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

FORM 10-Q

(MARK ONE)

[X] QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 FOR THE QUARTERLY PERIOD ENDED JUNE 30, 2001

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	88-0336997
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

5701 S. SANTA FE DRIVE LITTLETON, COLORADO	80120
(Address of principal executive offices)	(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 X NO
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AS OF JULY 13, 2001, THE REGISTRANT'S OUTSTANDING COMMON STOCK CONSISTED OF 240,306,159 SHARES OF CLASS A COMMON STOCK AND 238,435,208 SHARES OF CLASS B COMMON STOCK.

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PART II - OTHER INFORMATION

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

	DECEMBER 31, 2000	JUNE 30, 2001
		(Unaudited)
ASSETS		
Current Assets:		
Cash and cash equivalents	$ 856,818	$ 1,492,560
Marketable investment securities	607,357	823,307
Trade accounts receivable, net of allowance for uncollectible accounts of $31,241 and $25,940, respectively	278,614	273,689
Insurance receivable	106,000	106,000
Inventories	161,161	150,319
Other current assets	50,827	60,861
Total current assets	2,060,777	2,906,736
Restricted cash and marketable investment securities	3,000	2,035
Cash reserved for satellite insurance (Note 4)	82,393	74,196
Property and equipment, net	1,511,303	1,716,077
FCC authorizations, net	709,984	700,264
Other noncurrent assets	298,493	247,339
Total assets	$ 4,665,950	$ 5,646,647
LIABILITIES AND STOCKHOLDERS' DEFICIT		
Current Liabilities:		
Trade accounts payable	$ 226,568	$ 186,515
Deferred revenue	283,895	339,769
Accrued expenses	691,482	734,918
Current portion of long-term debt	21,132	15,794
Total current liabilities	1,223,077	1,276,996
Long-term obligations, net of current portion:		
9 1/4% Seven Year Notes	375,000	375,000
9 3/8% Ten Year Notes	1,625,000	1,625,000
10 3/8% Convertible Notes	1,000,000	1,000,000
4 7/8% Convertible Notes	1,000,000	1,000,000
5 3/4% Convertible Notes	--	1,000,000
Mortgages and other notes payable, net of current portion	14,812	13,388
Long-term deferred distribution and carriage revenue and other long-term liabilities	56,329	80,633
Total long-term obligations, net of current portion	4,071,141	5,094,021
Total liabilities	5,294,218	6,371,017
Commitments and Contingencies (Note 5)		
Stockholders' Deficit:		
6 3/4% Series C Cumulative Convertible Preferred Stock, 218,951 and 111,566 shares issued and outstanding, respectively	10,948	5,578
Class A Common Stock, $.01 par value, 1,600,000,000 shares authorized, 235,749,557 and 238,446,218 shares issued and outstanding, respectively	2,357	2,384
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	1,700,367	1,709,706
Deferred stock-based compensation	(58,193)	(41,680)
Accumulated other comprehensive loss	(60,580)	(12,063)
Accumulated deficit	(2,225,551)	(2,390,679)
Total stockholders' deficit	(628,268)	(724,370)
Total liabilities and stockholders' deficit	$ 4,665,950	$ 5,646,647

See accompanying Notes to Condensed Consolidated Financial Statements.

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

	THREE MONTHS ENDED JUNE 30,		SIX MONTHS ENDED JUNE 30,	
	2000	2001	2000	2001
REVENUE:				
DISH Network:				
Subscription television services	$ 555,309	$ 883,055	$ 1,032,183	$ 1,677,503
Other	2,169	3,245	3,482	5,728
Total DISH Network	557,478	886,300	1,035,665	1,683,231
DTH equipment sales and integration services	60,034	47,159	122,738	88,178
Other	28,617	32,813	53,447	56,793
Total revenue	646,129	966,272	1,211,850	1,828,202
COSTS AND EXPENSES:				
DISH Network Operating Expenses:				
Subscriber-related expenses	231,450	358,634	433,024	674,969
Customer service center and other	68,371	69,914	124,420	134,696
Satellite and transmission	13,895	8,821	26,371	17,916
Total DISH Network operating expenses	313,716	437,369	583,815	827,581
Cost of sales - DTH equipment and integration services	46,320	31,160	92,542	59,996
Cost of sales - other	7,120	22,572	15,236	38,501
Marketing:				
Subscriber promotion subsidies - promotional DTH equipment	154,568	105,488	326,706	295,753
Subscriber promotion subsidies - other	73,257	121,366	151,206	204,332
Advertising and other	24,471	26,877	47,641	53,804
Total marketing expenses	252,296	253,731	525,553	553,889
General and administrative	58,176	87,677	113,753	163,349
Non-cash, stock-based compensation	13,022	7,011	27,031	14,467
Depreciation and amortization	41,710	62,839	82,168	121,689
Total costs and expenses	732,360	902,359	1,440,098	1,779,472
Operating income (loss)	(86,231)	63,913	(228,248)	48,730
Other Income (Expense):				
Interest income	16,947	22,196	35,945	46,760
Interest expense, net of amounts capitalized	(61,502)	(86,058)	(123,015)	(169,155)
Other	(2,038)	2,246	(2,581)	(91,030)
Total other expense	(46,593)	(61,616)	(89,651)	(213,425)
Income (loss) before income taxes	(132,824)	2,297	(317,899)	(164,695)
Income tax provision, net	(36)	(48)	(91)	(97)
Net income (loss)	(132,860)	2,249	(317,990)	(164,792)
6 3/4% Series C Cumulative Convertible Preferred Stock dividends	(240)	(158)	(733)	(336)
Numerator for basic and diluted income (loss) per share - income (loss) attributable to common shareholders	$ (133,100)	$ 2,091	$ (318,723)	$ (165,128)
Denominator for basic income (loss) per share - weighted-average common shares outstanding	471,555	475,768	468,661	475,169
Denominator for diluted income (loss) per share - weighted-average common shares outstanding	471,555	484,090	468,661	475,169
Basic and diluted net income (loss) per common share	$ (0.28)	$ 0.00	$ (0.68)	$ (0.35)

See accompanying Notes to Condensed Consolidated Financial Statements.

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

	SIX MONTHS ENDED JUNE 30,	
	2000	2001
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net loss	$ (317,990)	$ (164,792)
Adjustments to reconcile net loss to net cash flows from operating activities:		
Deferred stock-based compensation recognized	27,031	14,467
Loss due to decline in the estimated fair value of strategic investments	--	92,683
Depreciation and amortization	82,168	121,689
Amortization of debt discount and deferred financing costs	3,068	3,756
Employee benefits funded by issuance of Class A Common Stock	7,280	1,200
Change in long-term deferred distribution and carriage revenue and other long-term liabilities	6,433	24,304
Other, net	1,958	9,813
Changes in current assets and current liabilities, net	52,758	51,146
Net cash flows from operating activities	(137,294)	154,266
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchases of marketable investment securities	(478,825)	(1,298,036)
Sales of marketable investment securities	422,782	1,097,344
Purchases of property and equipment	(114,709)	(302,276)
Change in cash reserved for satellite insurance due to depreciation on related satellites (Note 4)	--	8,197
Investment in Wildblue Communications	(50,000)	--
Investment in Replay TV	(10,000)	--
Investment in StarBand Communications	(50,045)	--
Other	(1,445)	(1,497)
Net cash flows from investing activities	(282,242)	(496,268)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Net proceeds from issuance of 5 3/4% Convertible Notes	--	980,000
Repayments of mortgage indebtedness and notes payable	(7,982)	(6,762)
Net proceeds from Class A Common Stock options exercised and Class A Common Stock issued to Employee Stock Purchase Plan	9,103	4,843
Other	(732)	(337)
Net cash flows from financing activities	389	977,744
Net (decrease) increase in cash and cash equivalents	(419,147)	635,742
Cash and cash equivalents, beginning of period	905,299	856,818
Cash and cash equivalents, end of period	$ 486,152	$ 1,492,560
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION:		
Conversion of 6 3/4% Series C Cumulative Convertible Preferred Stock to Class A common stock	$ 32,879	$ 5,370
Forfeitures of deferred non-cash, stock-based compensation	5,994	2,046
Class A Common Stock issued related to acquisition of Kelly Broadcasting Systems, Inc.	31,556	--

See accompanying Notes to 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, or referring to particular subsidiaries in certain circumstances, "EchoStar" or the "Company") include two interrelated business units (Note 7):

- The DISH Network - a direct broadcast satellite ("DBS") subscription television service in the United States. As of June 30, 2001, we had approximately 6.07 million DISH Network subscribers.

- EchoStar Technologies Corporation ("ETC") - engaged in the design, development, distribution and sale of DBS set-top boxes, antennae and other digital equipment for the DISH Network ("EchoStar receiver systems"), the design, development and distribution of similar equipment for international direct-to-home ("DTH") satellite and other systems and the provision of uplink center design, construction oversight and other project integration services for international DTH ventures.

Since 1994, EchoStar has deployed substantial resources to develop the "EchoStar DBS System." The EchoStar DBS System consists of EchoStar's FCC-allocated DBS spectrum, six DBS satellites ("EchoStar I," "EchoStar II," "EchoStar III," "EchoStar IV," "EchoStar V," and "EchoStar VI"), EchoStar receiver systems, digital broadcast operations centers, customer service facilities, and other assets utilized in its operations. EchoStar's principal business strategy is to continue developing its 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 footnotes required by generally accepted accounting principles for complete financial statements. In the opinion of management, 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 six months ended June 30, 2001 are not necessarily indicative of the results that may be expected for the year ending December 31, 2001. For further information, refer to the consolidated financial statements and footnotes thereto included in EchoStar's Annual Report on Form 10-K for the year ended December 31, 2000. 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 management 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.

Investment Securities

As of June 30, 2001, EchoStar has classified all marketable investment securities as available-for-sale. The fair market value of marketable investment securities approximates the carrying value and represents the quoted market prices at the balance sheet dates. Related unrealized gains and losses are reported as a separate component of stockholders' deficit, net of related deferred income taxes, if applicable. The specific identification method is used to determine cost in computing realized gains and losses. Such unrealized losses totaled approximately $12 million as of June 30, 2001. Approximately $9 million of these unrealized losses relate to a decline in the value of OpenTV. EchoStar acquired that stock in connection with the establishment of a strategic relationship with OpenTV which did not involve an investment of cash by EchoStar.

In accordance with generally accepted accounting principles, declines in the 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. EchoStar reviewed the fair value of its marketable investment securities as of June 30, 2001 and determined that some declines in market value have occurred which may be other than temporary. As such, EchoStar established a new cost basis for these securities, and accordingly reduced its previously recorded unrealized loss and recorded a charge to earnings of approximately $856,000 during the three months ended June 30, 2001. During the six months ended June 30, 2001, EchoStar recorded an aggregate charge to earnings for other than temporary declines of approximately $33.3 million.

EchoStar also has made strategic equity investments in certain non-marketable investment securities including Wildblue Communications, StarBand Communications, VisionStar, Inc. and Replay TV. The original cost basis of EchoStar's investments in these non-marketable investment securities totaled approximately $116 million. The securities of these companies are not publicly traded. EchoStar's ability to create realizable value for its strategic investments in companies that are not public is dependent on the success of their business plans and ability to obtain sufficient capital to execute their business plans. StarBand and Wildblue cancelled their planned initial public stock offerings. As a result of the cancellation of those offerings and other factors, during the six months ended June 30, 2001, EchoStar recorded a non-recurring charge of approximately $59.4 million to reduce the carrying value of certain of these non-marketable investment securities to their estimated fair values. StarBand and Wildblue need to obtain significant additional capital in the near term. Absent such funding, additional write-downs of EchoStar's investments could be necessary. During July 2001, EchoStar announced its intention to invest an additional $50 million in StarBand (Note 8).

Comprehensive Income (Loss)

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

	SIX MONTHS ENDED JUNE 30,	
	2000	2001
	(Unaudited)	
Net loss	$ (317,990)	$ (164,792)
Unrealized holding (losses) gains on available-for-sale securities arising during period	(676)	15,258
Reclassification adjustment for impairment losses on available-for-sale securities included in net loss	--	33,259
Comprehensive loss	$ (318,666)	$ (116,275)

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

Basic and Diluted Loss Per Share

Statement of Financial Accounting Standards No. 128, "Earnings Per Share" ("FAS No. 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 or warrants were exercised or convertible securities were converted to common stock, resulting in the issuance of common stock that then would share in any earnings of the Company.

EchoStar had net losses for the three month period ended June 30, 2000 and for the six month periods ending June 30, 2000 and 2001. Therefore, the effect of the common stock equivalents and convertible securities is excluded from the computation of diluted earnings (loss) per share for these periods since the effect is anti-dilutive. Since EchoStar had net income for the three month period ended June 30, 2001, the potential dilution from stock options exercisable into common stock for the three-month period ending June 30, 2001 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 (in thousands).

	THREE MONTHS ENDED JUNE 30,		SIX MONTHS ENDED JUNE 30,	
	2000	2001	2000	2001
Denominator for basic income (loss) per share - weighted-average common shares outstanding	471,555	475,768	468,661	475,169
Dilutive impact of options outstanding	--	8,322	--	--
Denominator for diluted income (loss) per share - weighted-average common shares outstanding	471,555	484,090	468,661	475,169

As of June 30, 2001 and 2000, approximately 1,831,000 and 4,121,000 shares of Class A common stock were issuable upon conversion of the 6 3/4% Series C Cumulative Convertible Preferred Stock, respectively. As of June 30, 2001, the 4 7/8% Convertible Subordinated Notes and the 5 3/4% Convertible Subordinated Notes were convertible into approximately 22 million shares and approximately 23 million shares of Class A common stock, respectively. The effect of the convertible securities is excluded from the computation of diluted earning (loss) per share since the dividends or interest per common share obtainable upon conversion of each security exceeds the basic earnings (loss) per share and the effect is anti-dilutive.

3. INVENTORIES

Inventories consist of the following (in thousands):

	DECEMBER 31, 2000	JUNE 30, 2001
Finished goods - DBS	$ 96,362	$ 83,590
Raw materials	40,247	42,442
Finished goods - reconditioned and other	23,101	20,195
Work-in-process	8,879	11,536
Consignment	2,478	1,697
Reserve for excess and obsolete inventory	(9,906)	(9,141)
	$ 161,161	$ 150,319

4. PROPERTY AND EQUIPMENT

EchoStar VI

EchoStar VI is equipped with a total of 48 transponders, including 16 spares. During April, 2001, EchoStar VI experienced a series of anomalous events resulting in a temporary interruption of service. The satellite was quickly restored to normal operations mode. As a result of the anomaly, we believe that one stationkeeping thruster and a pair of transponders are unusable. The satellite is equipped with a substantial number of backup transponders and thrusters. EchoStar VI has also experienced anomalies resulting in the loss of two solar array strings. The satellite has a total of approximately 112 solar array strings and approximately 106 are required to assure full power availability for the 12-year design life of the satellite. An investigation of the anomalies, none of which have impacted commercial operation of the satellite to date, is continuing. Until the root cause of the anomalies is finally determined, there can be no assurance future anomalies will not cause further losses which could impact commercial operation of the satellite.

Satellite Insurance

As a result of the failure of EchoStar IV solar arrays to fully deploy and the failure of 28 transponders to date, a maximum of approximately 14 of the 44 transponders on EchoStar IV are available for use at this time. Due to the normal degradation of the solar arrays, the number of available transponders will further decrease over time. In addition to the transponder and solar array failures, EchoStar IV 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.

In September 1998, EchoStar filed a $219.3 million insurance claim for a constructive total loss under the launch insurance policies covering EchoStar IV. The satellite insurance consists of separate identical policies with different carriers for varying amounts which, in combination, create a total insured amount of $219.3 million.

The insurance carriers offered EchoStar a total of approximately $88 million, or 40% of the total policy amount, in settlement of the EchoStar IV insurance claim. The insurers allege that all other impairment to the satellite occurred after expiration of the policy period and is not covered. EchoStar strongly disagrees with the position of the insurers and has filed an arbitration claim against them for breach of contract, failure to pay a valid insurance claim and bad faith denial of a valid claim, among other things. There can be no assurance that EchoStar will receive the amount claimed or, if EchoStar does, that EchoStar will retain title to EchoStar IV with its reduced capacity.

At the time EchoStar filed its claim in 1998, EchoStar recognized an impairment loss of $106 million to write-down the carrying value of the satellite and related costs, and simultaneously recorded an insurance claim receivable for the same amount. EchoStar continues to believe it will ultimately recover at least the amount originally recorded and does not intend to adjust the amount of the receivable until there is greater certainty with respect to the amount of the final settlement.

As a result of the thermal and propulsion system anomalies, EchoStar reduced the estimated remaining useful life of EchoStar IV to approximately 4 years during January 2000. EchoStar will continue to evaluate the performance of EchoStar IV and may modify its loss assessment as new events or circumstances develop.

The in-orbit insurance policies for EchoStar I, EchoStar II, and EchoStar III expired on July 25, 2000. The insurers refused to renew insurance on EchoStar I, EchoStar II and EchoStar III on reasonable terms. Based on, among other things, the insurance carriers' unanimous refusal to negotiate reasonable renewal insurance coverage, EchoStar believes that the carriers colluded and conspired to boycott EchoStar unless EchoStar accepted their offer to settle the EchoStar IV claim for $88 million.

Based on the carriers' actions, EchoStar added causes of action in its EchoStar IV demand for arbitration for breach of the duty of good faith and fair dealing, and unfair claim practices. Additionally, EchoStar filed a lawsuit against the insurance carriers in the United States District Court for the District of Colorado asserting causes of action for violation of Federal and State antitrust laws. While EchoStar believes it is entitled to the full amount claimed under the EchoStar IV insurance policy and believes the insurance carriers are in violation of antitrust laws and have committed further acts of bad faith in connection with their refusal to negotiate reasonable insurance coverage on EchoStar's other satellites, there can be no assurance as to the outcome of these proceedings. During March 2001, EchoStar voluntarily dismissed the antitrust lawsuit without prejudice. EchoStar has the right to re-file an antitrust action against the insurers again in the future.

The indentures related to the outstanding senior notes of EDBS contain restrictive covenants that require EchoStar to maintain satellite insurance with respect to at least half of the satellites it owns. Insurance coverage is therefore required for at least three of EchoStar's six satellites currently in orbit. EchoStar had procured normal and customary launch insurance for EchoStar VI, which expired on July 14, 2001. As a result, EchoStar is currently self-insuring EchoStar I, EchoStar II, EchoStar III, EchoStar IV, EchoStar V and EchoStar VI. To satisfy insurance covenants related to the outstanding EDBS senior notes, as of June 30, 2001, EchoStar had reclassified approximately $74 million from cash and cash equivalents to restricted cash and marketable investment securities on its balance sheet. Cash reserved for satellite insurance increased by approximately $60 million on July 14, 2001 as a result of the expiration of the EchoStar VI launch insurance policy. The reclassification will continue until such time, if ever, as EchoStar can again insure its satellites on acceptable terms and for acceptable amounts. EchoStar believes it has in-orbit satellite capacity sufficient to expeditiously recover transmission of most programming in the event one of its 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 could not be assured in the event of multiple satellite losses.

5. COMMITMENTS AND CONTINGENCIES

VisionStar

During November 2000, one of EchoStar's wholly-owned subsidiaries purchased a 49.9% interest in VisionStar, Inc. VisionStar holds an FCC license for, and is constructing a Ka-band satellite to launch into, the 113 degree orbital location. Together with VisionStar, EchoStar has requested FCC approval to acquire control over VisionStar by increasing its ownership of VisionStar to 90%, for a total purchase price of approximately $2.8 million. EchoStar has also provided loans to VisionStar totaling less than $10 million to date for the construction of their satellite and expects to provide additional funding to VisionStar in the future. EchoStar is not obligated to finance the full remaining cost to construct and launch the VisionStar satellite, but VisionStar's FCC license currently requires construction of the satellite to be completed by April 30, 2002 or the license could be revoked. EchoStar currently expects to continue to fund loans and equity contributions for construction of the satellite in the near term from cash on hand, and expects that it may spend approximately $79.5 million during 2001 for that purpose subject to, among other things, FCC action.

DirecTV

During February 2000, EchoStar filed suit against DirecTV and Thomson Consumer Electronics/RCA in the Federal District Court of Colorado. The suit alleges that DirecTV has utilized improper conduct in order to fend off competition from the DISH Network. According to the complaint, DirecTV has demanded that certain retailers stop displaying EchoStar's merchandise and has threatened to cause economic damage to retailers if they continue to offer both product lines in head-to-head competition. The suit alleges, among other things, that DirecTV has acted in violation of federal and state antitrust laws in order to protect DirecTV's market share. EchoStar is seeking injunctive relief and monetary damages. EchoStar subsequently amended the complaint adding claims against Circuit City, Radio Shack and Best Buy, alleging that these retailers are engaging in improper conduct that has had

an anti-competitive impact on EchoStar. It is too early in the litigation to make an assessment of the probable outcome. During October 2000, DirecTV filed a motion for summary judgment on certain of EchoStar's claims. DirecTV's motion remains pending.

The DirecTV defendants filed a counterclaim against EchoStar. DirecTV alleges that EchoStar tortiously interfered with a contract that DirecTV allegedly had with Kelly Broadcasting Systems, Inc. ("KBS"). DirecTV alleges that EchoStar "merged" with KBS in contravention of DirecTV's contract with KBS. DirecTV also alleges that EchoStar has falsely advertised to consumers about its right to offer network programming. DirecTV further alleges that EchoStar improperly used certain trademarks owned by PrimeStar, which is now owned by DirecTV. Finally, DirecTV alleges that EchoStar has been marketing National Football League games in a misleading manner. Discovery has been stayed until the next scheduling conference on August 21, 2001. The amount of damages DirecTV is seeking is as yet unquantified. However, in an arbitration proceeding related to DirecTV's allegations with respect to KBS, DirecTV has claimed damages totaling hundreds of millions of dollars. It is too early in the litigation to make an assessment of the probable outcome. EchoStar and KBS intend to vigorously defend against DirecTV's allegations in the litigation. The arbitration between DirecTV and KBS was held in June 2001, with closing arguments held on July 3, 2001. On July 10, 2001, the parties submitted post-hearing briefs. The arbitration panel has indicated that a ruling in the arbitration will be issued in late August or early September 2001. DirecTV has alleged damages in the arbitration in excess of $200 million.

Fee Dispute

EchoStar had a contingent fee arrangement with the attorneys who represented EchoStar in the litigation with News Corporation. The contingent fee arrangement provides for the attorneys to be paid a percentage of any net recovery obtained by EchoStar in the News Corporation litigation. The attorneys have asserted that they may be entitled to receive payments totaling hundreds of millions of dollars under this fee arrangement.

During mid-1999, EchoStar initiated litigation against the attorneys in the Arapahoe County, Colorado, District Court arguing that the fee arrangement is void and unenforceable. In December 1999, the attorneys initiated an arbitration proceeding before the American Arbitration Association. The litigation has been stayed while the arbitration is ongoing. The arbitration hearing commenced April 2, 2001 and continued through April 13, 2001. The hearing could not be completed during that time period and has been continued until August 7, 2001, when it will resume until it is presumably completed. While there can be no assurance that the attorneys will not continue to claim a right to hundreds of millions of dollars, the damage model the attorneys presented during the arbitration was for $56 million. EchoStar believes that even that amount significantly overstates the amount the attorneys should reasonably be entitled to receive under the fee agreement but EchoStar cannot predict with certainty what the arbitration panel will decide. EchoStar continues to vigorously contest the attorneys' interpretation of the fee arrangement, which EchoStar believes significantly overstates the magnitude of liability.

WIC Premium Television Ltd.

During July 1998, a lawsuit was filed by WIC Premium Television Ltd., 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 Communications Corporation, and two of EchoStar's wholly-owned subsidiaries, Echosphere Corporation and Dish, Ltd. EchoStar Satellite Corporation, EchoStar DBS Corporation, EchoStar Technologies Corporation, and EchoStar Satellite Broadcast Corporation were subsequently added as defendants. The lawsuit seeks, among other things, interim and permanent injunctions prohibiting the defendants from activating receivers in Canada and from infringing any copyrights held by WIC. It is too early to determine whether or when any other lawsuits or claims will be filed.

During September 1998, WIC filed another lawsuit in the Court of Queen's Bench of Alberta Judicial District of Edmonton against certain defendants, including EchoStar. 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, an interim and permanent injunction prohibiting the defendants from importing hardware into Canada and from activating receivers in Canada, together with damages in excess of $175 million.

The Court in the Alberta action recently denied EchoStar's Motion to Dismiss, which EchoStar appealed. The Court in the Federal action has stayed that case pending the outcome of the Alberta action. The case is now currently in discovery. EchoStar intends to vigorously defend the suit. 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.

Broadcast network programming

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

In October 1998, EchoStar filed a declaratory judgment action against ABC, NBC, CBS and FOX in Denver Federal Court. EchoStar asked the court to enter a judgment declaring that its 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 groups filed a complaint against EchoStar in Miami Federal Court alleging, among other things, copyright infringement. The court combined the case that EchoStar filed in Colorado with the case in Miami and transferred it to the Miami court. The case remains pending in Miami. While the networks have not sought monetary damages, they have sought to recover attorney fees if they prevail.

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 this 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, PrimeTime 24 and substantially all providers of satellite-delivered network programming other than EchoStar agreed to this cut-off schedule, although EchoStar does not know if they adhered to this schedule.

In December 1998, the networks filed a Motion for Preliminary Injunction against EchoStar in the Miami court, and asked the court to enjoin EchoStar from providing network programming except under limited circumstances. A preliminary injunction hearing was held on September 21, 1999. The court took the issues under advisement to consider the networks' request for an injunction, whether to hear live testimony before ruling upon the request, and whether to hear argument on why the Satellite Home Viewer Act may be unconstitutional, among other things.

In March 2000, the networks filed an emergency motion again asking the court to issue an injunction requiring EchoStar to turn off network programming to certain of its customers. At that time, the networks also argued that EchoStar's compliance procedures violate the Satellite Home Viewer Improvement Act. EchoStar opposed the networks' motion and again asked the court to hear live testimony before ruling upon the networks' injunction request.

During September 2000, the Court granted the Networks' motion for preliminary injunction, denied the Network's emergency motion and denied EchoStar's request to present live testimony and evidence. The Court's original order required EchoStar to terminate network programming to certain subscribers "no later than February

15, 1999," and contained other dates with which it would be physically impossible to comply. The order imposes restrictions on EchoStar's past and future sale of distant ABC, NBC, CBS and Fox channels similar to those imposed on PrimeTime 24 (and, EchoStar believes, on DirecTV and others). Some of those restrictions go beyond the statutory requirements imposed by the Satellite Home Viewer Act and the Satellite Home Viewer Improvement Act. For these and other reasons EchoStar believes the Court's order is, among other things, fundamentally flawed, unconstitutional and should be overturned. However, it is very unusual for a Court of Appeals to overturn a lower court's order and there can be no assurance whatsoever that it will be overturned.

On October 3, 2000, and again on October 25, 2000, the Court amended its original preliminary injunction order in an effort to fix some of the errors in the original order. The twice amended preliminary injunction order required EchoStar to shut off, by February 15, 2001, all subscribers who are ineligible to receive distant network programming under the court's order. EchoStar has appealed the September 2000 preliminary injunction order and the October 3, 2000 amended preliminary injunction order. On November 22, 2000, the United States Court of Appeals for the Eleventh Circuit stayed the Florida Court's preliminary injunction order pending EchoStar's appeal. At that time, the Eleventh Circuit also expedited its consideration of EchoStar's appeal.

During November 2000, EchoStar filed its appeal brief with the Eleventh Circuit. Oral argument before the Eleventh Circuit was held on May 24, 2001. At the oral argument, the parties agreed to participate in a court supervised mediation and that the mediator was to report back to the Eleventh Circuit on July 11, 2001. The Eleventh Circuit indicated that it would not rule on the pending appeal until after July 11, 2001. Since May 24, 2001, the parties participated in the court supervised mediation. On July 11, 2001, the mediator reported to the Eleventh Circuit the status of the parties' mediation efforts. On July 16, 2001, the Eleventh Circuit issued an order for the parties to engage in further mediation efforts until August 10, 2001. On August 10, 2001, the mediator is expected to report to the Eleventh Circuit the status of any continued mediation efforts by the parties.

EchoStar cannot predict when the Eleventh Circuit will rule on its appeal, but it will not be before August 10, 2001. EchoStar's appeal effort may not be successful and EchoStar may be required to comply with the Court's preliminary injunction order on short notice. The preliminary injunction could force EchoStar to terminate delivery of distant network channels to a substantial portion of its distant network subscriber base, which could also cause many of these subscribers to cancel their subscription to EchoStar's other services. Management has determined that such terminations would result in a small reduction in EchoStar's reported average monthly revenue per subscriber and could result in a temporary increase in churn. If EchoStar loses the case at trial, the judge could, as one of many possible remedies, prohibit all future sales of distant network programming by EchoStar, which would have a material adverse affect on EchoStar's business.

Gemstar

During October 2000, Starsight Telecast, Inc., a subsidiary of Gemstar-TV Guide International, Inc., filed a suit for patent infringement against EchoStar and certain of its 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. EchoStar has examined this patent and believes that it is not infringed by any of its products or services. EchoStar will vigorously defend against this suit.

In December 2000, EchoStar 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 recently filed counterclaims in this lawsuit alleging infringement of United States Patent Nos. 5,923,362 and 5,684,525 which relate to certain electronic program guide functions. EchoStar has examined these patents and believes they are not infringed by any of EchoStar's products or services. EchoStar will vigorously contest these counterclaims.

In February 2001, Gemstar filed patent infringement actions against EchoStar in District Court in Atlanta, Georgia and in the International Trade Commission (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 alleges infringement of the 121 Patent which is asserted in the North Carolina case. In the Atlanta District Court case, Gemstar seeks damages and an injunction. The North Carolina case has been stayed pending resolution of the ITC action and EchoStar expects that the Atlanta action will also be stayed pending resolution of the ITC action. ITC actions typically proceed according to an expedited schedule. EchoStar expects the ITC action to go to trial by the end of 2001. EchoStar further expects that the ITC will issue an initial determination by March of 2002 and that a final determination will be issued by April 2002. While the ITC cannot award damages, it can issue exclusion orders that would prevent the importation of articles that are found to infringe the asserted patents. Portions of EchoStar's receivers are currently manufactured outside the United States. In addition, it can issue cease and desist orders that would prohibit the sale of infringing products that had been previously imported. EchoStar has examined these patents and believes they are not infringed by any of EchoStar's products or services. EchoStar will vigorously contest the ITC, North Carolina and Atlanta allegations of infringement and will, among other things, challenge both the validity and enforceability of the asserted patents.

During 2000, Superguide Corp. also filed suit against EchoStar, DirecTv and others in the same North Carolina Court, 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. It is EchoStar's understanding that these patents may be licensed by Superguide to Gemstar. Gemstar has been added as a party to this case and is now asserting these patents against EchoStar. EchoStar has examined these patents and believes that they are not infringed by any of its products or services. A Markman hearing is currently scheduled for July 23, 2001. EchoStar intends to vigorously defend against this action and assert a variety of counterclaims.

In the event it is ultimately determined that EchoStar infringes on any of the aforementioned patents EchoStar may be subject to substantial damages, including the potential for treble damages, and/or an injunction that could require EchoStar to materially modify certain user friendly electronic programming guide and related features it currently offers to consumers. It is too early to make an assessment of the probable outcome of the suits.

IPPV Enterprises

IPPV Enterprises, LLC and MAAST, Inc. filed a patent infringement suit against EchoStar, and its conditional access vendor Nagra, in the United States District Court for the District of Delaware. The suit alleged infringement of 5 patents. The patents disclose various systems for the implementation of features such as impulse-pay-per view, parental control and category lock-out. One patent relates to an encryption technique. One patent was subsequently dropped by plaintiffs. The Court entered summary judgment in favor of EchoStar that the encryption patent, with respect to which the plaintiffs claimed $80 million in damages, was not infringed by EchoStar. On July 13, 2001, a jury found that the remaining three patents were infringed and awarded damages of $15 million. The jury also found that one of the patents was willfully infringed which means that the judge is entitled to increase the award of damages. EchoStar intends to appeal the decision and plaintiffs have indicated they will appeal as well. Any final award of damages would be split between EchoStar and Nagra in percentages to be agreed upon between EchoStar and Nagra.

