice to the other may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders of Notes) shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when answered back, if telexed; when receipt acknowledged, if telecopied; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

Any notice or communication to a Holder of a Note shall be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. Any notice or communication shall also be so mailed to any Person described in TIA Section 313(c), to the extent required by the TIA. Failure to mail a notice or communication to a Holder of a Note or any defect in it shall not affect its sufficiency with respect to other Holders of Notes.

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 of Notes, it shall mail a copy to the Trustee and each Agent at the same time.

SECTION 11.03. Communication by Holders of Notes with Other Holders of Notes.

Holders of the Notes may communicate pursuant to TIA Section 312(b) with other Holders of Notes 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 11.04. 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 in form and substance reasonably satisfactory to the Trustee stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and

(b) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

SECTION 11.05. 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 a certificate provided pursuant to TIA Section 314(a)(4)) shall include:

(a) a statement that the Person making such certificate or 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, he or she has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been satisfied; and

(d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied.

SECTION 11.06. Rules by Trustee and Agents.

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

SECTION 11.07. No Personal Liability of Directors, Officers, Employees, Incorporators and Stockholders.

No director, officer, employee, incorporator or stockholder of the Company, the Guarantors or any of their Affiliates, as such, shall have any liability for any obligations of the Company, the Guarantors or any of their Affiliates under the Notes, the Guarantees or this

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 issuance of the Notes. Such waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.

SECTION 11.08. Governing Law.

The internal law of the State of New York shall govern and be used to construe this Indenture, the Notes and the Guarantees.

SECTION 11.09. No Adverse Interpretation of Other Agreements.

This Indenture may not be used to interpret another indenture, loan or debt agreement of EchoStar, the Company or any of their respective Subsidiaries. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

SECTION 11.10. Successors.

All agreements of the Company and the Guarantors in this Indenture and the Notes and the Guarantees shall bind the successors of the Company and the Guarantors, respectively. All agreements of the Trustee in this Indenture shall bind its successor.

SECTION 11.11. 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 11.12. Counterpart Originals.

The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

SECTION 11.13. Table of Contents, Headings, Etc.

The Table of Contents 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 of this Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

[Signatures on following page]

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

ECHOSTAR DBS CORPORATION,
a Colorado corporation

By: -s- David K. Moskowitz

Name:
Title:

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: -s- Richard Prokosch

Name: Richard Prokosch
Title: Vice President

ECHOSTAR SATELLITE CORPORATION
ECHOSTAR TECHNOLOGIES CORPORATION
ECHO ACCEPTANCE CORPORATION
ECHOSPHERE CORPORATION
DISH NETWORK SERVICE CORPORATION
ECHOSTAR INTERNATIONAL CORPORATION
as Guarantors

By: -s- David K. Moskowitz

Name:
Title:

S-1

[Face of Note]

Floating Rate Senior Note due 2008

Cert. No.
CUSIP No. []

EchoStar DBS Corporation promises to pay to _____ or its registered assigns the principal sum of _____ Dollars on October 1, 2008

Interest Payment Dates: January 1, April 1, July 1 and October 1, commencing January 1, 2004

Record Dates: December 15, March 15, June 15 and September 15 (whether or not a Business Day).

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

Dated:

ECHOSTAR DBS CORPORATION

By: _____
Title:

By: _____
Title:

(SEAL)

This is one of the Notes referred to in the within-mentioned Indenture:

U.S. Bank National Association, as Trustee

By: _____
Authorized Signatory

Dated:

Capitalized terms used herein have the meanings assigned to them in the Indenture (as defined below) unless otherwise indicated.

(1) Interest. EchoStar DBS Corporation, a Colorado corporation (the "Company") promises to pay interest on the principal amount of this Note at the rate and in the manner specified below. Interest will accrue at the Applicable Eurodollar Rate (as defined in the Indenture) and will be payable quarterly in arrears in cash on each January 1, April 1, July 1 and October 1, commencing January 1, 2004, or if any such day is not a Business Day on the next succeeding Business Day (each an "Interest Payment Date") to Holders of record of the Notes at the close of business on the immediately preceding December 15, March 15, June 15 and September 15, whether or not a Business Day. Interest will be computed on the basis of a 360-day year consisting of twelve 30-day months. Interest shall accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance. To the extent lawful, the Company shall pay interest on overdue principal at the rate of the then applicable interest rate on the Notes; it shall pay interest on overdue installments of interest (without regard to any applicable grace periods) at the same rate to the extent lawful. In addition, Holders may be entitled to the benefits of certain provisions of the Registration Rights Agreement.

(2) 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 next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date. The Holder hereof must surrender this Note to a Paying Agent to collect principal payments. The Company will pay principal and interest in money of the United States of America that at the time of payment is legal tender for payment of public and private debts. The Notes will be payable both as to principal and interest at the office or agency of the Company maintained for such purpose or, at the option of the Company, payment of interest may be made by check mailed to the Holders of Notes at their respective addresses set forth in the register of Holders of Notes. Unless otherwise designated by the Company, the Company's office or agency will be the office of the Trustee maintained for such purpose.

(3) Paying Agent and Registrar. Initially, the Trustee will act as Paying Agent and Registrar. The Company may change any Paying Agent, Registrar or co-registrar without prior notice to any Holder of a Note. The Company may act in any such capacity.

(4) Indenture. The Company issued the Notes under an Indenture, dated as of October 2, 2003 (the "Indenture"), among the Company, the Guarantors and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (15 U.S. Code Sections 77aaa-77bbb), as in effect on the date of the Indenture. The Notes are subject to all such terms, and Holders of Notes are referred to the Indenture and such act for a statement of such terms. The terms of the Indenture shall govern any inconsistencies between the Indenture and the Notes. The Notes are unsecured obligations of the Company.

(5) Optional Redemption. Except as provided in the next paragraph, the Notes will not be redeemable at the Company's option prior to October 1, 2005. Thereafter, the Notes will be subject to redemption at the option of the Company, in whole, or from time to time in part, upon not less than 30 nor more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below, together with accrued and unpaid interest thereon to the applicable redemption date, if redeemed during the 12-month period beginning on October 1 of the years indicated below:

Year	Percentage
2005.....	102.000%
2006.....	101.000%
2007.....	100.000%

Notwithstanding the foregoing, at any time prior to October 1, 2005, the Company may redeem up to 35% of the aggregate principal amount of the Notes outstanding at a redemption price equal to 100.000% of the principal amount thereof plus a premium equal to the interest rate per annum on the Notes applicable on the date on which the notice of redemption is given pursuant to Section 3.03 of the Indenture, payable in each case on the redemption date, together with accrued and unpaid interest to such redemption date, with the net cash proceeds of any capital contributions or one or more public or private sales (including sales to EchoStar, regardless of whether EchoStar obtained such funds from an offering of Equity Interests or Indebtedness of EchoStar or otherwise) of Equity Interests (other than Disqualified Stock) of the Company (other than proceeds from a sale to any Subsidiary of the Company or any employee benefit plan in which the Company or any of its Subsidiaries participates); provided that: (a) at least 65% in aggregate of the originally issued principal amount of the Notes remains outstanding immediately after the occurrence of such redemption; and (b) the sale of such Equity Interests is made in compliance with the terms of the Indenture.

(6) Repurchase at Option of Holder. Upon the occurrence of a Change of Control, the Company will be required to offer to purchase on the Change of Control Payment Date all outstanding Notes at a purchase price equal to 101% of the aggregate principal amount thereof, together with accrued and unpaid interest thereon to the date of purchase. 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 Change of Control Payment Date and may elect to have such Notes purchased by completing the form entitled "Option of Holder to Elect Purchase" appearing below.

When the cumulative amount of Excess Proceeds that have not been applied in accordance with Section 4.10 (Asset Sales) or Section 3.08 (Offer to Purchase By Application of Excess Proceeds) of the Indenture, exceeds \$100.0 million, the Company will be required to offer to purchase the maximum principal amount of Notes that may be purchased out of such Excess Proceeds at an offer price in cash equal to 101% of the principal amount thereof, together with accrued and unpaid interest thereon to the date of purchase. To the extent the Company or a Restricted Subsidiary is required under the terms of Indebtedness of the Company or such Restricted Subsidiary which is ranked equally with the Notes to make an offer to purchase such other Indebtedness with any proceeds which constitute Excess Proceeds under the Indenture, the

Company shall make a pro rata offer to the holders of all other pari passu Indebtedness (including the Notes) with such proceeds. To the extent that the principal amount of Notes and other pari passu Indebtedness surrendered by holders thereof exceeds the amount of such Excess Proceeds, the Trustee shall select the Notes and other pari passu Indebtedness to be purchased on a pro rata basis. Holders of Notes that are subject to an offer to purchase will receive an Excess Proceeds Offer from the Company prior to any related Purchase Payment Date and may elect to have such Notes purchased by completing the form entitled "Option of Holder to Elect Purchase" appearing below.

(7) Notice of Redemption. Notice of redemption shall be mailed at least 30 days but not more than 60 days before the redemption date to each Holder whose Notes are to be redeemed at its registered address. Notes may be redeemed in part but only in whole multiples of \$1,000, unless all of the Notes held by a Holder of Notes are to be redeemed. On and after the redemption date, interest ceases to accrue on Notes or portions of them called for redemption unless the Company fails to redeem such Notes or such portions thereof.

(8) 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 and the Trustee may require a Holder of a Note, 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. Also, it need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed.

(9) Persons Deemed Owners. Prior to due presentment to the Trustee for registration of the transfer of this Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name this Note is registered as its absolute owner for the purpose of receiving payment of principal of, premium, if any, and interest on this Note and for all other purposes whatsoever, whether or not this Note is overdue, and neither the Trustee, any Agent nor the Company shall be affected by notice to the contrary. The registered Holder of a Note shall be treated as its owner for all purposes.

(10) Amendments, Supplement and Waivers. Subject to certain exceptions, the Indenture or 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 the Notes), and any existing default or compliance with any provision of the Indenture or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes (including consents obtained in connection with a tender offer or exchange offer for the Notes). Notwithstanding the foregoing, (a) Sections 3.08 (Offer to Purchase by Application of Excess Proceeds), 4.10 (Asset Sales) and 4.15 (Offer to Repurchase Upon Change in Control) of the Indenture (including, in each case, the related definitions) may not be amended or waived without the written consent of at least 66 2/3% in principal amount of the Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for the Notes) and (b) without the consent of each Holder affected, an amendment or waiver may not (with respect to any Notes held by a non-consenting Holder of Notes) reduce the principal amount of Notes whose Holders must consent

to an amendment, supplement or waiver; reduce the principal of or change the fixed maturity of any Note or alter the provisions with respect to the redemption of the Notes; reduce the rate of or change the time for payment of interest on any Note; waive a Default or Event of Default in the payment of principal of or premium, if any, or interest on the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding Notes and a waiver of the payment default that resulted from such acceleration); make any Note payable in money other than that stated in the Notes; make any change in the provisions of the Indenture relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of or interest on the Notes; waive a redemption payment or mandatory redemption with respect to any Note; or make any change in the foregoing amendment and waiver provisions. Notwithstanding the foregoing, without the consent of any Holder of a Note, the Indenture or the Notes may be amended or supplemented to cure any ambiguity, defect or inconsistency; to provide for uncertificated Notes or Guarantees in addition to or in place of certificated Notes or Guarantees; to provide for the assumption of the Company's or any Guarantor's obligations to the Holders of the Notes in case of a merger or consolidation; to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights under the Indenture of any such Holder; or to comply with the requirements of the SEC in order to effect or maintain the qualification of the Indenture under the Trust Indenture Act.

(11) Defaults and Remedies. Each of the following constitutes an Event of Default:

- (a) default for 30 days in the payment when due of interest on the Notes;
- (b) default in payment when due of principal of the Notes at maturity, upon repurchase, redemption or otherwise;
- (c) failure to comply with the provisions described under Section 4.15 (Offer to Purchase Upon Change in Control), Section 4.11 (Limitation on Transactions with Affiliates), or Section 4.10 (Asset Sales) of the Indenture;
- (d) default under the provisions described under Section 4.07 (Limitation on Restricted Payments) or Section 4.09 (Incurrence of Indebtedness) of the Indenture which default remains uncured for 30 days, or the breach of any representation or warranty, or the making of any untrue statement, in any certificate delivered by the Company pursuant to the Indenture;
- (e) failure by the Company for 60 days after notice from the Trustee or the holders of at least 25% in principal amount of the then outstanding Notes to comply with any of its other agreements in the Indenture or the Notes;
- (f) 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 and any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Company and any of its Restricted Subsidiaries), which default is caused by a failure to pay when due principal or interest on such Indebtedness

within the grace period provided in such Indebtedness (a "Payment Default"), and 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, aggregates \$200 million or more;

(g) 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 and any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Company or any of its Restricted Subsidiaries), which default results in the acceleration of such Indebtedness prior to its express maturity and 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 \$200 million or more; provided that any acceleration (other than an acceleration which is the result of a Payment Default under clause (f) above) of Indebtedness under the Outstanding Deferred Payments in aggregate principal amount not to exceed \$200 million shall be deemed not to constitute an acceleration pursuant to this clause (g);

(h) failure by the Company or any of its Restricted Subsidiaries to pay final judgments (other than any judgment as to which a reputable insurance company has accepted full liability) aggregating in excess of \$100 million, which judgments are not stayed within 60 days after their entry;

(i) EchoStar, the Company or any Significant Subsidiary of the Company pursuant to or within the meaning of Bankruptcy Law: (i) commences a voluntary case; (ii) consents to the entry of an order for relief against it in an involuntary case; (iii) consents to the appointment of a Custodian of it or for all or substantially all of its property; or (iv) makes a general assignment for the benefit of its creditors;

(j) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that: (i) is for relief against EchoStar, the Company or any Significant Subsidiary of the Company in an involuntary case; (ii) appoints a custodian of EchoStar, the Company or any Significant Subsidiary of the Company or for all or substantially all of the property of EchoStar, the Company or any Significant Subsidiary of the Company; or (iii) orders the liquidation of EchoStar or any Significant Subsidiary of the Company, and the order or decree remains unstayed and in effect for 60 consecutive days; and

(k) any Guarantee shall be held in a judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect, or any Guarantor, or any person acting on behalf of any Guarantor, shall deny or disaffirm its obligations under its Guarantee.

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 Notes may declare all the Notes to be due and payable immediately (plus, in the case of an Event of Default that is the result of an action by the Company or any of its Subsidiaries intended to avoid restrictions on or premiums related to redemptions of the Notes contained in the Indenture or the Notes, an amount of premium that

would have been applicable pursuant to the Notes or as set forth in the Indenture). Notwithstanding the foregoing, in the case of an Event of Default arising from the events of bankruptcy or insolvency with respect to the Company or any of its Subsidiaries described in (i) above, all outstanding Notes will become due and payable without further action or notice. Holders of the Notes 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 may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from holders of the 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 such holders' interest.

The holders of a majority in aggregate principal amount of the then outstanding Notes, by notice to the Trustee, may on behalf of the holders of all of the Notes 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 or premium on, or principal of, the Notes.

The Company is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Company is required upon becoming aware of any Default or Event of Default to deliver to the Trustee a statement specifying such Default or Event of Default.

All powers of the Trustee under the Indenture will be subject to applicable provisions of the Communications Act, including without limitation, the requirements of prior approval for de facto or de jure transfer of control or assignment of Title III licenses.

(12) Trustee Dealings with Company. The Trustee under the Indenture, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not Trustee; however, if the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as Trustee or resign.

(13) No Personal Liabilities of Directors, Officers, Employees, Incorporators and Stockholders. No director, officer, employee, incorporator or stockholder of the Company or any of its Affiliates, as such, shall have any liability for any obligations of the Company or any of its Affiliates under this Note 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 issuance of the Notes.

(14) Guarantees. Payment of principal and interest (including interest on overdue principal and overdue interest, if lawful) is unconditionally guaranteed, jointly and severally, by each of the Guarantors.

(15) Authentication. This Note shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

(16) Abbreviations. Customary abbreviations may be used in the name of a Holder of a Note or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entirety), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (5 Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

(17) CUSIP Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes and has directed the Trustee to use CUSIP numbers in notices of redemption as a convenience to Holders of Notes. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

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

EchoStar DBS Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120
Attention: David K. Moskowitz, Esq.

ASSIGNMENT FORM

To assign this Note, fill in the form below:

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

(Insert assignee's Soc. Sec. 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.

Date: _____

Your Signature: _____
(Sign exactly as your name
appears on the face of this
Note)

Signature Guarantee.

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have all or any part of this Note purchased by the Company pursuant to Section 3.08 or Section 4.15 of the Indenture check the appropriate box:

Section 3.08 Section 4.15

If you want to have only part of the Note purchased by the Company pursuant to Section 3.08 or Section 4.15 of the Indenture, state the amount you elect to have purchased:

\$

Date: _____

Your Signature: _____
(Sign exactly as your name
appears on the face of this Note)

Signature Guarantee.

[ATTACHMENT FOR GLOBAL NOTES]

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

DATE OF EXCHANGE	AMOUNT OF DECREASE IN PRINCIPAL AMOUNT OF THIS GLOBAL NOTE	AMOUNT OF INCREASE PRINCIPAL AMOUNT OF THE GLOBAL NOTE	PRINCIPAL AMOUNT OF THIS GLOBAL NOTE FOLLOWING SUCH DECREASE (OR INCREASE)	SIGNATURE OF AUTHORIZED OFFICER OF TRUSTEE OR NOTE CUSTODIAN
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FORM OF GUARANTEE

[Name of Guarantor] and its successors under the Indenture, jointly and severally with any other Guarantors, hereby irrevocably and unconditionally guarantees (i) the due and punctual payment of the principal of, premium, if any, and interest on the Notes, whether at maturity, by acceleration or otherwise, the due and punctual payment of interest on the overdue principal of and interest, if any, on the Notes, to the extent lawful, and the due and punctual performance of all other obligations of EchoStar DBS Corporation (the "Company") to the Holders or the Trustee all in accordance with the terms set forth in Article 10 of the Indenture, (ii) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise and (iii) has agreed to pay any and all costs and expenses (including reasonable attorneys' fees) incurred by the Trustee or any Holder in enforcing any rights under this Guarantee. Capitalized terms used herein have the meanings assigned to them in the Indenture unless otherwise indicated.

No stockholder, officer, director or incorporator, as such, past, present or future, of [name of Guarantor] shall have any personal liability under this Guarantee by reason of his or its status as such stockholder, officer, director or incorporator. This Guarantee shall be binding upon [name of Guarantor] and its successors and assigns and shall inure to the benefit of the successors and assigns of the Trustee and the Holders and, in the event of any transfer or assignment of rights by any Holder or the Trustee, the rights and privileges herein conferred upon that party shall automatically extend to and be vested in such transferee or assignee, all subject to the terms and conditions hereof.

This Guarantee shall not be valid or obligatory for any purpose until the certificate of authentication on the Note upon which this Guarantee is noted shall have been executed by the Trustee under the Indenture by the manual signature of one of its authorized officers.

THE TERMS OF ARTICLE 10 OF THE INDENTURE ARE INCORPORATED HEREIN BY REFERENCE.

This Guarantee shall be governed by and construed in accordance with the laws of the State of New York.

[NAME OF GUARANTOR]

By: _____
Name:
Title:

FORM OF CERTIFICATE OF TRANSFER

EchoStar DBS Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120

U.S. Bank National Association
60 Livingston Avenue
St. Paul, Minnesota 55107

Re: Floating Rate Senior Notes due 2008

Reference is hereby made to the Indenture, dated as of October 2, 2003 (the "Indenture"), among EchoStar DBS Corporation, as issuer (the "Company"), the Guarantors named therein and U.S. Bank National Association, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____ (the "Transferor") owns and proposes to transfer the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of \$_____ in such Note[s] or interests (the "Transfer"), to _____ (the "Transferee"), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1. CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE 144A GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO RULE 144A. The Transfer is being effected pursuant to and in accordance with Rule 144A under the United States Securities Act of 1933, as amended (the "Securities Act"), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believed and believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the 144A Global Note and/or the Definitive Note and in the Indenture and the Securities Act.
2. CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE REGULATION S GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO REGULATION S. The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act

and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a Person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act, (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Restricted Period, the transfer is not being made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on Transfer enumerated in the Private Placement Legend printed on the Regulation S Global Note and/or the Definitive Note and in the Indenture and the Securities Act.

3. CHECK AND COMPLETE IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN A DEFINITIVE NOTE PURSUANT TO ANY PROVISION OF THE SECURITIES ACT OTHER THAN RULE 144A OR REGULATION S. The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

(a) such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act;
or

(b) or such Transfer is being effected to the Company or a subsidiary thereof;

or

(c) such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act.

4. CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE OR OF AN UNRESTRICTED DEFINITIVE NOTE.

(a) CHECK IF TRANSFER IS PURSUANT TO RULE 144. (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfe

restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

- (b) CHECK IF TRANSFER IS PURSUANT TO REGULATION S.
(i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.
- (c) CHECK IF TRANSFER IS PURSUANT TO OTHER EXEMPTION.
(i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Transferor]

By: _____
Name:
Title:

Dated: _____

ANNEX A TO CERTIFICATE OF TRANSFER

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

- (a) a beneficial interest in the:
 - (i) 144A Global Note (CUSIP _____), or
 - (ii) Regulation S Global Note (CUSIP _____), or
- (b) a Restricted Definitive Note.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

- (a) a beneficial interest in the:
 - (i) 144A Global Note (CUSIP _____), or
 - (ii) Regulation S Global Note (CUSIP _____), or
 - (iii) Unrestricted Global Note (CUSIP _____), or
- (b) a Restricted Definitive Note; or
- (c) an Unrestricted Definitive Note, in accordance with the terms of the Indenture.

FORM OF CERTIFICATE OF EXCHANGE

EchoStar DBS Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120

U.S. Bank National Association
60 Livingston Avenue
St. Paul, Minnesota 55107

Re: Floating Rate Senior Notes due 2008

(CUSIP _____)

Reference is hereby made to the Indenture, dated as of October 2, 2003 (the "Indenture"), among EchoStar DBS Corporation, as issuer (the "Company"), the Guarantors named therein and U.S. Bank National Association, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____ (the "Owner") owns and proposes to exchange the Note[s] or interest in such Note[s] specified herein, in the principal amount of \$_____ in such Note[s] or interests (the "Exchange"). In connection with the Exchange, the Owner hereby certifies that:

1. EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN A RESTRICTED GLOBAL NOTE FOR UNRESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN AN UNRESTRICTED GLOBAL NOTE.

(a) CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the United States Securities Act of 1933, as amended (the "Securities Act"), (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(b) CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in

compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(c) CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(d) CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

2. EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES FOR RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES.

(a) CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO RESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

(b) CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the [CHECK ONE] _ 144A Global Note, _ Regulation S Global Note with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's

own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Transferor]

By: _____
Name:
Title:

Dated: _____

This Registration Rights Agreement (this "AGREEMENT") is made and entered into as of October 2, 2003, by and among EchoStar DBS Corporation, a Colorado corporation (the "COMPANY"), the Guarantors named in the Purchase Agreement (as defined below) (the "GUARANTORS"), and Banc of America Securities LLC and Credit Suisse First Boston LLC (each, a "PURCHASER" and, collectively, the "PURCHASERS"), whom have agreed to purchase \$1,000,000,000 aggregate principal amount of 5-3/4% Senior Notes due 2008 of the Company (the "2008 NOTES"), \$1,000,000,000 aggregate principal amount of 6-3/8% Senior Notes due 2011 of the Company (the "2011 NOTES") and \$500,000,000 aggregate principal amount of Floating Rate Senior Notes due 2008 of the Company (the "LIBOR NOTES"), pursuant to the Purchase Agreement. The series of the 2008 Notes, the series of the 2011 Notes and the series of the LIBOR Notes are collectively referred to herein as, the "NOTES").

This Agreement is made pursuant to the Purchase Agreement, dated as of September 18, 2003 (the "PURCHASE AGREEMENT"), among the Company, the Guarantors and the Purchasers. In order to induce the Purchasers to purchase the Notes, the Company has agreed to provide the registration rights set forth in this Agreement. The execution and delivery of this Agreement is a condition to the obligations of the Purchasers under the Purchase Agreement. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to them in the three Indentures, dated as of October 2, 2003, among the Company, the Guarantors and U.S. Bank National Association, as Trustee, relating to the three separate series of Notes (each, an "INDENTURE" and, collectively, the "INDENTURES").

The parties hereby agree as follows:

SECTION 1. DEFINITIONS

As used in this Agreement, the following capitalized terms shall have the following meanings:

ACT: The Securities Act of 1933, as amended.

AFFILIATE: As defined in Rule 144 of the Act.

BROKER-DEALER: Any broker or dealer registered under the Exchange Act.

CLOSING DATE: The date hereof.

COMMISSION: The Securities and Exchange Commission.

CONSUMMATE: An Exchange Offer related to any series of Notes shall be deemed "Consummated" for purposes of this Agreement upon the occurrence of (i) the filing and effectiveness under the Act of the Exchange Offer Registration Statement relating to that series of Exchange Notes to be issued in the Exchange Offer, (ii) the maintenance of such Exchange Offer continuously effective and the keeping of the Exchange Offer open for a period not less than the period required pursuant to Section 3(b) hereof, and (iii) the delivery by the Company to the Registrar under the Indenture of that series, Exchange Notes in the same aggregate principal amount as the aggregate principal amount of Notes of that series that were tendered by Holders thereof pursuant to the Exchange Offer.

CONSUMMATION DEADLINE: As defined in Section 3(b) hereof.

EFFECTIVENESS DEADLINE: As defined in Section 3(a) hereof.

EXCHANGE ACT: The Securities Exchange Act of 1934, as amended.

EXCHANGE NOTES: The Company's 5-3/4% Senior Notes due 2008, 6-3/8% Senior Notes due 2011 and Floating Rate Senior Notes due 2008, in each case guaranteed by the Guarantors to the same extent as the Notes, to be issued pursuant to the Indentures: (i) in the Exchange Offers or (ii) as contemplated by Section 6 hereof.

EXCHANGE OFFERS: The exchange and issuance by the Company of a principal amount of Exchange Notes of each series (which shall be registered, pursuant to the Exchange Offer Registration Statement) equal to the outstanding principal amount of Notes of each series that are tendered by such Holders in connection with such exchange and issuance.

EXCHANGE OFFER REGISTRATION STATEMENT: A Registration Statement relating to any of the Exchange Offers, including the related Prospectus, which may be in the form of a single Registration Statement.

FILING DEADLINE: As defined in Sections 3(a) and 4(a) hereof.

HOLDERS: As defined in Section 2 hereof.

NASD: National Association of Securities Dealers, Inc.

PROSPECTUS: The prospectus included in a Registration Statement at the same time such Registration Statement is declared effective, as amended or supplemented by any prospectus supplement and by all other amendments thereto, including post-effective amendments, and all material incorporated by reference into such Prospectus.

RECOMMENCEMENT DATE: As defined in Section 6(d) hereof.

REGISTRATION DEFAULT: As defined in Section 5 hereof.

REGISTRATION STATEMENT: Any registration statement of the Company relating to (a) an offering of Exchange Notes pursuant to an Exchange Offer or (b) the registration for resale of Transfer Restricted Securities pursuant to the Shelf Registration Statement, in each case, that is filed pursuant to the provisions of this Agreement, including the Prospectus included therein, all amendments and supplements thereto (including post-effective amendments) and all exhibits and material incorporated by reference therein.

REGULATION S: Regulation S promulgated under the Act.

RULE 144: Rule 144 promulgated under the Act.

SHELF REGISTRATION STATEMENT: As defined in Section 4 hereof.

SUSPENSION NOTICE: As defined in Section 6(d) hereof.

TIA: The Trust Indenture Act of 1939 (15 U.S.C. Section 77aaa-77bbb) as in effect on the date of the Indenture.

TRANSFER RESTRICTED SECURITIES: Each Note, until the earliest to occur of (a) the date on which such Note is exchanged in an Exchange Offer for an Exchange Note which is entitled to be resold to the public by the Holder thereof without complying with the prospectus delivery requirements of the Act, (b) the date on which such Note has been disposed of in accordance with a Shelf Registration Statement, (c) the date on which such Note may be distributed to the public pursuant to Rule 144(k) under the Act or (d) each Exchange Note until the date on which such Exchange Note is disposed of by a Broker-Dealer pursuant to the "Plan of Distribution" contemplated by the Exchange Offer Registration Statement (including the delivery of the Prospectus contained therein).

UNDERWRITTEN REGISTRATION OR UNDERWRITTEN OFFERING: A registration in which securities of the Company are sold to an underwriter for reoffering to the public.

SECTION 2. HOLDERS

A person is deemed to be a holder of Transfer Restricted Securities (each, a "HOLDER") whenever such Person owns Transfer Restricted Securities.

SECTION 3. REGISTERED EXCHANGE OFFER

(a) Unless an Exchange Offer with respect to any series of Notes shall not be permitted by applicable law or Commission policy (after the procedures set forth in Section 6(a) below have been complied with), the Company shall with respect to each other series of Notes: (i) cause an Exchange Offer Registration Statement to be filed with the Commission as soon as practicable after the Closing Date, but in no event later than 180 days after the Closing Date (such 180th day being the "FILING DEADLINE"), (ii) use its reasonable best efforts to cause such Exchange Offer Registration Statement to become effective at the earliest possible time, but in no event later than 270 days after the Closing Date (such 270th day being the "EFFECTIVENESS Deadline"), (iii) in connection with the foregoing, (A) file all pre-effective amendments to such Exchange Offer Registration Statement as may be necessary in order to cause it to become effective, (B) file, if applicable, a post-effective amendment to such Exchange Offer Registration Statement pursuant to Rule 430A under the Act, and (C) cause all necessary filings, if any, in connection with the registration and qualification of the Exchange Notes to be made under the Blue Sky laws of such jurisdictions as are necessary to permit Consummation of the Exchange Offers, and (iv) upon the effectiveness of such Exchange Offer Registration Statement, use its reasonable best efforts to commence and consummate the Exchange Offers such that the Exchange Offers are Consummated not later than the 315th day after the Closing Date. The Exchange Offers shall be on the appropriate form permitting (i) registration of the Exchange Notes to be offered in exchange for the Notes that are Transfer Restricted Securities and (ii) resales of Exchange Notes by Broker-Dealers that tendered the Exchange Notes that such Broker-Dealer acquired for its own account as a result of market making activities or other trading activities (other than Notes acquired directly from the Company or any of its Affiliates) as contemplated by Section 3(c) below.

(b) The Company shall use its reasonable best efforts to cause an Exchange Offer Registration Statement with respect to each series of Exchange Notes (which may be in the form of a single Registration Statement) to be effective continuously and shall keep the Exchange Offers open for a period of not less than the minimum period required under applicable federal and state securities laws to consummate the Exchange Offers; provided, however, that in no event shall such period be less than 20 business days. The Company shall cause the Exchange Offers to comply with all applicable federal and state securities laws. No securities other than Exchange Notes shall be included in any Exchange Offer Registration Statement. The Company shall use its reasonable best efforts to cause the Exchange Offers to be consummated not later than the 315th day after the Closing Date (such 315th day being the "CONSUMMATION DEADLINE").

(c) The Company shall include a "Plan of Distribution" section in the Prospectus contained in each Exchange Offer Registration Statement and indicate therein that any Broker-Dealer who holds Transfer Restricted Securities that were acquired for the account of such Broker-Dealer as a result of market-making activities or other trading activities (other than Notes acquired directly from the Company or any Affiliate of the Company), may exchange such Transfer Restricted Securities pursuant to the Exchange Offers. Such "Plan of Distribution" section shall also contain all other information with respect to such sales by such Broker-Dealers that the Commission may require in order to permit such sales pursuant thereto, but such "Plan of Distribution" shall not name any such Broker-Dealer or disclose the amount of Transfer Restricted Securities held by any such Broker-Dealer, except to the extent required by the Commission as a result of a change in policy, rules or regulations after the date of this Agreement.

Because such Broker-Dealer may be deemed to be an "underwriter" within the meaning of the Act and must, therefore, deliver a prospectus meeting the requirements of the Act in connection with any initial sale of any Exchange Notes received by such Broker-Dealer in the Exchange Offers, the Company shall permit the use of the prospectus contained in each Exchange Offer Registration Statement by such Broker-Dealer to satisfy such Prospectus delivery requirement. To the extent necessary to ensure that the prospectus contained in each Exchange Offer Registration Statement is available for sales of Exchange Notes by Brokers-Dealers, the Company shall use its reasonable best efforts to keep each Exchange Offer Registration Statement continuously effective, supplemented, amended and current as required by and subject to the provisions of Sections 6(a) and 6(c) hereof and in conformity with the requirements of this Agreement, the Act and the policies, rules and regulations of the Commission as announced from time to time, for a period of one year from the date on which each Exchange Offer is consummated or such shorter period as will terminate when all Transfer Restricted Securities covered by such Registration Statement have been sold pursuant thereto. The Company shall provide sufficient copies of the latest version of such Prospectus to such Broker-Dealers, promptly upon request, and in no event later than one day after such request, at any time during such period.

SECTION 4. SHELF REGISTRATION

(a) Shelf Registration. If (i) any Exchange Offer is not permitted by applicable law or Commission policy (after the Company has complied with the procedures set forth in Section

6(a) below) or (ii) if any Holder of Transfer Restricted Securities shall notify the Company within 20 business days following the date on which any Exchange Offer is Consummated that (A) such Holder was prohibited by applicable law or Commission policy from participating in the Exchange Offer, or (B) such Holder may not resell the Exchange Notes acquired by it in the Exchange Offer to the public without delivering a prospectus and that the Prospectus contained in such Exchange Offer Registration Statement is not appropriate or available for such resales by such Holder, or (C) that such Holder is a Broker-Dealer and holds Notes acquired directly from the Company or any of its Affiliates, then the Company shall:

(x) cause to be filed a shelf registration statement pursuant to Rule 415 under the Act (the "SHELF REGISTRATION STATEMENT"), relating to all Transfer Restricted Securities of such series of Notes, on or prior to the later of (1) 30 days after the date on which the Company determines that an Exchange Offer Registration Statement with respect to that series of Notes cannot be filed as a result of clause (a)(i) above, (2) 30 days after the date on which the Company receives notice specified in clause (a)(ii) above, and (3) the 120th day after the Closing Date (such later date, the "FILING DEADLINE"); and

(y) shall use its reasonable best efforts to cause such Shelf Registration Statement to become effective on or prior to the 180th day, after the Filing Deadline (such 180th day, the "EFFECTIVENESS DEADLINE"). To the extent necessary to ensure that the Shelf Registration Statement is available for sales of Transfer Restricted Securities of such series of Notes by the Holders thereof entitled to the benefit of this Section 4(a) and other securities required to be registered therein pursuant to Section 6(b)(ii) hereof, the Company shall use its reasonable best efforts to keep such Shelf Registration Statement required by this Section 4(a) continuously effective, supplemented, amended and current as required by and subject to the provisions of Sections 6(b) and (c) hereof and in conformity with the requirements of this Agreement, the Act and the policies, rules and regulations of the Commission as announced from time to time, for a period of at least two years (as extended pursuant to Section 6(d) hereof) following the Closing Date or such shorter period as will terminate where all Transfer Restricted Securities covered by such Shelf Registration Statement have been sold pursuant thereto.

(b) Provision by Holders of Certain Information in connection with the Shelf Registration Statement. No Holder of Transfer Restricted Securities may include any of its Transfer Restricted Securities in any Shelf Registration Statement pursuant to this Agreement unless and until such Holder furnishes to the Company in writing, within 20 days after receipt of a request therefor, (i) the information specified in Item 507 or 508 of Regulation S-K, as applicable, of the Act for use in connection with any Shelf Registration Statement or Prospectus or preliminary Prospectus included therein and (ii) the undertaking specified in Section 8(b) hereof. No Holder of Transfer Restricted Securities shall be entitled to liquidated damages pursuant to Section 5 hereof unless and until such Holder shall have used its reasonable best efforts to provide all such information. Each Selling Holder agrees to furnish promptly to the Company all information required to be disclosed in order to make the information previously furnished to the Company by such Holder not materially misleading.

SECTION 5. LIQUIDATED DAMAGES

If (i) any Registration Statement required by this Agreement is not filed with the Commission on or prior to the applicable Filing Deadline, (ii) any such Registration Statement has not been declared effective by the Commission on or prior to the applicable Effectiveness Deadline, (iii) any Exchange Offer has not been Consummated on or prior to the Consummation Deadline or (iv) any Registration Statement required by this Agreement is filed and declared effective but shall thereafter (and before the second anniversary of the initial sale) cease to be effective or fail to be usable in connection with resales of the Transfer Restricted Securities without being succeeded immediately by a post-effective amendment to such Registration Statement that cures such failure and that is itself immediately declared effective, and only for such time of non-effectiveness or non-usability (each such event referred to in clauses (i) through (iv), a "REGISTRATION DEFAULT"), then the Company hereby agrees to pay (and the Guarantors agree to guarantee such payments) liquidated damages to each Holder of Transfer Restricted Securities affected thereby for the first 90-day period immediately following the occurrence of such Registration Default, in an amount equal to \$0.05 per week per \$1,000 in principal amount of Transfer Restricted Securities held by such Holder for each week or portion thereof that the Registration Default continues. The amount of the liquidated damages shall increase by an additional \$0.05 per week per \$1,000 in principal amount of Transfer Restricted Securities with respect to each subsequent 90-day period until all Registration Defaults have been cured, the Transfer Restricted Securities become freely tradable without registration under the Act or no Transfer Restricted Securities are outstanding, up to a maximum amount of liquidated damages of \$0.30 per week per \$1,000 in principal amount of Transfer Restricted Securities; provided that the Company shall in no event be required to pay liquidated damages with respect to any one series of Notes for more than one Registration Default at any given time. All accrued liquidated damages shall be paid to the Holders entitled thereto, in the manner provided for the payment of interest, on each Interest Payment Date, as more fully set forth in the Indentures and the Notes. Notwithstanding anything to the contrary set forth herein, (1) upon filing of an Exchange Offer Registration Statement with respect to the affected series of Transfer Restricted Securities (and/or, if applicable, the Shelf Registration Statement), in the case of (i) above, (2) upon the effectiveness of an Exchange Offer Registration Statement with respect to the affected series of Transfer Restricted Securities (and/or, if applicable, the Shelf Registration Statement), in the case of (ii) above, (3) upon Consummation of an Exchange Offer with respect to the affected series of Transfer Restricted Securities, in the case of (iii) above, or (4) upon the filing of a post-effective amendment to a Registration Statement or an additional Registration Statement that causes the Exchange Offer Registration Statement with respect to the affected series of Transfer Restricted Securities (and/or, if applicable, the Shelf Registration Statement) to again be declared effective or made usable in the case of (iv) above, the liquidated damages payable with respect to the affected series of Transfer Restricted Securities as a result of such clause (i), (ii), (iii) or (iv), as applicable, shall cease.

Notwithstanding the fact that any securities for which liquidated damages are due cease to be Transfer Restricted Securities, all obligations of the Company to pay liquidated damages with respect to securities shall survive until such time as such obligations with respect to such securities shall have been satisfied in full.

SECTION 6. REGISTRATION PROCEDURES

(a) Exchange Offer Registration Statement. In connection with the Exchange Offers, the Company shall (x) comply with all of the provisions of Section 6(c) below, (y) use its reasonable best efforts to effect such exchange and to permit the resale of Exchange Notes by Broker-Dealers that tendered in the Exchange Offers, Notes that such Broker-Dealer acquired for its own account as a result of its market making activities as other trading activities (other than Notes acquired directly from the Company or any of its Affiliates) being sold in accordance with the intended method or methods of distribution thereof, and (z) comply with all of the following provisions:

(i) If, following the date hereof there has been announced a change in Commission policy with respect to exchange offers such as the Exchange Offers, that in the reasonable opinion of counsel to the Company raises a substantial question as to whether any Exchange Offer is permitted by applicable federal law, the Company hereby agrees to seek a no-action letter or other favorable decision from the Commission allowing the Company to consummate such Exchange Offer for such Transfer Restricted Securities. The Company agrees to pursue the issuance of such a decision to the Commission staff level. In connection with the foregoing, the Company agrees, to take all such other actions as may be requested by the Commission or otherwise required in connection with the issuance of such decision, including without limitation (A) participating in telephonic conferences with the Commission, (B) delivering to the Commission staff an analysis prepared by counsel to the Company setting forth the legal bases, if any, upon which such counsel has concluded that such an Exchange Offer should be permitted and (C) diligently pursuing a resolution (which need not be favorable) by the Commission staff.