California Actions

A purported class action was filed against EchoStar in the California State Superior Court for Alameda County during May 2001 by Andrew A. Werby. The complaint, relating to late fees, alleges unlawful, unfair and fraudulent business practices in violation of California Business and Professions Code Section 17200 et seq., false and misleading advertising in violation of California Business and Professions Code Section 17500, and violation of the California Consumer Legal Remedies Act. EchoStar has not yet filed a responsive pleading. It is too early in the litigation to make an assessment of the probable outcome of the litigation or to determine the extent of any potential liability or damages. EchoStar intends to deny all liability and intends to vigorously defend the lawsuit.

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, has also been filed against EchoStar in the California State Superior Court for Los Angeles County 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. EchoStar has filed an answer and the case is currently in discovery. No motion for class certification has been filed to date. It is too early in the litigation to make an assessment of the probable outcome of the litigation or to determine the extent of any potential liability or damages. EchoStar denies all liability and intends to vigorously defend the lawsuit.

Retailer Class Actions

EchoStar has been sued by retailers in three separate purported class

actions. In two separate lawsuits filed in the District Court, Arapahoe County, State of Colorado and the United States District Court for the District of Colorado, respectively, Air Communication & Satellite, Inc. and John DeJong, et. al. filed lawsuits on October 6, 2000 on behalf of themselves and a class of persons similarly situated. The plaintiffs are attempting to certify nationwide classes allegedly brought on behalf of persons, primarily retail dealers, who were alleged signatories to certain retailer agreements with EchoStar Satellite Corporation. The plaintiffs are requesting the Court to declare certain provisions of the alleged agreements invalid and unenforceable, to declare that certain changes to the

agreements are invalid and unenforceable, and to award damages for lost commissions and payments, charge backs, and other compensation. The plaintiffs allege breach of contract and breach of the covenant of good faith and fair dealing and seek declaratory relief, compensatory damages, injunctive relief, and pre-judgment and post-judgment interest. EchoStar intends to vigorously defend against the suits and to assert a variety of counterclaims. 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. filed a lawsuit in the United States District Court for the Eastern District of Texas on September 25, 2000, on behalf of itself and a class of persons similarly situated. The plaintiff is attempting to certify a nationwide class on behalf of sellers, installers, and servicers of satellite equipment who contract with EchoStar and claims the alleged class has been "subject to improper chargebacks." The plaintiff alleges that EchoStar: (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 who own certain equipment related to the provision of satellite television service. The plaintiff is requesting a permanent injunction and monetary damages. EchoStar intends to vigorously defend the lawsuit and to assert a variety of counterclaims. 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.

EchoStar is subject to various other legal proceedings and claims which arise in the ordinary course of business. In the opinion of management, the amount of ultimate liability with respect to those actions will not materially affect EchoStar's financial position or results of operations.

Meteoroid Events

Meteoroid events pose a potential threat to all in orbit geosynchronous satellites including EchoStar's DBS satellites. While the probability that EchoStar's satellites will be damaged by meteoroids is very small, that probability increases significantly when the Earth passes through the particulate stream left behind by various comets.

Due to the current peak in the 11-year solar cycle, increased solar activity is likely for the next year. Some of these solar storms pose a potential threat to all in-orbit geosynchronous satellites including EchoStar's DBS satellites. The probability that the effects from the storms will damage our satellites or cause service interruptions is generally very small.

Some decommissioned spacecraft are in uncontrolled orbits which pass through the geostationary belt at various points, and present hazards to operational spacecraft including EchoStar's DBS satellites. The locations of these hazards are generally well known and may require EchoStar to perform maneuvers to avoid collisions.

6. LONG-TERM DEBT

5 3/4% Convertible Notes

On May 24, 2001, EchoStar sold $1 billion principal amount of 5 3/4/% Convertible Subordinated Notes due 2008 (the "5 3/4% Convertible Notes"). Interest accrues at an annual rate of 5 3/4% on the 5 3/4% Convertible Notes and is payable semi-annually in cash, in arrears on May 15 and November 15 of each year, commencing November 15, 2001.

The 5 3/4% Convertible Notes are general unsecured obligations, which rank junior in right of payment to:

- all existing and future senior obligations;
- all of EchoStar's secured debts to the extent of the value of the assets securing those debts; and
- all existing and future debts and other liabilities or EchoStar's subsidiaries.

In addition, the 5 3/4% Convertible Notes rank equal to EchoStar's 4 7/8% Convertible Subordinated Notes due 2007.

Except under certain circumstances requiring prepayment premiums, and in other limited circumstances, the 5 3/4% Convertible Notes are not redeemable at EchoStar's option prior to May 15, 2004. Thereafter, the 5 3/4% Convertible Notes will be subject to redemption, at the option of the Company, in whole or in part, at redemption prices decreasing from 103.286% during the year commencing May 15, 2004 to 100% on or after May 15, 2008, together with accrued and unpaid interest thereon to the redemption date.

The 5 3/4% Convertible Notes, unless previously redeemed, are convertible at the option of the holder any time after 90 days following the date of their original issuance and prior to maturity into shares of EchoStar's class A common stock at a conversion price of $43.29 per share.

The indenture related to the 5 3/4% Convertible Notes (the "5 3/4% Convertible Notes Indenture") contains certain restrictive covenants that do not impose material limitations on EchoStar.

In the event of a change of control, as defined in the 5 3/4% Convertible Notes Indenture, EchoStar will be required to make an offer to repurchase all or any part of the holder's 5 3/4% Convertible 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.

7. SEGMENT REPORTING

Financial Data by Business Unit (in thousands)

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. During 2000, under this definition, we were operating as three separate business units. However, beginning 2001, it was determined that the chief operating decision maker of our Company regularly evaluates the following two separate business units. All prior year amounts have been restated to conform to the current year presentation. Eliminations and other primarily consists of intercompany eliminations. These amounts also consist of revenue and expenses from other immaterial operating segments for which the disclosure requirements of FAS No. 131 do not apply.

	DISH NETWORK	ECHOSTAR TECHNOLOGIES CORPORATION	ELIMINATIONS AND OTHER, NET	CONSOLIDATED TOTAL
THREE MONTHS ENDED JUNE 30, 2000				
Revenue	$ 572,786	$ 48,045	$ 25,298	$ 646,129
Net income (loss)	(149,964)	4,139	12,965	(132,860)
THREE MONTHS ENDED JUNE 30, 2001				
Revenue	$ 906,590	$ 25,760	$ 33,922	$ 966,272
Net income (loss)	33,537	(7,469)	(23,819)	2,249
SIX MONTHS ENDED JUNE 30, 2000				
Revenue	$ 1,057,234	$ 100,514	$ 54,102	$ 1,211,850
Net income (loss)	(340,728)	(355)	23,093	(317,990)
SIX MONTHS ENDED JUNE 30, 2001				
Revenue	$ 1,724,581	$ 44,488	$ 59,133	$ 1,828,202
Net income (loss)	(188,330)	(15,257)	38,795	(164,792)

8. SUBSEQUENT EVENTS

DirecTV

EchoStar has had discussions with representatives of Hughes Electronics Corporation and its DirecTv subsidiary concerning the possible spin off of all or a portion of Hughes and a possible transaction between Hughes and EchoStar. Hughes and DirecTv management recently informed EchoStar that General Motors is unwilling to further consider EchoStar's proposal.

EchoStar V

EchoStar V is equipped with a total of three momentum wheels, including one spare. During July 2001, EchoStar V experienced an anomaly resulting in the loss of one momentum wheel. The satellite was quickly restored to normal operations mode. While no further momentum wheel losses are expected, until the root cause of the anomaly is finally determined, there can be no assurance future anomalies will not cause further losses which could impact commercial operation of the satellite. The extent to which the loss of an additional momentum wheel would impair commercial operation has not yet been finally determined, but terms for in-orbit insurance, if procured, could be impacted.

Series C Preferred Stock Redemption

Effective July 6, 2001, EchoStar redeemed, for cash, all of its remaining outstanding 6 3/4% Series C Cumulative Convertible Preferred Stock (the "Series C Preferred Stock") at a total redemption price of approximately $2,400 or $51.929 per share.

StarBand

On July 11, 2001, EchoStar announced that, subject, among other things, to customary regulatory approvals, it intends to increase its equity stake in StarBand Communications Inc. to approximately 32% and acquire four out of seven seats on the StarBand Board of Directors. In exchange, EchoStar would invest an additional $50 million in StarBand. Further, EchoStar would lease transponder capacity to StarBand from a next generation satellite. In accordance with the agreement and subject to customary regulatory approvals, EchoStar's equity stake would increase to approximately 60% upon commencement of the construction of the next generation satellite. This investment is expected to be accounted for using the equity method of accounting, which will be retroactively applied during the third quarter 2001.

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

All statements contained herein, as well as statements made in press releases and oral statements that may be made by us or by officers, directors or employees acting on our behalf, that are not statements of historical fact constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Such forward-looking statements involve known and unknown risks, uncertainties and other factors that could cause our actual results to be materially different from historical results or from any future results expressed or implied by such forward-looking statements. Among the factors that could cause our actual results to differ materially are the following: a total or partial loss of one or more satellites due to operational failures, space debris or otherwise; delays in the construction of our seventh, eighth or ninth satellites; an unsuccessful deployment of future satellites; inability to settle outstanding claims with insurers; a decrease in sales of digital equipment and related services to international direct-to-home service providers; a decrease in DISH Network subscriber growth; an increase in subscriber turnover; an increase in subscriber acquisition costs; an inability to obtain certain retransmission consents; our inability to retain necessary authorizations from the FCC; an inability to obtain patent licenses from holders of intellectual property or redesign our products to avoid patent infringement; an increase in competition from cable as a result of digital cable or otherwise, direct broadcast satellite, other satellite system operators, and other providers of subscription television services; future acquisitions, business combinations, strategic partnerships and divestitures; the introduction of new technologies and competitors into the subscription television business; a change in the regulations governing the subscription television service industry; the outcome of any litigation in which we may be involved; general business and economic conditions; and other risk factors described from time to time in our reports and statements filed with the Securities and Exchange Commission. In addition to statements that explicitly describe such risks and uncertainties, readers are urged to consider statements that include the terms "believes," "belief," "expects," "plans," "anticipates," "intends" or the like to be uncertain and forward-looking. All cautionary statements made herein should be read as being applicable to all forward-looking statements wherever they appear. In this connection, investors should consider the risks described herein and should not place undue reliance on any forward-looking statements.

RESULTS OF OPERATIONS

Three Months Ended June 30, 2001 Compared to the Three Months Ended June 30, 2000.

Revenue. Total revenue for the three months ended June 30, 2001 was $966 million, an increase of $320 million compared to total revenue for the three months ended June 30, 2000 of $646 million. The increase in total revenue was primarily attributable to higher average revenue per subscriber and continued DISH Network subscriber growth. We expect that our revenues will continue to increase as the number of DISH Network subscribers increases.

DISH Network subscription television services revenue totaled $883 million for the three months ended June 30, 2001, an increase of $328 million compared to the same period in 2000. DISH Network subscription television services revenue principally consists of revenue from basic, premium and pay-per-view subscription television services. This increase was directly attributable to higher average revenue per subscriber and continued DISH Network subscriber growth. DISH Network added approximately 350,000 net new subscribers for the three months ended June 30, 2001 compared to approximately 445,000 net subscriber additions during the same period in 2000. The reduction in net new subscribers for the quarter ended June 30, 2001 primarily resulted from increased churn. As of June 30, 2001, we had approximately 6.07 million DISH Network subscribers compared to approximately 4.3 million at June 30, 2000, an increase of approximately 41%. DISH Network 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. While there can be no assurance, assuming the U.S. economy continues to grow at a slow pace, we expect to add approximately 1.5 to 1.75 million net new subscribers during 2001, and to obtain a majority of all net new DBS subscribers. This subscriber guidance has been refined from our previous estimate of 1.5 to 2.0 million net new subscriber additions during 2001.

Monthly average revenue per subscriber was approximately $50.00 during the three months ended June 30, 2001 and approximately $45.22 during the same period in 2000. For the six months ended June 30, 2001, our monthly average revenue per subscriber was approximately $49.00. The increase in monthly average revenue per subscriber is primarily attributable to $1.00 price increases in America's Top 100 CD, our most popular programming

package, during both May 2000 and February 2001, the increased availability of local channels by satellite, the successful introduction of our $39.99 per month America's Top 150 programming package during April 2000 together with an increase in subscriber penetration in our higher priced Digital Home Plans. Anticipated programming promotions may reduce monthly average revenue per subscriber for new subscriber additions during the third quarter of 2001. Those reductions would also impact monthly average revenue per subscriber in total during the third quarter.

For the three months ended June 30, 2001, DTH equipment sales and integration services revenue totaled $47 million, a decrease of $13 million compared to the same period during 2000. DTH equipment sales consist of sales of digital set-top boxes and other digital satellite broadcasting equipment to international DTH service operators and sales of DBS accessories. This decrease in DTH equipment sales and integration services revenue was primarily attributable to a decrease in demand for digital set-top boxes from our two primary international customers as compared to the same period during 2000.

A significant portion of DTH equipment sales and integration services revenues have resulted from sales to two international DTH providers. We currently have agreements to provide equipment to DTH service operators in Spain and Canada. Our future revenue from the sale of DTH equipment and integration services in international markets depends largely on the success of these DTH operators and continued demand for our digital set-top boxes. While we have binding purchase orders from both providers for 2001, we expect overall demand for 2001 to be lower than the same period in 2000. As a result, we expect total DTH equipment sales and integration services revenue to decrease in 2001 compared to 2000. Although we continue to actively pursue additional distribution and integration service opportunities internationally, no assurance can be given that any such efforts will be successful.

In order, among other things, to comply with the injunction issued against us in our pending litigation with the four major broadcast networks and their affiliate groups, we may terminate the delivery of distant network channels to certain of our subscribers. Additionally, during 2000, the FCC issued rules which impair our ability to deliver certain superstation channels to our customers. Those rules will increase the cost of our delivery of superstations, and could require that we terminate the delivery of certain superstations to a material portion of our subscriber base. Further, in the event our EchoStar VII spot beam satellite is not delivered and launched in accordance with contractual schedules, or for any other reason is not operational by January 1, 2002, we could be required to temporarily terminate delivery of local network channels in specific markets. Such terminations could be necessary in order to comply with government imposed must carry obligations to carry all channels in markets where popular channels are carried. In combination, these terminations would result in a small reduction in average monthly revenue per subscriber and could increase subscriber churn. While there can be no assurance, any such decreases could be offset by increases in average monthly revenue per subscriber resulting from the delivery of local network channels by satellite, and increases in other programming offerings.

DISH Network Operating Expenses. DISH Network operating expenses totaled $437 million during the three months ended June 30, 2001, an increase of $123 million or 39% compared to the same period in 2000. DISH Network operating expenses represented 50% and 56% of subscription television services revenue during the three months ended June 30, 2001 and 2000, respectively. The increase in DISH Network operating expenses in total was consistent with, and primarily attributable to, the increase in the number of DISH Network subscribers. We expect to continue to control costs and create operating efficiencies. We would expect operating expenses as a percentage of subscription television services revenue to remain near current levels during the remainder of 2001, however, anticipated programming promotions could cause the percentage to increase.

Subscriber-related expenses totaled $359 million during the three months ended June 30, 2001, an increase of $128 million compared to the same period in 2000. Such expenses, which include programming expenses, copyright royalties, residuals currently payable to retailers and distributors, and billing, lockbox and other variable subscriber expenses, represented 41% and 42% of subscription television services revenues during the three months ended June 30, 2001 and 2000, respectively. While there can be no assurance, we expect subscriber-related expenses as a percentage of subscription television services revenue to remain near current levels during the remainder of 2001.

Customer service center and other expenses principally consist of costs incurred in the operation of our DISH Network customer service centers, such as personnel and telephone expenses, as well as other operating expenses related to our service and installation business. Customer service center and other expenses totaled $70 million during the three months ended June 30, 2001, an increase of $2 million as compared to the same period in 2000. The increase in customer service center and other expenses primarily resulted from increased personnel and telephone expenses to support the growth of the DISH Network and from operating expenses related to the expansion of our installation and service business. Customer service center and other expenses totaled 8% of subscription television services revenue during the three months ended June 30, 2001, as compared to 12% during the same period in 2000. The decrease in this expense to revenue ratio primarily resulted from the on-going construction and start-up costs of our fifth customer service center in Virginia and our sixth customer service center in West Virginia during 2000. While there can be no assurance, we expect these expenses in total, and as a percentage of subscription television services revenue, to remain near current levels during the remainder of 2001. These expenses and percentages could temporarily increase in the future as additional infrastructure is added to meet future growth. We continue to work to automate simple telephone responses, and intend to increase internet based customer assistance in the future, in order to better manage customer service costs.

Satellite and transmission expenses include expenses associated with the operation of our digital broadcast center, contracted satellite telemetry, tracking and control services, and commercial satellite in-orbit insurance premiums. Satellite and transmission expenses totaled $9 million during the three months ended June 30, 2001, a $5 million decrease compared to the same period in 2000. This decrease resulted from the expiration of the commercial in-orbit satellite insurance policies for EchoStar I, EchoStar II and EchoStar III during July 2000. As discussed below, we are currently self-insuring these satellites. Satellite and transmission expenses totaled 1% and 3% of subscription television services revenue during the three months ended June 30, 2001 and 2000, respectively. We expect satellite and transmission expenses in total and as a percentage of subscription television services revenue, to increase in the future as additional satellites or digital broadcast centers are placed in service and to the extent we successfully place commercial in-orbit insurance.

Cost of sales - DTH equipment and Integration Services. Cost of sales - DTH equipment and integration services totaled $31 million during the three months ended June 30, 2001, a decrease of $15 million compared to the same period in 2000. Cost of sales - DTH equipment and integration services principally includes costs associated with digital set-top boxes and related components sold to international DTH operators and DBS accessories. This decrease in cost of sales - DTH equipment and integration services is consistent with the decrease in DTH equipment sales and integration services revenue. Cost of sales - DTH equipment and integration services represented 66% and 77% of DTH equipment revenue, during the three months ended June 30, 2001 and 2000, respectively.

Marketing Expenses. We subsidize the cost and installation of EchoStar receiver systems in order to attract new DISH Network subscribers. Consequently, our subscriber acquisition costs are significant. Marketing expenses totaled $254 million during the three months ended June 30, 2001 compared to $252 million for the same period in 2000. Subscriber promotion subsidies - promotional DTH equipment includes the cost related to EchoStar receiver systems distributed to retailers and other distributors of our equipment. Subscriber promotion subsidies - other includes net costs related to our free installation promotion and other promotional incentives. Advertising and other expenses totaled $27 million and $24 million during the three months ended June 30, 2001 and 2000, respectively.

During the three months ended June 30, 2001, our marketing promotions included our Digital Home Plan, Free Now and a free installation program. Our subscriber acquisition costs under these programs are significantly higher than those under our marketing programs historically.

During July 2000, we announced the commencement of our new Digital Dynamite promotion. This promotion was re-named the Digital Home Plan effective February 1, 2001. The Digital Home Plan offers several choices to consumers, ranging from the use of one EchoStar receiver system and our America's Top 100 CD programming package for $35.99 per month, to providing consumers two or more EchoStar receiver systems and our America's Top 150 programming package for $49.99 per month. Consumers may also choose from one of our DishPVR Plans which includes the use of two or more EchoStar receiver systems, one of which includes a built-in hard drive that allows viewers to pause and record live programming without the need for video tape. The DishPVR Plans

also included either America's Top 100 CD or DISH Latino Dos programming package for $49.99 per month or America's Top 150 programming package for $59.99 per month. With each plan, consumers receive in-home-service, must agree to a one-year commitment and incur a one-time set-up fee of $49.99, which includes the first month's programming payment.

During February 2001, we announced our Free Now promotion offering all new subscribers a free base-level EchoStar receiver system and free installation. To be eligible for this program, a subscriber must provide a valid major credit card and make a one-year commitment to subscribe to either our America's Top 150 programming package or our America's Top 100 CD or DISH Latino Dos programming package plus additional programming totaling at least $39.98 per month. Subscriber acquisition costs are materially higher under this plan compared to historical promotions. To the extent that actual consumer participation levels increase beyond current levels, subscriber acquisition costs may increase. Although there can be no assurance as to the ultimate duration of the Free Now promotion, we intend to continue it through at least July 2001.

We subsidize the cost and installation 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 subscriber promotion subsidies - promotional DTH equipment, subscriber promotion subsidies - other and DISH Network acquisition marketing expenses. During the three months ended June 30, 2001, our subscriber acquisition costs totaled approximately $252 million, or approximately $384 per new subscriber activation. Since we retain ownership of the equipment, amounts capitalized under our Digital Home Plan are not included in our calculation of these subscriber acquisition costs. Comparatively, our subscriber acquisition costs during the three months ended June 30, 2000, prior to the introduction of our Digital Home Plan, totaled $252 million, or approximately $408 per new subscriber activation. The decrease in our per new subscriber acquisition cost primarily resulted from an increase in direct sales and an increase in penetration of our Digital Home Plans. While there can be no assurance, we expect total subscriber acquisition costs for the year ended December 31, 2001 to be less than our prior estimate of approximately $450 per subscriber.

Our subscriber acquisition costs, both in the aggregate and on a per new subscriber activation basis, may materially increase further to the extent that we continue or expand our Free Now program, or introduce other more aggressive promotions if we determine that they are necessary to respond to competition, or for other reasons.

General and Administrative Expenses. General and administrative expenses totaled $88 million during the three months ended June 30, 2001, an increase of $30 million as compared to the same period in 2000. The increase in G&A expenses was principally attributable to increased personnel expenses to support the growth of the DISH Network. G&A expenses represented 9% of total revenue during each of the three months ended June 30, 2001 and 2000. Although we expect G&A expenses as a percentage of total revenue to remain near the current level or decline modestly in future periods, this expense to revenue ratio could increase.

Non-cash, Stock-based Compensation. During 1999, we adopted an incentive plan which provided certain key employees with incentives including stock options. The payment of these incentives was contingent upon our achievement of certain financial and other goals. We met certain of these goals during 1999. Accordingly, during 1999 we recorded approximately $179 million of deferred compensation related to post-grant appreciation of stock options granted pursuant to the 1999 incentive plan. The related deferred compensation will be recognized over the five-year vesting period. Accordingly, during the three months ended June 30, 2001 and 2000 we recognized $7 million and $13 million, respectively, under this performance-based plan.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - CONTINUED

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 represents 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:

	THREE MONTHS ENDED JUNE 30, 2000	2001
Customer service center and other	$ 546	$ 388
Satellite and transmission	656	311
General and administrative	11,820	6,312
Total non-cash, stock-based compensation	$ 13,002	$ 7,011

Pre-Marketing Cash Flow. Pre-marketing cash flow is comprised of EBITDA plus total marketing expenses. Pre-marketing cash flow was $387 million during the three months ended June 30, 2001, an increase of 75% compared to the same period in 2000. Our pre-marketing cash flow as a percentage of total revenue was approximately 40% during the three months ended June 30, 2001 compared to 34% during the same period in 2000. We believe that pre-marketing cash flow can be a helpful measure of operating efficiency for companies in the DBS industry. While there can be no assurance, we expect pre-marketing cash flow as a percentage of total revenue to remain near the current level during the remainder of 2001.

Earnings Before Interest, Taxes, Depreciation and Amortization. EBITDA represents earnings before interest, taxes, depreciation, amortization, and non-cash, stock-based compensation. EBITDA was $134 million during the three months ended June 30, 2001, compared to negative $31 million during the same period in 2000. This improvement in EBITDA was directly attributable to the increase in the number of DISH Network subscribers and higher average revenue per subscriber, resulting in recurring revenue which was large enough to support the cost of new and existing subscribers, together with the introduction of our Digital Home Plan in July 2000. Our calculation of EBITDA for the three months ended June 30, 2001 and 2000 does not include approximately $7 million and $13 million, respectively, of non-cash compensation expense resulting from post-grant appreciation of employee stock options. While there can be no assurance, we expect to continue to have positive EBITDA for the year ended December 31, 2001. As previously discussed, to the extent we expand our current 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.

It is important to note that EBITDA and pre-marketing cash flow do not represent cash provided or used by operating activities. EBITDA and pre-marketing cash flow should not be considered in isolation or as a substitute for measures of performance prepared in accordance with generally accepted accounting principles.

Depreciation and Amortization. Depreciation and amortization expenses aggregated $63 million during the three months ended June 30, 2001, a $21 million increase compared to the same period in 2000. The increase in depreciation and amortization expenses principally resulted from an increase in depreciation related to the commencement of operation of EchoStar VI in October 2000 and other depreciable assets placed in service during late 2000.

Other Income and Expense. Other expense, net, totaled $62 million during the three months ended June 30, 2001, an increase of $15 million compared to the same period in 2000. This increase primarily resulted from an increase in interest expense as a result of the issuance of our 10 3/8% Senior Notes in September 2000 and the issuance of our 5 3/4% Convertible Subordinated Notes in late May 2001. This increase in interest expense was partially offset by an increase in interest income.

Six Months Ended June 30, 2001 Compared to the Six Months Ended June 30, 2000.

Revenue. Total revenue for the six months ended June 30, 2001 was $1.828 billion, an increase of $616 million compared to total revenue for the six months ended June 30, 2000 of $1.212 billion. The increase in total revenue was primarily attributable to higher average revenue per subscriber and continued DISH Network subscriber growth.

DISH Network subscription television services revenue totaled $1.678 billion for the six months ended June 30, 2001, an increase of $646 million compared to the same period in 2000. This increase was directly attributable to higher average revenue per subscriber and continued DISH Network subscriber growth.

For the six months ended June 30, 2001, DTH equipment sales and integration services revenue totaled $88 million, a decrease of $35 million compared to the same period during 2000. This decrease in DTH equipment sales and integration services revenue was primarily attributable to a decrease in demand for digital set-top boxes from our two primary international customers as compared to the same period during 2000.

DISH Network Operating Expenses. DISH Network operating expenses totaled $828 million during the six months ended June 30, 2001, an increase of $244 million or 42% compared to the same period in 2000. DISH Network operating expenses represented 49% and 57% of subscription television services revenue during the six months ended June 30, 2001 and 2000, respectively. The increase in DISH Network operating expenses in total was consistent with, and primarily attributable to, the increase in the number of DISH Network subscribers.

Subscriber-related expenses totaled $675 million during the six months ended June 30, 2001, an increase of $242 million compared to the same period in 2000. Such expenses represented 40% and 42% of subscription television services revenues during the six months ended June 30, 2001 and 2000, respectively.

Customer service center and other expenses totaled $135 million during the six months ended June 30, 2001, an increase of $11 million as compared to the same period in 2000. The increase in customer service center and other expenses primarily resulted from increased personnel and telephone expenses to support the growth of the DISH Network and from operating expenses related to the expansion of our installation and service business. Customer service center and other expenses totaled 8% of subscription television services revenue during the six months ended June 30, 2001, as compared to 12% during the same period in 2000. The decrease in this expense to revenue ratio primarily resulted from the on-going construction and start-up costs of our fifth customer service center in Virginia and our sixth customer service center in West Virginia during 2000.

Satellite and transmission expenses totaled $18 million during the six months ended June 30, 2001, a $8 million decrease compared to the same period in 2000. This decrease resulted from the expiration of the commercial in-orbit satellite insurance policies for EchoStar I, EchoStar II and EchoStar III during July 2000. As discussed below, we are currently self-insuring these satellites. Satellite and transmission expenses totaled 1% and 3% of subscription television services revenue during the six months ended June 30, 2001 and 2000, respectively.

Cost of sales - DTH equipment and Integration Services. Cost of sales - DTH equipment and integration services totaled $60 million during the six months ended June 30, 2001, a decrease of $33 million compared to the same period in 2000. This decrease in cost of sales - DTH equipment and integration services is consistent with the decrease in DTH equipment sales and integration services revenue. Cost of sales - DTH equipment and integration services represented 68% and 75% of DTH equipment revenue, during the six months ended June 30, 2001 and 2000, respectively.

Marketing Expenses. Marketing expenses totaled $554 million during the six months ended June 30, 2001, an increase of $28 million compared to the same period in 2000. The increase in marketing expenses was primarily attributable to an increase in subscriber promotion subsidies. Advertising and other expenses totaled $54 million and $48 million during the six months ended June 30, 2001 and 2000, respectively.

General and Administrative Expenses. General and administrative expenses totaled $163 million during the six months ended June 30, 2001, an increase of $49 million as compared to the same period in 2000. The increase in G&A expenses was principally attributable to increased personnel expenses to support the growth of the DISH Network. G&A expenses represented 9% of total revenue during each of the six months ended June 30, 2001 and 2000.

Non-cash, Stock-based Compensation. As a result of substantial post-grant appreciation of stock options, during the six months ended June 30, 2001 and 2000 we recognized $14 million and $27 million, respectively, of the total remaining deferred stock-based compensation under the 1999 incentive plan. The remainder will be recognized over the remaining vesting period.

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 represents 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:

	SIX MONTHS ENDED JUNE 30, 2000	2001
Customer service center and other	$ 1,201	$ 621
Satellite and transmission	1,311	777
General and administrative	24,519	13,069
Total non-cash, stock-based compensation	$ 27,031	$ 14,467

Pre-Marketing Cash Flow. Pre-marketing cash flow is comprised of EBITDA plus total marketing expenses. Pre-marketing cash flow was $739 million during the six months ended June 30, 2001, an increase of 82% compared to the same period in 2000. Our pre-marketing cash flow as a percentage of total revenue was approximately 40% during the six months ended June 30, 2001 compared to 34% during the same period in 2000.

Earnings Before Interest, Taxes, Depreciation and Amortization. EBITDA represents earnings before interest, taxes, depreciation, amortization, and non-cash, stock-based compensation. EBITDA was $185 million during the six months ended June 30, 2001, compared to negative $119 million during the same period in 2000. This improvement in EBITDA was directly attributable to the increase in the number of DISH Network subscribers and higher average revenue per subscriber, resulting in recurring revenue which was large enough to support the cost of new and existing subscribers, though not yet adequate to support interest payments and other non-operating costs, together with the introduction of our Digital Home Plan in July 2000. Our calculation of EBITDA for the six months ended June 30, 2001 and 2000 does not include approximately $14 million and $27 million, respectively, of non-cash compensation expense resulting from post-grant appreciation of employee stock options.

It is important to note that EBITDA and pre-marketing cash flow do not represent cash provided or used by operating activities. EBITDA and pre-marketing cash flow should not be considered in isolation or as a substitute for measures of performance prepared in accordance with generally accepted accounting principles.

Depreciation and Amortization. Depreciation and amortization expenses aggregated $122 million during the six months ended June 30, 2001, a $40 million increase compared to the same period in 2000. The increase in depreciation and amortization expenses principally resulted from an increase in depreciation related to the commencement of operation of EchoStar VI in October 2000 and other depreciable assets placed in service during late 2000.

Other Income and Expense. Other expense, net, totaled $213 million during the six months ended June 30, 2001, an increase of $123 million compared to the same period in 2000. This increase primarily resulted from impairment losses on marketable and non-marketable investment securities of approximately $92 million, as discussed below, and from an increase in interest expense as a result of the issuance of our 10 3/8% Senior Notes in September 2000 and the issuance of our 5 3/4% Convertible Subordinated Notes in late May 2001. This increase in interest expense was partially offset by an increase in interest income.

LIQUIDITY AND CAPITAL RESOURCES

Cash Sources

On May 31, 2001, we sold $1 billion principal amount of 5 3/4% Convertible Subordinated Notes due 2008. The net proceeds of the offering are expected to be used for the construction, launch and insurance of additional satellites, strategic investments and acquisitions, and other general corporate purposes.

As of June 30, 2001, our cash, cash equivalents and marketable investment securities totaled $2.392 billion, including $74 million of cash reserved for satellite insurance and approximately $2 million of restricted cash, compared to $1.550 billion, including $82 million of cash reserved for satellite insurance and $3 million of restricted cash, as of December 31, 2000. For the six months ended June 30, 2001 and 2000, we reported net cash flows from operating activities of $154 million and negative $137 million, respectively. The increase in net cash flow from operating activities reflects, among other things, an increase in the number of DISH Network subscribers and higher average revenue per subscriber, resulting in recurring revenue which is large enough to support the cost of new and existing subscribers, though not yet adequate to support interest payments and other non-operating costs.