(ii) As a condition to its participation in the Exchange Offers, each Holder of Transfer Restricted Securities (including, without limitation, any Holder who is a Broker-Dealer) shall furnish, upon the request of the Company, prior to the consummation of the applicable Exchange Offer, a written representation to the Company (which may be contained in the letter of transmittal contemplated by the related Exchange Offer Registration Statement) to the effect that (A) it is not an Affiliate of the Company, (B) it is not engaged in, and does not intend to engage in, and has no arrangement or understanding with any person to participate in, a distribution of the applicable series of Exchange Notes to be issued in the Exchange Offer and (C) it is acquiring the Exchange Notes of the applicable series in its ordinary course of business. Each Holder using an Exchange Offer to participate in a distribution of the Exchange Notes shall acknowledge and agree that, if the resales are of Exchange Notes obtained by such Holder in exchange for Notes acquired by such Holder directly from the Company or an Affiliate thereof, it (1) could not, under Commission policy as in effect on the date of this Agreement rely on the position of the Commission enunciated in Morgan Stanley and Co., Inc. (available June 5, 1991) and Exxon Capital Holdings Corporation (available May 13, 1988), as interpreted in the Commission's letter to Shearman & Sterling dated July 2, 1993, and similar no-action letters (including, if applicable, any no-action letter obtained pursuant to clause (i) above), and (2) must comply with the registration and prospectus delivery requirements of the Act in connection with a secondary resale transaction and that such a

secondary resale transaction should be covered by an effective registration statement containing the selling security holder information required by Item 507 or 508, as applicable, of Regulation S-K.

(iii) Prior to effectiveness of each Exchange Offer Registration Statement, the Company shall provide a supplemental letter to the Commission (A) stating that the Company is registering the related Exchange Offer in reliance on the position of the Commission enunciated in Exxon Capital Holdings Corporation (available May 13, 1988), Morgan Stanley and Co., Inc. (available June 5, 1991), as interpreted in the Commission's letter to Shearman & Sterling dated July 2, 1993, and, if applicable, any no-action letter obtained pursuant to clause (i) above, (B) including a representation that neither the Company nor any Guarantor has entered into any arrangement or understanding with any Person to distribute the Exchange Notes to be received in the Exchange Offers and that, to the best of the Company's information and belief, each Holder participating in the Exchange Offers is acquiring the Exchange Notes in its ordinary course of business and has no arrangement or understanding with any Person to participate in the distribution of the Exchange Notes received in the Exchange Offers and (C) any other undertaking or representation required by the Commission as set forth in any no-action letter obtained pursuant to clause (i) above, if applicable.

(b) Shelf Registration Statement. In connection with each Shelf Registration Statement, the Company shall: (i) comply with all the provisions of Section 6(c) below and shall use its reasonable best efforts to effect such registration to permit the sale of the Transfer Restricted Securities being sold in accordance with the intended method or methods of distribution thereof (as indicated in the information furnished to the Company pursuant to Section 4(b) hereof), and pursuant thereto the Company will prepare and file with the Commission, a Registration Statement relating to the registration on any appropriate form under the Act, which form shall be available for the sale of the Transfer Restricted Securities in accordance with the intended method or methods of distribution thereof within the time periods and otherwise in accordance with the provisions hereof and (ii) issue, upon the request of any Holder or purchaser of Notes covered by any Shelf Registration Statement contemplated by this Agreement, Exchange Notes having an aggregate principal amount equal to the aggregate principal amount of Notes sold pursuant to the Shelf Registration Statement and surrendered to the Company for cancellation; the Company shall register Exchange Notes on the Shelf Registration Statement for this purpose and issue the Exchange Notes to the purchasers of securities subject to the Shelf Registration Statement in the names as such purchasers shall designate.

(c) General Provisions. In connection with any Registration Statement and any related Prospectus required by this Agreement, the Company shall:

(i) use its reasonable best efforts to keep such Registration Statement continuously effective and provide all requisite financial statements for the period specified in Section 3 or 4 of this Agreement, as applicable. Upon the occurrence of any event that would cause any such Registration Statement or the Prospectus contained therein (A) to contain an untrue statement of material fact or omit to state any material fact necessary to make the statements therein not misleading or (B) not to be effective

and usable for resale of Transfer Restricted Securities during the period required by this Agreement, the Company shall file promptly an appropriate amendment to such Registration Statement, curing such defect, and if Commission review is required, use its reasonable best efforts to cause such amendment to be declared effective as soon as practicable;

(ii) prepare and file with the Commission such amendments and post-effective amendments to the Registration Statement as may be necessary to keep such Registration Statement effective for the applicable period set forth in Section 3 or 4 hereof, as the case may be; cause the Prospectus to be supplemented by any required Prospectus supplement, and as so supplemented to be filed pursuant to Rule 424 under the Act, and to comply fully with the applicable provisions of Rules 424 and 430A under the Act in a timely manner; and comply with the provisions of the Act with respect to the disposition of all securities covered by such Registration Statement during the applicable period in accordance with the intended method or methods of distribution by the sellers thereof set forth in such Registration Statement or supplement to the Prospectus;

(iii) advise the underwriters, if any, and each selling Holder promptly and, if requested by such Holder, confirm such advice in writing, (A) when the Prospectus or any Prospectus supplement or post-effective amendment has been filed, and, with respect to any Registration Statement or any post-effective amendment thereto, when the same has become effective, (B) of any request by the Commission for amendments to the Registration Statement or amendments or supplements to the Prospectus or for additional information relating thereto, (C) of the issuance by the Commission of any stop order suspending the effectiveness of any Registration Statement under the Act or of the suspension by any state securities commission of the qualification of the Transfer Restricted Securities for offering or sale in any jurisdiction, or the initiation of any proceeding for any of the preceding purposes, and (D) of the existence of any fact or the happening of any event that makes any statement of a material fact made in any Registration Statement, any Prospectus, any amendment or supplement thereto, or any document incorporated by reference therein untrue, or that requires the making of any additions to or changes in any Registration Statement or any Prospectus in order to make the statements therein not misleading, or that requires the making of any additions to or changes in any Prospectus in order to make the statements therein in the light of the circumstances under which they were made, not misleading. If at any time the Commission shall issue any stop order suspending the effectiveness of any Registration Statement, or any state securities commission or other regulatory authority shall issue an order suspending the qualification or exemption from qualification of the Transfer Restricted Securities under state securities or Blue Sky laws, the Company shall use its reasonable best efforts to obtain the withdrawal or lifting of such order at the earliest possible time;

(iv) furnish to each selling Holder and each of the underwriters, if any, in connection with such exchange or sale, if any, before filing with the Commission, copies of any Registration Statement or any Prospectus included therein or any amendments or supplements to any such Registration Statement or Prospectus (including all documents incorporated by reference after the initial filing of such Registration Statement), which

documents will be subject to the review and comment of such Holders and underwriter(s), if any, in connection with such sale, if any, for a period of at least five business days, and the Company will not file any such Registration Statement or Prospectus or any amendment or supplement to any such Registration Statement or Prospectus (including all such documents incorporated by reference) to which such Holders or the underwriters, if any, shall reasonably object within five business days after the receipt thereof. A Holder or underwriter, if any, shall be deemed to have reasonably objected to such filing if such Registration Statement, amendment, Prospectus or supplement, as applicable, as proposed to be filed, contains an untrue statement of a material fact or omits to state any material fact necessary to make the statements therein not misleading or fails to comply with the applicable requirements of the Act;

(v) promptly prior to the filing of any document that is to be incorporated by reference into a Registration Statement or Prospectus, provide copies of such document to each selling Holder and to the underwriters, if any, in connection with such exchange or sale, if any, make the Company's representatives available for discussion of such document and other customary due diligence matters, and include such information in such document prior to the filing thereof as such Holders or underwriters, if any, reasonably may request;

(vi) make available, at reasonable times, for inspection by each selling Holder, any underwriter, if any, participating in any disposition pursuant to such Registration Statement, and any attorney or accountant retained by such Holders or any of the underwriters, all financial and other records, pertinent corporate documents and properties of the Company and cause the Company's officers, directors and employees to supply all information reasonably requested by any such Holder, underwriter, attorney or accountant in connection with such Registration Statement or any post-effective amendment thereto subsequent to the filing thereof and prior to its effectiveness;

(vii) if requested by any Holders or the underwriters, if any, in connection with such exchange or sale, promptly include in any Registration Statement or Prospectus, pursuant to a supplement or post-effective amendment if necessary, such information as such Holders and underwriters, if any, may reasonably request to have included therein, including, without limitation, information relating to the "Plan of Distribution" of the Transfer Restricted Securities; and make all required filings of such Prospectus supplement or post-effective amendment as soon as practicable after the Company is notified of the matters to be included in such Prospectus supplement or post-effective amendment;

(viii) cause the Transfer Restricted Securities covered by each Registration Statement to be rated with the appropriate rating agencies, if so requested by the Holders of a majority in aggregate principal amount of Notes covered thereby or the underwriters, if any;

(ix) furnish to each selling Holder (and upon request, any Holder) and each of the underwriter(s), if any, in connection with such exchange or sale, without charge, at least one copy of each Registration Statement, as first filed with the Commission, and of

each amendment thereto, including all documents incorporated by reference therein and all exhibits (including exhibits incorporated therein by reference);

(x) deliver to each Holder and each of the underwriters, if any, without charge, as many copies of each Prospectus (including each preliminary prospectus) and any amendment or supplement thereto as such Persons reasonably may request; the Company hereby consents to the use (in accordance with applicable law) of the Prospectus and any amendment or supplement thereto by each selling Holder and each underwriter, if any, in connection with the offering and the sale of the Transfer Restricted Securities covered by each Prospectus or any amendment or supplement thereto;

(xi) upon the request of any selling Holder, enter into such agreements (including underwriting agreements), and make, such representations and warranties, and take all such other actions in connection therewith in order to expedite or facilitate the disposition of the Transfer Restricted Securities pursuant to any Registration Statement contemplated by this Agreement, as may be requested by any Purchaser or by any selling Holder in connection with any sale or resale pursuant to any Registration Statement. In such connection, the Company shall:

(A) upon request of any Holder, furnish to each Purchaser, each selling Holder and each underwriter, if any, in such substance and scope as they may request and as are customarily made by issuers to underwriters in primary underwritten offerings, upon the consummation of the Exchange Offers or upon, the effectiveness of each Shelf Registration Statement, as the case may be:

(1) a certificate, dated such date signed on behalf of the Company by (x) the President or any Vice President and (y) a principal financial or accounting officer of the Company, confirming, as of the date thereof, the matters set forth in Sections 2(bb) of the Purchase Agreement and confirming that the representations and warranties of the Company contained in any such underwriting agreement (which shall be of the same tenor as the representations and warranties contained in the Purchase Agreement, excluding Sections 2(a) (which shall reference the related Registration Statement and Prospectus instead of the Offering Memorandum), (cc), (dd), (ee), (ff), (gg) and (hh)) qualified as to materiality are true and correct, and those not so qualified are true and correct in all material respects, in each case, as of the date hereof, and confirming such other matters as such parties may reasonably request;

(2) an opinion, dated the date of consummation of the Exchange Offers and the date of effectiveness of each Shelf Registration Statement, as the case may be, of counsel for the Company, covering the matters similar to those set forth in Annex I and Annex II of the Purchase Agreement and such other matters as such parties may reasonably request, and in any event including a statement to the effect that such counsel has participated in conferences with officers and other representatives of the Company, representatives of the independent public accountants for the Company, the Purchasers' representatives and the Purchasers' counsel in connection with the

preparation of such Registration Statement and the related Prospectus and have considered the matters required to be stated therein and the statements contained therein, although such counsel has not independently verified the accuracy, completeness or fairness of such statements; and that such counsel advises that, on the basis of the foregoing (relying as to materiality to the extent such counsel deems appropriate upon the statements of officers and other representatives of the Company and without independent check or verification), no facts came to such counsel's attention that caused such counsel to believe that the applicable Registration Statement, at the time such Registration Statement or any post-effective amendment thereto became effective, and, in the case of an Exchange Offer Registration Statement, as of the date of Consummation of the related Exchange Offer, contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading, or that the related Prospectus contained in such Registration Statement as of its date and, in the case of the opinion dated the date of Consummation of the related Exchange Offer, as of the date of Consummation, contained an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. Without limiting the foregoing, such counsel may state further that such counsel assumes no responsibility for, and has not independently verified, the accuracy, completeness or fairness of the financial statements, notes and schedules and other financial data included in any Registration Statement contemplated by this Agreement or the related Prospectus; and

(3) a customary comfort letter, dated as of the date of Consummation of each Exchange Offer, or as of the date of effectiveness of each Shelf Registration Statement, as the case may be, from the Company's independent accountants, in the customary form and covering matters of the type customarily covered in comfort letters to underwriters in connection with primary underwritten offerings, and affirming the matters set forth in the comfort letters of KPMG delivered pursuant to the Purchase Agreement, without exception; and

(B) deliver such other documents and certificates as may be reasonably requested by such parties to evidence compliance with the matters covered in clause (A) above and with any customary conditions contained in any agreement or other agreement entered into by the Company pursuant to this clause (xi), if any.

If at any time the representations and warranties of the Company contemplated in clause (A)(1) above cease to be true and correct, the Company shall so advise the Purchasers and the underwriter(s), if any, and each selling Holder promptly and, if requested by such Persons, shall confirm such advice in writing;

(xii) prior to any public offering of Transfer Restricted Securities, cooperate with, the selling Holders, the underwriters, if any, and their respective counsel in connection with the registration and qualification of the Transfer Restricted Securities

under the securities or Blue Sky laws of such jurisdictions as the selling Holders or underwriters may request and do any and all other acts or things necessary or advisable to enable the disposition in such jurisdictions of the Transfer Restricted Securities covered by the applicable Registration Statement; provided, however, that the Company shall not be required to register or qualify as a foreign corporation where it is not now so qualified or to take any action that would subject it to the service of process in suits or to taxation, other than as to matters and transactions relating to any Registration Statement, in any jurisdiction where it is not now so subject;

(xiii) shall issue, upon the request of any Holder of Notes covered by each Shelf Registration Statement, Exchange Notes, having an aggregate principal amount equal to the aggregate principal amount of Notes surrendered to the Company by such Holder in exchange therefor or being sold by such Holder; such Exchange Notes to be registered in the name of such Holder or in the name of the purchaser(s) of such Notes or Exchange Notes, as the case may be; in return, the Notes held by such Holder shall be surrendered to the Company for cancellation;

(xiv) in connection with any sale of Transfer Restricted Securities that will result in such securities no longer being Transfer Restricted Securities, cooperate with the Holders and the underwriters, if any, to facilitate the timely preparation and delivery of certificates representing Transfer Restricted Securities to be sold and not bearing any restrictive legends; and to register such Transfer Restricted Securities in such denominations and in such names as the selling Holders or the underwriters, if any, may request at least two business days prior to any such sale of Transfer Restricted Securities;

(xv) use its reasonable best efforts to cause the disposition of the Transfer Restricted Securities covered by each Registration Statement to be registered with or approved by such other governmental agencies or authorities as may be necessary to enable the seller or sellers thereof or the underwriters, if any, to consummate the disposition of such Transfer Restricted Securities, subject to the proviso contained in clause (xii) above;

(xvi) subject to Section 6(c)(i), if any fact or event contemplated by Section 6(c)(iii)(D) above shall exist or have occurred, prepare a supplement or post-effective amendment to each Registration Statement or related Prospectus or any document incorporated therein by reference or file any other required document so that, as thereafter delivered to the purchasers of Transfer Restricted Securities, the Prospectus will not contain an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, not misleading;

(xvii) provide a CUSIP number for all Transfer Restricted Securities not later than the effective date of a Registration Statement covering such Transfer Restricted Securities and provide the Trustee under the Indentures with printed certificates for the Transfer Restricted Securities which are in a form eligible for deposit with the Depository Trust Company;

(xviii) cooperate and assist in any filings required to be made with the NASD and in the performance of any due diligence investigation by any underwriter (including any "qualified independent underwriter") that is required to be retained in accordance with the rules and regulations of the NASD, and use its reasonable best efforts to cause such Registration Statement to become effective and approved by such governmental agencies or authorities as may be necessary to enable the Holders selling Transfer Restricted Securities to consummate the disposition of such Transfer Restricted Securities;

(xix) otherwise use its reasonable best efforts to comply with all applicable rules and regulations of the Commission, and make generally available to its security holders with regard to any Registration Statement, as soon as practicable, a consolidated earnings statement meeting the requirements of Rule 158 (which need not be audited) covering a twelve-month period, beginning after the effective date of the Registration Statement (as such term is defined in paragraph (c) of rule 158 under the Act);

(xx) cause the Indentures to be qualified under the TIA not later than the effective date of the first Registration Statement required by this Agreement, and, in connection therewith, cooperate with the Trustee and the Holders to effect such changes to the Indentures as may be required for such Indenture to be so qualified in accordance with the terms of the TIA; and execute, and use its reasonable best efforts to cause the Trustee to execute, all documents that may be required to effect such changes and all other forms and documents required to be filed with the Commission to enable such Indentures to be so qualified in a timely manner;

(xxi) cause all Transfer Restricted Securities covered by the Registration Statement to be listed on each securities exchange on which similar securities issued by the Company are then listed if requested by the Holders of a majority in aggregate principal amount of Notes or the managing underwriters, if any; and

(xxii) provide promptly to each Holder, upon request, each document filed with the Commission pursuant to the requirements of Section 13 or Section 15(d) of the Exchange Act.

(d) Restrictions on Holders. Each Holder agrees by acquisition of a Transfer Restricted Security that, upon receipt of the notice referenced to in Section 6(c)(iii)(D) or any notice from the Company of the existence of any fact of the kind described in Section 6(c)(iii)(D) hereof (in each case, a "SUSPENSION NOTICE"), such Holder will forthwith discontinue disposition of Transfer Restricted Securities pursuant to the applicable Registration Statement until (i) such Holder has received copies of the supplemented or amended Prospectus contemplated by Section 6(c)(xvi) hereof, or (ii) such Holder is advised in writing by the Company that the use of the Prospectus may be resumed, and has received copies of any additional or supplemental filings that are incorporated by reference in the Prospectus (in each case, the "RECOMMENCEMENT DATE"). Each Holder receiving a Suspension Notice hereby agrees that it will either (i) destroy any Prospectuses, other than permanent file copies then in such Holder's possession which have been replaced by the Company with more recently dated Prospectuses, or (ii) will deliver to the Company (at the Company's expense) all copies, other than permanent file copies then in such Holder's possession, of the Prospectus covering such

Transfer Restricted Securities that was current at the time of receipt of such Suspension Notice. The time period regarding the effectiveness of such Registration Statement set forth in Section 3 or 4 hereof, as applicable, shall be extended by a number of days equal to the number of days in the period from and including the date of delivery of the Suspension Notice to the date of the Recommencement Date.

SECTION 7. REGISTRATION EXPENSES

Subject to the compliance in all material respects by the Company and the Guarantors with all of their respective obligations under this Agreement, the Purchasers agree to pay (and, to the extent not paid by the Purchasers, to reimburse the Company for) all out-of-pocket expenses reasonably incurred by the Company and the Guarantors which are incident to the performance of their obligations under this Agreement, regardless of whether a Registration Statement becomes effective (unless due to the noncompliance of the Company and the Guarantors of their obligations under this Agreement), up to a maximum of \$540,000, after which such expenses shall be borne by the Company and the Guarantors, including without limitation: (i) all registration and filing fees and expenses (including filings made by any Purchaser or Holder with the NASD (and, if applicable, the fees and expenses of any "qualified independent underwriter" and its counsel that may be required by the rules and regulations of the NASD)); (ii) all fees and expenses of compliance with federal securities and state Blue Sky or securities laws; (iii) all expenses of printing (including printing certificates for the Exchange Notes to be issued in the Exchange Offers and printing of Prospectuses), messenger and delivery services and telephone; (iv) all fees and disbursements of counsel for the Company and the Holders of Transfer Restricted Securities; (v) all application and filing fees in connection with listing Exchange Notes on a national securities exchange automated quotation system pursuant to the requirements hereof; (vi) all fees and disbursements of independent certified public accountants of the Company (including the expenses of any special audit and comfort letters required by or incidental to such performance); (vii) fees and expenses of the Trustee, including fees and expenses of counsel and (viii) all travel related expenses incurred by officers or employees of the Company incident to the performance of the Company's or the Guarantors' obligations under this Agreement. The Purchasers' obligations under this Section 7(a) shall be subject in each case to the submission by the Company and the Guarantors to the Purchasers of invoices and other documentation with respect to such costs and expenses. In no event shall the Purchasers' obligations under Section this 7(a) limit their rights under Section 8 hereof, whether by set-off or otherwise by the Company and the Guarantors, and no liability of the Company and the Guarantors under Section 8 hereof shall be an obligation required to be paid or reimbursed by the Purchasers pursuant to this Section 7(a).

The Company will, in any event, bear its internal expenses (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), the expenses of any annual audit and the fees and expenses of any Person, including special experts, retained by the Company.

SECTION 8. INDEMNIFICATION

(a) The Company and the Guarantors agree to indemnify and hold harmless (i) each Holder and (ii) each Person, if any, who controls such Holder (within the meaning of Section 15

of the Act or Section 20 of the Exchange Act) (any of the persons referred to in this clause (ii) being hereinafter referred to as a "controlling person") and (iii) the respective officers, directors, partners, employees, representatives and agents of any Holder or any controlling person, from and against any and all losses, claims, damages, liabilities, judgments, actions and expenses (including, without limitation, any legal or other expenses incurred in connection with, investigating, preparing, pursuing or defending any claim or action, or any investigation or proceeding by any governmental agency or body, commenced or threatened, including any action that could give rise to any such losses, claims, damages, liabilities or judgments) directly or indirectly caused by, related to, based upon, arising out of or in connection with any untrue statement or alleged untrue statement of a material fact contained in any Registration Statement, preliminary prospectus or Prospectus (or any amendment or supplement thereto), provided by the Company to any Holder or any prospective purchaser of Exchange Notes or registered Notes or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such losses, claims, damages, liabilities, judgments, actions or expenses are caused by an untrue statement or omission or alleged untrue statement or omission that is based upon information relating to such Holder furnished in writing to the Company by such Holder.

(b) The Company may require, as a condition to including any Transfer Restricted Securities held by any Holder in a Registration Statement, that the Company shall have received an undertaking reasonably satisfactory to it from such Holder that such Holder agrees, severally and not jointly, to indemnify and hold harmless the Company and the Guarantors, and their respective directors and officers, and each person, if any, who controls (within the meaning of Section 15 of the Act or Section 20 of the Exchange Act) the Company or the Guarantors, as the case may be, to the same extent as the foregoing indemnity from the Company set forth in Section 8(a) above, but only with reference to information relating to such Holder furnished in writing to the Company by such Holder expressly for use in any Registration Statement. 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 entire amount received by such Holder with respect to its sale of the Transfer Restricted Securities pursuant to a 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) In case any action shall be commenced involving any person in respect of which indemnity may be sought pursuant to Section 8(a) or 8(b) (the "INDEMNIFIED PARTY"), the indemnified party shall promptly notify the person against whom such indemnity may be sought (the "INDEMNIFYING PARTY") in writing and the indemnifying party shall assume the defense of such action, including the employment of counsel reasonably satisfactory to the indemnified party and the payment of all fees and expenses of such counsel, as incurred (except that in the case of any action in respect of which indemnity may be sought pursuant to both Sections 8(a) and 8(b), a Holder shall not be required to assume the defense of such action pursuant to this Section 8(c), but may employ separate counsel and participate in the defense thereof, but the fees and expenses of such counsel, except as provided below, shall be at the expense of the Holder). Any indemnified party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such

counsel shall be at the expense of the indemnified party unless (i) the employment of such counsel shall have been specifically authorized in writing by the indemnifying party, (ii) the indemnifying party shall have failed to assume the defense of such action or employ counsel reasonably satisfactory to the indemnified party or (iii) the named parties to any such action (including any impleaded parties) include both the indemnified party and the indemnifying party, and the indemnified party shall have been advised by such counsel that there may be one or more legal defenses available to it which are different from or additional to those available to the indemnifying party (in which case the indemnifying party shall not have the right to assume the defense of such action on behalf of the indemnified party). In any such case, the indemnifying party shall not, in connection with any one action or separate but substantially similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the fees and expenses of more than one separate firm of attorneys (in addition to any local counsel) for all indemnified parties and all such fees and expenses shall be reimbursed as they are incurred. Such firm shall be designated in writing by a majority of the Holders, in the case of the parties indemnified pursuant to Section 8(a), and by the Company, in the case of parties indemnified pursuant to Section 8(b). The indemnifying party shall indemnify and hold harmless the indemnified party from and against any and all losses, claims, damages, liabilities, judgments and expenses 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 shall have 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 shall have failed to comply with such reimbursement request. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement or compromise of, or consent to the entry of judgment with respect to, any pending or threatened action in respect of which the indemnified party is or could have been a party and indemnity or contribution may be or could have been sought hereunder by the indemnified party, unless such settlement, compromise or judgment (i) includes an unconditional release of the indemnified party from all liability on claims that are or could have been the subject matter of such action and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of the indemnified party.

(d) To the extent that the indemnification provided for in this Section 8 is unavailable to an indemnified party under Section 8(a) or Section 8(b) hereof in respect of any losses, claims, damages, liabilities, judgments or expenses referred to therein, then each indemnifying party, in lieu of indemnifying such indemnified party, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages, liabilities, judgments or expenses (i) in such proportion as is appropriate to reflect the relative benefits received by the Company, on the one hand, and the Holders, on the other hand, from their sale of Transfer Restricted Securities or (ii) if the allocation provided by clause 8(d)(i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause 8(d)(i) above but also the relative fault of the Company, on the one hand, and of the Holder, on the other hand, in connection with the statements or omissions which resulted in such losses, claims, damages, liabilities, judgments or expenses, as well as any other relevant equitable considerations. The relative fault of the Company, on the one hand, and of the Holder, on the other hand, shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state

a material fact relates to information supplied by the Company, on the one hand, or by such Holder, on the other hand, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The Company, the Guarantors and each Holder agree that it would not be just and equitable if contribution pursuant to this Section 8(d) were determined by pro rata allocation (even if the Holders were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to in the immediately preceding paragraph. The amount paid or payable by an indemnified party as a result of the losses, claims, damages, liabilities, judgments or expenses referred to in the immediately preceding paragraph shall be deemed to include, subject to the limitations set forth above, any legal or other expenses incurred by such indemnified party in connection with investigating or defending any such action or claim including any action that could have given rise to such losses, claims, damages, liabilities, judgments or expenses. Notwithstanding the provisions of this Section 8, no Holder shall be required to contribute, in the aggregate, any amount in excess of the amount by which the total received by such Holder with respect to the sale of Transfer Restricted Securities pursuant to a Registration Statement exceeds (i) the amount paid by such Holder for such Transfer Restricted Securities and (ii) the amount of any damages which such Holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Holders' obligations to contribute pursuant to this Section 8(d) are several in proportion to the respective principal amount of Transfer Restricted Securities held by each Holder hereunder and not joint.

SECTION 9. RULE 144A

The Company hereby 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 10. PARTICIPATION IN UNDERWRITTEN REGISTRATIONS

No Holder may participate in any Underwritten Registration hereunder unless such Holder (a) agrees to sell such Holder's Transfer Restricted Securities on the basis provided in any underwriting arrangements approved by the Persons entitled hereunder to approve such arrangements and (b) completes and executes all reasonable questionnaires, powers of attorney, indemnities, underwriting agreements, lock-up letters and other documents required under the terms of such underwriting arrangements.

SECTION 11. SELECTION OF UNDERWRITERS

The Holders of Transfer Restricted Securities covered by the Shelf Registration Statement who desire to do so may sell such Transfer Restricted Securities in an Underwritten Offering. In any such Underwritten Offering, the investment banker or investment bankers and manager or managers that will administer the offering will be selected by the Holders of a majority in aggregate principal amount of the Transfer Restricted Securities included in such offering; provided that such investment bankers and managers must be reasonably satisfactory to the Company.

SECTION 12. MISCELLANEOUS

(a) Remedies. The Company and the Guarantors acknowledge and agree that any failure by the Company to comply with its obligations under Sections 3 and 4 hereof may result in material irreparable injury to the Purchasers or Holders for which there is no adequate remedy at law, that it will not be possible to measure damages for such injuries precisely and that, in the event of any such failure, the Purchasers or any Holder may obtain such relief as may be required to specifically enforce the Company's obligations under Sections 3 and 4 hereof. The Company and the Guarantors further agree to waive the defense in any action for specific performance that a remedy at law would be adequate.

(b) No Inconsistent Agreements. The Company will not, on or after the date of this Agreement, enter into any agreement with respect to its securities that is inconsistent with the rights granted to the Holders in this Agreement or otherwise conflicts with the provisions hereof. The rights granted to the Holders hereunder do not in any way conflict with and are not inconsistent with the rights granted to the holders of the Company's securities under any agreement in effect on the date hereof.

(c) Adjustments Affecting the Notes or Exchange Notes. The Company will not take any action, or permit any change to occur, with respect to the Notes or the Exchange Notes that would materially and adversely affect the ability of the Holders to consummate any Exchange Offer.

(d) Amendments and Waivers. The provisions of this Agreement may not be amended, modified or supplemented, and waivers or consents to or departures from the provisions hereof may not be given unless (i) in the case of Section 5 hereof and this Section 12(d)(i), the Company has obtained the written consent of Holders of all outstanding Transfer Restricted Securities and (ii) in the case of all other provisions hereof, the Company has obtained the written consent of Holders of a majority of the outstanding principal amount of Transfer Restricted Securities (excluding Transfer Restricted Securities held by the Company or its Affiliates). Notwithstanding the foregoing, a waiver or consent to departure from the provisions hereof that relates exclusively to the rights of Holders whose Transfer Restricted Securities are being tendered pursuant to the Exchange Offer and that does not affect directly or indirectly the rights of other Holders whose Transfer Restricted Securities are not being tendered pursuant to such Exchange Offer may be given by the Holders of a majority of the outstanding principal amount of Transfer Restricted Securities subject to such Exchange Offer.

(e) Third Party Beneficiary. The Holders shall be third party beneficiaries to the agreements made hereunder between the Company, on the one hand, and the Purchasers, on the other hand, and shall have the right to enforce such agreements directly to the extent they may deem such enforcement necessary or advisable to protect its rights or the rights of Holders hereunder.

(f) Notices. All notices and other communications provided for or permitted hereunder shall be made in writing by hand-delivery, first-class mail (registered or certified, return receipt requested), telex, telecopier, or air courier guaranteeing overnight delivery:

(i) if to a Holder, at the address set forth on the records of the Registrar under the Indenture, with a copy to the Registrar under the Indenture; and

(ii) if to the Company or the Guarantors:

EchoStar DBS Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120
Telecopier No.: (303) 723-1699
Attention: David K. Moskowitz, Esq.

With a copy to:

Sullivan & Cromwell LLP
1870 Embarcadero Road
Palo Alto, California 94303

Telecopier No.: (650) 461-5600
Attention: Scott D. Miller, Esq.

All such notices and communications shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five business days after being deposited in the mail, postage prepaid, if mailed; when receipt acknowledged, if telecopied; and on the next business day, if timely delivered to an air courier guaranteeing overnight delivery.

Copies of all such notices, demands or other communications shall be concurrently delivered by the Person giving the same to the Trustee at the address specified in the Indenture.

(g) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties, including without limitation and without the need for an express assignment, subsequent Holders; provided, that nothing herein shall be deemed to permit any assignment, transfer or other disposition of Transfer Restricted Securities in violation of the terms hereof or of the Purchase Agreement or the Indenture. If any transferee of any Holder shall acquire Transfer Restricted Securities in any manner, whether by operation of law or otherwise, such Transfer Restricted Securities shall be held subject to all of the terms of this Agreement, and by taking and holding such Transfer Restricted Securities such Person shall be conclusively deemed to have agreed to be bound by and to perform all of the terms and provisions of this Agreement, including the restrictions on resale set forth in this

Agreement and, if applicable, the Purchase Agreement, and such Person shall be entitled to receive the benefits hereof.

(h) 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.

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

(j) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE CONFLICT OF LAW RULES THEREOF.

(k) Severability. In the event that any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions contained herein shall not be affected or impaired thereby.

(l) 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 in respect of 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 DBS CORPORATION

By: _____
Name:
Title:

S-1

ECHOSTAR SATELLITE CORPORATION
ECHOSTAR TECHNOLOGIES CORPORATION
ECHO ACCEPTANCE CORPORATION
ECHOSPHERE CORPORATION
DISH NETWORK SERVICE CORPORATION
ECHOSTAR INTERNATIONAL CORPORATION

as Guarantors

By: _____
Name:
Title:

BANC OF AMERICA SECURITIES LLC
CREDIT SUISSE FIRST BOSTON LLC

By: BANC OF AMERICA SECURITIES LLC

By: _____
Name:
Title:

THIS NOTE AND THE SECURITIES ISSUABLE UPON CONVERSION HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE, AND MAY NOT BE SOLD, OFFERED FOR SALE, ASSIGNED, PLEDGED OR HYPOTHECATED, OR OTHERWISE TRANSFERRED OR DISPOSED OF IN THE ABSENCE OF A REGISTRATION STATEMENT IN EFFECT WITH RESPECT TO THIS NOTE OR SUCH SECURITIES UNDER SUCH ACT AND ANY APPLICABLE STATE SECURITIES LAWS, EXCEPT IN A TRANSACTION THAT IS EXEMPT FROM OR NOT SUBJECT TO THE REGISTRATION REQUIREMENTS OF SUCH ACT OR SUCH LAWS AND, IF REQUESTED BY THE COMPANY, UPON DELIVERY OF AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE COMPANY TO THE EFFECT THAT SUCH TRANSACTION IS NOT REQUIRED TO BE REGISTERED UNDER SUCH ACT.

ECHOSTAR COMMUNICATIONS CORPORATION

\$500,000,000

CONVERTIBLE SUBORDINATED NOTE DUE JULY 21, 2010

ECHOSTAR COMMUNICATIONS CORPORATION, a Nevada corporation (the "Company"), for value received, hereby promises to pay to SBC COMMUNICATIONS INC., a Delaware corporation, or its successors and permitted assigns (the "Holder"), the principal amount of FIVE HUNDRED MILLION DOLLARS (\$500,000,000), on July 21, 2010 (the "Maturity Date") and to pay interest thereon, from July 21, 2003 or the most recent interest payment date on which interest has been paid to the Maturity Date, semiannually on June 30 and December 31 in each year and on the Maturity Date, commencing December 31, 2003, at the rate of 3% per annum. The Company will pay interest on any overdue principal and on any overdue installments of interest (without regard to any applicable grace period) at a rate of 10%, compounded semiannually.

Payment of the principal amount of this Note, and interest thereon, shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, by transfer to an account maintained by the Holder with a bank in the United States of America. Terms not defined elsewhere herein are defined in Section 9.

This Note has been executed, issued and delivered pursuant to the Investment Agreement, dated as of July 20, 2003 (the "Investment Agreement"), between the Company and the Holder.

1. Conversion. (a) The Holder shall be entitled at any time prior to the Maturity Date (or, in the event this Note has been called for redemption or the Holder has

exercised any of its rights pursuant to Section 3 below, then (only in respect of the principal amount to be redeemed or repurchased) until and including, but (unless the Company defaults in making the payment due upon redemption or repurchase, as the case may be) not after, the close of business on the second Business Day next preceding the Redemption Date or the date of the Repurchase Notice, as the case may be) to convert this Note as a whole, or from time to time in part (in any principal amount that is an integral multiple of \$50,000,000 or, if less, the aggregate principal amount outstanding), into newly issued, fully paid and nonassessable shares of Class A Common Stock, par value \$0.01 per share (the "Class A Common Stock"), of the Company at the conversion price per share of Class A Common Stock issuable upon such conversion (each such share, a "Conversion Share" and such price per share, the "Conversion Price") in effect on the applicable Satisfaction Date (as herein defined), by delivering to the Company a written notice of its election to convert this Note (a "Conversion Notice"), specifying the principal amount to be converted. The Conversion Price on the date of the Investment Agreement was \$72.82 (the "Initial Conversion Price"), and the Conversion Price in effect on the applicable Satisfaction Date shall be the Initial Conversion Price as it shall have been adjusted from time to time pursuant to Section 1(g).

(b) In connection with any conversion:

(i) The Company shall (A) if requested by the Holder, file or cause to be filed, on or prior to the twentieth day following the date of the Conversion Notice, or as soon thereafter as may be reasonably practicable, with the United States Federal Trade Commission and the Antitrust Division of the United States Department of Justice, all reports and other documents required to be filed by it under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations thereunder (the "HSR Act") concerning the acquisition of securities pursuant to such conversion, (B) promptly comply with or cause to be complied with any requests by the United States Federal Trade Commission or the Antitrust Division of the United States Department of Justice for additional information, so that the waiting period applicable to the acquisition of securities pursuant to such conversion under the HSR Act shall expire as soon as reasonably practicable, and (C) if requested by the Holder, request early termination of such waiting period. Nothing in this Section 1(b)(i) shall be deemed to require the Company to (A) waive any rights or agree to any limitation on its operations or to dispose of any securities or assets or collection of securities or assets, or (B) incur any material out-of-pocket costs other than attorneys' fees and disbursements, it being understood that all HSR Act filing fees shall be paid by the Holder.

(ii) Promptly following its receipt of the Conversion Notice and from time to time thereafter, the Company shall take or cause to be taken all reasonable actions, and shall do or cause to be done, and shall assist and cooperate with the Holder in doing, all things reasonably necessary to effect the conversion in the most expeditious manner practicable, including attempting to obtain all necessary

actions or non-actions, waivers, consents and approvals from Governmental Authorities and the making of any necessary registrations and filings (including filings with Governmental Authorities, if any) and the taking of all reasonable steps as may be necessary to obtain an approval or waiver from, or to avoid any action or proceeding by, any Governmental Authority. Nothing in this Section 1(b)(ii) shall be deemed to require the Company to (A) waive any rights or agree to any limitation on its operations or to dispose of any securities or assets or collection of securities or assets, or (B) incur any material out-of-pocket costs other than attorneys' fees and disbursements and any filing fees required to be paid by the Company by applicable law.

(iii) Prior to the issuance and delivery of the Conversion Shares, the Company shall (A) effect and/or maintain such registrations with Governmental Authorities, and obtain such approvals by Governmental Authorities, as may be necessary under any United States federal or state law (including the Securities Act of 1933, as amended (the "Securities Act"), the Securities Exchange Act of 1934, as amended (the "Exchange Act") and state securities and "blue sky" laws), in each case to the extent necessary, and only to the extent necessary, for the Conversion Shares to be lawfully issued and delivered as provided herein and listed or qualified for quotation as contemplated by clause (B) of this subsection 1(b)(iii), and (B) cause the Conversion Shares to be qualified for quotation, subject to notice of issuance, on the Nasdaq Stock Market or such other inter-dealer quotation system, if any, on which the Class A Common Stock is then quoted or cause the Conversion Shares to be listed, subject to notice of issuance, on each national securities exchange on which the Class A Common Stock is listed or traded at the time of such delivery, in each case to the extent permitted by the rules of the Nasdaq Stock Market or such securities exchange, as the case may be.