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 our ability to continue to expand our DISH Network subscriber base, retain existing DISH Network subscribers, and our ability to grow our ETC and Satellite Services businesses. There can be no assurance that we will be successful in achieving our goals. The amount of capital required to fund our remaining 2001 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. 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 a general economic downturn, among other factors. These factors could require that we raise additional capital in the future.

Subscriber Turnover

Our percentage churn for the six months ended June 30, 2001 increased compared to our percentage churn for the same period in 2000. The increase in our percentage churn during the second quarter of 2001 was due in part to price increases in certain of our programming packages, which went into effect on February 1, 2001. We believe that our percentage churn continues to be lower than satellite and cable industry averages. While we have successfully managed churn within a narrow range historically, we expect our percentage churn to be in excess of our historical average percentage churn for the remainder of 2001 as a result of the slowing economy, significant piracy of our competitor's product, bounty programs offered by competitors, our maturing subscriber base, and other factors. Finally, impacts from our litigation with the networks in Miami, new FCC rules governing the delivery of superstations and other factors, could cause us to terminate delivery of distant network channels and superstations to a material portion of our subscriber base, which could cause many of those customers to cancel their subscription to our other services. Any such terminations could result in a small reduction in average monthly revenue per subscriber and could result in an increase in our percentage churn. While there can be no assurance, notwithstanding the issues discussed above we have and expect to be able to continue to manage our percentage churn below industry averages during the remainder of 2001.

Subscriber Acquisition Costs

As previously described, we subsidize the cost and installation of EchoStar receiver systems in order to attract new DISH Network subscribers. Our average subscriber acquisition costs were $408 per new subscriber activation during the six months ended June 30, 2001. Since we retain ownership of the equipment, amounts capitalized under our Digital Home Plan are not included in our calculation of these subscriber acquisition costs. While there can be no assurance, we expect total subscriber acquisition costs for the year ended December 31, 2001 to be less than our prior estimate of approximately $450 per subscriber. Our subscriber acquisition costs, both in the aggregate and on a per new subscriber activation basis, may materially increase to the extent that we continue or expand our Free Now promotion, or introduce other more aggressive promotions if we determine that they are necessary to respond to competition, or for other reasons.

Funds necessary to meet subscriber acquisition costs will be satisfied from existing cash and investment balances to the extent available. We may, however, be required to raise additional capital in the future to meet these requirements. If we were required 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.

Digital Home Plan

During July 2000, we announced the commencement of our new Digital Dynamite promotion, which was re-named the Digital Home Plan effective February 1, 2001. The Digital Home Plan offers four choices to consumers, ranging from the use of one EchoStar receiver system and our America's Top 100 CD programming package for $35.99 per month, to providing consumers two or more EchoStar receiver systems and our America's Top 150 programming package for $49.99 per month. Consumers may also choose from one of our DishPVR Plans which includes the use of two or more EchoStar receiver systems, one of which includes a built-in hard disk drive that allows viewers to pause and record live programming without the need for video tape. The DishPVR Plans also included either America's Top 100 CD or DISH Latino Dos programming package for $49.99 per month or America's Top 150 programming package for $59.99 per month. With each plan, consumers receive in-home-service, must agree to a one-year commitment and incur a one-time set-up fee of $49.99, which includes the first month's programming payment. Our Digital Home Plan promotion allows us to capitalize and depreciate over 4 years equipment costs that would otherwise be expensed at the time of sale, but also results in increased capital expenditures. Capital expenditures under our Digital Home Plan promotion totaled approximately $149.1 million for the six months ended June 30, 2001.

Conditional Access System

The access control system is central to the security network that prevents unauthorized viewing of programming. Theft of cable and satellite programming has been widely reported and our signal encryption has been pirated and could be further compromised in the future. Theft of our programming reduces future potential revenue and increases our net subscriber acquisition costs. If other measures are not successful, it could be necessary to replace the credit card size smart card that controls the security of each consumer set top box at a material cost to us. In order to combat piracy and to generate additional future revenue opportunities, we may decide to replace smart cards at any time in the future. The cost of replacing these smart cards will not have a material effect on our results of operations.

Intellectual Property

Many entities, including some of our competitors, now have and may in the future obtain patents and other intellectual property rights that cover or affect products or services directly or indirectly related to those that we offer. In general, if a court determines that one or more of our products infringes on intellectual property held by others, we would be required to cease developing or marketing those products, to obtain licenses to develop and market those products from the holders of the intellectual property, or to redesign those products in such a way as to avoid infringing the patent claims. Material damage awards, including the potential for triple damages under patent laws, could also

result. Various parties have asserted patent and other intellectual property rights with respect to components within our direct broadcast satellite system. Certain of these parties have filed suit against us, including Starsight, Superguide, and IPPV Enterprises, as previously described. We cannot be certain that these persons do not own the rights they claim, that our products do not infringe on these rights, that we would be able to obtain licenses from these persons on commercially reasonable terms or, if we were unable to obtain such licenses, that we would be able to redesign our products to avoid infringement.

Obligations and Future Capital Requirements

Semi-annual cash debt service of approximately $94 million related to our 9 1/4% Senior Notes due 2006 (Seven Year Notes) and our 9 3/8% Senior Notes due 2009 (Ten Year Notes), is payable in arrears on February 1 and August 1 each year. Semi-annual cash debt service requirements of approximately $24 million related to our 4 7/8% Convertible Subordinated Notes due 2007 is payable in arrears on January 1 and July 1 of each year. Semi-annual cash debt service of approximately $52 million related to our 10 3/8% Senior Notes due 2007 is payable in arrears on April 1 and October 1 of each year. Semi-annual debt service requirements of approximately $29 million related to our 5 3/4% Convertible Subordinated Notes due 2008 is payable in arrears on May 15 and November 15 of each year, commencing November 15, 2001. There are no scheduled principal payment or sinking fund requirements prior to maturity of any of these notes.

The indentures related to our 9 1/4% Senior Notes due 2006 (the "Seven Year Notes") and our 9 3/8% Senior Notes due 2009 (the "Ten Year Notes") (collectively, the "Seven and Ten Year Notes Indentures") contain restrictive covenants that require us to maintain satellite insurance with respect to at least half of the satellites we own. Insurance coverage is therefore required for at least three of our six satellites currently in orbit. We had procured normal and customary launch insurance for EchoStar VI, which expired on July 14, 2001. As a result, we are currently self-insuring EchoStar I, EchoStar II, EchoStar III, EchoStar IV, EchoStar V and EchoStar VI. During 2000, to satisfy insurance covenants related to the outstanding EchoStar DBS senior notes, we reclassified an amount equal to the depreciated cost of two of our satellites from cash and cash equivalents to cash reserved for satellite insurance on our balance sheet. As of June 30, 2001, cash reserved for satellite insurance totaled approximately $74 million. Cash reserved for satellite insurance increased by approximately $60 million on July 14, 2001 as a result of the expiration of the EchoStar VI launch insurance policy. The reclassifications will continue until such time, if ever, as we can again insure our satellites on acceptable terms and for acceptable amounts. 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 could not be assured in the event of multiple satellite losses.

We utilized $91 million of satellite vendor financing for our first four satellites. As of June 30, 2001, approximately $20 million of that satellite vendor financing remained outstanding. The satellite vendor financing bears interest at 8 1/4% and is payable in equal monthly installments over five years following launch of the satellite to which it relates. A portion of the contract price with respect to EchoStar VII is payable over a period of 13 years following launch with interest at 8%, and a portion of the contract price with respect to EchoStar VIII and EchoStar IX is payable following launch with interest at 8%. Those in orbit payments are contingent on the continued health of the satellites.

Effective July 6, 2001, we redeemed, for cash, all of our remaining outstanding 6 3/4% Series C Cumulative Convertible Preferred Stock at a total redemption price of approximately $2,400 or $51.929 per share.

During the remainder of 2001, we anticipate total capital expenditures of between $300-$500 million depending upon the strength of the economy and other factors. We expect as much as 40% of that amount to be utilized for satellite construction and approximately 60% for EchoStar receiver systems in connection with our Digital Home Plan and for general corporate expansion. These percentages could change depending on actual total expenditures for the year. While the Digital Home Plan is a competitive promotion for consumers who want multiple receivers, consumers who only want a single receiver tend to be more attracted to other

industry promotions. Consequently, our anticipated capital expenditures related to the Digital Home Plan promotion will decrease to the extent those consumers find other promotions we offer to be more compelling.

In addition to our DBS business plan, we have licenses, or applications pending with the FCC, for a two satellite FSS Ku-band satellite system and a two satellite FSS Ka-band satellite system. We will need to raise additional capital to fully construct these satellites. We are currently funding the construction phase for three satellites. Two of these satellites, EchoStar VII and EchoStar VIII, will be advanced, high-powered DBS satellites. The third satellite, EchoStar IX, will be a hybrid Ku/Ka-band satellite.

During November 2000, one of our wholly-owned subsidiaries purchased a 49.9% interest in VisionStar, Inc. VisionStar holds an FCC license for, and is constructing a Ka-band satellite to launch into, the 113 W.L. orbital slot. Together with VisionStar we have requested FCC approval to acquire control over VisionStar by increasing our ownership of VisionStar to 90%, for a total purchase price of approximately $2.8 million. We have also provided loans to VisionStar totaling less than $10 million to date for the construction of their satellite and expect to provide additional funding to VisionStar in the future. We are not obligated to finance the full remaining cost to construct and launch the VisionStar satellite, but VisionStar's FCC license currently requires construction of the satellite to be completed by April 30, 2002 or the license could be revoked. There can be no assurance construction of the satellite will be completed within this time frame. We currently expect to continue to fund loans and equity contributions for construction of the satellite in the near term from cash on hand, and expect that we may spend approximately $79.5 million during 2001 for that purpose subject to, among other things, FCC action. In the future we may fund construction, launch and insurance of the satellite through cash from operations, public or private debt or equity financing, joint ventures with others, or from other sources.

On July 11, 2001, we announced that, subject, among other things, to customary regulatory approvals, we intend to increase our equity stake in StarBand Communications Inc. to approximately 32% and acquire four out of seven seats on the StarBand Board of Directors. In exchange, we would invest an additional $50 million in StarBand. Further, we would lease transponder capacity to StarBand from a next generation satellite. In accordance with the agreement and subject to customary regulatory approvals, our equity stake would increase to approximately 60% upon commencement of the construction of the next generation satellite. This investment is expected to be accounted for using the equity method of accounting, which will be retroactively applied during the third quarter 2001. In the future we may fund construction, launch and insurance of satellites through cash from operations, public or private debt or equity financing, joint ventures with others, or from other sources.

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. As a result, acquisition discussions and offers, and in some cases, negotiations may take place and future material investments or acquisitions involving cash, debt or equity securities or a combination thereof may result.

We expect that our future working capital, capital expenditure and debt service requirements will be satisfied from existing cash and investment balances, and cash generated from operations. Our ability to generate positive future operating and net cash flows is dependent, among other things, upon our ability to retain existing DISH Network subscribers, our ability to manage the growth of our subscriber base, and our ability to grow our ETC business. To the extent future subscriber growth exceeds our expectations, it may be necessary for us to raise additional capital to fund increased working capital requirements. There may be a number of other factors, some of which are beyond our control or ability to predict, that could require us to raise additional capital. These factors include unexpected increases in operating costs and expenses, a defect in or the loss of any satellite, or an increase in the cost of acquiring subscribers due to additional competition, among other things. If cash generated from our operations is not sufficient to meet our debt service requirements or other obligations, we would be required to obtain cash from other financing sources. If we were required 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 such financing would be available on terms acceptable to us, or if available, that the proceeds of such financing would be sufficient to enable us to meet all of our obligations.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

MARKET RISKS ASSOCIATED WITH FINANCIAL INSTRUMENTS

As of June 30, 2001, our unrestricted cash, cash equivalents and marketable investment securities had a fair value of $2.316 billion. Of that amount, a total of $2.174 billion was invested in: (a) cash; (b) debt instruments of the U.S. Government and its agencies; (c) commercial paper with an 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 raised and used in our business.

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 June 30, 2001, all of our investments in this category were in fixed rate instruments or money market type accounts. While an increase in interest rates would ordinarily adversely impact the fair value of fixed rate investments, we normally hold these investments to maturity. Consequently, neither interest rate fluctuations nor other market risks typically result in significant 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. During the six months ending June 30, 2000 and 2001, the impact of interest rate fluctuations, changed business prospects and all other factors did not have a material impact on the fair value of the portfolio, or on our income derived from this portfolio.

We also invest in debt and equity of public and private companies for strategic and financial purposes. As of June 30, 2001, we held strategic and financial debt and equity investments of public companies with a fair value of approximately $142 million. We acquired stock in one of those companies, OpenTV, in connection with establishment of a strategic relationship which did not involve the investment of cash by us. None of these investments accounted for more than 40% of the total fair value of the portfolio. 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% increase in LIBOR would result in a decrease in the fair value of our investments in these debt instruments of approximately $40 million. The fair value of our strategic 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% adverse change in the price of our public strategic debt and equity investments would result in approximately a $14.2 million decrease in the fair value of that portfolio.

In accordance with generally accepted accounting principles, declines in the market value of a marketable investment securities 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 reviewed the fair value of our marketable investment securities as of June 30, 2001 and determined that some declines in market value have occurred which may be other than temporary. As a result, we established a new cost basis for certain of these investments, and accordingly reduced our previously recorded unrealized loss and recorded a charge to earnings of approximately $856,000 during the three months ended June 30, 2001. During the six months ended June 30, 2001, EchoStar recorded an aggregate charge to earnings for other than temporary declines of approximately $33.3 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.

In addition to the $2.316 billion, we have made strategic equity investments in certain non-marketable investment securities including Wildblue Communications, StarBand Communications, VisionStar, Inc. and Replay TV. The original cost basis of our investments in these non-marketable investment securities totaled approximately $116 million. The securities of these companies are not publicly traded. Our ability to create realizable value for our strategic investments in companies that are not public is dependent on the success of their business plans. Among other things, there is relatively greater risk that those companies may not be able to raise sufficient capital to fully finance and 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. StarBand and Wildblue cancelled their planned initial public stock offerings. As a result of the cancellation of those offerings and other factors, during the six months ended June 30, 2001, we recorded a non-recurring charge of approximately $59.4 million to reduce the carrying value of certain of our non-marketable investment securities to their estimated fair values. Starband and Wildblue need to obtain significant additional capital in the near term. Absent such funding, additional write-downs of our investments could be necessary. As previously discussed, we intend to increase our equity stake in StarBand to approximately 32% and acquire four out of seven seats on the StarBand Board of Directors. In exchange, we would invest an additional $50 million in StarBand. Further, we would lease transponder capacity to StarBand from a next generation satellite. In accordance with the agreement and subject to customary regulatory approvals, our equity stake would increase to approximately 60% upon commencement of the construction of the next generation satellite.

PART II - OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

DirecTV

During February 2000, we filed suit against DirecTV and Thomson Consumer Electronics/RCA in the Federal District Court of Colorado. The suit alleges that DirecTV has utilized improper conduct in order to fend off competition from the DISH Network. According to the complaint, DirecTV has demanded that certain retailers stop displaying our merchandise and has threatened to cause economic damage to retailers if they continue to offer both product lines in head-to-head competition. The suit alleges, among other things, that DirecTV has acted in violation of federal and state antitrust laws in order to protect DirecTV's market share. We are seeking injunctive relief and monetary damages. We subsequently amended the complaint adding claims against Circuit City, Radio Shack and Best Buy, alleging that these retailers are engaging in improper conduct that has had an anti-competitive impact on us. It is too early in the litigation to make an assessment of the probable outcome. During October 2000, DirecTV filed a motion for summary judgment on certain of our claims. DirecTV's motion remains pending.

The DirecTV defendants filed a counterclaim against us. DirecTV alleges that we tortiously interfered with a contract that DirecTV allegedly had with Kelly Broadcasting Systems, Inc. DirecTV alleges that we "merged" with KBS in contravention of DirecTV's contract with KBS. DirecTV also alleges that we have falsely advertised to consumers about our right to offer network programming. DirecTV further alleges that we improperly used certain trademarks owned by PrimeStar, which is now owned by DirecTV. Finally, DirecTV alleges that we have been marketing National Football League games in a misleading manner. Discovery has been stayed until the next scheduling conference on August 21, 2001. The amount of damages DirecTV is seeking is as yet unquantified. However, in an arbitration proceeding related to DirecTV's allegations with respect to KBS, DirecTV has claimed damages totaling hundreds of millions of dollars. It is too early in the litigation to make an assessment of the probable outcome. We and KBS intend to vigorously defend against DirecTV's allegations in the litigation. The arbitration between DirecTV and KBS was held in June 2001, with closing arguments held on July 3, 2001. On July 10, 2001, the parties submitted post-hearing briefs. The arbitration panel has indicated that a ruling in the arbitration will be issued in late August or early September 2001. DirecTV has alleged damages in the arbitration in excess of $200 million.

Fee Dispute

We had a contingent fee arrangement with the attorneys who represented us in the litigation with News Corporation. The contingent fee arrangement provides for the attorneys to be paid a percentage of any net recovery obtained by us in the News Corporation litigation. The attorneys have asserted that they may be entitled to receive payments totaling hundreds of millions of dollars under this fee arrangement.

During mid-1999, we initiated litigation against the attorneys in the Arapahoe County, Colorado, District Court arguing that the fee arrangement is void and unenforceable. In December 1999, the attorneys initiated an arbitration proceeding before the American Arbitration Association. The litigation has been stayed while the arbitration is ongoing. The arbitration hearing commenced April 2, 2001 and continued through April 13, 2001. The hearing could not be completed during that time period and has been continued until August 7, 2001, when it will resume until it is presumably completed. While there can be no assurance that the attorneys will not continue to claim a right to hundreds of millions of dollars, the damage model the attorneys presented during the arbitration was for $56 million. We believe that even that amount significantly overstates the amount the attorneys should reasonably be entitled to receive under the fee agreement but we cannot predict with certainty what the arbitration panel will decide. We continue to vigorously contest the attorneys' interpretation of the fee arrangement, which we believe significantly overstates the magnitude of liability.

WIC Premium Television Ltd.

During July 1998, a lawsuit was filed by WIC Premium Television Ltd., 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 Communications

Corporation, and two of EchoStar's wholly-owned subsidiaries, Echosphere Corporation and Dish, Ltd. EchoStar Satellite Corporation, EchoStar DBS Corporation, EchoStar Technologies Corporation, and EchoStar Satellite Broadcast Corporation were subsequently added as defendants. The lawsuit seeks, among other things, interim and permanent injunctions prohibiting the defendants from activating receivers in Canada and from infringing any copyrights held by WIC. It is too early to determine whether or when any other lawsuits or claims will be filed.

During September 1998, WIC filed another lawsuit in the Court of Queen's Bench of Alberta Judicial District of Edmonton against certain defendants, including EchoStar. 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, an interim and permanent injunction prohibiting the defendants from importing hardware into Canada and from activating receivers in Canada, together with damages in excess of $175 million.

The Court in the Alberta action recently denied our Motion to Dismiss, which we appealed. The Court in the Federal action has stayed that case pending the outcome of the Alberta action. The case is now currently in discovery. We intend to vigorously defend the suit. 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.

Broadcast network programming

Until July 1998, we obtained 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 PrimeTime 24 to shut off distant network channels to many of its customers, and henceforth to sell those channels to consumers in accordance with certain stipulations in the injunction.

In October 1998, we filed a declaratory judgment action against ABC, NBC, CBS and FOX in Denver Federal Court. We asked the court to enter a judgment declaring that its 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 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 court. The case remains pending in Miami. While the networks have not sought monetary damages, they have sought to recover attorney fees if they prevail.

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 this 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, PrimeTime 24 and substantially all providers of satellite-delivered network programming other than EchoStar agreed to this cut-off schedule, although we do not know if they adhered to this schedule.

In December 1998, the networks filed a Motion for Preliminary Injunction against us in the Miami court, and asked the court to enjoin us from providing network programming except under limited circumstances. A preliminary injunction hearing was held on September 21, 1999. The court took the issues under advisement to consider the networks' request for an injunction, whether to hear live testimony before ruling upon the request, and whether to hear argument on why the Satellite Home Viewer Act may be unconstitutional, among other things.

In March 2000, the networks filed an emergency motion again asking the court to issue an injunction requiring us to turn off network programming to certain of its customers. At that time, the networks also argued that

our compliance procedures violate the Satellite Home Viewer Improvement Act. We opposed the networks' motion and again asked the court to hear live testimony before ruling upon the networks' injunction request.

During September 2000, the Court granted the Networks' motion for preliminary injunction, denied the Network's emergency motion and denied our request to present live testimony and evidence. The Court's original order required us to terminate network programming to certain subscribers "no later than February 15, 1999," and contained other dates with which it would be physically impossible to comply. The order imposes restrictions on our past and future sale of distant ABC, NBC, CBS and Fox channels similar to those imposed on PrimeTime 24 (and, we believe, on DirecTV and others). Some of those restrictions go beyond the statutory requirements imposed by the Satellite Home Viewer Act and the Satellite Home Viewer Improvement Act. For these and other reasons we believe the Court's order is, among other things, fundamentally flawed, unconstitutional and should be overturned. However, it is very unusual for a Court of Appeals to overturn a lower court's order and there can be no assurance whatsoever that it will be overturned.

On October 3, 2000, and again on October 25, 2000, the Court amended its original preliminary injunction order in an effort to fix some of the errors in the original order. The twice amended preliminary injunction order required us to shut off, by February 15, 2001, all subscribers who are ineligible to receive distant network programming under the court's order. We have appealed the September 2000 preliminary injunction order and the October 3, 2000 amended preliminary injunction order. On November 22, 2000, the United States Court of Appeals for the Eleventh Circuit stayed the Florida Court's preliminary injunction order pending our appeal. At that time, the Eleventh Circuit also expedited its consideration of our appeal.

During November 2000, EchoStar filed its appeal brief with the Eleventh Circuit. Oral argument before the Eleventh Circuit was held on May 24, 2001. At the oral argument, the parties agreed to participate in a court supervised mediation and that the mediator was to report back to the Eleventh Circuit on July 11, 2001. The Eleventh Circuit indicated that it would not rule on the pending appeal until after July 11, 2001. Since May 24, 2001, the parties participated in the court supervised mediation. On July 11, 2001 the mediator reported to the Eleventh Circuit the status of the parties' mediation efforts. On July 16, 2001, the Eleventh Circuit issued an order for the parties to engage in further mediation efforts until August 10, 2001. On August 10, 2001, the mediator is expected to report to the Eleventh Circuit the status of any continued mediation efforts by the parties.

We cannot predict when the Eleventh Circuit will rule on our appeal, but it will not be before August 10, 2001. Our appeal effort may not be successful and we may be required to comply with the Court's preliminary injunction order on short notice. The preliminary injunction could force us to terminate delivery of distant network channels to a substantial portion of our distant network subscriber base, which could also cause many of these subscribers to cancel their subscription to our other services. Management has determined that such terminations would result in a small reduction in our reported average monthly revenue per subscriber and could result in a temporary increase in churn. If we lose the case at trial, the judge could, as one of many possible remedies, prohibit all future sales of distant network programming by us, which would have a material adverse affect on our business.

Gemstar

During October 2000, Starsight Telecast, Inc., a subsidiary of Gemstar-TV Guide International, Inc., filed a suit for patent infringement against us and certain of its 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 have examined this patent and believe that it is not infringed by any of our products or services. We will vigorously defend against this suit.

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 recently filed counterclaims in this lawsuit alleging infringement of United States Patent Nos. 5,923,362

and 5,684,525 which relate to certain electronic program guide functions. We have examined these patents and believe they are not infringed by any of our products or services. We will vigorously contest these counterclaims.

In February 2001, Gemstar filed patent infringement actions against us in District Court in Atlanta, Georgia and in the International Trade Commission (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 alleges infringement of the 121 Patent which is asserted in the North Carolina case. In the Atlanta District Court case, Gemstar seeks damages and an injunction. The North Carolina case has been stayed pending resolution of the ITC action and we expect that the Atlanta action will also be stayed pending resolution of the ITC action. ITC actions typically proceed according to an expedited schedule. We expect the ITC action to go to trial by the end of 2001. We further expect that the ITC will issue an initial determination by March of 2002 and that a final determination will be issued by April 2002. While the ITC cannot award damages, it can issue exclusion orders that would prevent the importation of articles that are found to infringe the asserted patents. Portions of our receivers are currently manufactured outside the United States. In addition, it can issue cease and desist orders that would prohibit the sale of infringing products that had been previously imported. We have examined these patents and believe they are not infringed by any of our products or services. We will vigorously contest the ITC, North Carolina and Atlanta allegations of infringement and will, among other things, challenge both the validity and enforceability of the asserted patents.

During 2000, Superguide Corp. also filed suit against us, DirecTv and others in the same North Carolina Court, 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. It is our understanding that these patents may be licensed by Superguide to Gemstar. Gemstar has been added as a party to this case and is now asserting these patents against us. We have examined these patents and believe that they are not infringed by any of our products or services. A Markman hearing is currently scheduled for July 23, 2001. We intend to vigorously defend against this action and assert a variety of counterclaims.

In the event it is ultimately determined that we infringe on any of the aforementioned patents we may be subject to substantial damages, including the potential for treble damages, and/or an injunction that could require us to materially modify certain user friendly electronic programming guide and related features it currently offers to consumers. It is too early to make an assessment of the probable outcome of the suits.

IPPV Enterprises

IPPV Enterprises, LLC and MAAST, Inc. filed a patent infringement suit against us, and our conditional access vendor Nagra, in the United States District Court for the District of Delaware. The suit alleged infringement of 5 patents. The patents disclose various systems for the implementation of features such as impulse-pay-per view, parental control and category lock-out. One patent relates to an encryption technique. One patent was subsequently dropped by plaintiffs. The Court entered summary judgment in favor of us that the encryption patent, with respect to which the plaintiffs claimed $80 million in damages, was not infringed by us. On July 13, 2001, a jury found that the remaining three patents were infringed and awarded damages of $15 million. The jury also found that one of the patents was willfully infringed which means that the judge is entitled to increase the award of damages. We intend to appeal the decision and plaintiffs have indicated they will appeal as well. Any final award of damages would be split between us and Nagra in percentages to be agreed upon between us and Nagra.

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, relating to late fees, alleges unlawful, unfair and fraudulent business practices in violation of California Business and Professions Code Section 17200 et seq., false and misleading advertising in violation of California Business and Professions Code Section 17500, and violation of the California Consumer Legal Remedies Act. We have not yet filed a responsive pleading. It is too early in the litigation to make an assessment of the probable outcome of the litigation or to determine the extent of any potential liability or damages. We intend to deny all liability and intend to vigorously defend the lawsuit.

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, has also been filed against us in the California State Superior Court for Los Angeles County 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 Section 1750, et. seq., and the California Business & Professions Code Section 17500, 17200. We have filed an answer and the case is currently in discovery. No motion for class certification has been filed to date. It is too early in the litigation to make an assessment of the probable outcome of the litigation or to determine the extent of any potential liability or damages. We deny all liability and intend to vigorously defend the lawsuit.

Retailer Class Actions

We have been sued by retailers in three separate purported class actions. In two separate lawsuits filed in the District Court, Arapahoe County,

State of Colorado and the United States District Court for the District of Colorado, respectively, Air Communication & Satellite, Inc. and John DeJong, et. al. filed lawsuits on October 6, 2000 on behalf of themselves and a class of persons similarly situated. The plaintiffs are attempting to certify nationwide classes allegedly brought on behalf of persons, primarily retail dealers, who were alleged signatories to certain retailer agreements with EchoStar Satellite Corporation. The plaintiffs are requesting the Court to declare certain provisions of the alleged agreements invalid and unenforceable, to declare that certain changes to the

agreements are invalid and unenforceable, and to award damages for lost commissions and payments, charge backs, and other compensation. The plaintiffs allege breach of contract and breach of the covenant of good faith and fair dealing and seek declaratory relief, compensatory damages, injunctive relief, and pre-judgment and post-judgment interest. We intend to vigorously defend against the suits and to assert a variety of counterclaims. 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. filed a lawsuit in the United States District Court for the Eastern District of Texas on September 25, 2000, on behalf of itself and a class of persons similarly situated. The plaintiff is attempting to certify a nationwide class on behalf of sellers, installers, and servicers of satellite equipment, who contract with the us and claims the alleged class has been "subject to improper chargebacks." The plaintiff alleges 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 who own certain equipment related to the provision of satellite television services. The plaintiff is requesting a permanent injunction and monetary damages. We intend to vigorously defend the lawsuit and to assert a variety of counterclaims. 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 Insurance

As a result of the failure of EchoStar IV solar arrays to fully deploy and the failure of 28 transponders to date, a maximum of approximately 14 of the 44 transponders on EchoStar IV are available for use at this time. Due to the normal degradation of the solar arrays, the number of available transponders will further decrease over time. In addition to the transponder and solar array failures, EchoStar IV 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.

In September 1998, we filed a $219.3 million insurance claim for a constructive total loss under the launch insurance policies covering EchoStar IV. The satellite insurance consists of separate identical policies with different carriers for varying amounts which, in combination, create a total insured amount of $219.3 million.

The insurance carriers offered us a total of approximately $88 million, or 40% of the total policy amount, in settlement of the EchoStar IV insurance claim. The insurers allege that all other impairment to the satellite occurred after expiration of the policy period and is not covered. We strongly disagree with the position of the insurers and have filed an arbitration claim against them for breach of contract, failure to pay a valid insurance claim and bad faith denial of a valid claim, among other things. There can be no assurance that we will receive the amount claimed 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 impairment loss of $106 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 continue to believe we will ultimately recover at least the amount originally recorded and do not intend to adjust the amount of the receivable until there is greater certainty with respect to the amount of the final settlement.

As a result of the thermal and propulsion system anomalies, we reduced the estimated remaining useful life of EchoStar IV to approximately 4 years during January 2000. We will continue to evaluate the performance of EchoStar IV and may modify our loss assessment as new events or circumstances develop.

The in-orbit insurance policies for EchoStar I, EchoStar II, and EchoStar III expired July 25, 2000. The insurers refused to renew insurance on EchoStar I, EchoStar II and EchoStar III on reasonable terms. Based on, among other things, the insurance carriers' unanimous refusal to negotiate reasonable renewal insurance coverage, we believe that the carriers colluded and conspired to boycott us unless we accept their offer to settle the EchoStar IV claim for $88 million.

PART II - OTHER INFORMATION

Based on the carriers' actions, we added causes of action in our EchoStar IV demand for arbitration for breach of the duty of good faith and fair dealing, and unfair claim practices. Additionally, we filed a lawsuit against the insurance carriers in the United States District Court for the District of Colorado asserting causes of action for violation of Federal and State antitrust laws. While we believe we are entitled to the full amount claimed under the EchoStar IV insurance policy and believe the insurance carriers are in violation of antitrust laws and have committed further acts of bad faith in connection with their refusal to negotiate reasonable insurance coverage on our other satellites, there can be no assurance as to the outcome of these proceedings. During March 2001, we voluntarily dismissed the antitrust lawsuit without prejudice. We have the right to re-file an antitrust action against the insurers again in the future.

We are subject to various other legal proceedings and claims which arise in the ordinary course of business. In the opinion of management, the amount of ultimate liability with respect to those actions will not materially affect our financial position or results of operations.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

The following matters were voted upon at the annual meeting of shareholders of EchoStar Communications Corporation held on May 4, 2001:

a. The election of Charles W. Ergen, James DeFranco, David K. Moskowitz, Raymond L. Friedlob, O. Nolan Daines and Cantey Ergen as directors to serve until the 2002 annual meeting of shareholders, and

b. The ratification of the appointment of Arthur Andersen LLP as independent auditors for Echostar Communications Corporation for the year ending December 31, 2001.

All matters voted on at the annual meeting were approved. The voting results were as follows:

	Votes		
Proposal	For	Against	Withheld
Election as director:			
O. Nolan Daines	2,559,702,781	--	1,189,987
James DeFranco	2,555,608,893	--	5,283,875
Cantey Ergen	2,551,015,005	--	9,877,763
Charles W. Ergen	2,555,607,449	--	5,285,319
Raymond L. Friedlob	2,556,482,886	--	4,409,882
David K. Moskowitz	2,555,612,069	--	5,280,699
Ratification of the appointment of Arthur Andersen LLP as independent auditors for Echostar Communications Corporation for the year ending December 31, 2001	2,560,234,808	600,321	56,999

Michael Schroeder, a substantial shareholder and a director of privately held DSI Distributing Inc., was also listed as a director nominee in the proxy materials. DSI is a corporation with significant ties to a competitor of EchoStar. In order to avoid any potential appearance of impropriety, Mr. Schroeder concluded that it would not be prudent to serve on our Board. As such, he formally withdrew his name from candidacy.

On June 13, 2001, our Board of Directors unanimously approved the appointment of Mr. Peter Dea to the Board. Mr. Dea is Chairman of the Board and Chief Executive Officer of Barrett Resources Corporation and has held various positions with Barrett since 1993.

PART II - OTHER INFORMATION

ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K

(a) Exhibits.

4.1+	Indenture, dated as of May 31, 2001 between EchoStar Communications Corporation and U.S. Bank Trust National Association, as Trustee.
4.2+	Registration Rights Agreement, dated as of May 31, 2001, by and between EchoStar Communications Corporation and UBS Warburg LLC.
10.1+	Modification No. 1 to the Satellite Contract (EchoStar VII - 119 degree West Longitude) dated January 27, 2000, between Lockheed Martin Corporation and EchoStar Orbital Corporation.**
10.2+	Amended and Restated Contract dated February 1, 2001, between EchoStar Orbital Corporation and Space Systems/Loral, Inc., EchoStar VIII Satellite Program (110 degree West Longitude).**
10.3+	Amendment No. 1 to the Contract dated February 22, 2000, between EchoStar Orbital Corporation and Space Systems/Loral Inc., EchoStar IX Satellite Program (121 degree West Longitude).**

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+	Filed herewith.
**	Certain provisions have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment. A conforming electronic copy is being filed herewith.

(b) Reports on Form 8-K.

On May 21, 2001, we filed a Current Report on Form 8-K to report that we offered $1 billion aggregate principal amount of Convertible Subordinated Notes due 2008 in accordance with Securities and Exchange Commission Rule 144A.

On May 24,2001, we filed a Current Report on Form 8-K to report that General Motors was willing to establish a dialogue with us concerning a transaction related to the possible spin-off of all or a part of its GMH subsidiary.

On June 14, 2001, we filed a Current Report on Form 8-K to report that our Board of Directors unanimously approved the appointment of Mr. Peter Dea to EchoStar's Board of Directors.

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.

ECHOSTAR COMMUNICATIONS CORPORATION

By: /s/ David K. Moskowitz

David K. Moskowitz
Senior Vice President, General Counsel, Secretary and Director
(Duly Authorized Officer)

By: /s/ Michael R. McDonnell

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

Date: July 19, 2001

EXHIBIT INDEX

EXHIBIT NUMBER	DESCRIPTION
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EXHIBIT 4.1

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ECHOSTAR COMMUNICATIONS CORPORATION

$1,000,000,000

5 3/4 % CONVERTIBLE SUBORDINATED NOTES DUE 2008

INDENTURE

Dated as of May 31, 2001

U.S. Bank Trust National Association

as Trustee

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TABLE OF CONTENTS

INDENTURE, dated as of May 31, 2001, between EchoStar Communications Corporation, a Nevada corporation (the "COMPANY"), and U.S. Bank Trust National Association, a national banking association, as trustee (the "TRUSTEE").

Each party agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders (as defined in Section 1.01 hereof) of the Company's 5 3/4 % Convertible Subordinated Notes due 2008 (the "NOTES"):

ARTICLE I.

SECTION 1.01. DEFINITIONS.

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

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

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

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

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

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

"CHANGE OF CONTROL" means

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

(b) the first day on which a majority of the members of the Board of Directors are not Continuing Directors; or

(c) the sale, lease or transfer of all or substantially all of the Company's assets to any "Person" or "group", within the meaning of Section 13(d)(3) and 14(d)(2) of the Exchange Act or any successor provision to either of the foregoing, including any group acting for the purpose of acquiring, holding or disposing of securities within the meaning of Rule 13d-5(b)(1) under the Exchange Act, other than the Principal and his Related Parties.

Notwithstanding the foregoing, a Change of Control will not be deemed to have occurred if, in case of a merger, consolidation, tender offer, share exchange, sale, lease or transfer of all or substantially all of the Company's assets or similar transaction or group of related transactions (each, a "Transaction"), not less than 70% of the consideration in the Transaction (excluding cash payments for fractional shares issued in connection with the Transaction, and excluding debt and other liabilities assumed in the Transaction) constituting the Change of Control as defined in (a), (b) and (c) above, consists of common stock traded on a United States national securities exchange or quoted on the Nasdaq National Market (or which will be so traded or quoted when issued or exchanged in connection with such Change of Control) and as a result of such transaction or transactions, the Notes become convertible into such common stock or remain convertible into Common Stock.

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

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

"CONTINUING DIRECTOR" means, as of any date of determination, any member of the Board of Directors who:

(a) was a member of such Board of Directors on the date hereof; or

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

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

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

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

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

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

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

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

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

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

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

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

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

"INITIAL PURCHASER" means UBS Warburg LLC.

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

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

"1999 CONVERTIBLE NOTES" means the Company's 4 7/8% Convertible Subordinated Notes due 2007.

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

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

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

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

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

"PURCHASE AGREEMENT" means the Purchase Agreement, dated as of May 24, 2001, between the Company and the Initial Purchaser.

"PRINCIPAL" means Charles W. Ergen.

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

"REGISTRATION RIGHTS AGREEMENT" means the Registration Rights Agreement relating to the Notes and the underlying Common Stock, dated May 31, 2001, between the Company and the Initial Purchaser.

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

"SEC" means the Securities and Exchange Commission.

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

"SENIOR DEBT" means the principal of, interest on and other amounts due on (i) Indebtedness of the Company, whether outstanding on the date hereof or thereafter created, incurred, assumed or guaranteed by the Company, for money borrowed from banks or other financial institutions; (ii) Indebtedness of the Company, whether outstanding on the date hereof or thereafter created, incurred, assumed or guaranteed by the Company; and (iii) Indebtedness of the Company under interest rate swaps, caps or similar hedging agreements and foreign exchange contracts, currency swaps or similar agreements: unless, in the instrument creating or evidencing or pursuant to which Indebtedness under (i)

or (ii) is outstanding, it is expressly provided that such Indebtedness is not senior in right of payment to the Notes. Senior Debt includes, with respect to the obligations described in clauses (i) and (ii) above, interest accruing, pursuant to the terms of such Senior Debt, on or after the filing of any petition in bankruptcy or for reorganization relating to the Company, whether or not post-filing interest is allowed in such proceeding, at the rate specified in the instrument governing the relevant obligation. Notwithstanding anything to the contrary in the foregoing, Senior Debt shall not include: (a) Indebtedness of or amounts owed by the Company for compensation to employees, or for goods or materials purchased in the ordinary course of business, or for services; and (b) Indebtedness of the Company to a Subsidiary of the Company.

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

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

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

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

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

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

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

SECTION 1.02. OTHER DEFINITIONS.

TERM	DEFINED IN SECTION
"ACCREDITED INVESTOR RESTRICTED NOTES".....	2.01
"AGENT MEMBER".....	2.01
"BANKRUPTCY LAW".....	8.01
"CEDEL".....	2.01
"CHANGE OF CONTROL PAYMENT".....	4.07
"COMMENCEMENT DATE".....	3.09
"CONVERSION AGENT".....	2.03
"CONVERSION DATE".....	5.02
"CONVERSION PRICE".....	5.01
"CONVERSION SHARES".....	5.06
"CUSTODIAN".....	8.01
"DISTRIBUTION DATE".....	5.06

TERM	DEFINED IN SECTION
"DISTRIBUTION RECORD DATE"	5.06
"EUROCLEAR"	2.01
"EVENT OF DEFAULT"	8.01
"GLOBAL NOTE"	2.01
"LEGAL HOLIDAY"	12.07
"OFFER AMOUNT"	3.09
"OFFICER"	12.11
"PAYING AGENT"	2.03
"PAYMENT BLOCKAGE NOTICE"	6.02
"PAYMENT BLOCKAGE PERIOD"	6.02
"PAYMENT DEFAULT"	8.01
"PURCHASE DATE"	3.09
"PURCHASE OFFER"	3.09
"QIBS"	2.01
"REGULATION S"	2.01
"REGULATION S GLOBAL NOTE"	2.01
"REGISTRAR"	2.03
"RESTRICTED NOTES"	2.01
"RIGHTS"	5.06
"RULE 144A"	2.01
"RULE 144A GLOBAL NOTE"	2.01
"TENDER PAYMENT DATE"	5.06
"TENDER PERIOD"	3.09

SECTION 1.03. INCORPORATION BY REFERENCE OF TRUST INDENTURE ACT.

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

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

"INDENTURE SECURITIES" means the Notes;

"INDENTURE TO BE QUALIFIED" means this Indenture;

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

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

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

SECTION 1.04. RULES OF CONSTRUCTION.

Unless the context otherwise requires:

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

(b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP consistently applied;

(c) "OR" is not exclusive;

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

(e) provisions apply to successive events and transactions;

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

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

ARTICLE II.
THE NOTES

SECTION 2.01. FORM AND DATING.

(a) General.

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

(b) Global Notes.

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

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

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

(c) Book-Entry Provisions.

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

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

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

(d) Certificated Notes.

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

Notwithstanding the foregoing, Notes offered and sold on the Issuance Date to "accredited investors" (as defined above) shall be issued initially in the form of one or more permanent Global Notes in definitive, fully registered form without interest coupons with the Global Notes Legend and Restrictive Notes Legend set forth in Exhibit A ("AI Global Note"), which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Trustee, as custodian for the Depositary, and registered in the name of the Depositary or a nominee of the Depositary, duly executed by the Company

and authenticated by the Trustee as hereinafter provided. Such AI Global Note shall be deemed to be a Global Note for all purposes of this Indenture. Promptly after the Issuance Date, the Company shall cause the purchasers of the AI Global Note to arrange with the Depositary for the exchange of such AI Global Note for Accredited Investor Restricted Notes. Upon receipt by the principal Registrar of instructions from the Depositary directing the principal Registrar to authenticate and deliver one or more Accredited Investor Restricted Notes of the same aggregate principal amount as the beneficial interest in the AI Global Note to be exchanged, such instructions to contain the name or names of the Holder or Holders of such Accredited Investor Restricted Note or Notes, the authorized denominations of the Accredited Investor Restricted Note or Notes to be so issued and appropriate delivery instructions, then the principal Registrar will instruct the Depositary to reduce the AI Global Note by the aggregate principal amount of the beneficial interest therein to be exchanged and to debit from the account of the Person making such exchange the beneficial interest in the AI Global Note that is being exchanged, and concurrently with such reduction and debit the Company shall execute, and the Trustee shall authenticate and deliver, one or more Accredited Investor Restricted Notes of the same aggregate principal amount in accordance with the instructions referred to above. Certificated Notes may be issued as aforesaid notwithstanding any other provision of this Indenture to the contrary restricting the issuance of certificated Notes.

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

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

SECTION 2.02. EXECUTION AND AUTHENTICATION.

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

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

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

The Trustee shall, upon a written order of the Company signed by an Officer, authenticate (1) Notes for original issue up to an aggregate principal amount stated in paragraph 5 of the Notes. The aggregate principal amount of Notes outstanding at any time may not exceed $1,150,000,000 except as provided in Section 2.07.

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

SECTION 2.03. REGISTRAR AND PAYING AGENT.

The Company shall maintain (i) offices or agencies where the Notes may be presented for registration of transfer or for exchange ("REGISTRAR") (ii) offices or agencies where the Notes may be presented for payment ("PAYING AGENT") and (iii) offices or agencies where the Notes may be presented for conversion ("CONVERSION AGENT"). The Company initially designates the Trustee at its corporate trust offices to act as principal Registrar, Paying Agent and Conversion Agent. The principal Registrar shall keep a register of the Notes and of their transfer and exchange. The Company may appoint one or more co-registrars, one or more additional paying agents and one or more additional Conversion Agents in such other locations as it shall determine. The term "Registrar" includes any co-registrar, the term "Paying Agent" includes any additional paying agent and the term "Conversion Agent" includes any additional conversion agent. The Company may change any Paying Agent, Registrar or Conversion Agent without prior notice to any Holder. The Company shall notify the Trustee of the name and address of any Agent not a party to this Indenture. If the Company fails to appoint or maintain another entity as Registrar, Paying Agent or Conversion Agent, the Trustee shall act as such. The Company or any of its Affiliates may act as Paying Agent, Registrar or Conversion Agent.

SECTION 2.04. PAYING AGENT TO HOLD MONEY IN TRUST.

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

SECTION 2.05. HOLDER LISTS.

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders and shall otherwise comply with TIA Section 312. If the Trustee is not the Registrar, the Company shall furnish to the Trustee on or before each interest payment date and at such other times as the Trustee may request in writing a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Holders, and the Company shall otherwise comply with TIA Section 312.

SECTION 2.06. TRANSFER AND EXCHANGE.

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

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

(a) Notwithstanding any provision to the contrary herein, so long as a Global Note remains outstanding and is held by or on behalf of the Depositary, transfers of a Global Note, in whole or in part, or of any beneficial interest therein, shall only be made in accordance with Section 2.01(b) and this Section 2.06(a); provided, however, that beneficial interests in a Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Global Note in accordance with the transfer restrictions set forth in the Restricted Notes Legend and under the heading "Notice to Investors" in the Company's Offering Memorandum dated May 24, 2001.

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

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

(iii) Regulation S Global Note to Rule 144A Global Note. If an owner of a beneficial interest in the Regulation S Global Note deposited with the Depositary

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

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

account of the Person making such transfer the beneficial interest in the Global Note that is being transferred, and concurrently with such reduction and debit the Company shall execute, and the Trustee shall authenticate and deliver, one or more Restricted Notes of the same aggregate principal amount in accordance with the instructions referred to above.

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

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

Rule 144A Global Note equal to the principal amount of the Restricted Note to be canceled by the Trustee.

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

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

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

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

SECTION 2.07. REPLACEMENT NOTES.

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

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

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

SECTION 2.08. OUTSTANDING NOTES.

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

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

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

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

SECTION 2.09. TREASURY NOTES.

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

SECTION 2.10. TEMPORARY NOTES; GLOBAL NOTES.

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

authenticate definitive Notes in exchange for temporary Notes. Holders of temporary Notes shall be entitled to all of the benefits of this Indenture.

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

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

(d) The registered Holder of a Global Note may grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action which a Holder is entitled to take under this Indenture or the Notes.

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

SECTION 2.11. CANCELLATION.

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

SECTION 2.12. DEFAULTED INTEREST.

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

At least 15 days before any such record date, the Company shall mail to Holders a notice that states the special record date, the related payment date and amount of such interest to be paid.

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 III.
REDEMPTION

SECTION 3.01. NOTICES TO TRUSTEE.

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

SECTION 3.02. SELECTION OF NOTES TO BE REDEEMED.

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

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

SECTION 3.03. NOTICE OF REDEMPTION.

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

(a) the redemption date;

(b) the redemption price;

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

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

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

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

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

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

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

SECTION 3.04. EFFECT OF NOTICE OF REDEMPTION.

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

SECTION 3.05. DEPOSIT OF REDEMPTION PRICE.

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

SECTION 3.06. NOTES REDEEMED IN PART.

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

SECTION 3.07. OPTIONAL REDEMPTION.

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

SECTION 3.08. MANDATORY REDEMPTION

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

SECTION 3.09. PURCHASE OFFER.

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

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

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

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

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

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

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

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

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

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

(vi) that Holders will be entitled to withdraw their election if the Company, depositary or Paying Agent, as the case may be, receives, not later than the close of business on the second Business Day preceding the Purchase Date, or such longer period as may be required by law, a letter or a telegram, telex or facsimile transmission (receipt of which is confirmed and promptly followed by a letter) setting forth the name of the Holder, the principal amount of the Note or portion thereof the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have the Note or portion thereof purchased; and

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

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

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

ARTICLE IV.
COVENANTS

SECTION 4.01. PAYMENT OF NOTES.

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

Whenever in this Indenture or the Notes there is mentioned, in any context, the payment of principal (and premium, if any), Offer Amount, interest or any other amount payable under or with respect to any Note such mention shall be deemed to include mention of the payment of Special Interest provided for in Section 2 of the Notes to the extent that, in such context, Special Interest is, was or would be payable in respect thereof pursuant to the provisions of Section 2 of the Notes and express mention of the payment of Special Interest (if applicable) in any provisions hereof shall not be construed as excluding Special Interest in those provisions hereof where such express mention is not made (if applicable).

SECTION 4.02. REPORTS.

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

SECTION 4.03. COMPLIANCE CERTIFICATE.

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

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

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

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

SECTION 4.04. STAY, EXTENSION AND USURY LAWS.

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

SECTION 4.05. CORPORATE EXISTENCE.

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

SECTION 4.06. TAXES.

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

SECTION 4.07. CHANGE OF CONTROL.

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

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

SECTION 4.08. LIMITATION ON STATUS AS INVESTMENT COMPANY.

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

ARTICLE V.
CONVERSION

SECTION 5.01. CONVERSION PRIVILEGE.

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

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

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

SECTION 5.02. CONVERSION PROCEDURE.

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

No payment or adjustment will be made for accrued and unpaid interest on a converted Note, but if any holder surrenders a Note for conversion after the close of business on the record date for the payment of an installment of interest and prior to the opening of business on the next interest payment date, then, notwithstanding such conversion, the interest payable on such interest payment date shall be paid to the holder of such Note on such record date; provided, however, that such Note, when surrendered for conversion, must be accompanied by payment to the Company of an amount equal to the

interest payable on such interest payment date on the portion so converted; provided further, however, that such payment to the Company described in the immediately preceding proviso shall not be required in connection with any conversion of a Note that occurs on or after the date that the Company has issued a notice of redemption pursuant to Section 3.03 hereof and prior to the date of such redemption.

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

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

SECTION 5.03. FRACTIONAL SHARES.

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

SECTION 5.04. TAXES ON CONVERSION.

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

SECTION 5.05. COMPANY TO PROVIDE STOCK.

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

SECTION 5.06. ADJUSTMENT OF CONVERSION PRICE.

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

(a) In case the Company shall (1) pay a dividend in shares of Common Stock to all holders of Common Stock, (2) make a distribution in shares of Common Stock to all holders of Common Stock, (3) subdivide its outstanding shares of Common Stock into a greater number of shares of Common Stock or (4) combine its outstanding shares of Common Stock into a smaller number of shares of Common Stock, the Conversion Price in effect immediately prior to such action shall be adjusted so that the holder of any Note thereafter surrendered for conversion shall be entitled to receive the number of shares of Common Stock which he would have owned immediately following such action had such Notes been converted immediately prior thereto. Any adjustment made pursuant to this subsection (a) shall become effective immediately after the record date in the case of a dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision or combination.

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

(c) In case the Company shall distribute to all holders of Common Stock shares of capital stock of the Company other than Common Stock, evidences of indebtedness or other assets (other than cash dividends out of current or retained earnings), or shall distribute to substantially all holders of Common Stock, rights or warrants to subscribe for securities (other than those referred to in subsection (b) above), then in each such case the Conversion Price shall be adjusted so that the same shall equal the price determined by multiplying the Conversion Price in effect immediately prior to the date of such distribution by a fraction of which the numerator shall be the current market price (determined as provided in subsection (f) below) of the Common Stock on the record date mentioned below less the then fair market value (as determined by the Board of Directors, whose determination shall be conclusive evidence of such fair market value and described in a Board Resolution) of the portion of the assets so distributed or of such subscription rights or warrants applicable to one share of Common Stock, and of which the denominator shall be such current market price of the Common Stock. Such adjustment shall become effective immediately after the record date for the determination of the holders of Common Stock entitled to receive such distribution. Notwithstanding the foregoing, in the event that the Company shall distribute rights or warrants (other than those referred to in subsection (b) above) ("RIGHTS") pro rata to holders of Common Stock, the Company may, in

lieu of making any adjustment pursuant to this Section 5.06, make proper provision so that each holder of a Note who converts such Note (or any portion thereof) after the record date for such distribution and prior to the expiration or redemption of the Rights shall be entitled to receive upon such conversion, in addition to the shares of Common Stock issuable upon such conversion (the "CONVERSION SHARES"), a number of Rights to be determined as follows: (i) if such conversion occurs on or prior to the date for the distribution to the holders of Rights of separate certificates evidencing such Rights (the "DISTRIBUTION DATE"), the same number of Rights to which a holder of a number of shares of Common Stock equal to the number of Conversion Shares is entitled at the time of such conversion in accordance with the terms and provisions of and applicable to the Rights; and (ii) if such conversion occurs after the Distribution Date, the same number of Rights to which a holder of the number of shares of Common Stock into which the principal amount of the Note so converted was convertible immediately prior to the Distribution Date would have been entitled on the Distribution Date in accordance with the terms and provisions of and applicable to the Rights.

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

(e) In case a tender offer or other negotiated transaction made by the Company or any Subsidiary for all or any portion of the Common Stock shall be consummated, if an Excess Payment is made in respect of such tender offer or other negotiated transaction and the amount of such Excess Payment, together with the sum of (x) the aggregate amount of all Excess Payments plus (y) the aggregate amount of all distributions to all holders of the Common Stock made in cash (specifically including distributions of cash out of retained earnings), in each case made within the 12 months preceding the date of payment of such current negotiated transaction consideration or expiration of such current tender offer, as the case may be (the "TENDER PAYMENT DATE"), and as to which no adjustment pursuant to paragraph (c) or paragraph (d) of

this Section 5.06 or this paragraph (e) has been made, exceeds 15% of the product of the current market price per share (determined as provided in paragraph (f) of this Section 5.06) of the Common Stock on the Tender Payment Date times the number of shares of Common Stock outstanding (including any tendered shares but excluding any shares held in the treasury of the Company) on the Tender Payment Date, the Conversion Price shall be reduced so that the same shall equal the price determined by multiplying such Conversion Price in effect immediately prior to the effectiveness of the Conversion Price reduction contemplated by this paragraph (e) by a fraction of which the numerator shall be the current market price per share (determined as provided in paragraph (f) of this Section 5.06) of the Common Stock on the Tender Payment Date less the amount of such Excess Payments and such cash distributions, if any, applicable to one share (based on the pro rata portion of the aggregate amount of such Excess Payments and such cash distributions, divided by the shares of Common Stock outstanding on the Tender Payment Date) of Common Stock and the denominator shall be such current market price per share (determined as provided in paragraph (f) of this Section 5.06) of the Common Stock on the Tender Payment Date, such reduction to become effective immediately prior to the opening of business on the day following the Tender Payment Date.

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

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

SECTION 5.07. NO ADJUSTMENT.

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

SECTION 5.08. OTHER ADJUSTMENTS.

(a) In the event that, as a result of an adjustment made pursuant to Section 5.06 hereof, the holder of any Note thereafter surrendered for conversion shall become entitled to receive any shares of

Capital Stock of the Company other than shares of Common Stock, thereafter the Conversion Price of such other shares so receivable upon conversion of any Note shall be subject to adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions with respect to Common Stock contained in this Article V.

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

SECTION 5.09. ADJUSTMENTS FOR TAX PURPOSES.

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

SECTION 5.10. NOTICE OF ADJUSTMENT.

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

SECTION 5.11. NOTICE OF CERTAIN TRANSACTIONS.

In the event that:

(1) the Company takes any action which would require an adjustment in the Conversion Price;

(2) the Company takes any action that would require a supplemental indenture pursuant to Section 5.12; or

(3) there is a dissolution or liquidation of the Company;

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

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

If any of the following shall occur, namely: (i) any reclassification or change in the Common Stock issuable upon conversion of Notes (other than a change in par value, or from par value to no par

value, or from no par value to par value, or as a result of a subdivision or combination), (ii) any consolidation or merger to which the Company is a party other than a merger in which the Company is the continuing corporation and which does not result in any reclassification of, or change (other than a change in name, or par value, or from par value to no par value, or from no par value to par value or as a result of a subdivision or combination) in, the Common Stock or (iii) any sale or conveyance of all or substantially all of the property or business of the Company as an entirety, then the Company, or such successor or purchasing corporation, as the case may be, shall, as a condition precedent to such reclassification, change, consolidation, merger, sale or conveyance, execute and deliver to the Trustee a supplemental indenture in form reasonably satisfactory to the Trustee providing that the holder of each Note then outstanding shall have the right to convert such Note into the kind and amount of shares of stock and other securities and property (including cash) receivable upon such reclassification, change, consolidation, merger, sale or conveyance by a holder of the number of shares of Common Stock deliverable upon conversion of such Note immediately prior to such reclassification, change, consolidation, merger, sale or conveyance. Such supplemental indenture shall provide for adjustments of the Conversion Price which shall be as nearly equivalent as may be practicable to the adjustments of the Conversion Price provided for in this Article V. The foregoing, however, shall not in any way affect the right a holder of a Note may otherwise have, pursuant to clause (ii) of the last sentence of subsection (c) of Section 5.06 hereof, to receive Rights upon conversion of a Note. If, in the case of any such consolidation, merger, sale or conveyance, the stock or other securities and property (including cash) receivable thereupon by a holder of Common Stock includes shares of stock or other securities and property of a corporation other than the successor or purchasing corporation, as the case may be, in such consolidation, merger, sale or conveyance, then such supplemental indenture shall also be executed by such other corporation and shall contain such additional provisions to protect the interests of the holders of the Notes as the Board of Directors of the Company shall reasonably consider necessary by reason of the foregoing. The provision of this Section 5.12 shall similarly apply to successive consolidations, mergers, sales or conveyances.

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

SECTION 5.13. TRUSTEE'S DISCLAIMER.

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

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

ARTICLE VI.
SUBORDINATION

SECTION 6.01. AGREEMENT TO SUBORDINATE AND RANKING.

The Company, for itself and its successors, and each Holder, by its acceptance of Notes, agree that the payment of the principal of or interest on or any other amounts due on the Notes is subordinated in right and priority of payment, to the extent and in the manner stated in this Article VI, to the prior payment in full of all existing and future Senior Debt. The Notes shall rank pari passu with, and shall not be senior in right of payment to such other Indebtedness of the Company whether outstanding on the date of this Indenture or hereafter created, incurred, issued or guaranteed by the Company, whenever the instrument creating or evidencing such Indebtedness expressly provides that such Indebtedness ranks pari passu with the Notes. The Notes shall rank pari passu with the 1999 Convertible Notes.

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

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

In the event that, notwithstanding the provisions of this Section 6.02, payments are made by or on behalf of the Company in contravention of the provisions of this Section 6.02, such payments shall be held by the Trustee, any Paying Agent or the Holders, as applicable, in trust for the benefit of, and shall be paid over to and delivered to, the holders of Senior Debt or their representative or the trustee under the

indenture or other agreement (if any), pursuant to which any instruments evidencing any Senior Debt may have been issued for application to the payment of all Senior Debt ratably according to the aggregate amounts remaining unpaid to the extent necessary to pay all Senior Debt in full in accordance with the terms of such Senior Debt, after giving effect to any concurrent payment or distribution to or for the holders of Senior Debt.

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

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

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

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

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

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

(3) in the event that, notwithstanding the foregoing, any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities (other than securities of the Company as reorganized or readjusted, or securities of the Company or any other corporation provided for by a plan of reorganization or readjustment the payment of which is subordinate, at least to the extent provided in this Article VI with respect to the Notes, to the

payment in full without diminution or modification by such plan of Senior Debt), shall be received by the Trustee or the Holders before all Senior Debt is paid in full, such payment or distribution shall be held in trust for the benefit of, and be paid over to upon request by a holder of the Senior Debt, the holders of the Senior Debt remaining unpaid (or their representatives) or trustee(s) acting on their behalf, ratably as aforesaid, for application to the payment of such Senior Debt until all such Senior Debt shall have been paid in full, after giving effect to any concurrent payment or distribution to the holders of such Senior Debt.

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

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

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

(c) The provisions of this Article VI shall not be applicable to any cash, properties or securities received by the Trustee or by any Holder when received as a holder of Senior Debt and nothing in Section 9.11 hereof or elsewhere in this Indenture shall deprive the Trustee or such Holder of any of its rights as such holder.

(d) The Company shall give prompt written notice to the Trustee of any fact known to the Company which would prohibit the making of any payment of money to or by the Trustee in respect of

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

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

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

SECTION 6.04. RELIANCE BY SENIOR DEBT ON SUBORDINATION PROVISIONS.

Each Holder of any Note by his acceptance thereof acknowledges and agrees that the foregoing subordination provisions are, and are intended to be, an inducement and a consideration for each holder of any Senior Debt, whether such Senior Debt was created or acquired before or after the issuance of the Notes, to acquire and continue to hold, or to continue to hold, such Senior Debt, and such holder of Senior Debt shall be deemed conclusively to have relied on such subordination provisions in acquiring and continuing to hold, or in continuing to hold, such Senior Debt. Notice of any default in the payment of any Senior Debt, except as expressly stated in this Article VI, and notice of acceptance of the provisions hereof are hereby expressly waived. Except as otherwise expressly provided herein, no waiver, forbearance or release by any holder of Senior Debt under such Senior Debt or under this Article VI shall constitute a release of any of the obligations or liabilities of the Trustee or Holders of the Notes provided in this Article VI.

SECTION 6.05. NO WAIVER OF SUBORDINATION PROVISIONS.

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

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

SECTION 6.06. TRUSTEE'S RELATION TO SENIOR DEBT.

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

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

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

SECTION 6.07. OTHER PROVISIONS SUBJECT HERETO.

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

ARTICLE VII.
SUCCESSORS

SECTION 7.01. SALE OF ASSETS.

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

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

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

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

SECTION 7.02. SUCCESSOR CORPORATION SUBSTITUTED.

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

ARTICLE VIII.
DEFAULTS AND REMEDIES

SECTION 8.01. EVENTS OF DEFAULT.

An "EVENT OF DEFAULT" occurs if:

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

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

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

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

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

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

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

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

aggregating in excess of $75 million, which judgments are not paid, discharged or stayed within 60 days after their entry;

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

(i) commences a voluntary case;

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

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

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

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

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

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

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

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

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

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

SECTION 8.02. ACCELERATION.

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

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

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

SECTION 8.03. OTHER REMEDIES.

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

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

SECTION 8.04. WAIVER OF PAST DEFAULTS.

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

SECTION 8.05. CONTROL BY MAJORITY.

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

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

SECTION 8.06. LIMITATION ON SUITS.

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

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

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

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

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

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

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

SECTION 8.07. RIGHTS OF HOLDERS TO RECEIVE PAYMENT.

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

SECTION 8.08. COLLECTION SUIT BY TRUSTEE.

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

SECTION 8.09. TRUSTEE MAY FILE PROOFS OF CLAIM.

The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Company, its creditors or its property. Nothing contained herein shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

SECTION 8.10. PRIORITIES.

If the Trustee collects any money pursuant to this Article, it shall pay out the money in the following order:

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

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

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

Fourth: to the Company.

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

SECTION 8.11. UNDERTAKING FOR COSTS.

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 8.11 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 8.07 hereof, or a suit by Holders of more than 10% in principal amount of the then outstanding Notes.

ARTICLE IX.
TRUSTEE

SECTION 9.01. DUTIES OF TRUSTEE.

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

(b) Except during the continuance of an Event of Default: (i) the Trustee need perform only those duties that are specifically set forth in this Indenture and no others and (ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture and to confirm the correctness of all mathematical computations.

(c) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that: (i) this paragraph does not limit the effect of paragraph (b) of this Section 9.01; (ii) the Trustee shall not be liable for any error of judgment made in good faith by a Trust Officer, unless it is proved that the Trustee was negligent in ascertaining

the pertinent facts and (iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 8.05 hereof.

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

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

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

SECTION 9.02. RIGHTS OF TRUSTEE.

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

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

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

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

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

SECTION 9.03. INDIVIDUAL RIGHTS OF TRUSTEE.

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

SECTION 9.04. TRUSTEE'S DISCLAIMER.

The Trustee makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Company's use of the proceeds from the Notes, and it shall not be responsible for any statement of the Company in the Indenture or any statement in the Notes other than its authentication or for compliance by the Company with the Registration Rights Agreement.

SECTION 9.05. NOTICE OF DEFAULTS.

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

SECTION 9.06. REPORTS BY TRUSTEE TO HOLDERS.

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

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

SECTION 9.07. COMPENSATION AND INDEMNITY.

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

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

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

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

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

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

SECTION 9.08. REPLACEMENT OF TRUSTEE.

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

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

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

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

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

(d) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

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

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

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

SECTION 9.09. SUCCESSOR TRUSTEE BY MERGER, ETC.