(iv) It shall be a condition precedent to the effectiveness of such conversion that (A) any waiting period applicable thereto under the HSR Act shall have elapsed or been terminated, and (B) any authorization, consent, order and approval of, or declaration or filing with, and any other waiting period imposed by, any Governmental Authority in connection therewith shall have been received or filed or shall have elapsed or been terminated, as the case may be. Not later than the second Business Day following the satisfaction of the foregoing conditions precedent (or, if no waiting period is applicable to the conversion under the HSR Act and no authorization, consent, order, approval, declaration, filing or other waiting period is required or imposed, then the third Business Day following the date of the Conversion Notice) (such second or third Business Day, as the case may be, the "Satisfaction Date"), the Company shall deliver to the Holder, upon the surrender of this Note, a certificate or certificates representing the Conversion Shares, registered in the name of the Holder or its designee and containing such legends as the Company and the Holder shall agree, and a replacement note identical to this Note but having a principal amount equal to the

principal amount not theretofore converted, redeemed or repurchased (if any). Any conversion shall be deemed to have been made as of the applicable Satisfaction Date, and the Holder shall be treated for all purposes as the record holder of the Conversion Shares as of such Satisfaction Date.

(c) The Company will not issue fractional Conversion Shares upon conversion of this Note. In lieu thereof, the Company will pay an amount in cash based upon the Daily Market Price per share of the Class A Common Stock on the trading day prior to the Satisfaction Date or, at its option, shall round up to the next higher whole share.

(d) The Company shall at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued Class A Common Stock, for the purpose of effecting the conversion of this Note, the maximum number of shares of Class A Common Stock then issuable upon the conversion of this Note.

(e) Except as provided in the next sentence, the Company shall pay any and all transfer taxes, stamp taxes and similar taxes and duties that may be payable in respect of the issue or delivery of Conversion Shares on conversion of this Note. The Company shall not, however, be required to pay any tax or duty which may be payable in respect of any transfer involved in the issue and delivery of Conversion Shares in a name other than that of the Holder, and no such issue or delivery shall be made unless and until the person requesting such issue has paid to the Company the amount of any such tax or duty, or has established to the satisfaction of the Company that such tax or duty has been paid.

(f) The Company agrees that all shares of Class A Common Stock which may be delivered upon conversion of this Note, upon such delivery, shall have been duly authorized and validly issued and shall be fully paid and nonassessable (and shall be issued out of the Company's authorized but unissued Class A Common Stock) .

(g) The Conversion Price in effect on the date of any Conversion Notice shall reflect any and all adjustments to the Initial Conversion Price effected on or following the date of the Investment Agreement and on or prior to the applicable Satisfaction Date, in accordance with the following provisions:

(i) In case the Company shall (1) pay a dividend in shares of Class A Common Stock to all holders of Class A Common Stock, (2) make a distribution in shares of Class A Common Stock to all holders of Class A Common Stock, (3) subdivide its outstanding shares of Class A Common Stock into a greater number of shares of Class A Common Stock or (4) combine its outstanding shares of Class A Common Stock into a smaller number of shares of Class A Common Stock, the Conversion Price in effect immediately prior to such action shall be adjusted so that the Holder shall upon the conversion of this Note be entitled to receive the number of shares of Class A Common Stock which the Holder would have owned immediately following such action had the Note been converted immediately prior thereto. Any adjustment made pursuant to this

subsection 1(g)(i) 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.

(ii) In case the Company shall issue rights or warrants to all or substantially all holders of Class A Common Stock entitling them (for a period commencing no earlier than the record date for the determination of holders of Class A 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 Class A Common Stock (or securities convertible into Class A Common Stock) at a price per share less than the current market price (as determined pursuant to subsection 1(g)(vi)) of the Class A 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 Class A Common Stock outstanding on such record date, plus the number of shares of Class A Common Stock which the aggregate offering price of the offered shares of Class A 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 Class A Common Stock outstanding on such record date plus the number of additional shares of Class A Common Stock offered (or into which the convertible securities so offered are convertible). Such adjustment shall become effective immediately after such record date.

(iii) In case the Company shall distribute to all or substantially all holders of Class A Common Stock shares of Capital Stock of the Company other than Class A Common Stock, evidences of Indebtedness or other assets (other than cash dividends out of current or retained earnings), or shall distribute to all or substantially all holders of Class A Common Stock, rights or warrants to subscribe for securities (other than those referred to in subsection 1(g)(ii)), 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 1(g)(vi)) of the Class A Common Stock on the record date mentioned below less the then fair market value (as determined by the Board of Directors or a duly authorized committee thereof, whose determination shall be conclusive evidence of such fair market value and described in a Board Resolution) of the portion of shares of Capital Stock, evidences of Indebtedness or other assets so distributed in respect of, or of such rights or warrants applicable to, one share of Class A Common Stock, and of which the denominator shall be such current market price of the Class A Common Stock. Such adjustment shall become effective immediately after the record date for the determination of the holders of Class A 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 1(g)(ii)) ("Rights") pro rata to holders of Class A Common Stock, the Company may, in lieu of making any adjustment pursuant to this subsection 1(g)(iii), make proper provision so that if the applicable Satisfaction Date occurs after the record date for such distribution and prior to the expiration or redemption of the Rights the Holder shall be entitled to receive upon such conversion, in addition to the Conversion Shares, a number of Rights to be determined as follows: (i) if the Satisfaction Date 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 Class A Common Stock equal to the number of Conversion Shares is entitled at the Satisfaction Date in accordance with the terms and provisions of and applicable to the Rights; and (ii) if the Satisfaction Date occurs after the Distribution Date, the same number of Rights to which a holder of the number of shares of Class A 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.

(iv) In case the Company shall, by dividend or otherwise, at any time distribute to all or substantially all holders of its Class A 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 subsection 1(g)(iii)) in an aggregate amount that, together with the sum of (x) the aggregate amount of any other distributions to all or substantially all holders of its Class A 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 subsection 1(g)(iii) or 1(g)(v) or this subsection 1(g)(iv) has been made, exceeds 10% of the product of the current market price per share (determined as provided in subsection 1(g)(vi)) of the Class A Common Stock on the Distribution Record Date times the number of shares of Class A 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 subsection 1(g)(iv) by a fraction of which the numerator shall be the current market price per share (determined as provided in subsection 1(g)(vi)) of the Class A Common Stock on the Distribution Record Date less the amount of such cash distributions and Excess Payments applicable to one share (based on the pro rata portion of the aggregate amount of such cash distributions and Excess Payments, divided by the number of shares of Class A Common Stock outstanding on the Distribution Record Date) of Class A Common Stock and the denominator shall be such current market price per share

(determined as provided in subsection 1(g)(vi)) of the Class A 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.

(v) In case a tender offer or other negotiated transaction made by the Company or any Subsidiary for all or any portion of the Class A Common Stock shall be consummated, if an Excess Payment is made in respect of such tender offer or 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 or substantially all holders of the Class A Common Stock made in cash (specifically including distributions of cash out of current or 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 (any such date, the "Tender Payment Date"), and as to which no adjustment pursuant to subsection 1(g)(iii) or 1(g)(iv) or this subsection 1(g)(v) has been made, exceeds 10% of the product of the current market price per share (determined as provided in subsection 1(g)(vi)) of the Class A Common Stock on the Tender Payment Date times the number of shares of Class A Common Stock outstanding (including any acquired 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 subsection 1(g)(v) by a fraction of which the numerator shall be the current market price per share (determined as provided in subsection 1(g)(vi)) of the Class A 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 number of shares of Class A Common Stock outstanding on the Tender Payment Date) of Class A Common Stock and the denominator shall be such current market price per share (determined as provided in subsection 1(g)(vi)) of the Class A 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.

(vi) The current market price per share of the Class A 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.

(vii) In any case in which this Section 1(g) shall require that an adjustment be made immediately following a record date and the applicable Satisfaction Date occurs after such record date, the Company may elect to defer issuing to the Holder after such record date the shares of Class A Common Stock and other Capital Stock of the Company issuable upon such conversion over and above the shares of Class A 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.

(viii) 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 subsection 1(g)(viii) are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Section 1(g) 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 Class A 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 Class A Common Stock.

(ix) In the event that, as a result of an adjustment made pursuant to this Section 1(g), the Holder shall become entitled to receive any shares of Capital Stock of the Company other than shares of Class A Common Stock, thereafter the Conversion Price of such other shares so receivable upon conversion of the 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 Class A Common Stock contained in this Section 1(g). In the event that shares of Class A Common Stock are not delivered after the expiration of any of the rights or warrants referred to in subsection 1(g)(ii) and subsection 1(g)(iii), 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 Class A Common Stock actually delivered.

(x) The Company may make such reductions in the Conversion Price, in addition to those required by this Section 1(g), 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.

(xi) Whenever the Conversion Price is adjusted, the Company shall promptly mail to the Holder at the address set forth herein a notice of the adjustment briefly stating the facts requiring the adjustment and the manner of computing it.

(h) In the event that:

(i) the Company takes any action which would require an adjustment to the Conversion Price;

(ii) the Company takes any action that would require a supplemental agreement pursuant to Section 1(i); or

(iii) there is a dissolution or liquidation of the Company;

the Holder may wish to convert this Note into shares of Class A Common Stock prior to the record date for or the effective date of the transaction so that the Holder may receive the rights, warrants, securities or assets which a holder of shares of Class A Common Stock on that date may receive. Therefore, the Company shall mail to the Holder 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 clauses (i), (ii) or (iii) of this Section 1(h).

(i) If any of the following shall occur, namely: (A) any reclassification or change in the Class A Common Stock issuable upon conversion of this Note (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination), (B) any 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 Class A Common Stock or (C) any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the properties or assets of the Company and its Subsidiaries (taken as a whole), then the Company, or such successor or transferee, as the case may be, shall, as a condition precedent to such reclassification, change, consolidation, merger, sale, assignment, transfer, lease, conveyance or other disposition, execute and deliver an agreement to the Holder in form reasonably satisfactory to the Holder providing that the Holder shall have the right to convert this 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, assignment, transfer, lease, conveyance or other disposition by a holder of the number of shares of Class A Common Stock deliverable upon conversion of this Note immediately prior to such reclassification, change, consolidation, merger, sale, assignment, transfer, lease, conveyance or other disposition. Such agreement 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 Section 1(g).

The foregoing, however, shall not in any way affect the right the Holder may otherwise have, pursuant to Section 1(g)(iii), to receive Rights upon conversion of this Note. If, in the case of any such consolidation, merger, sale, assignment, transfer, lease, conveyance or other disposition, the stock or other securities and property (including cash) receivable thereupon by a holder of Class A Common Stock includes shares of stock or other securities and property of a business entity other than the successor or transferee, as the case may be, in such consolidation, merger, sale, assignment, transfer, lease, conveyance or other disposition, then such supplemental agreement shall also be executed by such other business entity and shall contain such additional provisions to protect the interests of the Holder as the Board of Directors shall reasonably consider necessary by reason of the foregoing. The provision of this Section 1(i) shall similarly apply to successive consolidations, mergers, sales, assignments, transfers, leases, conveyances or other dispositions. In the event the Company shall execute a supplemental agreement pursuant to this Section 1(i), the Company shall promptly deliver to the Holder of the Note an Officers' Certificate briefly stating the reasons therefor, the kind or amount of shares of stock or securities or property (including cash) receivable by the Holder upon the conversion of this Note after any such reclassification, change, consolidation, merger, sale, assignment, transfer, lease, conveyance or other disposition and any adjustment to be made with respect thereto.

2. Redemption. Prior to July 21, 2008, this Note shall not be redeemable at the Company's option. Beginning on July 21, 2008, the Company, at its option, shall be entitled to redeem this Note for cash at any time, as a whole, or from time to time in part (in any principal amount that is an integral multiple of not less than \$50,000,000 or, if less, the aggregate principal amount outstanding), on the Redemption Date (as herein defined), at a price equal to 100% of the principal amount to be redeemed, together with accrued but unpaid interest thereon through the Redemption Date (if any) (the "Redemption Price"); provided that the Company shall not be entitled to redeem this Note to the extent that the Holder shall have duly delivered to the Company, on or prior to the close of business on the second Business Day next preceding the Redemption Date, a Conversion Notice relating to all or a portion of the principal amount hereof. Not fewer than 30 nor more than 60 days prior to the date on which redemption is to be effected (such date, the "Redemption Date"), the Company shall provide the Holder with written notice (a "Redemption Notice") of the Redemption Date and the principal amount to be redeemed, and this Note shall thereupon be due and payable at the Redemption Price at 3:00 p.m., Central time, on the Redemption Date, to the extent of the principal amount to be redeemed, except to the extent that the Holder shall have so delivered such a Conversion Notice. On the Redemption Date, the Company shall pay to the Holder, by transfer to an account maintained by the Holder with a bank in the United States of America specified to the Company in writing not fewer than five Business Days prior to the Redemption Date, the Redemption Price in respect of the principal amount to be redeemed and, in the case of a redemption in part, shall execute, issue and deliver to the

Holder a replacement note identical to this Note but having a principal amount equal to the principal amount hereof not theretofore converted, redeemed or repurchased. Upon the Holder's receipt of the Redemption Price (and, in the case of a redemption in part, such replacement note), this Note shall be deemed to be cancelled, and the Holder shall thereafter send this Note to the Company.

3. Repurchase Rights. (a) At any time following any Repurchase Trigger Date, the Holder, at its option, shall be entitled to require the Company to repurchase this Note, as a whole, or from time to time in part (in any principal amount that is an integral multiple of \$50,000,000 or, if less, the aggregate principal amount outstanding), at a price equal to 100% of the principal amount to be repurchased, together with accrued but unpaid interest thereon through the Repurchase Date (if any) (the "Repurchase Price"), by delivering to the Company a written notice (a "Repurchase Notice") of the exercise of its rights pursuant to this Section 3 specifying the principal amount to be repurchased. Prior to July 21, 2008, the Repurchase Notice shall be delivered not more than 60 days following the Holder's receipt of the Company Change in Control Notice (as herein defined). Upon delivery of the Repurchase Notice, this Note shall be due and payable at 3:00 p.m., Central time, on the 40th day following the date of the Repurchase Notice (the "Repurchase Date"), to the extent of the principal amount to be repurchased. On the Repurchase Date, the Company shall pay to the Holder, by transfer to an account maintained by the Holder with a bank in the United State of America specified to the Company in writing not fewer than five Business Days prior to the Repurchase Date, the Repurchase Price in respect of the principal amount to be repurchased and, in the case of a repurchase in part, shall execute, issue and deliver to the Holder a replacement note identical to this Note but having a principal amount equal to the principal amount hereof not theretofore converted, redeemed or repurchased. Upon the Holder's receipt of the Repurchase Price (and, in the case of a repurchase in part, such replacement note), this Note shall be deemed to be cancelled, and the Holder shall send this Note to the Company.

(b) Not later than 40 days following the occurrence of a Company Change in Control, the Company shall deliver to the Holder a written notice (a "Company Change in Control Notice") stating that a Company Change in Control has occurred.

4. Covenants. The Company covenants and agrees with the Holder that:

(a) The Company shall duly and punctually pay the principal of and interest on this Note in accordance herewith, and perform and discharge its other obligations pursuant hereto.

(b) Subject to Section 5, to the extent permitted by law, the Company shall 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 Company shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries taken as a whole.

5. Consolidation, Merger, Etc. The Company shall not sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of the properties or assets of the Company and its Subsidiaries (taken as a whole) 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 under this Note, including the conversion and repurchase rights provided herein, pursuant to an agreement in form and substance reasonably satisfactory to the Holder; and

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

Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the properties or assets of the Company and its Subsidiaries (taken as a whole) in accordance with Section 5, the successor corporation formed by such consolidation or into 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 Note with the same effect as if such successor has been named as the Company herein; provided that the Company, as predecessor in the case of any sale, assignment, transfer, lease, conveyance or other disposition shall not be released from the obligation to pay the principal of and interest on this Note.

6. Events of Default. (a) An "Event of Default" shall occur if:

(i) the Company defaults in the payment of any amount due and payable on this Note when the same becomes due and payable at the Maturity Date, any interest payment date, any Redemption Date or Repurchase Date or otherwise; provided that no Event of Default shall occur with respect to a default in the payment of interest on this Note unless such default shall continue for a period of 30 days after the date such interest payment is due and payable;

(ii) the Company fails to observe or perform for a period of 30 days after written notice from the Holder to the Company stating that such notice is a

"Notice of Default" any covenant or agreement contained in Section 3(b) or Section 5;

(iii) the Company fails to observe or perform any other covenant or agreement contained in this Note, required by it to be performed (other than the covenant to duly and punctually pay the principal of and interest on this Note) and such Default continues for a period of 60 days after written notice from the Holder to the Company stating that such notice is a "Notice of Default";

(iv) the Company or any of its Significant Subsidiaries defaults under any mortgage, indenture, agreement 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 Significant Subsidiaries, which Indebtedness has been either (A) offered or sold through a public offering or resold to qualified institutional buyers pursuant to Rule 144A under the Securities Act, or (B) incurred in connection with the Company's main unsecured revolving credit facility (if any), whether, in any such case described by clause (A) or (B), such Indebtedness now exists or is created after the issuance of this Note, and which default:

- (A) 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
- (B) 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 described in this subsection 6(iv) under which there is a Payment Default or the maturity of which has been so accelerated, aggregates \$100 million or more;

(v) 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:

- (A) commences a voluntary case;
- (B) consents to the entry of an order for relief against it in an involuntary case in which it is the debtor;
- (C) consents to the appointment of a Custodian of it or for all or substantially all of its property;

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

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

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

(A) 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;

(B) 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

(C) 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.

(b) If an Event of Default (other than an Event of Default specified in clauses (v) or (vi) of Section 6(a)) occurs and is continuing, the Holder may declare the principal amount of this Note together with accrued but unpaid interest thereon (if any) to be due and payable immediately. If an Event of Default specified in clauses (v) or (vi) of Section 6(a) occurs, such an amount shall ipso facto become and be immediately due and payable without any other act on the part of the Holder. If this Note shall have been declared due and payable as a result of the acceleration of Indebtedness prior to its Maturity Date pursuant to subsection 6(a)(iv)(B), 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 (A) such rescission would not conflict with any judgment or decree of a court of competent jurisdiction and (B) if all existing Events of Default have been cured or waived except nonpayment of the principal amount of or interest on this Note that has become due solely because of the acceleration of this Note.

(c) If an Event of Default occurs and is continuing, the Holder may pursue any available remedy to collect the payment of the principal amount on this Note or to enforce the performance of any provision of this Note. A delay or omission by the 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.

(d) The Holder may waive an existing Default or Event of Default and its consequences. When a Default or Event of Default is waived, it is cured and ceases, except as set forth in such waiver; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

7. Subordination.

(a) Agreement To Subordinate and Ranking. The Company, for itself and its successors, and the Holder, by its acceptance of this Note, agree that the payment of the principal of or interest on or any other amounts due on this Note is subordinated in right and priority of payment, to the extent and in the manner stated in this Section 7, to the prior payment in full of all existing and future Senior Debt. This Note 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 issuance of this Note 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 this Note. The Notes shall rank pari passu with the 1999 Convertible Notes and the 2001 Convertible Notes.

(b) No Payment On Note If Senior Debt In Default. Anything in this Note to the contrary notwithstanding, no payment on account of principal of or redemption of, interest on or other amounts due on this Note, and no redemption, repurchase, or other acquisition of this Note, 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, repurchase 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, repurchase or other acquisition, the Holder 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 Holder 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 this Note (other than, subject to subsection 7(c) hereof, amounts due and payable by reason of the acceleration of the maturity of this Note) and redemptions, repurchases or other acquisitions may be made by or on behalf of the Company. Notwithstanding anything herein to the contrary, (x) 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 (y) 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 subsection 7(b), payments are made by or on behalf of the Company in contravention of the provisions of this subsection 7(b), such payments shall be held by the Holder 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 Holder 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.

(c) Distribution On Acceleration Of Note; Dissolution and Reorganization; Subrogation Of Note.

(i) If this Note is declared due and payable because of the occurrence of an Event of Default, the Company 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 this Note 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 this Note only if the provisions of this Section 7 permit such payment.

(ii) Upon (A) any acceleration of the principal amount due on this Note because of an Event of Default or (B) 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):

- (A) 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 Holder is entitled to receive payment on account of the principal of or interest on or any other amounts due on this Note;
- (B) 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 Section 7 with respect to the Note, to the payment in full without diminution or modification by such plan of all Senior Debt), to which the Holder would be entitled except for the provisions of this Section 7, 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
- (C) in the event that, notwithstanding the foregoing, any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities (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 Section 7 with respect to the Note, to the payment in full without diminution or modification by such plan of Senior Debt), shall be received by the Holder 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 Holder 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 this Note 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 the Holder shall, as between the Company, its creditors other than the holders of Senior Debt, and the Holder, 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 Section 7 are and are intended solely for the purpose of defining the relative rights of the Holder, on the one hand, and the holders of Senior Debt, on the other hand.