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

SECTION 9.10. ELIGIBILITY; DISQUALIFICATION.

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

SECTION 9.11. PREFERENTIAL COLLECTION OF CLAIMS AGAINST COMPANY.

The Trustee is subject to TIA Section 311(a), excluding any creditor relationship listed in TIA Section 311(b). A Trustee who has resigned or been removed shall be subject to TIA Section 311(a) to the extent indicated therein.

ARTICLE X.
DISCHARGE OF INDENTURE

SECTION 10.01. TERMINATION OF COMPANY'S OBLIGATIONS.

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

SECTION 10.02. REPAYMENT TO COMPANY.

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

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

ARTICLE XI.
AMENDMENTS, SUPPLEMENTS AND WAIVERS

SECTION 11.01. WITHOUT CONSENT OF HOLDERS.

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

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

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

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

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

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

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

SECTION 11.02. WITH CONSENT OF HOLDERS.

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

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

(b) reduce the principal of or change the fixed maturity of any Note or alter the provisions with respect to the redemption of the Notes, excluding any provisions, including relevant definitions, relating to the repurchase of the Notes upon a Change of Control;

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

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

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

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

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

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

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

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

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

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

SECTION 11.03. COMPLIANCE WITH TRUST INDENTURE ACT.

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

SECTION 11.04. REVOCATION AND EFFECT OF CONSENTS.

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

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

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

SECTION 11.05. NOTATION ON OR EXCHANGE OF NOTES.

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

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

SECTION 11.06. TRUSTEE PROTECTED.

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

ARTICLE XII.
MISCELLANEOUS

SECTION 12.01. TRUST INDENTURE ACT CONTROLS.

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

SECTION 12.02. NOTICES.

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

Any notice or communication to a Holder shall be mailed by first class mail to such Holder's address shown on the register kept by the Registrar. Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

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

All other notices or communications shall be in writing.

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

SECTION 12.03. COMMUNICATION BY HOLDERS WITH OTHER HOLDERS.

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

SECTION 12.04. CERTIFICATE AND OPINION AS TO CONDITIONS PRECEDENT.

Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee:

(a) an Officers' Certificate stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(b) an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

SECTION 12.05. STATEMENTS REQUIRED IN CERTIFICATE OR OPINION.

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

(a) a statement that the Person signing such certificate or rendering such opinion has read such covenant or condition;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(c) a statement that, in the opinion of such Person, such Person has made such examination or investigation as is necessary to enable such Person to express an informed opinion as to whether or not such covenant or condition has been complied with; and

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

SECTION 12.06. RULES BY TRUSTEE AND AGENTS.

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

SECTION 12.07. LEGAL HOLIDAYS.

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

SECTION 12.08. NO RECOURSE AGAINST OTHERS.

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

SECTION 12.09. COUNTERPARTS AND FACSIMILE SIGNATURES.

This Indenture may be executed by manual or facsimile signature in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

SECTION 12.10. VARIABLE PROVISIONS.

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

The first certificate pursuant to Section 4.03 hereof shall be for the fiscal year ended on December 31, 2001.

The reporting date for Section 9.06 hereof is December 31, of each year. The first reporting date is December 31, 2001.

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

The Company's address is:

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

The Trustee's address is:

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

SECTION 12.11. GOVERNING LAW, SUBMISSION TO JURISDICTION.

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

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

SECTION 12.12. NO ADVERSE INTERPRETATION OF OTHER AGREEMENTS.

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

SECTION 12.13. SUCCESSORS.

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

SECTION 12.14. SEVERABILITY.

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

SECTION 12.15. TABLE OF CONTENTS, HEADINGS, ETC.

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

SIGNATURES

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

ECHOSTAR COMMUNICATIONS CORPORATION,
as Company

By: /s/ DAVID K. MOSKOWITZ, ESQ.

Name: David K. Moskowitz, Esq.
Title: Senior Vice President and General Counsel

U.S. BANK TRUST NATIONAL ASSOCIATION,
as Trustee

By: /s/ RICHARD H. PROKOSCH

Name: Richard H. Prokosch
Title: Vice President

EXHIBIT A

[FORM OF FACE OF NOTE]

[Global Notes Legend]

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

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

[Restricted Notes Legend]

THIS SECURITY OR ITS PREDECESSOR HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED PLEDGED ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, SUCH REGISTRATION. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE HOLDER: AGREES THAT (a)(1) IT IS A QUALIFIED INSTITUTIONAL BUYER, OR "QIB" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT), (2) IT HAS ACQUIRED THIS SECURITY IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH REGULATION S UNDER THE SECURITIES ACT OR (3) IT IS AN "INSTITUTIONAL ACCREDITED INVESTOR" (AS DEFINED IN RULE 501(A)(1), (2), (3) AND (7) OF REGULATION D UNDER THE SECURITIES ACT) AND (b) IT WILL NOT RESELL OR OTHERWISE TRANSFER THIS SECURITY EXCEPT (1) TO ECHOSTAR COMMUNICATIONS CORPORATION (THE "COMPANY") OR ANY SUBSIDIARY OF THE COMPANY, (2) TO A PERSON WHOM THE SELLER REASONABLY BELIEVES IS A QIB PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QIB IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (3) IN AN OFFSHORE TRANSACTION MEETING THE REQUIREMENTS OF RULE 904 OF THE SECURITIES ACT, (4) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A UNDER THE SECURITIES ACT, (5) TO AN INSTITUTIONAL ACCREDITED INVESTOR THAT, PRIOR TO SUCH TRANSFER, FURNISHES THE TRUSTEE A SIGNED LETTER CONTAINING CERTAIN REPRESENTATIONS AND AGREEMENTS RELATING TO THE TRANSFER OF THIS SECURITY (THE FORM OF WHICH CAN BE OBTAINED FROM THE TRUSTEE) AND, IF SUCH TRANSFER IS IN RESPECT TO AN AGGREGATE PRINCIPAL AMOUNT OF NOTES LESS THAN $100,000, AN OPINION OF COUNSEL ACCEPTABLE TO THE COMPANY THAT SUCH TRANSFER IS IN COMPLIANCE WITH THE SECURITIES ACT, (6) IN

ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL ACCEPTABLE TO THE COMPANY) OR (7) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT AND, IN EACH CASE, IN ACCORDANCE WITH THE APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER APPLICABLE JURISDICTION; AND EACH HOLDER AGREES THAT IT WILL DELIVER TO EACH PERSON TO WHOM THIS SECURITY OR AN INTEREST IN THIS SECURITY IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND.

[Regulation S Legend]

BENEFICIAL OWNERSHIP INTERESTS IN THIS TEMPORARY REGULATION S GLOBAL NOTE WILL NOT BE EXCHANGEABLE FOR INTERESTS IN THE RULE 144A GLOBAL NOTE OR THE PERMANENT GLOBAL NOTE OR THE PERMANENT REGULATION S GLOBAL NOTE OR ANY OTHER NOTE REPRESENTING AN INTEREST IN THE NOTES REPRESENTED HEREBY WHICH DO NOT CONTAIN A LEGEND CONTAINING RESTRICTIONS OF TRANSFER, UNTIL THE EXPIRATION OF THE "ONE-YEAR DISTRIBUTION COMPLIANCE PERIOD" (WITHIN THE MEANING OF RULE 903(B)(3) OF REGULATION S UNDER THE SECURITIES ACT) AND THEN ONLY UPON CERTIFICATION IN FORM REASONABLY SATISFACTORY TO THE TRUSTEE THAT SUCH BENEFICIAL INTERESTS ARE OWNED EITHER BY NON-U.S. PERSONS OR U.S. PERSONS WHO PURCHASED SUCH INTERESTS IN A TRANSACTION THAT DID NOT REQUIRE REGISTRATION UNDER THE SECURITIES ACT. DURING SUCH ONE-YEAR RESTRICTED PERIOD, BENEFICIAL OWNERSHIP INTERESTS IN THIS TEMPORARY REGULATION S GLOBAL NOTE MAY ONLY BE SOLD, PLEDGED OR TRANSFERRED THROUGH THE EUROCLEAR SYSTEM OR CEDEL S.A. AND ONLY (A) TO THE COMPANY OR ANY SUBSIDIARY OF THE COMPANY, (B) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, (C) OUTSIDE THE UNITED STATES IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH RULE 904 UNDER THE SECURITIES ACT OR (D) PURSUANT TO THE EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE). DURING SUCH ONE-YEAR RESTRICTED PERIOD, INTERESTS IN THIS TEMPORARY REGULATION S GLOBAL NOTE MAY NOT BE TRANSFERRED TO INSTITUTIONS THAT ARE "ACCREDITED INVESTORS" AS DEFINED IN RULE 501(A)(1), (2), (3) OR (7) UNDER THE SECURITIES ACT BUT NOT QUALIFIED INSTITUTIONAL BUYERS AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT. HOLDERS OF INTERESTS IN THIS TEMPORARY REGULATION S GLOBAL NOTE WILL NOTIFY ANY PURCHASER OF SUCH RESALE RESTRICTIONS, IF THEN APPLICABLE.

No.

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CUSIP No. [ ]/CINS No. [ ]

5 3/4 % CONVERTIBLE SUBORDINATED NOTE DUE 2008

EchoStar Communications Corporation, a Nevada corporation (the "COMPANY"), promises to pay to _____ or registered assigns, the principal sum of _____ $[_____] [, or such other amount as is indicated on Schedule A hereof* ,] on May 15, 2008, subject to the further provisions of this Note set forth on the reverse hereof which further provisions shall for all purposes have the same effect as if set forth at this place.

Interest Payment Dates: May 15 and November 15, commencing November 15, 2001

Record Dates: May 1 and November 1

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

Dated:

ECHOSTAR COMMUNICATIONS CORPORATION

By:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION
This is one of the 5 3/4 % Convertible Subordinated Notes due 2008 described in the within-mentioned Indenture.

U.S. BANK TRUST NATIONAL ASSOCIATION, as Trustee

By:

Authorized Signatory

- ----------

* Applicable to Global Notes Only

[FORM OF REVERSE OF NOTE]

ECHOSTAR COMMUNICATIONS CORPORATION

5 3/4 % Convertible Subordinated Note due 2008

1. Interest. ECHOSTAR COMMUNICATIONS CORPORATION, a Nevada corporation (the "COMPANY"), is the issuer of 5 3/4 % Convertible Subordinated Notes due 2008 (the "NOTES"). The Notes will accrue interest at a rate of 5 3/4 % per annum. The Company promises to pay interest on the Notes in cash semiannually on each May 15 and November 15, commencing on November 15, 2001, to Holders of record on the immediately preceding May 1 and November 1, respectively. Interest on the Notes will accrue from the most recent date to which interest has been paid, or if no interest has been paid, from May 31, 2001. Interest will be computed on the basis of a 360-day year of twelve 30-day months. The Company will pay interest on overdue principal at the interest rate borne by the Notes, compounded semiannually, and it shall pay interest on overdue installments of interest (without regard to any applicable grace period) at the same interest rate compounded semiannually.

2. Registration Rights. The Holder of this Note is entitled to the benefits of a Registration Rights Agreement, dated as of May 31, 2001, between the Company and the Initial Purchaser (the "Registration Rights Agreement"). Pursuant to the Registration Rights Agreement, the Company has agreed for the benefit of the Holders of the Notes, that (i) it will, at its cost, within 90 days after the closing of the sale of the Notes (the "Closing"), file a shelf registration statement (the "Shelf Registration Statement") with the Securities and Exchange Commission (the "Commission") with respect to resales of the Notes and the Common Stock issuable upon conversion thereof, (ii) it will use its best efforts to cause such Shelf Registration Statement to be declared effective within 270 days after the Closing, and (iii) it will use its best efforts to keep such Shelf Registration Statement continuously effective under the Securities Act, subject to certain exceptions specified in the Registration Rights Agreement until the second anniversary of the date of the Closing. The Company will be permitted to delay the filing of the Shelf Registration Statement or suspend use of the prospectus that is part of the Shelf Registration Statement during certain periods of time and in certain circumstances relating to pending corporate developments and public filings with the SEC and similar events, which delay of filing shall not be considered a "Registration Default," as defined below, unless such delay is for a period in excess of 60 days and such suspension shall not be considered a Registration Default unless it continues for a period in excess of 90 days. If (a) the Company fails to file the Shelf Registration Statement required by the Registration Rights Agreement on or before the date specified above for such filing, (b) such Shelf Registration Statement is not declared effective by the Commission on or prior to the date specified above for such effectiveness, or (c) the Shelf Registration Statement is declared effective but thereafter ceases to be effective or useable in connection with resales of Transfer Restricted Securities (as defined in the Registration Rights Agreement) during the periods specified in the Registration Rights Agreement (each such event referred to in clauses (a) through (c) above a "Registration Default"), then the Company will pay special interest to each Holder of Transfer Restricted Securities, with respect to the first consecutive 90-day period immediately following the occurrence of such Registration Default in an amount equal to an increase in the annual interest rate on the Notes of 0.25% ("SPECIAL INTEREST") and with respect to each subsequent consecutive 90-day period, an amount equal to an increase in the annual interest rate on the Notes of 0.25% until all Registration Defaults have been cured, up to a maximum increase in the annual interest rate on the Notes equal to 1.0%. All accrued Special Interest shall be paid by the Company on each Interest Payment Date for which Special Interest is owed to the Holders of Global Notes by wire transfer of immediately available funds or by federal funds check and to Holders of certificated Notes registered as such as of the preceding Record Date by mailing checks to their registered addresses. Following the cure of all Registration Defaults, the application of Special Interest will cease.

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

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

5. Indenture. The Company issued the Notes under an Indenture, dated as of May 31, 2001 (the "INDENTURE"), between the Company and U.S. Bank Trust National Association, as Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by the Trust Indenture Act of 1939 (15 U.S. Code Sections 77aaa-77bbbb) as in effect on the date of the Indenture. The Notes are subject to, and qualified by, all such terms, certain of which are summarized hereon, and Holders are referred to the Indenture and such Act for a statement of such terms. The Notes are unsecured general obligations of the Company limited to $1,150,000,000 in aggregate principal amount and subordinated in right of payment to all existing and future Senior Debt of the Company.

6. Optional Redemption. The Notes are not redeemable at the Company's option prior to May 15, 2004. Thereafter, the Notes will be subject to redemption at the option of the Company, in whole or in part, upon not less than 30 nor more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount thereof) set forth below plus accrued and unpaid interest thereon to the applicable redemption date, if redeemed during the twelve-month period beginning on May 15 of the years indicated below:

Year	Percentage
2004	103.286%
2005	102.464%
2006	101.643%
2007	100.821%
2008	100.000%

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

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

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

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

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

11. Conversion. The Holder of any Note has the right, exerciseable at any time after 90 days following the Issuance Date and prior to the close of business (New York time) on the date of the Note's maturity, to convert the principal amount thereof (or any portion thereof that is an integral multiple of $1,000) into shares of Common Stock at the initial Conversion Price of $43.29 per share, subject to adjustment under certain circumstances as set forth in the Indenture, except that if a Note is called for redemption, the conversion right will terminate at the close of business on the Business Day immediately preceding the date fixed for redemption.

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

A Note in respect of which a Holder has delivered an "Option of Holder to Elect Purchase" form appearing below exercising the option of such Holder to require the Company to purchase such Note may

be converted only if the notice of exercise is withdrawn as provided above and in accordance with the terms of the Indenture. The above description of conversion of the Notes is qualified by reference to, and is subject in its entirety by, the more complete description thereof contained in the Indenture.

12. Denominations, Transfer, Exchange. The Notes are in registered form, without coupons, in denominations of $1,000 and integral multiples of $1,000. The transfer of Notes may be registered, and Notes may be exchanged, as provided in the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and to pay any taxes and fees required by law or permitted by the Indenture. The Registrar need not exchange or register the transfer of any Note or portion of a Note selected for redemption (except the unredeemed portion of any Note being redeemed in part). Also, it need not exchange or register the transfer of any Note for a period of 15 days before a selection of Notes to be redeemed.

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

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

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

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

17. Trustee Dealings with the Company. The Trustee, in its individual or any other capacity may become the owner or pledgee of the Notes and may otherwise deal with the Company or an Affiliate with the same rights it would have, as if it were not Trustee, subject to certain limitations provided for in the Indenture and in the TIA. Any Agent may do the same with like rights.

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

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

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

21. Abbreviations. Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and UGMA (= Uniform Gifts to Minors Act).

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

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

ASSIGNMENT FORM

To assign this Note, fill in the form below:

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

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

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

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

Your Signature:

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

Date:

Signature Guarantee:*

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

CHECK ONE BOX BELOW

(1) [ ] to the Company or any subsidiary thereof,

(2) [ ] to a qualified institutional buyer in compliance with Rule 144A,

(3) [ ] outside the United States in compliance with Rule 904 under the Securities Act,

(4) [ ] pursuant to the exemption from registration provided by Rule 144 under the Securities Act (if available) or

(5) [ ] pursuant to an effective registration statement under the Securities Act.

- ----------

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

Signature

Signature Guarantee*

- ---

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

- ---

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

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

Date:

- ---

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

NOTICE: To be executed by an executive officer

OPTION OF HOLDER TO ELECT PURCHASE

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

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

Your Signature:

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

Date:

Signature Guarantee:**/

- ----------

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

ELECTION TO CONVERT

To EchoStar Communications Corporation:

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

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

Date:

in whole

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

Signature

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

---

Signature Guarantee:*

- ----------

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

[TO BE ATTACHED TO GLOBAL NOTES]

SCHEDULE A

SCHEDULE OF PRINCIPAL AMOUNT

The initial principal amount of this Global Note shall be $_____. The following increases or decreases in the principal amount of this Global Note have been made:

Amount of decrease in principal amount of this Global Note	Amount of increase in principal amount of this Global Note	Principal amount of this Global Note	Signature of authorized officer of Trustee or Notes Custodian	Date of exchange following such decrease or increase

EXHIBIT B

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

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

Re: EchoStar Communications Corporation 5 3/4 % Convertible
Subordinated Notes due 2008 (the "NOTES")

Reference is hereby made to the Indenture, dated as May 31, 2001 (the "INDENTURE"), between EchoStar Communications Corporation, as Issuer, and U.S. Bank Trust National Association, as Trustee.

This letter relates to $[_____] [check one] (i) [ ] aggregate principal amount of Notes which are held in the form of the Rule 144A Global Note (CUSIP No. 278762 AE 9) with the Depositary or (ii) [ ] principal amount of Restricted Note (CUSIP No. 278762 AF 6) registered, in either case, in the name of [name of transferor] (the "TRANSFEROR") to effect the transfer of the Notes in exchange for an equivalent beneficial interest in the Regulation S Global Notes.

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

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

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

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

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

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

You and the Company are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings

or official inquiry with respect to the matters covered hereby. Capitalized terms used in this certificate and not otherwise defined in the Indenture have the meanings set forth in Regulation S.

[Name of Transferor]

By:

Name:
Title:

Dated:

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

EXHIBIT C

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

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

Re: EchoStar Communications Corporation 5 3/4 % Convertible Subordinated Notes due 2008 (the "NOTES")

Reference is hereby made to the Indenture, dated as of May 31, 2001 (the "INDENTURE"), between EchoStar Communications Corporation, as Issuer, U.S. Bank Trust National Association, as Trustee. Capitalized terms used but not defined herein shall have the respective meanings given them in the Indenture.

This letter relates to $[ ] [check one] (i) [ ] aggregate principal amount of Notes which are held in the form of the Regulation S Global Note (CUSIP No. U27789 AA 1) with the Depositary or (ii) [ ] principal amount of Restricted Note (CUSIP No. 278762 AF 6) registered, in each case, in the name of [name of transferor] (the "TRANSFEROR") to effect the transfer of the Notes in exchange for an equivalent beneficial interest in the Rule 144A Global Note.

In connection with such request, and in respect of such Notes the Transferor does hereby certify that such Notes are being transferred in accordance with (i) the transfer restrictions set forth in the Notes and (ii) Rule 144A under the United States Securities Act of 1933, as amended, to a transferee that the Transferor reasonably believes is purchasing the Notes for its own account or an account with respect to which the transferee exercises sole investment discretion and the transferee and any such account is a "qualified institutional buyer" within the meaning of Rule 144A, in a transaction meeting the requirements of Rule 144A and in accordance with applicable securities laws of any state of the United States or any other jurisdiction.

[Name of Transferor],

By:

Name:
Title:

Dated:

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

EXHIBIT D

FORM OF TRANSFER CERTIFICATE FOR TRANSFER
FROM GLOBAL NOTE OR RESTRICTED
NOTE TO RESTRICTED NOTE
(Transfers pursuant to Section 2.06(a)(iv)
or Section 2.06(a)(v) of the Indenture)

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

Re: EchoStar Communications Corporation 5 3/4 % Convertible Subordinated Notes due 2008 (the "NOTES")

Reference is hereby made to the Indenture, dated as of May 31, 2001 (the "INDENTURE"), between EchoStar Communications Corporation, as Issuer, and U.S. Bank Trust National Association, as Trustee. Capitalized terms used but not defined herein shall have the respective meanings given them in the Indenture.

This letter relates to $[ ] aggregate principal amount of Notes which are held [in the form of the [Rule 144A/Regulation S] [Global] [Restricted] Note (CUSIP No. [ ] CINS No. [ ]) [with the Depositary] in the name of [name of transferor] (the "TRANSFEROR") to effect the transfer of the Notes.

In connection with such request, and in respect of such Notes, the Transferor does hereby certify that such Notes are being transferred (i) in accordance with the transfer restrictions set forth in the Notes and (ii) in accordance with applicable securities laws of any state of the United States or any other jurisdiction.

[Name of Transferor],

By:

Name:
Title:

Dated:

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

EXHIBIT E

FORM OF LETTER TO BE DELIVERED BY ACCREDITED INSTITUTIONAL INVESTORS

EchoStar Communications Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120

Ladies and Gentlemen:

We are delivering this letter in connection with our acquisition of 5 3/4 % Convertible Subordinated Notes due 2008 (the "Notes") of EchoStar Communications Corporation, a Nevada corporation (the "Company"), as more fully described in the Offering Memorandum dated May 24, 2001 (the "Offering Memorandum") relating to the initial offering of the Notes.

We hereby confirm that:

(i) we are an "accredited investor" within the meaning of Rule 501 (a) (1), (2), (3) or (7) under the Securities Act of 1933, as amended (the "Securities Act"), or an entity in which all of the equity owners are accredited investors within the meaning of Rule 501 (a) (1), (2), (3) or (7) under the Securities Act (an "Accredited Institution");

(ii) (A) any purchase of the Notes by us will be for our own account or for the account of one or more other Accredited Institutions or as fiduciary for the account of one or more trusts, each of which is an "accredited investor" within the meaning of Rule 501 (a) (7) under the Securities Act and for each of which we exercise sole investment discretion or (B) we are a "bank", within the meaning of Section 3 (a) (2) of the Securities Act, or a "savings and loan association" or other institution described in Section 3 (a) (5) (A) of the Securities Act that is acquiring the Notes as fiduciary for the account of one or more institutions for which we exercise sole investment discretion;

(iii) in the event that we purchase any of the Notes, we will acquire Notes having a minimum purchase price of not less than $100,000 for our own account or for any separate account for which we are acting;

(iv) we have such knowledge and experience in financial and business matters that we are capable of evaluating the merits and risks of purchasing the Notes;

(v) we are not acquiring the Notes with a view to distribution thereof or with any present intention of offering or selling any of the Notes, except inside the United States in accordance with Rule 144A under the Securities Act or outside the United States in accordance with Regulation S under the Securities Act, as provided below, provided that the disposition of our property and the property of any accounts for which we are acting as fiduciary shall remain at all times within our control; and

(vi) we have received a copy of the Offering Memorandum relating to the offering of the Notes and acknowledge that we have had access to such financial and other information, and have been afforded the opportunity to ask such questions of representatives of the Company and receive answers thereto, as we deem necessary in connection with our decision to acquire the Notes.

We understand that the Notes are being offered in a transaction not involving any public offering within the United States within the meaning of the Securities Act and that the Notes have not been registered under the Securities Act, and we agree, on our own behalf and on behalf of each account for which we acquire any Notes, that if in the future we decide to resell, pledge or otherwise transfer such Notes, such Notes may be offered, resold, pledged or otherwise transferred only: (a) to the Company or any of its subsidiaries, (b) to a person whom the seller reasonably believes is a Qualified Institutional Buyer or "QIB" (as defined in Rule 144A under the Securities Act) purchasing for its own account or for the account of a QIB in a transaction meeting the requirements of Rule 144A, (c) in an offshore transaction meeting the requirements of Rule 904 of the Securities Act, (d) in a transaction meeting the requirements of Rule 144 under the Securities Act, (e) to an Accredited Institution that, prior to such transfer, furnishes the trustee a signed letter containing certain representations and agreements relating to the transfer of the Notes (in substantially this form) and, if such transfer is in respect of an aggregate principal amount of Notes less than $100,000, an opinion of counsel acceptable to the Company that such transfer is in compliance with the Securities Act, (f) in accordance with another exemption from the registration requirements of the Securities Act (and based upon an opinion of counsel acceptable to the Company) or (g) pursuant to an effective registration statement and, in each case, in accordance with the applicable securities laws of any state of the United States, or any other applicable jurisdiction. We understand that the registrar and transfer agent for the Notes will not be required to accept for registration of transfer any Notes acquired by us, except upon presentation of evidence satisfactory to the Company and the transfer agent that the foregoing restrictions on transfer have been complied with. We further understand that any Notes acquired by us will be in the form of definitive physical certificates and will bear a legend reflecting the substance of this paragraph.

We acknowledge that the Company and others will rely upon our confirmations, acknowledgments and agreements set forth herein, and we agree to notify you promptly in writing if any of our representations or warranties herein ceases to be accurate and complete.

THIS LETTER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS.

Dated:

(Name of Purchaser)

By:

Name:
Title:
Address:

EXHIBIT 4.2

==========

$1,000,000,000

5 3/4% CONVERTIBLE SUBORDINATED NOTES DUE 2008

REGISTRATION RIGHTS AGREEMENT

Dated as of May 31, 2001

by and between

EchoStar Communications Corporation

and

UBS WARBURG LLC

==========

This Registration Rights Agreement (this "AGREEMENT") is made and entered into as of May 31, 2001 by and between EchoStar Communications Corporation, a Nevada corporation (the "COMPANY"), and UBS Warburg LLC (the "INITIAL PURCHASER"). The Company proposes to issue and sell to the Initial Purchaser (the "INITIAL PLACEMENT") $1,000,000,000 in aggregate principal amount of its 5 3/4% Convertible Subordinated Notes due 2008 (the "FIRM NOTES"). The Company also proposes to issue and sell to the Initial Purchaser not more than $150,000,000 principal amount of its 5 3/4% Convertible Subordinated Notes due 2008 (the "ADDITIONAL NOTES" and, together with the Firm Notes, the "NOTES"). As an inducement to the Initial Purchaser to enter into the purchase agreement, dated as of May 24, 2001 (the "PURCHASE AGREEMENT"), and in satisfaction of a condition to the Initial Purchaser's obligations thereunder, the Company agrees with the Initial Purchaser (i) for the benefit of the Initial Purchaser and (ii) for the benefit of the holders from time to time of the Notes whose names appear in the register maintained by the Registrar in accordance with the provisions of the Indenture (as defined in Section 1 hereof) (including the Initial Purchaser), as follows:

SECTION 1. DEFINITIONS

Capitalized terms used herein without definition shall have their respective meanings set forth in the Purchase Agreement. As used in this Agreement, the following capitalized defined terms shall have the following meanings:

"ACT" means the Securities Act of 1933, as amended, and the rules and regulations of the Commission promulgated thereunder.

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

"AGREEMENT" means this Registration Rights Agreement.

"CLOSING DATE" has the meaning set forth in the Purchase Agreement.

"COMMISSION" means the Securities and Exchange Commission.

"COMMON STOCK" means the Class A Common Stock of the Company, par value $0.01 per share, issuable upon the conversion of the Notes.

"COMPANY" means EchoStar Communications Corporation.

"EXCHANGE ACT" means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission promulgated thereunder.

"FILING DELAY PERIOD" means the period commencing on the date of receipt by a Holder of Transfer Restricted Securities of any notice from the Company of the existence of any fact or

event of the kind described in Section 4(b)(2)(v) and ending on the date that is not more than sixty (60) days after such notice is received.

"HOLDER" has the meaning set forth in Section 2 hereof.

"INDENTURE" means the Indenture, dated as of May 31, 2001, between the Company and the Trustee, relating to the Notes, as the same may be amended from time to time in accordance with the terms thereof.

"INITIAL PLACEMENT" has the meaning set forth in the preamble hereto.

"INITIAL PURCHASER" means UBS Warburg LLC.

"LOSSES" has the meaning set forth in Section 7(d) hereof.

"MAJORITY HOLDERS" means the Holders of a majority of the aggregate principal amount of securities registered under a Shelf Registration Statement.

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

"PROSPECTUS" means the prospectus included in any Shelf Registration Statement (including, without limitation, a prospectus that discloses information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A under the Act), as amended or supplemented by any prospectus supplement, with respect to the terms of the offering of any portion of Transfer Restricted Securities covered by such Shelf Registration Statement, and all amendments and supplements to the Prospectus, including post-effective amendments.

"SHELF REGISTRATION" means a registration effected pursuant to Section 3 hereof.

"SHELF REGISTRATION PERIOD" has the meaning set forth in Section 3 hereof.

"SHELF REGISTRATION STATEMENT" means a "shelf" registration statement of the Company pursuant to the provisions of Section 3 hereof that covers some or all of the Transfer Restricted Securities as applicable, on an appropriate form under Rule 415 under the Act, or any similar rule that may be adopted by the Commission, amendments and supplements to such registration statement, including post-effective amendments, and in each case, including the Prospectus contained therein, all exhibits thereto and all material incorporated by reference therein.

"SUPPLEMENT DELAY PERIOD" means any period commencing on the date of receipt by a Holder of Transfer Restricted Securities of any notice from the Company of the existence of any fact or event of the kind described in Section 4(b)(2) hereof and ending on the date of receipt by such Holder of an amended or supplemented Shelf Registration Statement or Prospectus, as contemplated by Section 4(h) hereof, or the receipt by such Holder of written notice from the Company (the "ADVICE") that the use of the Prospectus may be resumed, and the receipt of copies of any additional or supplemental filings that are incorporated by reference in the Prospectus.

"TRANSFER RESTRICTED SECURITIES" means each Note and the Common Stock issuable upon conversion thereof until (i) the date on which such Note or the Common Stock issuable upon conversion thereof has been effectively registered under the Act and disposed of in accordance with the Shelf Registration Statement, (ii) the date on which such Note or Common Stock issuable upon conversion thereof is distributed to the public pursuant to Rule 144 under the Act (or any similar provision then in effect) or is saleable pursuant to Rule 144(k) under the Act or (iii) the date on which such Note or the Common Stock issuable upon the conversion thereof otherwise ceases to be outstanding.

"TRUSTEE" means the trustee with respect to the Notes under the Indenture.

"UNDERWRITER" means any underwriter of Notes in connection with an offering thereof under a Shelf Registration Statement.

SECTION 2. HOLDERS

A person is deemed to be a holder of Transfer Restricted Securities (each, a "HOLDER") whenever such person becomes the registered holder of such Transfer Restricted Securities under the Indenture and includes broker-dealers that hold Transfer Restricted Securities (i) as a result of market making activities and other trading activities and (ii) which were acquired directly from the Company or an Affiliate of the Company.

SECTION 3. SHELF REGISTRATION

The Company shall within 90 days (plus up to an additional 60 days allowed as a result of a Filing Delay Period) of the date of original issuance of the Notes, file with the Commission and thereafter shall use its reasonable best efforts to cause to be declared effective under the Act on or prior to 270 days (plus any additional days allowed as a result of a Supplement Delay Period) after the date of original issuance of the Notes, a Shelf Registration Statement relating to the offer and sale of the Transfer Restricted Securities by the Holders from time to time in accordance with the methods of distribution elected by such Holders and set forth in such Shelf Registration Statement. Each Holder of Transfer Restricted Securities agrees to keep its receipt of a notice of the commencement of the Filing Delay Period confidential.