Nothing contained in this Section 7 or elsewhere in this Note 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 Holder the principal of and interest on this Note as and when the same shall become due and payable in accordance with the terms of this Note, (ii) affect the relative rights of the Holder and creditors of the Company other than holders of Senior Debt or, as between the Company and the Holder, the obligations of the Company to the Holder, or (iii) prevent the Holder from exercising all remedies otherwise permitted by applicable law upon default under this Note, subject to the rights, if any, under this Section 7 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 Section 7, the Holder shall be entitled to rely upon a certificate of the liquidating trustee or agent or other Person making any distribution to the Holder 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 Section 7. The Holder, however, shall not be deemed to owe any fiduciary duty to the holders of Senior Debt.

(iii) The provisions of this Section 7 shall not be applicable to any cash, properties or securities received by the Holder when received as a holder of Senior Debt and nothing in this Section 7 or elsewhere in this Note shall deprive the Holder of any of its rights as such a holder.

(iv) The Company shall give prompt written notice to the Holder of any fact known to the Company which would prohibit the making by the

Company of any payment of money to the Holder in respect of the Note pursuant to the provisions of this Section 7.

The Holder shall be entitled to rely on the delivery to it of a written notice by a Person representing himself or itself 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 Holder 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 Section 7, the Holder may request such Person to furnish evidence to the reasonable satisfaction of the Holder 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 Section 7, and, if such evidence is not furnished, the Holder may defer any payment to such Person pending judicial determination as to the right of such Person to receive such payment.

(d) Reliance By Senior Debt On Subordination Provisions. The Holder, by his acceptance of this Note, 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 this Note, 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 Section 7, 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 Section 7 shall constitute a release of any of the obligations or liabilities of the Holder provided in this Section 7.

(e) 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 Note, 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 Holder, without incurring responsibility to the Holder and without impairing or releasing the subordination provided in this Section 7 or the obligations hereunder of the Holder 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.

(f) Other Provisions Subject Hereto. Except as expressly stated in this Section 7, notwithstanding anything contained in this Note to the contrary, all the provisions of this Note are subject to the provisions of this Section 7. 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 Section 7 shall not be construed as preventing the occurrence of an Event of Default under Section 6 hereof.

8. Miscellaneous.

(a) Absolute Obligation to Pay. No provision of this Note shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of, and interest on, this Note at the times, places and rate, and in the coin or currency, herein prescribed or to convert this Note as herein provided. The Company shall not have any right to set off any payment of any amounts payable pursuant to this Note against any payment of amounts payable to the Holder or its Affiliates under any other agreement or instrument (collectively, "Other Amounts"), or set off any payment of any Other Amount against any payment of any amounts payable pursuant to this Note.

(b) Assignment. Neither the Company nor the Holder may assign this Note without the prior written consent of the other and any attempted assignment by either the Company or the Holder without such written consent shall be null and void; provided that the Holder may, at any time and without the prior consent of the Company, assign this Note to any of the Holder's wholly-owned Subsidiaries; and, provided, further, that upon the termination of the Commercial Agreement in accordance with its terms, the Holder may, at any time thereafter and without the prior written consent of the Company, assign this Note to any Person in whole but not in part; and provided, further, that any subsequent assignee of this Note may only transfer this Note in whole but not in part. Upon notice to the Company of an assignment of this Note in accordance with the provisions hereof, the Company shall recognize such assignee as the Holder of this Note for all purposes hereof and such assignee shall be entitled to all rights, privileges and benefits received by the Holder under the terms of this Note.

(c) Notices. In any case where any notice, approval, agreement or other communication is required or permitted to be given hereunder, such notice, approval, agreement or communication shall be in writing and deemed to have been duly given and delivered: (i) if delivered in person, on the date of such delivery; (ii) if sent by overnight express or registered or certified mail (with return receipt requested), on the date of receipt of such mail; or (iii) if sent by confirmed facsimile transmission (with answer

back received), on the date of such facsimile transmission; provided that notice is also sent on the same day by one of the methods set forth in (i) or (ii) above. Such notice or other communication shall be sent to the following address(es) (or such other address(es) as designated from time to time in writing):

If to the Holder, to:

SBC Communications Inc.
175 Houston Street
San Antonio, TX 78205

Attn: James S. Kahan, Senior Executive Vice President -
Corporate Development
Facsimile: 210-351-5034

with a copy to:

Senior Vice President and Assistant General Counsel - Corporate
Facsimile: 210-351-3257

and a copy (which shall not constitute notice) to:

Sullivan & Cromwell LLP
125 Broad Street
New York, New York 10004

Attn: Joseph B. Frumkin
Facsimile: 212-558-3588

if to the Company, to:

Echostar Communications Corporation
5701 South Santa Fe Drive
Littleton, CO 80120

Attn: David K. Moskowitz, Senior Vice President and
General Counsel
Facsimile: 303-723-1699

(d) Governing Law; WAIVER OF JURY TRIAL.

(i) THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED ENTIRELY WITHIN THE STATE OF NEW

YORK. Any suit, action or proceeding shall be brought against any of the Company or the Holder only in a federal court sitting in the Southern District of New York or New York state court situated in The Borough of Manhattan, The City of New York. Each of the Company and the Holder (by the Holder's acceptance hereof) irrevocably and unconditionally agrees: (A) to be subject to the jurisdiction of the courts of the State of New York situated in The Borough of Manhattan, The City of New York and of the federal courts sitting in the Southern District of New York and (B) (I) to the extent the Company or the Holder, as the case may be, is not otherwise subject to service of process in the State of New York, to appoint and maintain an agent in the State of New York as its agent for service of legal process, and (II) that service of process may also be made on the Company or Holder by prepaid certified mail with a proof of mailing receipt validated by the United States Postal Service constituting evidence of valid service, and that service made pursuant to clause (A) (I) or (II) above shall have the same legal force and effect as if served upon the Holder or the Company, as the case may be, personally within the State of New York. Without limiting the generality of the foregoing, each of the Company and the Holder (by the Holder's acceptance hereof) agrees that service of process at the address referred to in subsection 8(c), together with written notice of such service to the Company or Holder, as the case may be, shall be deemed effective service of process.

(ii) EACH OF THE COMPANY AND THE HOLDER (BY ITS ACCEPTANCE HEREOF) ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS NOTE IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH OF THE COMPANY AND THE HOLDER (BY SUCH ACCEPTANCE) IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS NOTE. THE COMPANY CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE HOLDER HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE HOLDER WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (B) THE COMPANY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, AND (C) THE COMPANY MAKES THIS WAIVER VOLUNTARILY. THE HOLDER (BY SUCH ACCEPTANCE) CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE COMPANY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE COMPANY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (B) THE HOLDER UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, AND (C) THE HOLDER MAKES THIS WAIVER VOLUNTARILY.

(e) Amendments and Waivers. Any provision of this Note may be amended or waived if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by the Company and the Holder, or, in the case of a waiver, by each party against whom the waiver is to be effective. No failure or delay by the Company or the Holder in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

(f) Remedies Cumulative. Unless expressly provided otherwise herein, all rights and remedies granted to each of the Company and the Holder under this Note are cumulative and in addition to, and not in lieu of, any other rights or remedies otherwise available to the Company and the Holder at law.

(g) Severability. The provisions of this Note shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of any other provision hereof. To the fullest extent permitted by law, if any provision of this Note, or the application thereof to any Person or circumstance, is invalid or unenforceable: (i) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision and (ii) the remainder of this Note and the application of such provision to other persons, entities or circumstances shall not be affected by such invalidity or unenforceability.

(h) Specific Performance. The parties agree that irreparable damage may occur if any provision of this Note were not performed in accordance with the terms hereof and that the Holder shall be entitled to seek an injunction or injunctions to prevent breaches of this Note or to enforce specifically the performance of the terms and provisions in addition to any other remedy to which the Holder is entitled at law in accordance with the terms set forth in this Note. The Holder shall be required to post any bond, guaranty or other surety in order to obtain any such injunction or specific performance.

(i) Expenses; Waivers. If any action is instituted to collect or otherwise enforce this Note, the Company promises to pay all costs and expenses, including, without limitation, reasonable attorneys' fees and costs, incurred in connection with such action. The Company hereby waives notice of default, presentment or demand for payment, protest or notice of nonpayment or dishonor and all other notices or demands relative to this instrument.

(j) Successors and Assigns. Subject to the restrictions on assignment described in subsection 8(b), the rights and obligations of the Company and the Holder shall be binding upon and benefit the successors, assigns, heirs, administrators and transferees of the parties.

(k) Principles of Construction. In this Note, unless otherwise expressly indicated or required by the context:

(i) The captions herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof. This Note has been drafted jointly by the Company and the Holder and shall not be construed against either the Company or the Holder as a result of any role the Company or the Holder, respectively, may have had in the drafting process.

(ii) Any reference to and the definition of any document shall be deemed a reference to such document as it may be amended, supplemented, revised, or modified, in writing, from time to time but disregarding any amendment, supplement, replacement or novation made in breach of this Note.

(iii) Any reference in this Note to any statute, decree or regulation shall be construed as a reference to such statute, law, decree or regulation as re-enacted, redesignated, amended or extended from time to time and references herein or in this Note to any document or agreement shall be deemed to include references to such document or agreement as amended, varied, supplemented or replaced from time to time in accordance with such document's or agreement's terms.

(iv) Defined terms in the singular shall include the plural and vice versa, and the masculine, feminine or neuter gender shall include all genders.

(v) The words "including" or "includes" shall be deemed to mean "including without limitation" and "including but not limited to" (or "includes without limitation" and "includes but is not limited to") regardless of whether the words "without limitation" or "but not limited to" actually follow the term.

(vi) The words "hereof," "herein" and "hereunder" and words of similar import when used in this Note shall refer to this Note as a whole and not to any particular provision hereof or thereof, as the case may be.

9. Definitions. For purposes hereof:

"1999 Convertible Notes" means the Company's 4 7/8% Convertible Subordinated Notes due 2007.

"2001 Convertible Notes" means the Company's 5 3/4% Convertible Subordinated Notes due 2008.

"Affiliate" of any Person means any other Person that directly or indirectly controls, is controlled by or is under common control with such specified Person.

"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.

"Board of Directors" means the Board of Directors of the Company.

"Board Resolution" means a duly authorized resolution of the Board of Directors or any duly authorized committee thereof.

"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.

"Commercial Agreement" means that certain agreement, dated as of July 20, 2003, entered into by SBC Communications Inc., EchoStar Satellite Corporation and the Company, relating to the provision, marketing, sale and distribution of a co-branded digital broadcast satellite service.

"Company Change in 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) 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 of issuance of this Note (as adjusted for stock splits and dividends and other distributions payable in Equity Interests); or (b) the first day on which a majority of the members of the Board of Directors of the Company are not Continuing Directors.

"Continuing Directors" 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 of issuance of this Note; or (b) was nominated for election or elected to the Board of Directors with the affirmative vote of a majority of the Continuing Directors who were members of the Board of Directors at the time of such nomination or election or was nominated for election or elected by the Principal and his Related Parties.

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

"Daily Market Price" means the price of a share of Class A Common Stock on the relevant date, determined: (a) on the basis of the last reported sale price regular way of the Class A Common Stock as reported on the Nasdaq Stock Market, or if the Class A Common Stock is not then listed on the Nasdaq Stock Market, as reported on such national securities exchange upon which the Class A 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 Class A Common Stock is not listed on the Nasdaq Stock Market 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 Security 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.

"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 Class A Common Stock acquired in a tender offer or other negotiated transaction, over (B) the aggregate market value of such acquired shares after giving effect to the completion of such 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 date hereof and are applied on a consistent basis.

"Governmental Authority" means any foreign, federal, state or local court or governmental or regulatory agency or authority or applicable stock exchange or trading market.

"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, 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.

"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.

"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.

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

"Officer's Certificate" means a certificate of the Company signed by any two of the Chairman of the Board, the chief executive officer, president, chief financial officer, treasurer or general counsel of the Company.

"Person" means a natural person, corporation, a limited liability company, a general or limited partnership, a trust, an estate, a joint venture, any governmental entity, or any other entity or organization.

"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.

"Repurchase Trigger Date" means the earliest of (x) July 21, 2008; and (y) the date on which a Company Change in Control shall first occur.

"Senior Debt" means the principal of, interest on and other amounts due on (i) Indebtedness of the Company, whether outstanding on the date of issuance of this Note or hereafter 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 of issuance of this Note or hereafter 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 clause (i) or (ii) is outstanding, it is expressly provided that such Indebtedness is not senior in right of payment to this Note. 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.

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

"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.

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed, issued and delivered.

Dated: July 21, 2003

ECHOSTAR COMMUNICATIONS CORPORATION

By: _____

Name:

Title:

Attest:

Name:

Title:

AMENDMENT #1 TO SATELLITE SERVICE AGREEMENT

THIS AMENDMENT #1 ("Amendment #1") to the Satellite Service Agreement effective as of March 21, 2003 (the "Original Agreement"), between SES Americom, Inc., as agent for SES Americom California, Inc. (for the period prior to the In-Service Date) and SES Americom Colorado, Inc. (for the period on and after the In-Service Date), on the one hand, and EchoStar Satellite Corporation ("Customer") and EchoStar Communications Corporation (solely as to the obligation set forth in Section 3.C of the Agreement), on the other hand, is made effective as of July 10, 2003 (the "Amendment #1 Effective Date"). All references to "SES Americom" herein shall include SES Americom California, Inc., SES Americom Colorado, Inc., and SES Americom, Inc. as agent for each. Defined terms used in this Agreement have the meanings specified herein or in the Original Agreement. The Original Agreement as amended by this Amendment #1 is referred to as the "Agreement".

SES Americom and Customer agree to amend the Original Agreement in accordance with the terms and conditions set forth below.

(1) *** Within thirty (30) days after the Amendment #1 Effective Date, the parties shall enter into a service agreement (the "AMC-14 Agreement") for the *** Satellite on the terms and conditions described ***

(3) Miscellaneous Modifications. *** Section 10.A of the Original Agreement is amended by renumbering Subsection (2) as Subsection (3) and inserting the following after Subsection (1): "(2) as to Customer, relates to or affects its ability to achieve the In-Service Date of the EchoStar *** Satellite."

(4) New Section 2.N. The Original Agreement is amended to add the following as a new Section 2.N:

(5) Definitions. The following definitions are added to Article 11:

(6) Conditions. All of the rights and obligations of the parties set forth in this Amendment #1 are conditioned on the execution and implementation of the AMC-14 Agreement, failing which this Amendment #1 shall be void ab initio and the Original Agreement shall remain in full force and effect in accordance with its terms and conditions.

(7) General. Except as expressly modified herein, the Original Agreement shall remain in full force and effect in accordance with its terms and conditions.

***Certain confidential portions of this exhibit were omitted by means of redacting a portion of the text. Copies of the exhibit containing the redacted portions have been filed separately with the Securities and Exchange Commission subject to a request for confidential treatment pursuant to Rule 24b-2 under the Securities Exchange Act.

This AMENDMENT #1 contains the complete and exclusive understanding of the parties with respect to the subject matter hereof and supersedes all prior negotiations and agreements between the parties with respect thereto.

ECHOSTAR SATELLITE CORPORATION

SES AMERICOM, INC., as agent for
SES AMERICOM CALIFORNIA, INC. and
SES AMERICOM COLORADO, INC.

By: _____
(Signature)

Name: _____
(Typed or Printed Name)

Title: _____

By: _____
(Signature)

Name: _____
(Typed or Printed Name)

Title: _____

ECHOSTAR COMMUNICATIONS CORPORATION,
solely as to the obligation set forth
in Section 3.C of the Agreement

By: _____
(Signature)

Name: _____
(Typed or Printed Name)

Title: _____

***Certain confidential portions of this exhibit were omitted by means of redacting a portion of the text. Copies of the exhibit containing the redacted portions have been filed separately with the Securities and Exchange Commission subject to a request for confidential treatment pursuant to Rule 24b-2 under the Securities Exchange Act.

SATELLITE SERVICE AGREEMENT FOR AMC-14

THIS AGREEMENT between SES Americom, Inc., as agent for SES Americom California, Inc. (for the period prior to the In-Service Date) and SES Americom Colorado, Inc. (for the period on and after the In-Service Date), on the one hand, and EchoStar Satellite Corporation ("Customer") and EchoStar Communications Corporation (solely as to the obligation set forth in Section 3.C of this Agreement), on the other hand, is made effective as of August 13, 2003 (the "Effective Date"). All references to "SES Americom" herein shall include SES Americom California, Inc., SES Americom Colorado, Inc., and SES Americom, Inc. as agent for each. Defined terms used in this Agreement have the meanings specified herein.

ARTICLE 1. SERVICE PROVIDED

1.A. SCOPE.***

SES Americom will enter into a contract (the "Construction Contract") with Vendor for the construction of one *** satellite designated as the "AMC-14 Satellite", and will enter into a Launch Service Agreement for the launch of the AMC-14 Satellite. SES Americom will provide to Customer, and Customer will pay the applicable MRC for, and be entitled to utilize solely for the Intended Use, the entire communications capacity (including all spare capacity) on the Satellite in accordance with this Agreement (the "Service"). ***

The Service will be provided in accordance with the terms and conditions set forth in this Agreement, including Attachments A - D (as listed below), which are hereby incorporated by reference in their entirety (collectively, the "Agreement"). In the event of any conflict or inconsistency between the terms and conditions set forth in the body of this Agreement and the terms and conditions set forth in any Attachment hereto, then terms and conditions set forth in the body of this Agreement shall control.

- Attachment A - Technical Performance Specifications
- Attachment B - ***
- Attachment C - ***
- Attachment D - ***

Customer may use the Transponders for the transmission of digital services, and for the transmission of analog services, but only to the extent that all services are consistent with the then-current licenses and coordination agreements for the applicable orbital location. SES Americom shall have no obligation to modify existing licenses or coordination agreements or enter into new coordination agreements to allow analog services.

1.B. TERMS RELATED TO CONSTRUCTION CONTRACT, LAUNCH SERVICE AGREEMENT, AND INSURANCE.

1.B(1) SES Americom and Customer shall collaborate in good faith toward reaching agreements on the technical performance criteria for the Service on the AMC-14 Satellite (the "Technical Performance Specifications") and other requirements for, and toward the successful construction, insurance and launch of, the AMC-14 Satellite, *** Upon reaching agreement on the Technical Performance Specifications for the AMC-14 Satellite in accordance with this Subsection 1.B(1), the parties shall mutually agree upon the necessary modifications to (x) Attachment B ***, and (y) ***

Subject to the parties' respective rights and obligations set forth in the immediately preceding paragraph, the parties will use reasonable commercial efforts to execute the Construction Contract and complete the Technical Performance Specifications in accordance with the steps outlined in this paragraph, with a goal toward executing the Construction Contract and completing the Technical Performance Specifications no later than *** Upon completion, the Technical Performance Specifications shall be attached hereto as Attachment A, and shall be deemed to be incorporated by reference in their entirety. ***

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1.B(2) SES Americom agrees to collaborate with and include Customer in all significant decisions related to the Construction Contract, and to obtain Customer's prior approval (which approval may be withheld in Customer's sole and absolute discretion) prior to making any changes to the Technical Performance Specifications, *** Subject to any applicable ITAR restrictions and Vendor's standard security procedure requirements, Customer shall be permitted to participate in and be present at: (a) reviews of each of Vendor's milestone events leading up to launch of the Satellite; (b) Vendor's "Final Integration and Test," "Pre-ship Review" and "Launch and In-Orbit Testing Sessions" (or similar events if described differently in the Construction Contract); and (c) informal Project Manager meetings and informal project level technical review meetings. Participation by Customer as contemplated herein shall include attendance by Customer employees and U.S. citizen representatives at such events and meetings, consultation with Customer on engineering decisions that affect the Satellite's performance (including the ability to meet the applicable Technical Performance Specifications) and the review of relevant reports and test results. When available to SES Americom and upon completion of any necessary ITAR reviews and redactions, if applicable, SES Americom shall distribute all design review documents to Customer. SES Americom shall also instruct Vendor to make available to Customer employees and Customer's U.S. citizen representatives access to all technical documents under the Construction Contract, including without limitation the spacecraft performance specification, subject to any applicable ITAR reviews and redactions. With reasonable prior notice, SES Americom shall allow Customer, in the presence of SES Americom and Vendor, to view program hardware in progress in accordance with Vendor's access policies and procedures. Subject to any confidentiality restrictions set forth in the Construction Contract, SES Americom shall afford Customer and Customer's U.S. citizen representatives access, while accompanied by SES Americom, to all work, including without limitation technical data and information, test data, drawings, documentation, tooling, and manufacturing processes, testing and hardware in progress, being performed at Vendor's facilities pursuant to the Construction Contract at all times during the period of Construction Contract performance, provided that such access does not unreasonably interfere with such work or any other work. SES Americom shall afford Customer and Customer's U.S. citizen representatives access, while accompanied by SES Americom, to work being performed pursuant to the Construction Contract in Vendor's subcontractors' facilities to the extent Vendor obtains such access, subject to the right of Vendor and SES Americom to accompany Customer and Customer's U.S. citizen representatives on any such visit and subject further to the execution by Customer and Customer's U.S. citizen representatives of non-disclosure or similar agreements as may be required by said subcontractors. SES Americom shall use its reasonable commercial efforts to obtain Customer and Customer's U.S. citizen representatives access, while accompanied by SES Americom, to the work being performed pursuant to the Construction Contract in Vendor's subcontractors' facilities. With respect to any access, documents or other information that Vendor or SES Americom is obligated to provide to Customer's U.S. citizen representatives under this Agreement, Customer shall be fully responsible for, and shall indemnify and hold harmless SES Americom for any losses, fines, penalties or liabilities arising from, any violation by Customer or any of Customer's U.S. citizen representatives of any ITAR restrictions in connection with access, documents or information so provided.