The Company shall use its best efforts to keep the Shelf Registration Statement continuously effective in order to permit the Prospectus forming part thereof to be usable by Holders for a period of two years from the Closing Date or such shorter period that will terminate when (i) all the Transfer Restricted Securities covered by the Shelf Registration Statement have been sold pursuant to the Shelf Registration Statement, (ii) the date on which, in the opinion of counsel to the Company, all of the Transfer Restricted Securities then held by the Holders may be sold by such Holders in the public United States securities markets in the absence of a registration statement covering such sales or (iii) the date on which there ceases to be outstanding any Transfer Restricted Securities (in any such case, such period being called the "SHELF REGISTRATION PERIOD"). The Company shall be deemed not to have used its reasonable best efforts to keep the Shelf Registration Statement effective during the requisite period if it voluntarily takes any action that would result in Holders of Transfer Restricted Securities covered thereby not being able to offer and sell such securities during that period, unless (i) such

action is required by applicable law, (ii) such action is taken by the Company in good faith and for valid business reasons (not including avoidance of the Company's obligations hereunder), including the acquisition or divestiture of assets, so long as the Company promptly thereafter complies with the requirements of Section 4(h) hereof, if applicable or (iii) such action is taken because of any fact or circumstance giving rise to a Supplement Delay Period.

SECTION 4. REGISTRATION PROCEDURES

In connection with any Shelf Registration Statement, the following provisions shall apply:

(a) The Company shall ensure that (i) any Shelf Registration Statement and any amendment thereto and any Prospectus forming part thereof and any amendment or supplement thereto complies in all material respects with the Act and the rules and regulations thereunder, (ii) any Shelf Registration Statement and any amendment thereto does not, when it becomes effective, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading and (iii) any Prospectus forming part of any Shelf Registration Statement, and any amendment or supplement to such Prospectus, does not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading.

(b) (1) The Company shall advise the Initial Purchaser and the Holders of Transfer Restricted Securities named in any Shelf Registration Statement, and, if requested by the Initial Purchaser or any such Holder, confirm such advice in writing when a Shelf Registration Statement and any amendment thereto has been filed with the Commission and when the Shelf Registration Statement or any post-effective amendment thereto has become effective.

(2) The Company shall advise the Initial Purchaser and the Holders of Transfer Restricted Securities named in any Shelf Registration Statement, which have provided in writing to the Company a telephone or facsimile number and address for notices, and, if requested by the Initial Purchaser or any such Holder, confirm such advice in writing:

(i) of any request by the Commission for amendments or supplements to the Shelf Registration Statement or the Prospectus included therein or for additional information;

(ii) of the initiation by the Commission of proceedings relating to a stop order suspending the effectiveness of the Shelf Registration Statement;

(iii) of the issuance by the Commission of any stop order suspending the effectiveness of the Shelf Registration Statement;

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

(v) of the existence of any fact and the happening of any event (including, without limitation, pending negotiations relating to, or the consummation of, a transaction or the occurrence of any event which would require additional disclosure of material non-public information by the Company in the Shelf Registration Statement as to which the Company has a bona fide business purpose for preserving confidential or which renders the Company unable to comply with Commission requirements) that, in the opinion of the Company, makes untrue any statement of a material fact made in its Shelf Registration Statement, the Prospectus or any amendment or supplement thereto or any document incorporated by reference therein or requires the making of any changes in the Shelf Registration Statement or the Prospectus so that, as of such date, the statements therein are not misleading and do not omit to state a material fact required to be stated therein or necessary to make the statements therein (in the case of the Prospectus, in light of the circumstances under which they were made) not misleading, provided, that the foregoing obligation shall only arise if the Company has been notified by the Trustee or Transfer Agent that the Shelf Registration Statement is being used to effect transfers of Transfer Restricted Securities as provided by Section 4(o) below.

Such advice may be accompanied by an instruction to suspend the use of the Prospectus until the requisite changes have been made.

(c) The Company shall use its best efforts to obtain the withdrawal of any order suspending the effectiveness of any Shelf Registration Statement at the earliest possible time.

(d) The Company shall use its best efforts to furnish to each selling Holder named in any Shelf Registration Statement who so requests in writing and who has provided to the Company an address for notices, without charge, at least one conformed copy of such Shelf Registration Statement and any post-effective amendment thereto, including financial statements and, if the Holder so requests in writing, all exhibits and schedules (including those incorporated by reference).

(e) The Company shall, during the Shelf Registration Period, deliver to each Holder of Transfer Restricted Securities named in any Shelf Registration Statement and who has provided to the Company an address for notices, without charge, as many copies of the Prospectus (including each preliminary Prospectus) contained in such Shelf Registration Statement and any amendment or supplement thereto as such Holder may reasonably request; subject to any notice by the Company in accordance with Section 5(b) hereof, the Company consents to the use of the Prospectus or any amendment or supplement thereto by each of the selling Holders for the purposes of offering and resale of the Transfer Restricted Securities covered by the Prospectus in accordance with the applicable regulations promulgated under the Act.

(f) Prior to any offering of Transfer Restricted Securities pursuant to any Shelf Registration Statement, the Company shall register or qualify or cooperate with the Holders of Transfer Restricted Securities named therein and their respective counsel in connection with the registration or qualification of such Transfer Restricted Securities for offer and sale under the securities or blue sky laws of such jurisdictions of the United States as any such Holders reasonably request in writing not later than the date that is five business days prior to the date

upon which this Agreement specifies that the Shelf Registration Statement shall become effective; provided, however, that the Company will not be required to qualify generally to do business in any jurisdiction where it is not then so qualified or to take any action which would subject it to general or unlimited service of process or to taxation in any such jurisdiction where it is not then so subject.

(g) The Company shall cooperate with the Holders of Transfer Restricted Securities to facilitate the timely preparation and delivery of certificates representing Transfer Restricted Securities to be sold pursuant to any Shelf Registration Statement free of any restrictive legends and in such denominations and registered in such names as Holders may request in writing at least two business days prior to sales of securities pursuant to such Shelf Registration Statement.

(h) Upon the occurrence of any event contemplated by paragraph (b)(2)(v) of this Section 4, the Company shall promptly prepare a post-effective amendment to any Shelf Registration Statement or an amendment or supplement to the related Prospectus or file any other required document so that as thereafter delivered to purchasers of the Transfer Restricted Securities covered thereby, the Prospectus will not include an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that in the event of a material business transaction (including, without limitation, pending negotiations relating to such a transaction) which would, in the opinion of counsel to the Company, require disclosure by the Company in the Shelf Registration Statement of material non-public information for which the Company has a bona fide business purpose for not disclosing, then for so long as such circumstances exist, the Company shall not be required to prepare and file a supplement or post-effective amendment hereunder.

(i) Not later than the effective date of any such Shelf Registration Statement hereunder, the Company shall cause to be provided a CUSIP number for the Notes registered under such Shelf Registration Statement, and provide the applicable trustee with certificates for such Notes in a form eligible for deposit with The Depository Trust Company.

(j) The Company shall make generally available to its security holders in a regular filing on Form 10-Q or 10-K, an earnings statement satisfying the provisions of Rule 158 (which need not be audited) for the twelve-month period commencing after effectiveness of the Shelf Registration Statement, provided that the Company shall be allowed to fulfill its obligations pursuant to this Section 4(j) by publicly filing such reports on the Commission's EDGAR database.

(k) The Company may require each Holder of Transfer Restricted Securities, which are to be sold pursuant to any Shelf Registration Statement, to furnish to the Company within 20 business days after written request for such information has been made by the Company, such information regarding the Holder and the distribution of such securities as the Company may from time to time reasonably require for inclusion in such Shelf Registration Statement and such other information as may be necessary or advisable in the reasonable opinion of the Company and its counsel in connection with such Shelf Registration Statement. No Holder of Transfer Restricted Securities shall be entitled to be named as a selling Holder in the Shelf Registration Statement as of the effective time of such Shelf Registration Statement (or in the first prospectus

supplement filed thereafter in the case of an expedited filing that the Company expects to file and obtain effectiveness within 30 days of this Agreement), and no holder of Transfer Restricted Securities shall be entitled to use the Prospectus forming a part thereof for offers and resales of Transfer Restricted Securities at any time, unless such Holder has returned a completed and signed notice and questionnaire to the Company by the deadline for response set forth therein. The Company shall not be required to take any action to name such Holder as a selling Holder in the Shelf Registration Statement until such Holder has returned a completed and signed notice and questionnaire to the Company. Following its receipt of such notice and questionnaire, the Company will, as promptly as possible, but not prior to the next required amendment or supplement to the Shelf Registration Statement, include the Transfer Restricted Securities covered thereby in the Shelf Registration Statement (if not previously included). No Holder of Transfer Restricted Securities shall be entitled to the benefit of any Special Interest (as set forth in the Notes) under the Indenture and the Notes or be entitled to use the Prospectus unless and until such Holder has furnished the information required by this Section 4(k) and all such information required to be disclosed in order to make the information previously furnished to the Company by such Holder not materially misleading.

(l) The Company shall, if requested, promptly incorporate in a Prospectus supplement or post-effective amendment to a Shelf Registration Statement, such information as the Majority Holders reasonably agree should be included therein in order to effect their distribution of the Notes and shall make all required filings of such Prospectus supplement or post-effective amendment as soon as notified of the matters to be incorporated in such Prospectus supplement or post-effective amendment; provided, however, that the Company shall not be required to take any action pursuant to this Section 4(l) that would, in the opinion of counsel for the Company, violate applicable law or to include information the disclosure of which at the time would have an adverse effect on the business or operations of the Company and/or its subsidiaries, as determined in good faith by the Company.

(m) The Company shall enter into such agreements and take all other reasonably appropriate actions in order to expedite or facilitate the registration or the disposition of the Transfer Restricted Securities, and in connection therewith, if an underwriting agreement is entered into, cause the same to contain indemnification and contribution provisions and procedures no less favorable than those set forth in Section 7 (or such other provisions and procedures acceptable to the Majority Holders), with respect to all parties to be indemnified pursuant to Section 7 from Holders of Notes to the Company.

(n) The Company shall upon receipt of a reasonable request in writing therefor:

(i) make reasonably available at reasonable times prior to the effectiveness of the related Shelf Registration Statement for inspection by representatives of the Holders of Transfer Restricted Securities to be registered thereunder and any attorney, accountant or other agent retained by the Holders, at the office where normally kept during normal business hours, all financial and other records, pertinent corporate documents and properties of the Company and its subsidiaries, and cause the Company's officers, directors and employees to supply all relevant information reasonably requested by the Holders' attorneys, accountants or other agents in connection with any such Shelf Registration Statement as is customary for similar due diligence examinations; provided,

however, that the foregoing inspection and information gathering shall be coordinated by one counsel designated by the Holders and that such persons shall first agree in writing with the Company that any information that is designated in writing by the Company, in good faith, as confidential at the time of delivery of such information shall be kept confidential by such person, unless such disclosure is made in connection with a court proceeding or required by law, or such information becomes available to the public generally or through a third party without an accompanying obligation of confidentiality;

(ii) obtain opinions of counsel to the Company and updates thereof (which counsel and opinions (in form, scope and substance) shall be reasonably satisfactory to the Majority Holders), addressed to each selling Holder covering such matters (in form, scope and substance) as those matters set forth in Section 9(e)(i), (x), (xi) and (xii) of the Purchase Agreement;

(iii) obtain "cold comfort" letters (or, in the case of any person that does not satisfy the conditions for receipt of a "cold comfort" letter specified in Statement on Auditing Standards No. 72, an "agreed-upon procedures letter") and updates thereof from the independent certified public accountants of the Company (and, if necessary, any other independent certified public accountants of any subsidiary of the Company or of any business acquired by the Company for which financial statements and financial data are, or are required to be, included in the Shelf Registration Statement), addressed where reasonably practicable to each selling Holder of Transfer Restricted Securities registered thereunder and the underwriters, if any, in customary form and covering matters of the type customarily covered in "cold comfort" letters in connection with primary underwritten offerings; and

(iv) deliver such documents and certificates as may be reasonably requested by the Majority Holders, including those to evidence compliance with Section 4(h).

The foregoing actions set forth in clauses (ii), (iii) and (iv) of this Section 4(n) shall, if reasonably requested by the Majority Holders, be performed upon the effectiveness of such Shelf Registration Statement and the effectiveness of each post-effective amendment thereto.

(v) The Company may offer securities of the Company other than the Notes under the Shelf Registration Statement, except where such offer would conflict with the terms of the Purchase Agreement.

(o) The Company shall provide instructions to the Trustee or Transfer Agent, as applicable, to notify the Company of any requested transfer of Transfer Restricted Securities using the Shelf Registration Statement and to only effect such transfer upon confirmation from the Company or its counsel that the Shelf Registration Statement conforms to the requirements of Section 4(a) above.

SECTION 5. HOLDERS' AGREEMENTS

Each Holder of Transfer Restricted Securities, severally but not jointly, by the acquisition of such Transfer Restricted Securities, agrees:

(a) To furnish the information required to be furnished pursuant to Section 4(k) hereof within the time period set forth therein.

(b) That upon receipt of a notice of the commencement of a Filing Delay Period, it will keep to fact of such notice confidential.

(c) That upon receipt of a notice of the commencement of a Supplement Delay Period, it will keep the fact of such notice confidential, forthwith discontinue disposition of its Transfer Restricted Securities pursuant to the Shelf Registration Statement, and will not deliver any Prospectus forming a part thereof until receipt of the amended or supplemented Shelf Registration Statement or Prospectus, as applicable, as contemplated by Section 4(h) hereof, or until receipt of the Advice. If a Supplement Delay Period occurs, the Shelf Registration Period shall be extended by the number of days which the Supplement Delay Period comprises; provided that the Shelf Registration Period shall not be extended if the Company has received an opinion of counsel (which counsel, if different from counsel to the Company referred to in Section 9(e) of the Purchase Agreement, shall be reasonably satisfactory to the Majority Holders of the Transfer Restricted Securities named in the Shelf Registration Period and which opinion shall be in writing if the Majority Holders so request) to the effect that the Transfer Restricted Securities can be freely tradeable without the continued effectiveness of the Shelf Registration Statement.

(d) If so directed by the Company in a notice of the commencement of a Supplement Delay Period, each Holder of Transfer Restricted Securities will deliver to the Company (at the Company's expense) all copies, other than permanent file copies then in such Holder's possession, of the Prospectus covering the Transfer Restricted Securities.

(e) Sales of such Transfer Restricted Securities pursuant to a Shelf Registration Statement shall only be made in the manner set forth in such currently effective Shelf Registration Statement.

SECTION 6. REGISTRATION EXPENSES

The Company shall bear all expenses incurred in connection with the performance of its obligations under Sections 3 and 4 hereof and will reimburse the Holders for the reasonable fees and disbursements of one firm or counsel designated by the Majority Holders to act as counsel for the Holders in connection with any Shelf Registration Statement. Notwithstanding the foregoing or anything in this Agreement to the contrary, each Holder shall pay all underwriting discounts and commission of any underwriters with respect to any Transfer Restricted Securities sold by it.

SECTION 7. INDEMNIFICATION AND CONTRIBUTION

(a) In connection with any Shelf Registration Statement and to the extent permitted by law, the Company agrees to indemnify and hold harmless each Holder of Transfer Restricted Securities covered thereby (including each Initial Purchaser), the directors, officers, employees, partners, representatives and agents of each such Holder and each person who controls any such Holder within the meaning of either Section 15 of the Act or Section 20 of the Exchange Act against any and all losses, claims, damages or liabilities, joint or several, to which they or any of

them may become subject under the Act, the Exchange Act or other federal or state statutory law or regulation, at common law or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of, or are based upon, any untrue statement or alleged untrue statement of a material fact contained in the Shelf Registration Statement as originally filed or in any amendment thereof, or in any preliminary Prospectus or Prospectus, or in any amendment thereof or supplement thereto, or arise out of, or are based upon, the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and to reimburse each such indemnified party, as incurred, for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that (i) the Company will not be liable in any case to the extent that any such loss, claim, damage or liability arises out of, or is based upon, any such untrue statement or alleged untrue statement or omission or alleged omission made therein in reliance upon and in conformity with written information furnished to the Company by or on behalf of any such Holder specifically for inclusion therein and (ii) the Company will not be liable to any indemnified party under this indemnity agreement with respect to the Shelf Registration Statement or Prospectus to the extent that any such loss, claim, damage or liability of such indemnified party results solely from an untrue statement of a material fact contained in, or the omission of a material fact from, the Shelf Registration Statement or Prospectus, which untrue statement or omission was corrected in an amended or supplemented Shelf Registration Statement or Prospectus, if the person alleging such loss, claim, damage or liability was not sent or given, at or prior to the written confirmation of such sale, a copy of the amended or supplemented Shelf Registration Statement or Prospectus if the Company had previously furnished copies thereof to such indemnified party and if delivery of a prospectus is required by the Act and was not so made. This indemnity agreement will be in addition to any liability which the Company may otherwise have.

(b) Each Holder of Transfer Restricted Securities covered by a Shelf Registration Statement (including each Initial Purchaser) severally agrees to indemnify and hold harmless (i) the Company, (ii) each of its directors, (iii) each of its officers who signs such Shelf Registration Statement and (iv) each person who controls the Company within the meaning of Section 15 of the Act or Section 20 of the Exchange Act to the same extent as the foregoing indemnity from the Company to each such Holder, but only with reference to written information relating to such Holder furnished to the Company by or on behalf of such Holder specifically for inclusion in the documents referred to in the foregoing indemnity. This indemnity agreement will be in addition to any liability which any such Holder may otherwise have. In no event shall any Holder, its directors, officers or any person who controls such Holder be liable or responsible for any amount in excess of the amount by which the total amount received by such Holder with respect to its sale of Transfer Restricted Securities pursuant to a Shelf Registration Statement exceeds (i) the amount paid by such Holder for such Transfer Restricted Securities and (ii) the amount of any damages that such Holder, its directors, officers or any person who controls such Holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission.

(c) Promptly after receipt by an indemnified party under this Section 7 of notice of the commencement of any action, the indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under this Section 7, notify the indemnifying party in writing of the commencement thereof; but the failure to so notify the indemnifying party (i) will

not relieve it from liability under paragraph (a) or (b) above unless and to the extent it did not otherwise learn of such action and such failure results in the forfeiture by the indemnifying party of substantial rights and defenses and (ii) will not, in any event, relieve the indemnifying party from any obligations to any indemnified party other than the indemnification obligation provided in paragraph (a) or (b) above. The indemnifying party shall be entitled to assume the defense of any such claim and to appoint counsel of the indemnifying party's choice at the indemnifying party's expense to represent the indemnified party in any action for which indemnification is sought (in which case the indemnifying party shall not thereafter be responsible for the fees and expenses of any separate counsel retained by the indemnified party or parties except as set forth below); provided, however, that such counsel shall be reasonably satisfactory to the indemnified party. Notwithstanding the indemnifying party's election to appoint counsel to represent the indemnified party in an action, the indemnified party shall have the right to employ separate counsel (including local counsel), and the indemnifying party shall bear the reasonable fees, costs and expenses of such separate counsel (and local counsel) if (i) the use of counsel chosen by the indemnifying party to represent the indemnified party would present such counsel with a conflict of interest, (ii) the actual or potential defendants in, or targets of, any such action include both the indemnified party and the indemnifying party, and the indemnified party reasonably concluded that there may be legal defenses available to it and/or other indemnified parties that are different from or additional to those available to the indemnifying party, (iii) the indemnifying party did not employ counsel satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of the institution of such action or (iv) the indemnifying party authorized the indemnified party to employ separate counsel at the expense of the indemnifying party. The indemnifying party shall indemnify and hold harmless the indemnified party from and against all losses, claims, damages and liabilities by reason of any settlement of any action (i) effected with its written consent or (ii) effected without its written consent if the settlement is entered into more than twenty business days after the indemnifying party has received a request from the indemnified party for reimbursement for the fees and expenses of counsel (in any case where such fees and expenses are at the expense of the indemnifying party) and, prior to the date of such settlement, the indemnifying party has failed to comply with such reimbursement request. Notwithstanding the immediately preceding sentence, if at any time an indemnified party has requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel, an indemnifying party shall not be liable for any settlement of the nature contemplated by the immediately preceding sentence effected without its consent if such indemnifying party (i) reimburses such indemnified party in accordance with such request to the extent that it considers such request to be reasonable and (ii) provides written notice to the indemnified party substantiating the unpaid balance as unreasonable, in each case, prior to the date of settlement. An indemnifying party shall not, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding for which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim or action), unless such settlement, compromise or consent includes an unconditional release of each indemnified party from all liability arising out of such claim, action, suit or proceeding and does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of the indemnified party.

(d) In the event that the indemnity provided in paragraph (a) or (b) of this Section 7 is unavailable or insufficient to hold harmless an indemnified party for any reason, then each applicable indemnifying party, in lieu of indemnifying such indemnified party, shall to the extent permitted by law have a joint and several obligation to contribute to the aggregate losses, claims, damages and liabilities (including legal or other expenses reasonably incurred in connection with investigating or defending same) (collectively "LOSSES") to which such indemnified party may be subject in such proportion as is appropriate to reflect the relative benefits received by such indemnifying party, on the one hand, and such indemnified party, on the other hand, from the Initial Placement and the Shelf Registration Statement that resulted in such Losses; provided, however, that in no case shall any Initial Purchaser be responsible, in the aggregate, for any amount in excess of the purchase discount or commission applicable to such Note, as set forth in Section 2(a) of the Purchase Agreement. If the allocation provided by the immediately preceding sentence is unavailable for any reason, the indemnifying party and the indemnified party shall contribute in such proportion as is appropriate to reflect not only such relative benefits, but also the relative fault of such indemnifying party, on the one hand, and such indemnified party, on the other hand, in connection with the statements or omissions which resulted in such Losses, as well as any other relevant equitable considerations. Benefits received by the Company shall be deemed to be equal to the sum of (x) the total net proceeds from the Initial Placement (in each case, before deducting expenses) as set forth in Section 2 of the Purchase Agreement and (y) the total amount of additional interest that the Company was not required to pay as a result of registering the securities covered by the Shelf Registration Statement that resulted in such Losses. Benefits received by the Initial Purchaser shall be deemed to be equal to the total purchase discounts and commissions as set forth in Section 2 of the Purchase Agreement, and benefits received by any other Holders shall be deemed to be equal to the value of the Transfer Restricted Securities sold by such Holders under the Shelf Registration Statement. Relative fault shall be determined by reference to whether any alleged untrue statement or omission relates to information provided by the indemnifying party, on the one hand, or by the indemnified party, on the other hand. The parties agree that it would not be just and equitable if contribution were determined by pro rata allocation or any other method of allocation that does not take account of the equitable considerations referred to above. Notwithstanding the provisions of this paragraph (d), no person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 7, each person who controls a Holder within the meaning of either the Act or the Exchange Act and each director, officer, employee and agent of such Holder shall have the same rights to contribution as such Holder, and each person who controls the Company within the meaning of either the Act or the Exchange Act, each officer of the Company who has signed the Shelf Registration Statement and each director of the Company shall have the same rights to contribution as the Company, subject in each case to the applicable terms and conditions of this paragraph (d).

(e) The provisions of this Section 7 shall remain in full force and effect, regardless of any investigation made by or on behalf of any Holder or the Company or any of the officers, directors or controlling persons referred to in Section 7 hereof, and will survive the sale by a Holder of Transfer Restricted Securities.

SECTION 8. RULE 144A AND RULE 144

The Company agrees with each Holder, for so long as any Transfer Restricted Securities remain outstanding and during any period in which the Company (i) is not subject to Section 13 or 15(d) of the Exchange Act, to make available, upon request of any Holder, to such Holder or beneficial owner of Transfer Restricted Securities in connection with any sale thereof and any prospective purchaser of such Transfer Restricted Securities designated by such Holder or beneficial owner, the information required by Rule 144A(d)(4) under the Act in order to permit resales of such Transfer Restricted Securities pursuant to Rule 144A, and (ii) is subject to Section 13 or 15 (d) of the Exchange Act, to make all filings required thereby in a timely manner in order to permit resales of such Transfer Restricted Securities pursuant to Rule 144.

SECTION 9. MISCELLANEOUS

(a) No Inconsistent Agreements. The Company has not, as of the date hereof, entered into, nor shall it, on or after the date hereof, enter into, any agreement with respect to its securities that is inconsistent with the rights granted to the Holders herein or otherwise conflicts with the provisions hereof.

(b) Amendments and Waivers. The provisions of this Agreement, including the provisions of this sentence, may not be amended, qualified, modified or supplemented, and waivers or consents to departures from the provisions hereof may not be given, unless the Company has obtained the written consent of the Holders of at least a majority of the then outstanding aggregate principal amount of Notes; provided, however, that with respect to any matter that directly or indirectly affects the rights of any Initial Purchaser hereunder, the Company shall obtain the written consent of each such Initial Purchaser against which such amendment, qualification, supplement, waiver or consent is to be effective. Notwithstanding the foregoing (except the foregoing proviso), a waiver or consent to depart from the provisions hereof, with respect to a matter, which relates exclusively to the rights of Holders whose securities are being sold pursuant to a Shelf Registration Statement and does not directly or indirectly affect the rights of other Holders, may be given by the Majority Holders, determined on the basis of Notes being sold rather than registered under such Shelf Registration Statement.

(c) Notices. All notices and other communications provided for or permitted hereunder shall be made in writing by hand-delivery, first-class mail, telex, telecopier, or air courier guaranteeing overnight delivery:

(i) if to a Holder, at the most current address given by such holder to the Company in accordance with the provisions of this Section 9(c), which address initially is, with respect to each Holder, the address of such Holder maintained by the registrar under the Indenture;

(ii) with a copy in like manner to the Initial Purchaser;

(iii) if to the Initial Purchaser, initially at the respective addresses set forth in the Purchase Agreement; and

(iv) if to the Company, initially at its address set forth in the Purchase Agreement.

All such notices and communications shall be deemed to have been duly given when received.

Upon the date of filing of a Shelf Registration Statement notice shall be delivered to the Initial Purchaser and shall be addressed to: Attention: Steve Ketchum, 299 Park Avenue, New York New York 10171 (in the form attached hereto as Exhibit A).

The Initial Purchaser or the Company by notice to the other may designate additional or different addresses for subsequent notices or communications.

(d) Successors and Assigns. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of each of the parties hereto, including, without the need for an express assignment or any consent by the Company thereto, subsequent Holders of Notes. The Company hereby agrees to extend the benefits of this Agreement to any Holder of Notes and any such Holder may specifically enforce the provisions of this Agreement as if an original party hereto.

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

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

(g) Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York applicable to agreements made and to be performed in said State (without reference to the conflict of law rules thereof).

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

(i) Notes Held by the Company, etc. Whenever the consent or approval of Holders of a specified percentage of principal amount of Notes is required hereunder, Notes held by the Company or its Affiliates (other than subsequent Holders of Notes if such subsequent Holders are deemed to be Affiliates solely by reason of their holdings of such Notes) shall not be counted in determining whether such consent or approval was given by the Holders of such required percentage.

(j) Entire Agreement. This Agreement is intended by the parties as a final expression of their agreement and intended to be a complete and exclusive statement of the agreement and

understanding of the parties hereto with respect to the subject matter contained herein. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein with respect to the registration rights granted with respect to the Transfer Restricted Securities. This Agreement supersedes all prior agreements and understandings between the parties with respect to such subject matter.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

ECHOSTAR COMMUNICATIONS CORPORATION

By: /s/ DAVID K. MOSKOWITZ, ESQ.

Name: David K. Moskowitz, Esq.
Title: Senior Vice President and General Counsel

UBS WARBURG LLC

By: /s/ STEPHEN J. KETCHUM

Name: Stephen J. Ketchum
Title: Managing Director

EXHIBIT A

NOTICE OF FILING OF
SHELF REGISTRATION STATEMENT

To: UBS Warburg LLC
299 Park Avenue
New York, New York 10171
Attention:
Fax:

From: EchoStar Communications Corporation
5 3/4% Convertible Subordinated Notes due 2008

Date: ___, 200_

For your information only (NO ACTION REQUIRED):

Today, _____, ____, we filed a Shelf Registration Statement with the Securities and Exchange Commission.

EXHIBIT 10.1

MODIFICATION NO. 1

TO THE CONTRACT BETWEEN

ECHOSTAR ORBITAL CORPORATION

AND

LOCKHEED MARTIN CORPORATION

This Modification is effective the 25th day of February 2000.

WITNESS THAT:

WHEREAS, EchoStar Orbital Corporation ("Buyer") and Lockheed Martin Corporation ("Contractor"), mutually agree to modify the subject Contract to:

- Revise ARTICLE 2 "EQUIPMENT AND SERVICES TO BE FURNISHED AND PRICES THEREFOR" to remove TBDs.

- Modify Exhibit B to EchoStar VII Spacecraft Performance Specification Doc#8575921 Rev. A in order to remove TBDs.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, Buyer and Contractor agree to modify the Contract as follows:

1) ARTICLE 2. EQUIPMENT AND SERVICES TO BE FURNISHED AND PRICES THEREFOR

Paragraph D. Option for additional CONUS Transmit Reflector and Feed System for Spot Beams for less than or equal to ten (10) degrees from 119 degrees W.L., delete the text of paragraph D in its entirety and replace it with:

D. Option for additional CONUS Transmit Reflector and Feed System for Spot Beams for less than or equal to ten (10) degrees from 119 degrees W. L. Buyer may exercise this option by providing Contractor authorization to proceed, at a specific orbital location, no later than forty (40) days after EDC. Additionally, Buyer shall have the option, exercisable in its discretion by providing written notice to Contractor, at any time until ten (10) months after EDC (or later if Buyer and Contractor mutually agree to an equitable adjustment, or to the deletion of testing as necessary in order to maintain schedule), to direct Contractor to commence integration and test of either the baseline antenna set or this Optional CONUS Transmit Reflector and Feed System for Spot Beams for installation on the Spacecraft, without affecting schedule. In the event Buyer desires to exercise this Option subsequent to the date(s) specified above, but prior to twenty-three (23) months following EDC, then the price for the Option and the Delivery schedule shall be subject to equitable adjustments. The Contractor shall use reasonable care to mitigate any impacts to the price and/or delivery schedule.

If Buyer exercises this option, Contractor shall commence phases [CONFIDENTIAL INFORMATION OMITTED] below only following receipt of written notice from Buyer; such notice shall be provided at least thirty (30) days prior to the date shown in the schedule below for commencement of the relevant phase as adjusted for any delays, directing Contractor to commence that phase (Buyer recognizes that if it fails to provide written notice at least thirty (30) days prior to the date shown in the schedule below for commencement of any such phase, but subsequently elects to continue the extra antenna procurement effort, Contractor shall be entitled to an equitable adjustment). Buyer shall make payment to Contractor in the amounts set forth below within thirty (30) days after the option turn on and the commencement of each phase thereafter; provided that Contractor submits an invoice to Buyer no later than thirty (30) days prior to the applicable payment due date; provided further that if Contractor fails to timely submit an invoice to Buyer, then the applicable payment shall be due thirty (30) days after Buyer receives the relevant invoice. If Buyer does not direct that the procurement effort continue to the next phase, no further payments shall be due and Contractor shall not be obligated to continue with the work in this Option.

Upon request, Contractor will provide Buyer with a schedule of work to be completed within the two month period following option turn on. Within forty five (45) days prior to the commencement date of each phase thereafter as adjusted for any delays, Contractor will provide Buyer with a schedule of work to be completed during that phase.

PHASE NO.	PHASE	AMOUNT AUTHORIZED	COMMENCEMENT DATE OF EACH PHASE (MONTHS AFTER TURN ON)

[CONFIDENTIAL INFORMATION OMITTED]

Paragraph E. Option for additional CONUS Transmit Reflector, Receive reflector and Feed System for Spot Beams for more than ten (10) degrees from 119 degrees W.L., delete the text of paragraph in its entirety and replace with:

E. Option for additional CONUS Transmit Reflector, Receive reflector and Feed System for Spot Beams for more than ten (10) degrees from 119 degrees W.L. Buyer may exercise this option by providing Contractor authorization to proceed, at a specific orbital location, no later than forty (40) days after EDC. Additionally, Buyer shall have the option, exercisable in its discretion by providing written notice to Contractor, at any time until ten (10) months after EDC (or later if Buyer and Contractor mutually agree to an equitable adjustment, or to the deletion of testing as necessary in order to maintain schedule), to direct Contractor to commence integration and test of either the baseline antenna set or this Optional CONUS Transmit Reflector, Receive reflector and Feed System for Spot Beams for installation on the Spacecraft, without affecting schedule. In the event Buyer desires to exercise this Option subsequent to the date(s) specified above, but prior to twenty-three (23) months following EDC, then the price for the Option and the Delivery schedule shall be subject to equitable adjustment. The Contractor shall use reasonable care to mitigate any impacts to the price and/or delivery schedule.

If Buyer exercises this option, Contractor shall commence phases [CONFIDENTIAL INFORMATION OMITTED] below only following receipt of written notice from Buyer; such notice shall be provided at least thirty (30) days prior to the date shown in the schedule below for commencement of the relevant phase as adjusted for any delays, directing Contractor to commence that phase (Buyer recognizes that if it fails to provide written notice at least thirty (30) days prior to the date shown in the schedule below for commencement of any such phase, but subsequently elects to continue the extra antenna procurement effort, Contractor shall be entitled to an equitable adjustment). Buyer shall make payment to Contractor in the amounts set forth below within thirty (30) days after the option turn on and the commencement of each phase thereafter; provided that Contractor submits an invoice to Buyer no later than thirty (30) days prior to the applicable payment due date; provided further that if Contractor fails to timely submit an invoice to Buyer, then the applicable payment shall be due thirty (30) days after Buyer receives the relevant invoice. If Buyer does not direct that the procurement effort continue to the next phase, no further payments shall be due and Contractor shall not be obligated to continue with the work in this Option.

Upon request, Contractor will provide Buyer with a schedule of work to be completed within the two month period following option turn on. Within forty five (45) days prior to the commencement date of each phase thereafter as adjusted for any delays, Contractor will provide Buyer with a schedule of work to be completed during that phase.

PHASE NO.	PHASE	AMOUNT AUTHORIZED	COMMENCEMENT DATE OF EACH PHASE (MONTHS AFTER TURN ON)

[CONFIDENTIAL INFORMATION OMITTED]

2) EXHIBIT B EchoStar VII Spacecraft Performance Specification Doc#8575921

Delete EXHIBIT B EchoStar VII Spacecraft Performance Specification Doc#8575921 in its entirety and replace with Echostar VII Spacecraft Performance Specification Doc#8575921 Rev. A.

IN WITNESS WHEREOF, the parties hereto have executed this Contract Amendment.

ECHOSTAR ORBITAL CORPORATION

By:

David K. Moskowitz
Senior Vice President and
General Counsel

LOCKHEED MARTIN CORPORATION

By:

Sandra McMahan
Contracts Manager

EchoStar Communications Corporation hereby guarantees all of the obligations and duties of EchoStar Orbital Corporation under the Contract to which this guarantee is attached.

ECHOSTAR COMMUNICATIONS CORPORATION

By:

David K. Moskowitz
Senior Vice President and
General Counsel

MODIFICATION NO. 2

TO THE CONTRACT BETWEEN

ECHOSTAR ORBITAL CORPORATION

AND

LOCKHEED MARTIN CORPORATION

This Modification is effective the 28th day of February 2000.

WITNESS THAT:

WHEREAS, EchoStar Orbital Corporation ("Buyer") and Lockheed Martin Corporation ("Contractor"), mutually agree to modify the subject Contract to:

o Modify Exhibit B to EchoStar VII Spacecraft Performance Specification Doc#8575921 Rev. A, to incorporate the mutually agreed upon changes to Regional Coverage EIRP for [CONFIDENTIAL INFORMATION REDACTED] as identified in Table 4A. SPECIFIED WORST CASE EIRPS FOR CITIES (REGIONAL COVERAGE)(120 Watt Operation Mode)

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, Buyer and Contractor agree to modify the Contract as follows:

1) EXHIBIT B EchoStar VII Spacecraft Performance Specification Doc#8575921,

Delete TABLE 4A. SPECIFIED WORST CASE EIRPS FOR CITIES (REGIONAL COVERAGE) (120 Watt Operation Mode) page 27 of 67 in its entirety and replace with TABLE 4A. SPECIFIED WORST CASE EIRPS FOR CITIES (REGIONAL COVERAGE) (120 Watt Operation Mode) 8575921, Rev.A, SCN: A1 dated February 28, 2000 page 27 of 67.

IN WITNESS WHEREOF, the parties hereto have executed this Contract Amendment.

ECHOSTAR ORBITAL CORPORATION	LOCKHEED MARTIN CORPORATION
By:	By:
David K. Moskowitz	Sandra McMahan
Senior Vice President and General Counsel	Contracts Manager

EchoStar Communications Corporation hereby guarantees all of the obligations and duties of EchoStar Orbital Corporation under the Contract to which this guarantee is attached.

ECHOSTAR COMMUNICATIONS CORPORATION

By:

David K. Moskowitz
Senior Vice President and
General Counsel

MODIFICATION NO. 3

TO THE CONTRACT BETWEEN

ECHOSTAR ORBITAL CORPORATION

AND

LOCKHEED MARTIN CORPORATION

This Modification is effective the 17th day of May 2000.

WITNESS THAT:

WHEREAS, EchoStar Orbital Corporation ("Buyer") and Lockheed Martin Corporation ("Contractor"), mutually agree to modify the subject Contract to:

o Modify Exhibit B the EchoStar VII Spacecraft Performance Specification Doc#8575921 Rev. A. This modification incorporates mutually agreed upon changes as identified in the attached Change Control Board (CCB) #290, dated May 10, 2000.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, Buyer and Contractor agree to modify the Contract as follows:

1) EXHIBIT B EchoStar VII Spacecraft Performance Specification Doc#8575921,

Delete EXHIBIT B ECHOSTAR VII SPACECRAFT PERFORMANCE SPECIFICATION DOC#8575921 REV. A in its entirety and replace with EXHIBIT B ECHOSTAR VII SPACECRAFT PERFORMANCE SPECIFICATION DOC#8575921 REV. B.

IN WITNESS WHEREOF, the parties hereto have executed this Contract Amendment.

ECHOSTAR ORBITAL CORPORATION

By:

David K. Moskowitz
Senior Vice President and
General Counsel

LOCKHEED MARTIN CORPORATION

By:

Sandra McMahan
Contracts Manager

EchoStar Communications Corporation hereby guarantees all of the obligations and duties of EchoStar Orbital Corporation under the Contract to which this guarantee is attached.

ECHOSTAR COMMUNICATIONS
CORPORATION

By:

David K. Moskowitz
Senior Vice President and
General Counsel

MODIFICATION NO. 4

TO THE CONTRACT BETWEEN

ECHOSTAR ORBITAL CORPORATION

AND

LOCKHEED MARTIN CORPORATION

This Modification is effective the 18st day of August 2000.

WITNESS THAT:

WHEREAS, EchoStar Orbital Corporation ("Buyer") and Lockheed Martin Corporation ("Contractor"), mutually agree to modify the subject Contract to:

- Revise ARTICLE 4 "PAYMENT Paragraph B. SPACECRAFT PAYMENT PLAN" to move [CONFIDENTIAL INFORMATION OMITTED] milestone event within the "Milestone Payment Schedule for EchoStar VII Spacecraft."

- Revise ARTICLE 4 "PAYMENT Paragraph B. SPACECRAFT PAYMENT PLAN", to increase dollar amount for the milestone event "13 months after EDC" to include added price for the addition of a second command uplink frequency as identified in Change Control Board (CCB) #308, dated August 11, 2000.

- Modify Exhibit B the EchoStar VII Spacecraft Performance Specification Doc#8575921 Rev. B. This modification incorporates mutually agreed upon changes as identified in the attached Change Control Board (CCB) #308, dated August 11, 2000.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, Buyer and Contractor agree to modify the Contract as follows:

1) ARTICLE 4. PAYMENT

Under Paragraph B. SPACECRAFT PAYMENT PLAN and within Milestone Payment Schedule for EchoStar VII Spacecraft, delete Milestone Description [CONFIDENTIAL INFORMATION OMITTED] and replace with [CONFIDENTIAL INFORMATION OMITTED]. Additionally, delete Milestone Description [CONFIDENTIAL INFORMATION OMITTED] and replace with [CONFIDENTIAL INFORMATION OMITTED].

2) ARTICLE 4. PAYMENT

Paragraph B. SPACECRAFT PAYMENT PLAN, revise "Amount, $" for Milestone Description [CONFIDENTIAL INFORMATION OMITTED] from [CONFIDENTIAL INFORMATION OMITTED] to [CONFIDENTIAL INFORMATION OMITTED].

3) EXHIBIT B EchoStar VII Spacecraft Performance Specification Doc#8575921,

Delete EXHIBIT B ECHOSTAR VII SPACECRAFT PERFORMANCE SPECIFICATION DOC#8575921 REV. B in its entirety and replace with EXHIBIT B ECHOSTAR VII SPACECRAFT PERFORMANCE SPECIFICATION DOC#8575921 REV. C.

IN WITNESS WHEREOF, the parties hereto have executed this Contract Amendment.

ECHOSTAR ORBITAL CORPORATION

By:

David K. Moskowitz
Senior Vice President and
General Counsel

LOCKHEED MARTIN CORPORATION

By:

Sandra McMahan
Contracts Manager

EchoStar Communications Corporation hereby guarantees all of the obligations and duties of EchoStar Orbital Corporation under the Contract to which this guarantee is attached.

ECHOSTAR COMMUNICATIONS
CORPORATION

By:

David K. Moskowitz
Senior Vice President and
General Counsel

MODIFICATION NO. 5

TO THE CONTRACT BETWEEN

ECHOSTAR ORBITAL CORPORATION

AND

LOCKHEED MARTIN CORPORATION

This Modification is effective the 4th day of January 2001.

WITNESS THAT:

WHEREAS, EchoStar Orbital Corporation ("Buyer") and Lockheed Martin Corporation ("Contractor"), mutually agree to modify the subject Contract to:

- Modify Exhibit B the EchoStar VII Spacecraft Performance Specification Doc#8575921 Rev. C. This modification incorporates mutually agreed upon changes as identified in the attached Change Control Board (CCB) Items No. 334 and No. 335, dated 12/15/00.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, Buyer and Contractor agree to modify the Contract as follows:

1) EXHIBIT B EchoStar VII Spacecraft Performance Specification Doc#8575921

Delete EXHIBIT B ECHOSTAR VII SPACECRAFT PERFORMANCE SPECIFICATION DOC#8575921 REV. C in its entirety and replace with EXHIBIT B ECHOSTAR VII SPACECRAFT PERFORMANCE SPECIFICATION DOC#8575921 REV. D.

IN WITNESS WHEREOF, the parties hereto have executed this Contract Amendment.

ECHOSTAR ORBITAL CORPORATION	LOCKHEED MARTIN CORPORATION
By:	By:
David K. Moskowitz	Sandra McMahan
Senior Vice President and General Counsel	Contracts Manager

EchoStar Communications Corporation hereby guarantees all of the obligations and duties of EchoStar Orbital Corporation under the Contract to which this guarantee is attached.

ECHOSTAR COMMUNICATIONS CORPORATION

By:

David K. Moskowitz
Senior Vice President and
General Counsel

MODIFICATION NO. 6

TO THE SATELLITE CONTRACT
(ECHOSTAR VII - 119 DEGREES WEST LONGITUDE)

BETWEEN

LOCKHEED MARTIN CORPORATION

AND

ECHOSTAR ORBITAL CORPORATION

DATED JANUARY 27, 2000

This Modification is effective the 1st day of February 2001.

WITNESS THAT:

WHEREAS, EchoStar Orbital Corporation ("Buyer") desires to procure certain risk management services for the Satellite from Lockheed Martin Corporation ("Contractor");

WHEREAS, Contractor is willing to provide such risk management services for the Satellite, and

WHEREAS, Buyer and Contractor therefore mutually agree to modify the subject Contract to:

- Revise ARTICLE 2. EQUIPMENT AND SERVICES TO BE FURNISHED AND PRICES THEREFOR
- Revise ARTICLE 3. DELIVERY SCHEDULE
- Revise ARTICLE 4. PAYMENT
- Revise ARTICLE 8. TITLE AND ASSUMPTION OF RISK
- Revise ARTICLE 13. INDEMNIFICATION
- Revise ARTICLE 17. TERMINATION FOR DEFAULT
- Revise ARTICLE 32. SURVIVAL
- Revise ARTICLE 33. INSURANCE

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, Buyer and Contractor agree to modify the Contract as follows:

1. ARTICLE 2. EQUIPMENT AND SERVICES TO BE FURNISHED AND PRICES THEREFOR

a. Add a new Item 7 to Paragraph A, as follows:

Item	Quantity	Description	Total Price
7.	1 Lot	Risk Management Services	*

b. Replace existing subparagraph (ii) of Paragraph A with the following:

(ii) Does not include the price of Optional Items or Risk Management Services

c. Add the following immediately after subparagraph (ii) of Paragraph A:

[CONFIDENTIAL INFORMATION OMITTED]

d. Add a new Paragraph H, as follows:

H. Contractor shall perform the risk management services described in ARTICLE 33. INSURANCE.

2. ARTICLE 3. DELIVERY SCHEDULE

Add new Item in Paragraph B, as follows:

Item	Description	Delivery Date
7.	Risk Management Services	As provided in ARTICLE 33. INSURANCE.

3. ARTICLE 4. PAYMENT

Add a new Paragraph G, as follows:

G. Buyer shall pay the premiums for all insurance procured by Contractor under ARTICLE 33. INSURANCE to Contractor in installments [CONFIDENTIAL INFORMATION OMITTED] days prior to the relevant due date for payment of the insurers; provided that, in the event that Buyer fails to pay any amount when due to Contractor under this Paragraph G, then Buyer shall be responsible for

the payment of any corresponding late fees or penalties incurred by Contractor under the relevant insurance policy. Contractor shall use reasonable due diligence to assure an invoice is provided to Buyer on or about the same day Contractor receives the corresponding invoice from Contractor's insurance broker. Notwithstanding the above, Buyer shall make payments to Contractor at least [CONFIDENTIAL INFORMATION OMITTED] days prior to the due date of the corresponding premium payment to Contractor's broker.

4. ARTICLE 8. TITLE AND ASSUMPTION OF RISK

Replace the existing Paragraph C in its entirety with the following:

C. EXCEPT WITH RESPECT TO WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY CONTRACTOR, UPON AND AFTER LAUNCH OF THE LAUNCH VEHICLE FOR THE SPACECRAFT, Contractor's sole financial risk, and THE sole and exclusive remedies OF buyer, with respect to THE USE OR PERFORMANCE OF THE SPACECRaFT, shall be as set forth in ArticleS 1(Paragraph C), 6, 13, 14, 15, 21 and 33.

Add a new Paragraph D, as follows:

D. In the event that Contractor places (as defined in Paragraph D of ARTICLE 33. INSURANCE) insurance coverage under ARTICLE 33. INSURANCE, then notwithstanding Paragraph A (1) of this ARTICLE, risk of loss or damage to the Spacecraft shall remain with Contractor for [CONFIDENTIAL INFORMATION OMITTED] and shall pass to Buyer upon the expiration thereof.

5. ARTICLE 13. INDEMNIFICATION

Replace the existing Paragraph B in its entirety with the following:

B. Other than as provided in ARTICLES 1(Paragraph C), 6, 13, 14, 15, 21 and 33 upon and after Launch of the launch vehicle for the Spacecraft, Contractor shall not be liable to Buyer, customers of Buyer or their customers for any damages resulting from: (i) any loss or destruction of the Spacecraft; or (ii) failure of the Spacecraft or its subsystems to operate satisfactorily, except any such liabilities, losses and damages that are caused by the gross negligence or willful misconduct of Contractor. Buyer also agrees to cause its insurers to waive all right of subrogation against Contractor and its officers, agents, servants, subsidiaries and employees, subject to terms and conditions as are then customarily available regarding such waivers.

6. ARTICLE 17. TERMINATION FOR DEFAULT

Replace the existing Paragraph E in its entirety with the following:

E. Absent gross negligence or willful misconduct, the remedies set forth in this ARTICLE, and ARTICLES 1 (Paragraph C), 6, 13, 14, 15, 21, 30 and 33 shall be the sole recourse to which Buyer is entitled, under paragraph 1 or paragraph 2 above, in the event of Contractor's default, and Contractor shall have no liability for special, indirect, incidental or consequential damages for lost profits or lost revenues.

7. ARTICLE 32. SURVIVAL

Replace the existing ARTICLE 32. SURVIVAL in its entirety with the following:

The following ARTICLES shall survive the completion, expiration or termination of this Contract: ARTICLE 11. RIGHTS IN DATA; ARTICLE 12. PUBLIC RELEASE OF INFORMATION; ARTICLE 13. INDEMNIFICATION; ARTICLE 14. PATENT INDEMNITY; ARTICLE 15. INDEMNIFICATION FOR TAXES; ARTICLE 21. WARRANTY; ARTICLE 22. ARBITRATION; ARTICLE 23. APPLICABLE LAW; ARTICLE 25. DISCLOSURE AND USE OF INFORMATION BY THE PARTIES; ARTICLE 27. PERMITS AND LICENSES; ARTICLE 28. LIMITATION OF LIABILITY; ARTICLE 33. INSURANCE; ARTICLE 34. INTERPARTY WAIVER OF LIABILITY.

8. ARTICLE 33. INSURANCE

[CONFIDENTIAL INFORMATION OMITTED]

9. MISCELLANEOUS

Except as expressly modified herein, the Contract shall remain in full force and effect in accordance with its terms and conditions. All capitalized terms not defined herein shall have the meaning ascribed to them in the Contract.

IN WITNESS WHEREOF, the parties hereto have executed this Contract Amendment.

ECHOSTAR ORBITAL CORPORATION	LOCKHEED MARTIN CORPORATION
By:	By:
David K. Moskowitz Senior Vice President and General Counsel	Sandra McMahan Contracts Manager

EchoStar Communications Corporation hereby guarantees all of the obligations and duties of EchoStar Orbital Corporation under the Contract to which this guarantee is attached.

ECHOSTAR COMMUNICATIONS CORPORATION

By:

David K. Moskowitz
Senior Vice President and
General Counsel

MODIFICATION NO. 7

TO THE SATELLITE CONTRACT
(ECHOSTAR VII - 119 DEGREES WEST LONGITUDE)

BETWEEN

LOCKHEED MARTIN CORPORATION

AND

ECHOSTAR ORBITAL CORPORATION

DATED JANUARY 27, 2000

This Modification is effective the 26th day of June 2001.

WITNESS THAT:

WHEREAS, EchoStar Orbital Corporation ("Buyer") and Lockheed Martin Corporation ("Contractor"), mutually agree to modify the subject Contract to:

o Modify Article 4.B.1. Spacecraft Payment Plan.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, Buyer and Contractor agree to modify the Contract as follows:

1.) ARTICLE 4. B.1. SPACECRAFT PAYMENT PLAN

a. Replace all references to[CONFIDENTIAL INFORMATION REDACTED] and [CONFIDENTIAL INFORMATION REDACTED] for Months after EDC 13, 15 and 17, under the table titled Milestone Payment Schedule for EchoStar VII, [CONFIDENTIAL INFORMATION REDACTED].

b. Replace Milestone Description for Months after EDC 16 in its entirety with the following: [CONFIDENTIAL INFORMATION REDACTED].

IN WITNESS WHEREOF, the parties hereto have executed this Contract Amendment.

ECHOSTAR ORBITAL CORPORATION	LOCKHEED MARTIN CORPORATION
By: ----------	By: ----------
David K. Moskowitz	Sandra McMahan
Senior Vice President and General Counsel	Contracts Manager

EchoStar Communications Corporation hereby guarantees all of the obligations and duties of EchoStar Orbital Corporation under the Contract to which this guarantee is attached.

ECHOSTAR COMMUNICATIONS CORPORATION

By: ----------
David K. Moskowitz
Senior Vice President and General Counsel

EXHIBIT 10.2

AMENDED AND RESTATED CONTRACT

BETWEEN

ECHOSTAR ORBITAL CORPORATION

AND

SPACE SYSTEMS/LORAL, INC.

ECHOSTAR 8 SATELLITE PROGRAM
(110 DEGREES W.L.)

[SPACE SYSTEMS LORAL LOGO]

SS/L-TP99022
Contract

TABLE OF CONTENTS

PREAMBLE

This Amended and Restated Contract is made and effective as of February 1, 2001 by and between EchoStar Orbital Corporation and Space Systems/Loral, Inc., regarding the EchoStar 8 Satellite Program (110 degrees W.L.) (the "Contract") and amends and restates that certain Contract entered into as of February 4, 2000 (the "Effective Date of Contract" or "EDC") between EchoStar Orbital Corporation, organized and existing under the laws of the State of Colorado having an office and place of business at 5701 South Santa Fe, Littleton, Colorado 80120 (hereinafter referred to as "Purchaser") and Space Systems/Loral, Inc., a corporation organized and existing under the laws of the State of Delaware, having an office and place of business at 3825 Fabian Way, Palo Alto, California 94303 (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, Purchaser desires to procure one (1) communications satellite, known as EchoStar 8, to be delivered to the Launch Site, risk management therefor, all required ground equipment and support and training services, to the extent and subject to the terms and conditions set forth herein, and

WHEREAS, Contractor is willing to furnish such Satellite, risk management, ground equipment and support and training services, to the extent and subject to the terms and conditions set forth herein, in consideration of the Firm Fixed Price and other valid consideration.

NOW, THEREFORE, the Parties hereto agree as follows:

ARTICLE 1 - DEFINITIONS

Capitalized terms used and not otherwise defined herein shall have the following meanings:

1.1 "ACCEPTANCE" (i) with respect to a Satellite shall be as provided for in Article 10, and (ii) with respect to any Deliverable Item other than a Satellite shall be as provided for in Article 11.

1.2 "ADDITIONAL SATELLITE" has the meaning set forth in Article [CONFIDENTIAL INFORMATION REDACTED].

1.3 "AFFILIATE" means, with respect to a Party, any person or entity directly or indirectly controlling, controlled by or under common control with such Party.

1.4 "CONTRACT" means the articles of this executed Contract, its Exhibits and its Attachment(s), as may be amended from time to time in accordance with the terms hereof.

1.5 "CONTRACTOR" has the meaning set forth in the preamble and any successor or assignee permitted hereunder.

1.6 "DELIVERABLE DATA" means the data and documentation required to be delivered to Purchaser as specified in the Statement of Work.

1.7 "DELIVERABLE ITEM" means any of the items listed in Article 3.1, and any Additional Satellite or other items ordered by Purchaser pursuant to Article [CONFIDENTIAL INFORMATION REDACTED], and, collectively, the "DELIVERABLE ITEMS".

1.8 "DELIVERY" (i) with respect to a Satellite shall be as provided for in Article 12.1, and (ii) with respect to any Deliverable Item other than a Satellite shall be as provided for in Article 12.2.

1.9 "EFFECTIVE DATE OF CONTRACT" or "EDC" means the effective date of this Contract as specified in the preamble.

1.10 "FCC" means the Federal Communications Commission or any successor agency or governmental authority.

1.11 "FIRM FIXED PRICE" has the meaning set forth in Article 4.1.

1.12 "FORCE MAJEURE" has the meaning set forth in Article 17.

1.13 "GROSS NEGLIGENCE" means reckless disregard for the rights of others which very closely approaches intentional wrongdoing or other actions (or failures to act) which very closely approach intentional wrongdoing.

1.14 "IN-ORBIT TESTING" or "IOT" means the testing of a Satellite on-orbit in accordance with the Program Test Plan.

1.15 "INTELLECTUAL PROPERTY CLAIM" has the meaning set forth in Article 19.

1.16 "INTENTIONAL IGNITION" means, with respect to a Satellite, the official time designated by the Launch Agency during the launch sequence when the initial motors of the Launch Vehicle are ignited for the purpose of Launch following a planned countdown.

1.17 "LAUNCH" means, with respect to a Satellite, Intentional Ignition followed by Lift-Off.

1.18 "LAUNCH AGENCY" means the provider responsible for conducting the Launch Services for a Satellite.

1.19 "LAUNCH SERVICES" means those services provided by the Launch Agency pursuant to the Launch Services Agreement.

1.20 "LAUNCH SERVICES AGREEMENT" or "LSA" means the contract between Purchaser and the Launch Agency which provides for Launch

Services for a Satellite, as such contract may be amended from time to time in accordance with its terms.

1.21 "LAUNCH SITE" means the location that will be used by the Launch Agency for purposes of launching a Satellite.

1.22 "LAUNCH SUPPORT" or "LAUNCH SUPPORT SERVICES" means those services specified in the Statement of Work to be provided by Contractor in support of Launch.

1.23 "LAUNCH VEHICLE" means the launch vehicle selected by Purchaser and used for Launch of a Satellite, which is baselined to be an [CONFIDENTIAL INFORMATION REDACTED] launch vehicle, unless changed under Article [CONFIDENTIAL INFORMATION REDACTED].

1.24 "LIBOR" means the rate of interest per annum, at any relevant time, at which thirty (30) day U.S. dollar deposits are offered at such time in the London interbank market.

1.25 "LIFT-OFF" means, with respect to a Satellite, physical separation of the Launch Vehicle from the ground support equipment following Intentional Ignition due to the Launch Vehicle rising under its own power for the purpose of launching a Satellite.

1.26 "MISSION OPERATIONS SUPPORT SERVICES" means the orbit-raising, IOT and related services specified in the Statement of Work to be performed by Contractor for a Satellite.

1.27 "NSP" means not separately priced.

1.28 "PARTY" or "PARTIES" means Purchaser, Contractor or both, as the context requires.

1.29 "PAYMENT PLAN" means the payment plan for the applicable Deliverable Item, attached as Attachment A.

1.30 "PERFORMANCE SPECIFICATION" means the Satellite performance specification attached as Exhibit B, as such Exhibit may be amended from time to time in accordance with the terms of this Contract.

1.31 "PMO" means the Purchaser's program management office.

1.32 "PRODUCT ASSURANCE PROGRAM PLAN" means the product assurance program plan attached as Exhibit C, as such Exhibit may be amended from time to time in accordance with the terms of this Contract.

1.33 "PROGRAM TEST PLAN" means the Satellite program test plan attached as Exhibit D, as such Exhibit may be amended from time to time in accordance with the terms of this Contract.

1.34 "PROPRIETARY INFORMATION" has the meaning set forth in Article 35.

1.35 "PURCHASER" has the meaning set forth in the preamble and any successor or assignee permitted hereunder.

1.36 "SATELLITE" means a communications satellite that is to be manufactured by Contractor pursuant to this Contract.

1.37 "SATELLITE ANOMALY" means, with respect to any Satellite, any occurrence that occurs at or after Intentional Ignition and has or could have an impact on a Satellite's health or performance of such Satellite.

1.38 "SATELLITE PRE-SHIPMENT REVIEW" or "SPSR" has the meaning set forth in Article 9.

1.39 "SCF" means satellite control facility.

1.40 "STATEMENT OF WORK" or "SOW" means the statement of work attached as Exhibit A, as such Exhibit may be amended from time to time in accordance with the terms of this Contract.

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

ARTICLE 2 - SCOPE OF WORK

2.1 Provision of Services and Materials

Contractor shall provide the necessary personnel, material, services, and facilities to: design, manufacture, test, and deliver to the location set forth in Article 3.1 (or another location agreed upon pursuant to Article [CONFIDENTIAL INFORMATION REDACTED]), one (1) Satellite, together with all other Deliverable Items referred to in Article 3.1, in accordance with the following Exhibits, which are attached hereto and made a part hereof:

2.1.1 Exhibit A, Statement of Work, dated April 19, 2000 (Document Reference No. 17/EchoStar-8/E8SOW New 1/-4/6/00);

2.1.2 Exhibit B, Satellite Performance Specification, dated April 25, 2000, Rev. 6;

2.1.3 Exhibit C, Product Assurance Program Plan Part One, dated May 11, 2000 (Document Reference No. E224145, Rev. 1) and Product Assurance Program Plan Part Two, dated February 14, 2000 (Document Reference No. E038152, Rev. 4);

2.1.4 Exhibit D, Satellite Program Test Plan, dated April 19, 2000 (Doc No. 17/EchoStar8/E8TP1 doc/-3/27/00).

ARTICLE 3 - DELIVERABLE ITEMS AND DELIVERY SCHEDULE

3.1 Deliverable Items

Subject to the other terms and conditions of this Contract, the items to be delivered under this Contract are specified in the table below and the corresponding delivery schedules and locations are as follows:

ITEM	DESCRIPTION	DELIVERY SCHEDULE	DELIVERY LOCATION
1.	Satellite (EchoStar 8)	[CONFIDENTIAL INFORMATION REDACTED]	[CONFIDENTIAL INFORMATION REDACTED]
2.	Deliverable Data	Per SOW, Exhibit A	PMO
3.	Support and Training	Per SOW, Exhibit A	Contractor's facilities and Purchaser's SCF
4.	Ground Equipment	Per SOW, Exhibit A	Purchaser's SCF
5.	Risk Management Services	Per Article 39	Contractor's facilities

Contractor shall, at its cost, use its reasonable best efforts to obtain all U.S. and foreign Government approvals necessary to export and import a Satellite, all Deliverable Items and Deliverable Data required hereunder, and the individual components of the applicable Satellite and such Deliverable Items and Deliverable Data.

ARTICLE 4 - PRICE

4.1 Firm Fixed Price The total price to be paid by Purchaser to Contractor for the Deliverable Items 1 through 4 set forth in Article 3.1 within the scope of work detailed in the Statement of Work, shall be a firm fixed price of [CONFIDENTIAL INFORMATION REDACTED] (the "Firm Fixed Price"). The total price to be paid by Purchaser to Contractor for Deliverable Item 5 set forth in Article 3.1 within the scope of work detailed in Article 39 shall be a firm fixed price equal to [CONFIDENTIAL INFORMATION REDACTED] for any risk management insurance policy(ies) procured by Contractor pursuant to Article 39. The prices for those Deliverable Items subject to an option under this Contract, if any, are described in the

particular Articles that set forth those options. The itemization of the Firm Fixed Price is as follows:

Item Description	Amount
Satellite (EchoStar 8)	[CONFIDENTIAL INFORMATION REDACTED]

The Firm Fixed Price for such Satellite includes all design, manufacturing, tests, In Orbit Incentives, Deliverable Data, training, Launch Support Services, Mission Operations Support Services, ground equipment and shipment and transportation, all in accordance with the terms and conditions of this Contract, as specified herein. The item price also includes, and Contractor shall indemnify, defend and hold Purchaser, its Affiliates, directors, officers, employees, shareholders and agents harmless from and against, all applicable taxes, duties and similar liabilities whatsoever imposed by any governmental entity in connection with the performance of this Contract, except any tax on the sale to Purchaser resulting from Purchaser's election to exercise the Ground Storage option in Article 33. The Firm Fixed Price does not include the cost of any risk management insurance procured by Contractor pursuant to Article 39 below.

ARTICLE 5 - PAYMENTS

5.1 Payment Plan

Absent a bona fide dispute, payments by Purchaser to Contractor of the Firm Fixed Price set forth in Article 4 and of the amounts for options, if any, exercised by Purchaser pursuant to this Contract, shall be in accordance with the Payment Plan applicable thereto.

5.2 Payment Conditions

5.2.1 Payments. Absent a bona fide dispute, all payments due from Purchaser (other than payments for risk management services, which shall be made in accordance with the payment terms set forth in Article 39) shall be paid no later than the date specified therefor as set forth in the Payment Plan, provided that: (i) Contractor submits to Purchaser an invoice with respect to each such payment no later than [CONFIDENTIAL INFORMATION REDACTED] days prior to such due date; and (ii) Contractor completes the applicable milestone set forth in Attachment A no later than [CONFIDENTIAL INFORMATION REDACTED] days prior to such due date. Notwithstanding the foregoing, in the event that Contractor does not deliver an invoice to Purchaser at least [CONFIDENTIAL INFORMATION REDACTED] days prior to such due date and/or does not achieve the relevant milestone, or provide a work-around that does not affect schedule and is otherwise acceptable to Purchaser, at least [CONFIDENTIAL INFORMATION REDACTED] days prior to such due date, Purchaser may suspend all payments until such time as the relevant invoice is received and milestone is completed. Within [CONFIDENTIAL INFORMATION REDACTED] days following Purchaser's receipt of the relevant invoice [CONFIDENTIAL INFORMATION REDACTED] days following Contractor's completion of the relevant milestone, whichever occurs later, Purchaser shall pay Contractor for all payments that were required to have been made but were not as a result of the suspension.