1.B(3) In the event that Customer requests a modification of any *** then SES Americom will negotiate in good faith and in accordance with SES Americom's duties and obligations under Subsection 3.A(11) with Vendor to implement such modification. Customer acknowledges that any requested modification of the Satellite would be subject to the change procedures set forth in the Construction Contract and, to the extent such modification results in an increase or decrease in price (including an increase or decrease in Incremental Costs) or a change to the milestone schedule under the Construction Contract, such increase or decrease in price (including an increase or decrease in Incremental Costs) and/or the impact of such change to the milestone schedule shall be passed through to Customer in the manner provided below. Customer further acknowledges that any such modification may also require additional approvals or authorizations from the FCC, which SES Americom shall use its reasonable commercial efforts to obtain. The parties agree that the increase or decrease in the Satellite Investment as a result of such a modification requested by Customer will be reflected in the calculation of the MRC and that the planned In-Service Date will be adjusted to reflect the change to the milestone schedule in the Construction Contract.

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The parties agree to negotiate, in advance and in good faith, regarding any other changes to this Agreement, if any, reasonably related to such modifications, prior to implementing any such modifications. *** In the event that, notwithstanding good faith negotiations, the parties are unable to agree to the other changes, if any, to this Agreement reasonably related to such modifications, no modifications to the Satellite will be made.

1.B(4) SES Americom agrees to collaborate with and include Customer in all significant decisions related to the matters surrounding the Launch Service Agreement, although the parties agree that SES Americom will make the final decisions under the Launch Service Agreement (provided such decisions are consistent with SES Americom's obligations under this Agreement and do not adversely impact the rights of Customer under this Agreement). Subject to any applicable ITAR restrictions, Customer employees and Customer's U.S. citizen representatives shall be permitted to participate in reviews of each of the launch service provider's milestone events with respect to launch of the Satellite. Customer and Customer's guests may at Customer's expense attend the launch of the Satellite.

1.B(5) To the extent that a failure by SES Americom to make payments in accordance with the terms of the Construction Contract or the Launch Service Agreement is the direct cause of a delay in the In-Service Date of the Satellite, then in addition to any rights and remedies that Customer may have in this Agreement, SES Americom will pay Customer ***

1.C. SERVICE TERM. The term for Service (the "Service Term") on any Satellite *** shall commence on the In-Service Date for that Satellite, and, except as otherwise provided herein, shall expire on the earlier of (1) ten years after such In-Service Date (the "Initial Term"), or (2) the date that Satellite becomes a Failed Satellite. The Service Term on any Satellite *** that is not a Failed Satellite may be extended at Customer's sole option for successive one-year periods (or a portion thereof in the case of the final extension) until the Satellite reaches its End-of-Life (each an "Extended Term"), upon written notice to SES Americom provided at least 180 days prior to the end of the Initial Term and/or the then current Extended Term, and provided that, at the time of each such extension, Customer is in full compliance with all of its obligations under this Agreement.

1.D. SERVICE PRIORITIES. In the event of a Partial Loss, SES Americom shall immediately initiate all commercially and technically reasonable measures, consistent with protecting the Satellite and all services provided thereon, to restore the Service as quickly as possible. Restoration shall be effected by utilizing any available spare equipment on the Satellite to restore the Service and/or the Transponder. If access to spare equipment on the Satellite is required for more than one Transponder as a result of a single event or simultaneous events, Customer will determine the preferred use of the spare equipment, provided that Customer's decision does not adversely impact the Satellite.

1.E. NOTICES. All notices regarding technical or operational matters requiring immediate attention will be given by telephone to the telephone number set forth below for Customer and the telephone number set forth in the User's Guide for SES Americom and shall be followed by written notification. Any notice required or permitted to be given hereunder shall be in writing and shall be sent by facsimile transmission, or by first class certified mail, postage prepaid, or by overnight courier service, charges prepaid, to the party notified, addressed to such party at the address set forth below, or sent by facsimile to the fax number set forth below, or such other address or fax number as such party may have substituted by written notice to the other party. The sending of such notice with confirmation of receipt thereof (in the case of facsimile transmission) or receipt of such notice (in the case of delivery by mail or by overnight courier service) shall constitute the giving thereof.

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IF TO BE GIVEN TO CUSTOMER:
Attn: ***
Vice President, Space Programs
and Operations
EchoStar Satellite Corporation
5701 South Santa Fe Drive
Littleton, CO 80120
Fax #: ***

IF TO BE GIVEN TO SES AMERICOM:
Attn: ***
General Counsel
SES Americom, Inc.
Four Research Way
Princeton, NJ 08540
Fax #: ***

cc: David K. Moskowitz, Esq.
Senior Vice President &
General Counsel
(same address and fax number)

ARTICLE 2. PAYMENTS AND OTHER CONSIDERATIONS/ FUTURE SATELLITES

2.A. ***

2.A(1) ***

2.B. MONTHLY RECURRING SERVICE CHARGE. Commencing on the In-Service Date, and for the duration of the Service Term (including any Extended Terms) Customer will pay to SES Americom for the Service a monthly recurring service charge (the "MRC") with respect to the AMC-14 Satellite determined as of the In-Service Date

2.C. MRC ADJUSTMENTS/REFUNDS.

2.C(1) In the event of a Partial Loss (but not a Satellite Failure), Customer shall be entitled to a refund of any MRC already paid, and a reduction of the MRC to be paid, in either case applicable to the period of such Partial Loss until either (a) such Partial Loss is restored through the use of spare equipment on the Satellite, or (b) the Service Term ends, in an amount calculated in accordance with the provisions in Attachment B hereto *** In the event of a Satellite Failure for any reason whatsoever, Customer's obligation to pay the MRC due for the period after the Satellite Failure shall automatically terminate as of the date of the Satellite Failure, *** SES Americom will refund to Customer any MRC paid for periods subsequent to the date of a Satellite Failure, including the period between and including the date of the Satellite Failure and the date upon which it is determined that a Satellite Failure has occurred.

2.E. BILLING AND PAYMENT. On the In-Service Date, initial invoices for the MRC will be issued for the first two months (or first partial month and subsequent month, as applicable) of Service, and are payable within 15 Business Days after the In-Service Date. Invoices for the MRC will thereafter be issued monthly thirty (30) days in advance of the month in which Service is to be provided and are payable on the first day of such month by wire transfer or Customer check as per the remittance instructions on the respective monthly invoice (or, in the event Customer has not received such invoice, in accordance with SES Americom's most recent remittance instructions). Invoices for partial months will be prorated on the basis of a 30-day month. On payments not received by the due date, SES Americom will assess a late payment charge of the lesser of *** A failure or delay by SES Americom to send an invoice will not relieve Customer either of its obligation to pay on a timely basis for Service or of its obligation to pay late payment charges in the event of late payment.

2.F. TAXES AND OTHER CHARGES. The MRC shall be exclusive of taxes, duties and other fees or charges levied by governmental authorities on the Service or the facilities used to provide the Service to Customer. Customer will pay directly or reimburse SES Americom for all such taxes, duties and other fees or charges. SES Americom represents that, as of the date hereof, it has no actual knowledge of any taxes, duties or

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other fees or charges (1) which would be levied on SES Americom by any governmental authorities, (2) which would apply to the Service at the Orbital Location or the Alternate Orbital Location or the facilities used to provide the Service at the Orbital Location or the Alternate Orbital Location to Customer, provided that the Service is used solely for its Intended Use, and (3) for which SES Americom would seek reimbursement from Customer. Notwithstanding the foregoing, in no event will Customer be liable for any taxes based upon or measured by SES Americom's net income or property or employment taxes of SES Americom or any license or permit fees imposed generally on SES Americom's use of the Orbital Location or the Alternate Orbital Location, SES Americom's operation of the Satellite or the facilities used to provide the Service.

2.G. TERMS APPLICABLE TO THE AMC-14 SATELLITE.

ARTICLE 3. REPRESENTATIONS, WARRANTIES AND COVENANTS

3.A. SES AMERICOM'S REPRESENTATIONS, WARRANTIES AND COVENANTS. SES Americom hereby represents, warrants and covenants to Customer as follows:

3.A(1) It is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. It is duly licensed or qualified to do business as a foreign corporation in all jurisdictions where the failure to be so qualified would materially adversely affect its ability to perform its obligations hereunder. It has all requisite corporate power and authority to own its properties and carry on its business as now conducted.

3.A(2) The execution, delivery and performance (as provided herein) by SES Americom of this Agreement has been duly authorized by all requisite corporate action and will not violate any applicable provisions of law or any order of any court or any agency of government and will not conflict with or result in a breach under (a) its Articles of Incorporation or By-Laws, or (b) any material agreement to which SES Americom is a party or by which it is bound.

3.A(3) SES Americom has not retained or authorized anyone to represent it as a broker or finder in connection with this Agreement.

3.A(4) In connection with SES Americom's performance under this Agreement, SES Americom shall comply in all material respects with all applicable laws, regulations, or orders of any governmental entity, including without limitation the FCC.

3.A(5) SES Americom (a) has filed, and will diligently prosecute, application(s) with the FCC to launch and operate the AMC-14 Satellite *** in geostationary orbit at the Orbital Location and (b) agrees to use reasonable commercial efforts to acquire and maintain all necessary governmental authorizations or permissions to operate the Satellite (including without limitation providing DBS Service) at the Orbital Location in a manner consistent with the Technical Performance Specifications and its Intended Use. SES Americom will comply in all material respects with all applicable FCC and other governmental and intergovernmental orders and regulations regarding the licensing and operation of the Satellite ***. SES Americom shall use all reasonable efforts to resist any move of the Satellite from the Orbital Location. In the event that SES Americom is required by order of the FCC to change the Orbital Location or because of an FCC order or for any other reason (provided that such order or such other reason is not caused solely by the acts or failures to act of Customer in compliance with its representations, warranties or covenants under this Agreement) does not have the right to operate the Satellite at the Orbital Location for the benefit of Customer in accordance with this Agreement and for its Intended Use, then, effective at the time the Service is terminated for the foregoing reason, Customer shall be entitled to terminate this Agreement without any further liability to SES Americom.

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3.A(6) *** .

3.A(7) SES Americom will use reasonable commercial efforts to enter into coordination agreements necessary for operation of the Satellite at the Orbital Location and the Alternate Orbital Location consistent with (a) SES Americom's obligations in Subsections 2.K(1)(c) and 2.K(6)(c) of the AMC-15 Agreement, (b) the Technical Performance Specifications, and (c) the Intended Use (the "Coordination Agreements") and, once executed, will not amend such coordination agreements in a way that would adversely impact Customer without Customer's prior written consent.

3.A(8) In accordance with requests made and instructions given by Customer, SES Americom shall use commercially reasonable efforts, at Customer's reasonable expense, to support Customer's efforts in obtaining any site licenses, earth station authorizations and other necessary FCC and other governmental authorizations to communicate with the Satellite for the Intended Use, provided that SES Americom shall have no duty or obligation whatsoever under this Subsection (8) to act or refrain from acting in any way that would materially adversely impact SES Americom.

3.A(9) ***

3.A(10) SES Americom's Program Management for the Satellite will apply the same degree of care as is normally applied by SES Americom to satellite construction efforts for the other satellites owned by SES Americom.

3.A(11) ***

3.A(12) SES Americom will not amend the Construction Contract in a way that would adversely impact Customer or terminate the Construction Contract without the express written concurrence of Customer, provided that Customer's concurrence shall not be required if notice has been given of the termination of this Agreement.

3.A(13) ***

3.B. CUSTOMER'S REPRESENTATIONS, WARRANTIES AND COVENANTS. Customer hereby represents, warrants and covenants to SES Americom as follows:

3.B(1) It is a corporation duly organized, validly existing and in good standing under the laws of Colorado. It is duly licensed or qualified to do business as a foreign corporation in all jurisdictions where the failure to be so qualified would materially adversely affect its ability to perform its obligations hereunder. It has all requisite corporate power and authority to own its properties and carry on its business as now conducted.

3.B(2) The execution, delivery and performance (as provided herein) by Customer of this Agreement has been duly authorized by all requisite corporate action and will not violate any applicable provisions of law or any order of any court or agency of government and will not conflict with or result in a breach under (a) its Articles of Incorporation or By-Laws, or (b) any material agreement to which Customer is a party or by which it is bound.

3.B(3) Customer has not employed or authorized anyone to represent it as a broker or finder in connection with this Agreement.

3.B(4) In connection with Customer's performance under this Agreement, Customer shall comply in all material respects with all applicable laws, regulations, or orders of any governmental entity, including without limitation those governing content of transmissions and all FCC license requirements.

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3.B(5) Customer will properly illuminate and will use commercially reasonable efforts to cause third parties that Customer authorizes to use the Service to properly illuminate the Transponders.

3.B(6) Upon a written request therefor by SES Americom, but in no event more often than once per calendar year, Customer shall provide to SES Americom a certification duly executed by an officer of Customer, to the effect that Customer's net long term assets (as defined under GAAP) reflected on Customer's balance sheet for the immediately preceding calendar quarter exceed or are equal to \$1.2 Billion.

3.B(7) ***

3.C. ECHOSTAR COMMUNICATIONS CORPORATION REPRESENTATIONS, WARRANTIES AND COVENANTS.

3.C(1) EchoStar Communications Corporation hereby represents, warrants, and covenants, solely with respect to the obligation set forth in Subsection (2) below, as follows:

(a) It is a corporation duly organized, validly existing and in good standing under the laws of Nevada. It is duly licensed or qualified to do business as a foreign corporation in all jurisdictions where the failure to be so qualified would materially adversely affect its ability to perform its obligations hereunder. It has all requisite corporate power and authority to own its properties and carry on its business as now conducted.

(b) The execution, delivery and performance (as provided herein) by EchoStar Communications Corporation of the obligation set forth in Subsection (2) below has been duly authorized by all requisite corporate action and will not violate any applicable provisions of law or any order of any court or agency of government and will not conflict with or result in a breach under (a) its Articles of Incorporation or By-Laws, or (b) any material agreement to which EchoStar Communications Corporation is a party or by which it is bound.

3.C(2) In the event that Customer's net long term assets (as defined under GAAP) reflected on Customer's balance sheet for any calendar quarter after the Effective Date are less than \$1.2 Billion, then EchoStar Communications Corporation, or any successor entity thereto that is the ultimate parent of Customer, shall become, effective at the end of such calendar quarter, absolutely, irrevocably, unconditionally and continually obligated to SES Americom to perform fully and timely all of the payment and other obligations and covenants of Customer hereunder.

ARTICLE 4. SERVICE RESPONSIBILITIES

4.A. LAWS AND REGULATIONS GOVERNING SERVICE. Construction, launch, location and operation of the Satellite, SES Americom's satellite system and SES Americom's performance of all obligations pursuant to this Agreement are subject to all applicable laws and regulations, including without limitation ITAR, as amended, the Communications Act of 1934, as amended, the rules and regulations of the FCC, and coordination agreements with other operators and administrations.

4.B. USE CONDITIONS.

4.B(1) Customer will use the Service in accordance with (a) all applicable laws and regulations and (b) the conditions of use to be contained in a Commercial Operations Systems User's Guide to be agreed to by the parties (the "User's Guide"). Customer will not use the Service for any unlawful purpose, including violation of laws governing the content of material transmitted using the Service. If Customer's non-compliance with the preceding two sentences causes or threatens, or other circumstances arise from Customer's use of the Service which cause or threaten, damage to the Satellite, or if Customer's use of Service may reasonably result in the institution of criminal proceedings, or administrative proceedings that

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may result in sanctions or other non-monetary remedies, against SES Americom, SES Global SA, or any Affiliates of either entity, SES Americom may take actions (including suspension and/or restriction of Service) it reasonably believes necessary to ensure Customer's compliance with the User's Guide or SES Americom's compliance with law. SES Americom will provide Customer with advance notice as reasonably practicable prior to taking any such action; provided that the foregoing shall not preclude SES Americom from taking prompt action to preserve its interests. SES Americom will also provide continuous monitoring of the Satellite in accordance with generally accepted industry standards.

4.B(2) Customer shall be responsible for the failure of third parties (e.g., subcontractors) who Customer utilizes in conjunction with the Service ("Customer's Designees") to meet the requirements of Subsection (1) above as if such failures were actions of Customer.

ARTICLE 5. OPERATIONAL MATTERS

5.A. SERVICE ACCESS. Customer is responsible for providing, operating and maintaining the equipment necessary to access the Satellite and Service. At no additional cost to Customer, SES Americom shall be responsible for providing telemetry, tracking and control ("TT&C") service for the Satellite, and shall perform TT&C service on the same standards as applied by SES Americom to the rest of its satellite fleet. Customer at its expense shall provide SES Americom with any descrambling or decoding devices that may be required for signal monitoring. At a mutually agreed time, and prior to Customer transmitting from its earth station(s), Customer will demonstrate to SES Americom's designated Technical Operations Center that its earth station(s) comply with the satellite access specifications contained in the User's Guide.

5.B. ACTION TO PROTECT SATELLITE. SES Americom shall have sole and exclusive control of operation of the Satellite. If circumstances occur which in SES Americom's reasonable judgment pose a threat to the stable operation of the Satellite, SES Americom shall have the right to take action it reasonably believes necessary to protect the Satellite, including discontinuance or suspension of operation of the Satellite or any Transponder, without any liability to Customer, except as otherwise set forth in this Agreement, *** If the discontinuance or suspension of operation is permanent, then, if the discontinuance applies to the entire Satellite, it shall be treated as a Satellite Failure for purposes of Section 2.C, and if the discontinuance applies to particular Transponders, it shall be treated as a Partial Loss for purposes of Section 2.C. SES Americom shall give Customer as much notice as practical under the circumstances of any such discontinuance or suspension. If it becomes necessary to discontinue or suspend service on one or more Transponders on the Satellite, and operational circumstances allow SES Americom to select the Transponder or Transponders to be discontinued or suspended, SES Americom will consult with Customer and implement Customer's preferred course of action, such consultation to take place prior to action by SES Americom unless more immediate action is necessary.

5.C. CERTAIN OTHER OPERATIONAL MATTERS.

ARTICLE 6. INDEMNIFICATION

6.A. BY CUSTOMER. ***

6.B. BY SES AMERICOM ***

6.C. SURVIVAL. The provisions of this Article 6 shall survive expiration or termination of this Agreement indefinitely.

ARTICLE 7. WARRANTY DISCLAIMER; LIMITATION OF LIABILITY

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7.A. WARRANTY DISCLAIMER. ***

7.B. LIMITATION OF LIABILITY.

7.C. SURVIVAL. The provisions of this Article 7 shall survive expiration or termination of this Agreement indefinitely.

ARTICLE 8. CONFIDENTIALITY AND NONDISCLOSURE

8.A. CERTAIN INFORMATION REGARDING SERVICE. Except for disclosures required by a court or governmental agency or to assignees permitted under Section 10.I, each party hereby agrees not to disclose to third parties (without the prior written consent of the other party) the material terms and conditions of this Agreement (including but not limited to the prices, payment terms, schedules, protection arrangements, and restoration provisions thereof), and all information provided to Customer and SES Americom related to the design and performance characteristics of the Satellite, and any subsystems or components thereof, including the Transponders). Notwithstanding the foregoing, Customer (and not SES Americom) may disclose to its third-party customers making use of the Service, and SES Americom (and not Customer) may disclose to its third party vendors and contractors providing services relating to the Satellite (including but not limited to insurance and launch service providers), the Technical Performance Specifications, the User's Guide, and the protection arrangements and restoration provisions of the Service.

8.B. PROPRIETARY INFORMATION. To the extent that either party discloses to the other any other information which it considers proprietary or is proprietary information of a third party, in written or tangible form, said party shall identify such information as proprietary when disclosing it to the other party by marking it clearly and conspicuously as proprietary information. Any proprietary disclosure to either party, if made orally, shall be identified as proprietary information at the time of disclosure, if the disclosing party wishes to keep such information proprietary under this Agreement. Any such information disclosed under this Agreement shall be used by the recipient thereof only in its performance under this Agreement.

Neither party shall be liable for the inadvertent or accidental disclosure of such information marked as proprietary, if such disclosure occurs despite the exercising of the same degree of care as the receiving party normally takes to preserve and safeguard its own proprietary information (but not less than reasonable care) or if such information (1) is or becomes lawfully available to the public from a source other than the receiving party before or during the period of this Agreement, (2) is released in writing by the disclosing party without restrictions, (3) is lawfully obtained by the receiving party from a third party or parties without obligation of confidentiality, (4) is lawfully known by the receiving party prior to such disclosure and is not subject to any confidentiality obligations, or (5) is at any time lawfully developed by the receiving party completely independently of any such disclosure or disclosures from the disclosing party.

In addition, neither party shall be liable for the disclosure of any proprietary information which it receives under this Agreement pursuant to judicial action or decree, or pursuant to any requirement of any Government or any agency or department thereof, having jurisdiction over such party, provided that in the reasonable opinion of counsel for such party such disclosure is required, and provided further that such party, to the extent reasonably practical, shall have given the other party notice prior to such disclosure.

Customer and SES Americom agree to negotiate in good faith a three-party non-disclosure agreement with Vendor for information to be disclosed related to this Agreement.

8.C. SURVIVAL. The provisions of this Article 8 shall survive expiration or termination of this Agreement indefinitely.

ARTICLE 9. TERMINATION

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9.A. TERMINATION FOR DEFAULT. In addition to any rights of termination provided in other Articles of this Agreement, either party may terminate this Agreement (a "Termination for Default") by giving the other party written notice thereof in the event: (1) the other party materially breaches this Agreement (except for a breach of Article 8) and fails to cure such breach within thirty (30) days after receipt of written notice thereof (except that, if the breaching party fails to pay amounts due hereunder, such cure period shall be reduced to twenty (20) days for the second and subsequent failures in any one calendar year, and, in lieu of termination, SES Americom may, in its sole discretion, suspend the provision to Customer of the Service, with no liability to Customer); or (2) the other party becomes insolvent or the subject of insolvency proceedings, including without limitation if the other party is judicially declared insolvent or bankrupt, or if any assignment is made of the other party's property for the benefit of its creditors or if a receiver, conservator, trustee in bankruptcy or other similar officer is appointed by a court of competent jurisdiction to take charge of all or any substantial part of the other party's property, or if a petition is filed by or against the other party under any provision of the Bankruptcy Code now or hereafter enacted, and such proceeding is not dismissed within sixty (60) days after filing, or if a petition is filed by the other party under any provision of the Bankruptcy Code now or hereinafter enacted.

9.B. TERMINATION FOR CONVENIENCE. At any time after the In-Service Date, Customer may terminate this Agreement for convenience (a "Termination for Convenience"), by written notice to SES Americom, provided at least *** days prior to the effective date of such termination, provided that, on the effective date of such termination, Customer shall pay to SES Americom an amount equal to *** The Termination Payment shall constitute Customer's sole obligation in the event of a Termination for Convenience, and, for the avoidance of doubt, Customer shall have no further duties or obligations to SES Americom hereunder, except as expressly set forth in Subsection 9.F(2), provided that, except as provided in Subsection 2.A(2), Customer understands and agrees that any attempt to recover some or all of the Option Payment at any time or pay less than the Termination Payment in connection with a Termination for Convenience would be a breach of this Agreement and entitle SES Americom to terminate the Agreement for breach under Section 9.A and recover the Termination Value.

9.C. TERMINATION FOR DELAY OR FORCE MAJEURE.

9.D. REFUNDS. In the event of the expiration of this Agreement pursuant to Section 9.F(1), or in the event of termination by Customer or wrongful termination by SES Americom pursuant to this Agreement, SES Americom shall refund any portion of the MRC paid by Customer to SES Americom which relates to Service not provided by SES Americom, and no further MRC or other amounts shall be due for the period following expiration or termination. By way of clarification, this Section 9.D shall not limit Customer's rights under this Agreement, at law, in equity or otherwise, in the event of Termination for Default or otherwise by Customer.

9.E. TERMINATION LIABILITY. ***

9.F. EXPIRATION OF AGREEMENT/ SURVIVAL.

9.F(2) Neither party shall have any further obligations or liability to the other under this Agreement in the event of the termination or expiration of this Agreement in accordance with this Article 9, except for any obligations or liability (a) arising prior to such termination or expiration, (b) expressly arising upon or as a result of such termination or expiration, (c) expressly described in this Agreement as surviving such expiration or termination, or (d) arising as a result of or in connection with the representations and warranties in Article 3.

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ARTICLE 10. GENERAL PROVISIONS

10.A. FORCE MAJEURE. If a Force Majeure Event under this Agreement has occurred and is continuing, then the performance obligations of the party directly affected by such Force Majeure Event under this Agreement shall be tolled for the duration of such Force Majeure Event and such party shall not be liable to the other by reason of any delay or failure in performance of this Agreement which arises out of such Force Majeure Event; provided that the party directly affected by such Force Majeure Event shall promptly take and continue to take all reasonable actions to abate such Force Majeure Event as soon as possible. If a payment is made late as a result of a Force Majeure Event (e.g., unscheduled closure of the banking settlement system), then interest at 30-day LIBOR shall be compounded monthly and paid from the due date until the date actually paid. If Service is unavailable as a result of a Force Majeure Event affecting the Satellite, then Customer's obligation to pay the MRC shall be suspended during such period Service is unavailable and shall resume upon the Service becoming available. A "Force Majeure Event" means acts of God, acts of the other party, acts of government authority, strikes or other labor disturbances, or any other cause beyond the reasonable control of that party, that (1) as to SES Americom, relates to or affects its ability to provide the Service, or (2) as to either party, relates to or affects that party's ability to make a payment.

10.B. NO IMPLIED LICENSE. The provision of services or the conveying of any information under this Agreement shall not convey any license by implication, estoppel or otherwise, under any patents or other intellectual property rights of Customer or SES Americom, SES Global SA, and their Affiliates, contractors and vendors (including Vendor).

10.C. NO THIRD-PARTY RIGHTS; NO FIDUCIARY RELATIONSHIP. Nothing contained in this Agreement shall be deemed or construed by the parties or by any third party to create any rights, obligations or interests in third parties; or to create the relationship of principal and agent, partnership or joint venture or any other fiduciary relationship or association among the parties.

10.D. NO WAIVER; REMEDIES CUMULATIVE. No waiver, alteration, or modification of any of the terms of this Agreement will be binding unless in writing and signed by all parties. All remedies and rights hereunder and those available in law or in equity shall be cumulative and the exercise by a party of any such right or remedy shall not preclude the exercise of any other right or remedy available under this Agreement in law or in equity.

10.E. COSTS AND ATTORNEYS' FEES. In any action brought with respect to this Agreement by one party hereto against the other party hereto, in addition to any other money damages awarded by a court of competent jurisdiction, the prevailing party shall be entitled to recover from the other party its reasonable costs, including reasonable attorneys' fees, in successfully bringing or defending against such action.

10.F. EXCLUSIVE JURISDICTION.

10.F(1) Each party hereby irrevocably and unconditionally (a) agrees that any suit, action or proceeding against SES Americom by Customer with respect to this Agreement shall be instituted only in the trial court of Princeton, New Jersey, or the U.S. District Court for the District of New Jersey (and appellate courts from any of the foregoing), as Customer may elect in its sole discretion, (b) agrees that any suit, action or proceeding against Customer by SES Americom with respect to this Agreement shall be instituted only in the trial court of Denver, Colorado, or the U.S. District Court for the District of Colorado (and appellate courts from any of the foregoing), as SES Americom may elect in its sole discretion, (c) consents and submits, for itself and its property, to the jurisdiction of such courts for the purpose of any such suit, action or proceeding instituted against it by the other, and (d) agrees that a final judgment in any such suit, action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

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10.F(2) Each party hereby irrevocably and unconditionally agrees that service of all writs, process and summonses in any suit, action or proceeding pursuant to Subsection 10.F(1) may be effected by the mailing of copies thereof by registered or certified mail, postage prepaid, to such party at its address for notices pursuant to Section 1.E, such service to become effective 30 days after such mailing, provided that nothing contained in this Subsection 10.F(2) shall affect the right of either party to serve process in any other manner permitted by law.

10.F(3) Each party hereby irrevocably and unconditionally (a) waives any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement brought in any court specified in clause (a) or clause (b) of Subsection 10.F(1) (as applicable), (b) waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum and (c) agrees not to plead or claim either of the foregoing.

10.F(4) The provisions of this Section 10.F shall survive expiration or termination of this Agreement indefinitely.

10.G. SPECIFIC PERFORMANCE. Each party recognizes that any material breach of the terms of this Agreement would give rise to irreparable harm to the other party for which money damages would not be an adequate remedy, and accordingly agrees that, any term of this Agreement to the contrary notwithstanding, in addition to all other remedies available to it, each party shall be entitled to enforce the terms of this Agreement by a decree of specific performance against the other party, in each case without the necessity of proving the inadequacy of money damages, provided that Customer shall not be entitled to receive the benefit of such specific performance with respect to any action by SES Americom that would: (1) pose or allow to remain a threat to the health and stable operation of the Satellite; or (2) result in a violation by SES Americom of any applicable law or regulation, or any coordination agreement or requirement. Such remedy shall not be deemed the exclusive remedy for breach of this Agreement, but shall be in addition to all other remedies that a party may have at law, in equity, under contract or otherwise. The provisions of this Section 10.G shall survive expiration or termination of this Agreement indefinitely.

10.H. HEADINGS; SEVERABILITY; CUSTOMER PURCHASE ORDERS. All titles and headings in this Agreement are for reference purposes only; they will not affect the meaning or construction of the terms of this Agreement. If any part or parts of this Agreement are held to be invalid, the remaining parts of the Agreement will continue to be valid and enforceable. Customer agrees that any purchase order or other similar document that Customer may issue in connection with this Agreement will be for Customer's internal purposes only and, therefore, even if acknowledged by SES Americom, will not in any way add to, subtract from, or in any way modify the terms and conditions of this Agreement.

10.I. ASSIGNMENT. ***

10.J. INTER-PARTY WAIVER. Customer, on behalf of itself and its officers, employees, Affiliates, agents, insurers, owners and customers, agrees to accept the inter-party waiver and related indemnity provisions required by the applicable Launch Services Agreement for a launch, modified so as to apply to Customer and the launch services provider. SES Americom likewise, on behalf of itself and its officers, employees, Affiliates, agents, insurers, owners and customers, agrees to accept the inter-party waiver and related indemnity provisions required by the applicable Launch Services Agreement for a launch, modified so as to apply to SES Americom and the launch services provider. In no event shall such inter-party waiver and related indemnity provisions have any effect on the rights, obligations and liabilities of and between Customer and SES Americom under this Agreement.

10.K. PUBLICITY. Neither party shall in any way or in any form publicize or advertise in any manner this Agreement or the Services to be provided pursuant to this Agreement without the express written approval (which shall not be unreasonably withheld) of the other party, obtained in advance, for each item of advertising or publicity. The foregoing prohibition shall include but not be limited to news releases, letters,

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correspondence, literature, promotional materials or displays of any nature or form. Each request for approval hereunder shall be submitted in writing to the representative designated in writing; and approval, in each instance, shall be effective only if in writing and signed by said representative. Nothing herein shall prevent either party from providing the FCC, or any other governmental agency, information concerning this Agreement as required by law or in response to a request for information by such governmental agency. Notwithstanding the foregoing, either party may refer to the fact that SES Americom is providing the Service to Customer without the other party's prior approval so long as such statements are limited to a statement of such fact and are not an endorsement (positive or negative) of any product or service.

10.L. ITAR. Information exchanged under this Agreement may be subject to U.S. export control laws and regulations, such as the U.S. International Traffic in Arms Regulations ("ITAR") or the Export Administration Act. The parties agree that information subject to the export control laws and regulations shall not be disclosed or transferred to a third party without first obtaining written approval from the disclosing party and complying with all applicable U.S. export control laws and regulations.

10.M. ENTIRE AGREEMENT. This Agreement contains the entire and exclusive understanding between the parties concerning the subject matter hereof and supersedes all prior communications and understandings between them relative to the subject matter hereof.

ARTICLE 11. DEFINITIONS

As used in this Agreement:

A. "Affiliate" means, with respect to a party, any person or entity (1) 10% or more of the capital securities which on an as-converted basis are owned by, or (2) directly or indirectly controlling, controlled by, or under common control with, such party at the time when the determination of affiliation is being made. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to a person or entity, shall mean the possession, directly or indirectly, of the power to (a) direct or cause the direction of management policies of such person or entity, whether through the ownership of voting securities or by contract or otherwise, or (b) select a majority of the Board of Directors of such person or entity.

B. "Agreement" shall have the meaning specified in Section 1.A.

C. ***

D. "AMC-14 Satellite" shall have the meaning specified in Section 1.A.

E. "AMC-15 Agreement" shall mean the Satellite Service Agreement among the parties effective as of March 21, 2003, as previously amended by Amendment #1 effective as of July 10, 2003, and as such agreement may be amended in the future from time to time in accordance with its terms.

F. "AMC-15 Satellite" shall have the meaning specified in Section 1.A of the AMC-15 Agreement.

G. "Business Day" means Monday through Friday, 8:30 a.m. to 5:00 p.m. (local time in New York City, New York) exclusive of banking holidays observed in New York City.

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- H. "Construction Contract" shall have the meaning specified in Section 1.A.
- I. "Continuation Payments" shall have the meaning specified in Section 9.G.
- J. "Coordination Agreements" shall have the meaning specified in Subsection 3.A(7).
- K. "Customer" shall have the meaning specified in the preamble paragraph.

- L. "Customer's Designees" shall have the meaning specified in Subsection 4.B(2).
- M. "DBS Service" shall mean direct-to-home video services provided to residential and/or commercial subscribers ***
- N. "EIRP" shall mean the effective isotropic radiated power.
- O. "End-of-Life" means the date on which, in SES Americom's reasonable judgment, a satellite should be taken out of service because of insufficient fuel.
- P. "Effective Date" shall have the meaning specified in the preamble paragraph.
- Q. "Extended Term" shall have the meaning specified in Section 1.C.

- R. "Force Majeure Event" shall have the meaning specified in Section 10.A.

- S. "In-Service" means that the Satellite *** is deployed in an SES Orbital Location or a Customer Orbital Location, and, following SES Americom testing and verification of the entire Satellite, SES Americom determines in its reasonable business judgment that the Satellite or all usable capacity thereof, is ready for commercial operation in accordance with the applicable Technical Performance Specifications, provided that the Satellite is not a Satellite Failure. SES Americom agrees that it shall provide written notice of such determination to Customer on the date that SES Americom makes its determination.
- T. "In-Service Date" means the date on which the Satellite *** is In-Service.
- U. "Incremental Costs" shall have the meaning specified in Subsection 2.G(7).
- V. "Initial Period" shall have the meaning specified in Subsection 2.I(1).

- W. "ITAR" shall have the meaning ascribed to that term in Section 10.L.
- X. "ITU" means the International Telecommunications Union.
- Y. "Launch Service Agreement" means the agreement to be executed between SES Americom and a launch provider for the launch of the Satellite.

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- Z. "MRC" shall have the meaning specified in Section 2.B.

- AA. "Orbital Location" shall have the meaning specified in Section 1.A.
- BB. "Partial Loss" shall mean any failure of a Transponder to operate in accordance with the Technical Performance Specifications that does not result in a Satellite Failure.

- CC. "Prime Rate" shall mean the "prime rate" of interest as shown in the Money and Investing Section of the Wall Street Journal as of the applicable date.

- DD. "Satellite" shall mean the AMC-14 Satellite ***

- EE. "Service" shall have the meaning specified in Section 1.A.
- FF. "Service Term" shall have the meaning specified in Section 1.C.
- GG. "SES Americom" shall have the meaning specified in the preamble paragraph.

- HH. "Technical Performance Specifications" shall have the meaning specified in Subsection 1.B(1).
- II. "Termination for Convenience" shall have the meaning specified in Section 9.B.
- JJ. "Termination for Default" shall have the meaning specified in Section 9.A.
- KK. "Termination Payment" shall have the meaning specified in Section 9.B.
- LL. "Termination Value" shall have the meaning specified in Section 9.E.
- MM. "Transponder" means a communication path by which a signal is transmitted using the Satellite.
- NN. "TT&C" shall have the meaning specified in Section 5.A.
- OO. "User's Guide" shall have the meaning specified in Subsection 4.B(1).

This Agreement contains the complete and exclusive understanding of the parties with respect to the subject matter hereof and supersedes all prior negotiations and agreements between the parties with respect thereto. To the extent that any Attachment may be inconsistent with the text of the Agreement, the text of the Agreement shall control.

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ECHOSTAR SATELLITE CORPORATION

SES AMERICOM, INC., as agent for
SES AMERICOM CALIFORNIA, INC.
and SES AMERICOM COLORADO, INC.

By: _____
(Signature)

By: _____
(Signature)

Name: _____
(Typed or Printed Name)

Name: _____
(Typed or Printed Name)

Title: _____

Title: _____

ECHOSTAR COMMUNICATIONS CORPORATION,
solely as to the obligation set forth
in Section 3.C of this Agreement

By: _____
(Signature)

Name: _____
(Typed or Printed Name)

Title: _____

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CERTIFICATION OF CHIEF EXECUTIVE OFFICER
Section 302 Certification

I, Charles W. Ergen, certify that:

1. I have reviewed this quarterly report on Form 10-Q of EchoStar Communications Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
 - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - c) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
 - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 10, 2003

/s/ Charles W. Ergen

Chairman and Chief Executive Officer

CERTIFICATION OF CHIEF FINANCIAL OFFICER
Section 302 Certification

I, Michael R. McDonnell, certify that:

1. I have reviewed this quarterly report on Form 10-Q of EchoStar Communications Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
 - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - c) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
 - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 10, 2003

/s/ Michael R. McDonnell

Senior Vice President and Chief Financial Officer

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
Section 906 Certification

Pursuant to 18 U.S.C. Section 1350, the undersigned officer of EchoStar Communications Corporation (the "Company"), hereby certifies that the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2003 (the "Report") fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934 and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: November 10, 2003

Name: /s/ Charles W. Ergen

Title: Chairman of the Board of Directors and

Chief Executive Officer

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

CERTIFICATION OF CHIEF FINANCIAL OFFICER
Section 906 Certification

Pursuant to 18 U.S.C. Section 1350, the undersigned officer of EchoStar Communications Corporation (the "Company"), hereby certifies that the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2003 (the "Report") fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934 and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: November 10, 2003

Name: /s/ Michael R. McDonnell

Title: Senior Vice President and

Chief Financial Officer

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