5.2.2 Milestones. Notwithstanding the milestones set forth in Attachment A, if it becomes reasonably clear that problems

with deliverables are reasonably likely to cause schedule delays, then all payments may be suspended, at Purchaser's option, and the date for payment of each subsequent payment delayed, by an amount of time equal to the difference between the originally scheduled delivery date for the Satellite set forth in Article 3 and the revised forecast delivery date. In the event that Contractor subsequently recovers all or a portion of the originally scheduled delivery date for the Satellite, payments will again be revised to reflect that recovery. Further, if, following completion of a milestone, a problem arises which requires rework of elements of the milestone, then payments may be suspended, at Buyer's option, until the milestone is again complete.

5.2.3 Non-Warranty Payments. Absent a bona fide dispute, all amounts payable to Contractor with respect to non-warranty work performed pursuant to Article 15.3 shall be paid no later than [CONFIDENTIAL INFORMATION REDACTED] days after submission of an invoice by Contractor certifying that such non-warranty work has been completed.

5.2.4 Obligation to Pay. The failure of Contractor to deliver any invoice required hereunder shall not affect Purchaser's obligation hereunder to make any payments to Contractor. If Contractor shall not have delivered any invoice required hereunder within the time specified therefor, subject to the terms and conditions of this Article 5, the relevant payment due from Purchaser shall be payable [CONFIDENTIAL INFORMATION REDACTED] days after receipt of such invoice.

5.3 Late Payment

Except in the case of a bona fide dispute, in the event that any payment owed by one Party to the other Party is not made when due hereunder, without prejudice to the second Party's other rights and remedies under this Contract, at law or in equity, the first Party shall pay the other Party interest at the rate of [CONFIDENTIAL INFORMATION REDACTED] on the unpaid balance thereof from the date such payment is due hereunder until such time as payment is made. If a payment due to Contractor from Purchaser is not made by the date [CONFIDENTIAL INFORMATION REDACTED] days after the date due hereunder, without prejudice to Contractor's other rights and remedies under this Contract, at law or in equity, Contractor may elect to cease performance of its obligations under this Contract, without prejudice or penalty. In such case, if Contractor subsequently resumes performance in lieu of termination pursuant to Article 23.5, the schedule, price and other affected provisions of this Contract shall be modified to compensate Contractor for its added reasonable, actual out-of-pocket costs plus a profit of [CONFIDENTIAL INFORMATION REDACTED] associated with such work stoppage. Notwithstanding the foregoing, in the event of a bona fide dispute between the Parties regarding a payment due hereunder, such dispute shall be resolved pursuant to Article 25 hereof, and Contractor shall have no right during the pendancy of such dispute to stop work under this Contract because of such dispute.

5.4 Invoices

Invoices required to be delivered by Contractor hereunder shall be submitted to Purchaser (original plus one (1) copy) at the following address:

[CONFIDENTIAL INFORMATION REDACTED] or to such other address as Purchaser may specify in writing to Contractor.

5.5 Payment Bank

All payments made to Contractor hereunder shall be in U.S. currency and shall be made by electronic funds transfer to the following account:

[CONFIDENTIAL INFORMATION REDACTED]

or by check to:

[CONFIDENTIAL INFORMATION REDACTED]

or to such other account or address as Contractor may specify in writing to Purchaser.

ARTICLE 6 - PURCHASER-FURNISHED ITEMS

6.1 Purchaser-Furnished Support

To enable Contractor to perform Launch Support and Mission Operations Support Services, Purchaser shall timely make available to Contractor the Purchaser-furnished equipment, facilities and services described in the Statement of Work. Such equipment, facilities and services shall be in good working condition and adequate for the required purpose and shall be made available free of charge for Contractor's use (including Acceptance inspection pursuant to Article 11) during the period commencing [CONFIDENTIAL INFORMATION REDACTED] prior to such Launch and continuing through completion of the IOT review. Purchaser and Contractor will conduct an interface meeting [CONFIDENTIAL INFORMATION REDACTED] prior to such Launch to confirm the availability and adequacy of Purchaser-furnished equipment, facilities and services.

6.2 Communications Authorizations
Purchaser shall be responsible, at its cost and expense, for preparing, coordinating and filing all applications for licenses with the FCC, if required to do so, for the Launch and operation of the Satellite. Contractor shall timely provide Purchaser with all reasonable assistance, at no additional cost to Purchaser, requested by Purchaser in connection with Purchaser's performance of the above-specified tasks, and in connection with the filing of any technical filings required to be made by Purchaser with the FCC.

6.3 Radio Frequency Coordination
Purchaser shall be responsible for the timely preparation and submission of all filings required by the International Telecommunication Union (or any successor agency thereto) regarding radio frequency and orbital position coordination. Such filings shall be made in accordance with the Radio Regulations of the International Telecommunication Union (or any successor agency). Contractor shall timely provide Purchaser with all reasonable assistance, at no additional cost to Purchaser, requested by Purchaser in connection with Purchaser's performance of the above-specified tasks.

6.4 Licenses and Permits
Except as set forth in Articles 6.2 and 6.3 above, Contractor shall be responsible, at its sole cost and expense, for securing any and all permits and licenses for the construction and transportation of a Satellite (other than FCC construction permits for a Satellite).

6.5 Satellite Performance Data
In the event of a Satellite Anomaly that occurs during the life of a Satellite, Purchaser shall timely provide Contractor with or give

Contractor access to any data Contractor may reasonably require to investigate or correct (if Contractor is able to do so) such Satellite Anomaly or make or settle any insurance claim relating to such Satellite Anomaly.

6.6 Late Delivery of Purchaser-Furnished Items or Services
The late delivery of Purchaser-furnished items, individually or combined, shall be considered an event beyond the reasonable control of Contractor, and Contractor shall be entitled to a reasonable adjustment in price, schedule, and other affected terms for such late delivery.

ARTICLE 7 - COMPLIANCE WITH U.S. EXPORT LAWS AND DIRECTIVES

7.1 Technical Information, Deliverable Data and Technical Services

7.1.1 Any obligation of either Party hereunder to provide technical information, Deliverable Data or technical services to the other Party or its representatives shall be subject to applicable U.S. Government export control and security laws, regulations, policies and license conditions. The Parties shall work cooperatively and in good faith to implement this Contract consistent with such laws, regulations, policies and license conditions.

7.1.2 If and to the extent required by U.S. law, the Parties and/or their representatives shall enter into U.S. Government-approved agreement(s), separate from this Contract, governing the Party's provision of technical information, Deliverable Data or technical services in connection with this Contract.

7.2 No Retransfer

The Parties shall not transfer to any "foreign person", as defined in the International Traffic in Arms Regulations (22 C.F.R. Section 120.1) technical information, Deliverable Data or technical services furnished hereunder, except as expressly authorized by the U.S. Government in accordance with U.S. export control laws. THE PARTIES UNDERSTAND AND WARRANT THAT THEY SHALL NOT RE-EXPORT, TRANSFER OR DIVERT ANY ITEM EXPORTED UNDER OR IN CONNECTION WITH THIS CONTRACT TO ANY "FOREIGN PERSON" WITH A NATIONALITY OTHER THAN CONTRACTOR'S OR PURCHASER'S, RESPECTIVELY, WITHOUT THE PRIOR WRITTEN APPROVAL OF THE U.S. GOVERNMENT.

ARTICLE 8 - ACCESS TO WORK IN PROGRESS

8.1 Work in Progress at Contractor's Plant

Subject to Article 7 and Article 8.5 and to compliance with Contractor's safety and security regulations, Purchaser's employees (and representatives, consultants or agents, subject to the prior approval of Contractor, which approval shall not be unreasonably withheld or delayed) shall be allowed access, in such a manner so as not to unreasonably disrupt the routine business operations of Contractor, to observe work being performed at Contractor's facility for the Satellite and other Deliverable Items, for the purpose of observing the progress of such work and otherwise confirming Contractor's compliance with this Contract. Notwithstanding anything to the contrary set forth herein, the fact that Purchaser has observed work performed hereunder shall not be deemed Purchaser's Acceptance or approval of such work.

8.2 Work in Progress at Subcontractors' Plant
Subject to Article 7 and Article 8.5, to the extent permitted by Contractor's subcontractors supplying services or goods in connection with the Satellite and subject to each such subcontractor's safety and security regulations, Contractor shall allow Purchaser's employees (and representatives, consultants or agents, subject to the prior approval of Contractor, which approval shall not be unreasonably withheld or delayed) access, in such a manner so as not to unreasonably disrupt the routine business operations of Contractor, to observe work being performed with respect to the Satellite in each such subcontractor's plants for the purpose of observing the progress of such work and otherwise confirming Contractor's compliance with this Contract, subject to the right of Contractor to accompany Purchaser on any such visit to a subcontractor's plant; provided, however, that Purchaser may conduct an unaccompanied observation in the event that Contractor fails to furnish a representative after reasonable written notice of Purchaser's observation request. Contractor will use reasonable efforts to obtain permission for such access to subcontractor's facilities.

8.3 Remedy for Non-Compliance
Purchaser may inform Contractor in writing of any particulars in which Purchaser observes and reasonably believes that work being performed under this Contract is non-compliant, including the specific contract requirements believed to be non-compliant and the reasons for such belief, and Contractor shall remedy such non-compliance at Contractor's expense, promptly upon receipt of notice thereof.

8.4 On-Site Facilities for Purchaser's Personnel
Subject to Article 7 and Article 8.5, for the purpose of monitoring the progress of the work to be performed by Contractor hereunder and

otherwise confirming Contractor's compliance with this Contract, Contractor shall provide private office facilities at or proximate to Contractor's plant (which private office facilities shall in all cases at least be co-located with Contractor's program management office) for two (2) resident employees of Purchaser (or Purchaser's duly appointed representatives, consultants and agents, subject to the prior approval of Contractor, which approval shall not be unreasonably withheld or delayed) for a reasonable period of time after the completion of the Satellite review described in Article 10.2. The office facilities to be provided shall include [CONFIDENTIAL INFORMATION REDACTED], to the extent necessary to enable such personnel to monitor the progress of work and otherwise confirm Contractor's compliance with this Contract.

8.5 Competition/ Foreign Persons as Purchaser Representatives

Purchaser's representatives, consultants and agents shall not be in direct competition with Contractor, meaning they shall not currently be employed by companies or entities that are in the business of manufacturing communication satellites. Purchaser shall notify Contractor in writing of the name, title or function, business relationship, employer and such other information as may be reasonably requested by Contractor, with respect to each of its intended representatives, consultants and agents, and cause each such representative, consultant and agent to execute a confidentiality agreement directly with Contractor in form and substance reasonably satisfactory to Contractor and containing terms substantially the same as those set forth in Article 35. Contractor may deny access to Contractor provided office facilities to any representative, consultant or agent of Purchaser upon Contractor's reasonable determination that such consultant or agent is, by reason of its business or affiliations, in direct competition with Contractor.

Contractor shall apply for and, once issued, maintain all U.S. Government export licenses and approvals needed for Purchaser's employees and representatives, agents and consultants who are citizens of a country other than the U.S., to access Contractor's and its subcontractors' facilities or technical data in connection with the performance of this Contract. Purchaser shall cooperate with Contractor and provide the support necessary for Contractor to apply for and maintain such export licenses and approvals, and shall promptly notify Contractor of any occurrence or change in circumstances of which it becomes aware that is relevant to or affects such export license and approvals. IN NO EVENT SHALL CONTRACTOR BE OBLIGATED UNDER THIS CONTRACT TO PROVIDE ACCESS TO CONTRACTOR FACILITIES, TO TRANSFER ANY TECHNICAL INFORMATION OR DELIVERABLE DATA OR TO PROVIDE ANY TECHNICAL SERVICES, TO ANY PERSON EXCEPT IN COMPLIANCE WITH APPLICABLE U.S. EXPORT CONTROL LAWS, REGULATIONS, POLICIES AND LICENSE CONDITIONS, AS REASONABLY CONSTRUED BY CONTRACTOR.

8.6 Interference with Operations

Purchaser shall exercise its rights under this Article 8 in a manner that does not unreasonably interfere with Contractor's or its subcontractors' normal business operations or Contractor's performance of its obligations under this Contract or any agreement between Contractor and its subcontractors.

8.7 Notification

Notwithstanding any other provision of this Contract, Contractor shall advise Purchaser immediately by telephone and confirm in writing any event, circumstance or development which materially threatens the quality of, or the delivery schedule for, any Satellite or component part thereof, as well as any other Deliverable Items to be provided hereunder.

ARTICLE 9 - SATELLITE PRE-SHIPMENT REVIEW (SPSR)

9.1 Purchaser to Review
Purchaser shall conduct a review of each Satellite prior to shipment by Contractor to the Launch Site in accordance with the terms of this Article 9 and the Statement of Work (each a "Satellite Pre-Shipment Review" or "SPSR").

9.2 Time, Place and Notice of SPSR; Failure to Conduct
Each SPSR shall take place at Contractor's facility. Contractor shall notify Purchaser in writing [CONFIDENTIAL INFORMATION REDACTED] days prior to the date that each Satellite shall be available for SPSR, which shall be the scheduled date for commencement of such SPSR. If Purchaser cannot commence such SPSR on such scheduled date, Contractor shall make reasonable efforts to accommodate Purchaser's scheduling requirements.

9.3 Conduct and Purpose of SPSR
Each SPSR shall be conducted in accordance with the pertinent Sections of the Statement of Work. The purpose of each SPSR shall be to review test data and analyses for the subject Satellite to determine whether such Satellite meets applicable Performance Specification requirements and is therefore ready for shipment to the Launch Site.

9.4 Waivers or Pending Waivers
At the earliest possible time, but [CONFIDENTIAL INFORMATION REDACTED] days before the commencement of the SPSR for the Satellite or the Acceptance inspection for any Deliverable Item pursuant to Article 11, Contractor shall submit to Purchaser any request for a waiver of, or deviation from, provisions(s) of the Performance Specification applicable to the Satellite or Deliverable Item. Each such waiver or deviation approved by Purchaser shall be

deemed an amendment to the Performance Specification permitting such waiver thereof, or deviation therefrom, effective on or after the date of such approval for the Satellite or Deliverable Item. Purchaser shall, in keeping with customary industry practice, consider each waiver or deviation request in good faith and shall not unreasonably withhold or delay its consent to any such request.

9.5 Purchaser's Inspection Agents

Purchaser may, subject to prior written notice to Contractor, cause any representative, consultant or agent designated by Purchaser to observe the SPSR pursuant to this Article 9; provided, however, that the provisions of Article 7 and Article 8.5 shall apply to any such representative, consultant or agent.

9.6 SPSR Results

Within a reasonable time after completion of the SPSR for the Satellite, Purchaser shall notify Contractor in writing of the results of the SPSR pursuant to this Article 9 with respect to the Satellite. Provided Purchaser is in compliance with its contractual obligations hereunder, such Satellite shall be prepared and shipped to the Launch Site for Launch upon successful completion of the SPSR. In the event that such SPSR discloses any non-conformance of the Satellite to the requirements of the Performance Specification not the subject of any waivers or deviations approved by Purchaser pursuant to Article 9.4, Purchaser's notice shall state each such non-conformance (with reference to the applicable requirement of the Performance Specification deemed not met), and Contractor shall correct or repair each such non-conformance and resubmit such Satellite for SPSR in accordance with this Article 9 as to each corrected or repaired element.

9.7 Inspection of Equipment and Facilities
Contractor shall make available to Purchaser such equipment and facilities as Purchaser may require to conduct any preshipment inspections. All costs and expenses incurred by Purchaser and its agents to dispatch its personnel for pre-shipment inspections, including travel and living expenses, shall be borne solely by Purchaser.

9.8 Correction of Deficiencies after SPSR
If at any time following the SPSR for a Satellite, but prior to Launch, Contractor becomes aware that such Satellite fails to meet the Performance Specification, as may be modified as of such time pursuant to Article 9.4, Contractor shall promptly correct such deficiencies at its own cost and expense.

9.9 Warranty Obligations

In no event shall Contractor be released from any of its warranty obligations as set forth in Article 15 hereof as a result of any Satellite having successfully passed the pre-shipment inspection set forth in this Article 9.

9.10 Repaired or Replaced Satellites

The provisions of this Article 9 shall apply to corrected, repaired or replaced Satellites.

ARTICLE 10 - SATELLITE ACCEPTANCE

10.1 Satellite Acceptance
Acceptance of a Satellite by Purchaser shall occur [CONFIDENTIAL INFORMATION REDACTED].

10.2 In-Orbit Test (IOT) Services
[CONFIDENTIAL INFORMATION REDACTED] days prior to Launch of a Satellite, Contractor shall notify Purchaser of the IOT schedule. Purchaser may observe IOT at Purchaser's or Contractor's location, at Purchaser's election, subject to applicable U.S. Government or Contractor security or export restrictions.

When, in the reasonable assessment of Contractor, the IOT review has been completed for a Satellite, Contractor shall submit the IOT results to Purchaser.

Within [CONFIDENTIAL INFORMATION REDACTED] hours after Contractor provides the certified IOT results to Purchaser with respect to a Satellite, Contractor and Purchaser shall hold a Satellite review as defined in the SOW.

Contractor may elect to conduct from Contractor's facilities the IOT eclipse test set forth in the Program Test Plan with respect to a Satellite during the first eclipse season after IOT is otherwise completed. The results of the later IOT eclipse test will be provided to Purchaser for Satellite performance characterization and insurance purposes only.

10.3 [CONFIDENTIAL INFORMATION REDACTED]

ARTICLE 11 - ACCEPTANCE INSPECTION FOR DELIVERABLE ITEMS OTHER THAN SATELLITES

11.1 Inspection of Deliverable Items of Hardware Other Than Satellites
With respect to each Deliverable Item of hardware other than Satellites, Purchaser shall perform Acceptance inspection [CONFIDENTIAL INFORMATION REDACTED] days after Contractor has notified Purchaser that such Deliverable Item has arrived at the location designated for delivery thereof in Article 3.1. Such Acceptance inspection shall be conducted in accordance with the procedures described in the Statement of Work. The purpose of the Acceptance inspection shall be to determine whether each such Deliverable Item meets applicable Performance Specification requirements as of the date of such delivery, as such requirements may have been modified pursuant to Article 11.3.

11.2 Purchaser's Inspection Agents
Purchaser may, upon giving prior written notice to Contractor, cause any representative, consultant or agent designated by Purchaser to conduct the Acceptance inspection pursuant to this Article 11 in whole or in part; provided, however, that the provisions of Article 7 and Article 8.5 shall apply to any such representative, consultant or agent and representative, consultant or such agent shall comply with Contractor's safety and security regulations.

11.3 Pending Waivers
Waivers of or deviations from the Performance Specification applicable to any Deliverable Item subject to Acceptance inspection pursuant to this Article 11 shall be addressed in the same manner as set forth in Article 9.4.

11.4 Acceptance Inspection Results
Within a reasonable time after completion of Acceptance inspection pursuant to this Article 11 for any Deliverable Item, Purchaser shall notify Contractor in writing of the results of such Acceptance inspection. In the event that such Acceptance inspection demonstrates conformity of such Deliverable Item to the applicable requirements of the Performance Specification, such Deliverable Item shall be deemed accepted by the Purchaser for all purposes hereunder ("Acceptance" with respect to each such Deliverable Item other than a Satellite), and Purchaser's notice shall so state. In the event that such Acceptance inspection discloses any non-conformance of such Deliverable Item to the applicable requirements of the Performance Specification, Purchaser's notice shall detail each such non-conformance (with reference to the applicable requirement of the Performance Specification deemed not met), and Contractor shall correct or repair such non-conformance and resubmit such Deliverable Item for Acceptance inspection in accordance with this Article 11 as to each such corrected or repaired element.

11.5 Acceptance Inspection; Equipment and Facilities
Contractor shall make available to Purchaser such equipment and facilities as Purchaser may require to conduct any preshipment inspections. All costs and expenses incurred by Purchaser or its agents to dispatch its personnel for acceptance inspections, including travel and living expenses, shall be borne solely by Purchaser.

11.6 Warranty Obligations
In no event shall Contractor be released from any of its warranty obligations applicable to any Deliverable Item as a result of such Deliverable Item having been Accepted as set forth in this Article 11.

11.7 Repair or Replace Deliverable Items.

The provisions of this Article 11 shall apply to corrected, repaired or replaced Deliverable Items other than Satellites.

11.8 Deliverable Data
Purchaser shall, within [CONFIDENTIAL INFORMATION REDACTED] days of delivery by Contractor to the location designated in Article 3.1 of Deliverable Data requiring Purchaser approval pursuant to the Statement of Work, notify Contractor in writing that such Deliverable Data has been accepted in accordance with the Statement of Work ("Acceptance" with respect to each such item of Deliverable Data), or advise Contractor in writing that such Deliverable Data does not comply with the applicable requirements of the Statement of Work, identifying each particular of such non-compliance. Contractor shall promptly correct any non-compliant aspect of such Deliverable Data described in such Notice from Purchaser, and re-submit it to Purchaser for inspection pursuant to this Article 11.7.

ARTICLE 12 - DELIVERY, TITLE AND RISK OF LOSS

12.1 Satellites
Delivery of the Satellite shall occur upon arrival of the Satellite at the Launch Site, and risk of loss of, and title to, the Satellite shall pass from Contractor to Purchaser, upon Acceptance of such Satellite pursuant to Article 10.1. In the event that Contractor binds insurance coverage under Article 39, then notwithstanding the foregoing sentence, risk of loss or damage to the Satellite shall remain with Contractor for the duration of the in-orbit phase of such insurance coverage and shall pass to Buyer upon the expiration thereof.

EXCEPT WITH RESPECT TO WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY CONTRACTOR, UPON AND AFTER LAUNCH OF THE LAUNCH VEHICLE FOR A SATELLITE, CONTRACTOR'S SOLE FINANCIAL RISK, AND THE SOLE AND EXCLUSIVE REMEDIES OF PURCHASER OR ANY PARTY ASSOCIATED WITH PURCHASER, WITH RESPECT TO THE USE OR PERFORMANCE OF SUCH SATELLITE (INCLUDING WITH RESPECT TO ANY ACTUAL OR CLAIMED DEFECT CAUSED OR ALLEGED TO BE CAUSED AT ANY TIME BY CONTRACTOR OR ANY OF ITS SUBCONTRACTORS), SHALL BE AS SET FORTH IN ARTICLES 4.1, [CONFIDENTIAL INFORMATION REDACTED], 15, 19, 20 and 39. IN ALL CASES CONTRACTOR'S LIABILITY SHALL BE SUBJECT TO THE LIMITATION OF LIABILITY SET FORTH IN ARTICLE 34. WITHOUT PREJUDICE TO PURCHASER'S RIGHTS UNDER ARTICLE [CONFIDENTIAL INFORMATION REDACTED] AND 39, CONTRACTOR MAKES NO WARRANTY AS TO THE PERFORMANCE OF ANY LAUNCH VEHICLE.

12.2 Deliverable Items Other Than Satellites

Delivery and risk of loss of, and title to, each Deliverable Item of hardware other than Satellites shall pass from Contractor to Purchaser upon Acceptance of such Deliverable Item pursuant to Article 11.4. Purchaser's rights in Deliverable Data are as set forth in Article 36.

ARTICLE 13 -

[CONFIDENTIAL INFORMATION REDACTED]

ARTICLE 14 - INTENTIONALLY DELETED

ARTICLE 15 - WARRANTY

15.1 Terms and Period of Warranty

15.1.1 Satellites. Contractor warrants that each Satellite Delivered under this Contract shall be free from any defects in design, material or workmanship and shall be manufactured and perform in conformity with the Performance Specification (as may be waived pursuant to Article 9.4) applicable to the Satellite in every respect. Prior to Launch, Contractor shall, at its sole cost and expense, correct any defects in design, material and workmanship in compliance with Article 9. After Launch, Contractor's sole obligation and liability with respect to fulfillment of this warranty is to comply with Articles 4.1, [CONFIDENTIAL INFORMATION REDACTED], 15.2.1 and 39. Contractor makes no warranty regarding the performance of the Satellite from and after the Launch of the Satellite. Nothing in this Article 15.1.1 shall be construed to limit or otherwise affect Contractor's obligations under Articles 19 and 20.

15.1.2 Deliverable Items of Hardware Other Than Satellites. Contractor warrants that each Deliverable Item of hardware other than the Satellite delivered under this Contract shall be manufactured and will perform in conformity with the Performance Specification (as may be waived pursuant to Article 11.3) applicable to such Deliverable Item in every respect and will be free from defects in design, materials and workmanship during the period commencing on the date of Acceptance of such Deliverable Item pursuant to Article 11 and [CONFIDENTIAL INFORMATION REDACTED].

15.1.3 Disclaimer. EXCEPT AND TO THE EXTENT PROVIDED IN ARTICLE 15.1 AND ARTICLE 15.4, CONTRACTOR HAS NOT MADE NOR DOES IT HEREBY MAKE ANY REPRESENTATION OR WARRANTY, WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF DESIGN, OPERATION, CONDITION, QUALITY, SUITABILITY OR MERCHANTABILITY OR FITNESS FOR USE OR FOR A PARTICULAR PURPOSE, ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE, WITH REGARD TO ANY SATELLITE OR ANY OTHER DELIVERABLE ITEM.

15.2 Repair or Replacement

15.2.1 Satellite Anomalies.

Contractor shall investigate any Satellite Anomaly in any Satellite arising during the life of the Satellite, and use reasonable best efforts to correct any such Satellite Anomaly that is correctable by Contractor from Purchaser's SCF using the facilities and equipment available at such site.

WITHOUT PREJUDICE TO PURCHASER'S RIGHTS UNDER ARTICLES 19 AND 20, CONTRACTOR SHALL HAVE NO LIABILITY TO PURCHASER OR TO THIRD PARTIES ARISING FROM ANY ADVICE OR ASSISTANCE THAT CONTRACTOR OR ANY SUBCONTRACTOR OR AGENT OF CONTRACTOR MAY PROVIDE IN RESPECT OF A SATELLITE AFTER LAUNCH, REGARDLESS OF CAUSE OR LEGAL THEORY, INCLUDING NEGLIGENCE, EXCEPT WITH RESPECT TO: (1) WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY CONTRACTOR, AND (2)

PURCHASER'S RIGHTS AND CONTRACTOR'S DUTIES AND OBLIGATIONS UNDER ARTICLES 4.1, [CONFIDENTIAL INFORMATION REDACTED], 15.2.1 AND 39. IN ALL CASES CONTRACTOR'S LIABILITY SHALL BE SUBJECT TO THE LIMITATION OF LIABILITY SET FORTH IN ARTICLE 34.

15.2.2 Deliverable Items of Hardware Other Than Satellites. Without prejudice to Purchaser's rights and Contractor's duties and obligations under Articles 4.1, 19 and 20, during the period specified in Article 15.1.2 for any Deliverable Item of hardware other than a Satellite, as Purchaser's sole and exclusive remedy, any defect in such Deliverable Item discovered by Purchaser shall be remedied by Contractor at Contractor's expense by repair or replacement of the defective component (at Contractor's election). For any such Deliverable Item, Contractor shall determine if repair or replacement is required to be performed at Contractor's plant. If required, Purchaser shall ship to Contractor's designated facility any such Deliverable Item. Contractor shall be responsible for the cost of shipment to such facility in accordance with its standard commercial practice (including any taxes and/or duties) of any such Deliverable Item, and the cost of return shipment, in accordance with its standard commercial practice, of any such Deliverable Item once repaired or replaced to Purchaser at the location designated therefor in Article 3.1. Risk of loss for such Deliverable Item shall transfer to Contractor upon delivery of such Deliverable Item to the shipping carrier by Purchaser, and risk of loss shall transfer to Purchaser for any such Deliverable Item once repaired or replaced pursuant to this Article 15.2.2 upon receipt thereof by Purchaser at the

location designated therefor in Article 3.1. When necessary, Contractor shall provide free of charge temporary equipment to be used while a repair is being performed.

15.3 Use Conditions Not Covered by Warranty

With respect to Deliverable Items of hardware other than Satellites, the warranty under this Article 15 shall not apply if adjustment, repair, or parts replacement is required as a result, directly or indirectly, of accident, unusual physical or electrical stress beyond the unit's designed tolerances, negligence, misuse, failure of environmental control prescribed in operations and maintenance manuals, repair or alterations by any party other than Contractor or its agents, or by causes other than normal and ordinary use. The warranty provided pursuant to this Article 15 is conditioned upon Contractor being given access, if required, to Deliverable Items delivered at Purchaser's facility in order to effect any repair or replacement thereof. If the defect repaired or remedied by Contractor is not covered by the warranty provided pursuant to this Article 15, Purchaser shall pay Contractor the reasonable cost of such repair or replacement, transportation charges, and [CONFIDENTIAL INFORMATION REDACTED] profit. Such repair costs shall be invoiced to Purchaser pursuant to the provisions of Article 5.

15.4 Warranty for Training and Services

Contractor warrants that the training and other services it provides to Purchaser pursuant to this Contract will conform to reasonable industry standards at the time such training or other services are provided. In the event Contractor breaches this warranty, as Purchaser's sole remedy, Contractor shall apply reasonable efforts to correct the deficiencies in the provision of such training and other services where it is practicable to do so.

ARTICLE 16 - CHANGES

16.1 Right to Adjustment

Purchaser may from time to time, in writing, request a change within the general scope of this Contract to:

a) Order work in addition to the work provided for herein; or

b) Modify the whole or any part of the work provided for herein.

If such change request causes an increase or decrease in the cost, or the time required for completion, of the work to be provided herein, or otherwise affects any other provision of this Contract, an equitable adjustment shall be made in the price, or delivery schedule, or both, and this Contract shall be modified in writing accordingly. Any claim by Contractor for adjustment under this Article 16 shall be deemed waived unless asserted in writing within [CONFIDENTIAL INFORMATION REDACTED] days from the receipt by Contractor of the relevant change order. If the cost of supplies or materials made obsolete or excess as a result of a change is included in Contractor's claim for adjustment, Purchaser shall have the right to prescribe the manner of disposition of such supplies or materials. Nothing in this Article 16 shall excuse Contractor from promptly proceeding with the Contract as changed.

16.2 Cost Adjustments

If Contractor or Purchaser claims a right to adjustment pursuant to Article 16.1 above, Contractor shall prepare and furnish to Purchaser the evidence reasonably necessary to establish the amount of any increase or decrease in the cost of, or the time required for, the performance of this Contract caused by the relevant change order.

Subject to Article 16.3 below, the amount of any such cost increase or decrease will be calculated in accordance with Contractor's regularly established accounting practices and include [CONFIDENTIAL INFORMATION REDACTED]. If requested by Purchaser, the amount of a particular claim shall be verified, at Contractor's and Purchaser's expense to be shared equally, by the independent certified public accounting firm normally used by Contractor.

16.3 Equitable Adjustment

The Parties shall attempt to reach agreement as to any equitable adjustment that is appropriate pursuant to Article 16.1 above. Without relieving Contractor of the obligation to proceed promptly with the Contract as changed, in the event that the Parties are unable to reach agreement as to an equitable adjustment within a reasonable period of time, the matter shall be determined in accordance with Article 25. During the pendency of such proceedings, Contractor shall proceed with the work required under this Contract as changed and Purchaser shall pay Contractor all amounts not in dispute.

ARTICLE 17 - FORCE MAJEURE

17.1 Contractor and Purchaser shall not be responsible for late Delivery, delay of the final completion date or nonperformance of its contractual obligations due to Force Majeure. Force Majeure shall be any event beyond the reasonable control of a Party or its suppliers and subcontractors and shall include, but not be limited to: (1) acts of God; (2) acts of a public enemy; (3) acts of a government in its sovereign capacity (including any action or inaction affecting the import or export of items); (4) war and warlike events; (5) catastrophic weather

conditions such as hurricanes, tornadoes and typhoons; (6) fire, earthquakes, floods, epidemics, quarantine restrictions, strikes, lockouts and other industrial disputes, sabotage, riot and embargoes; (7) non-availability of a Launch Vehicle or Launch Site for any reason beyond a Party's reasonable control; and (8) other unforeseen and extraordinary events, which in every case are beyond the reasonable control and without fault or negligence of a Party or its suppliers and subcontractors ("Force Majeure"). Upon the occurrence of Force Majeure, an equitable adjustment shall be negotiated in the schedule and other portions of this Contract affected by Force Majeure. The Party affected by a Force Majeure event shall provide reasonable notice to the other Party of a Force Majeure event. In the event that a Force Majeure event (other than the non-availability of a Launch Vehicle or Launch Site) occurs that extends for [CONFIDENTIAL INFORMATION REDACTED] or more days or that the Parties reasonably believe will extend for [CONFIDENTIAL INFORMATION REDACTED] or more days, either Party shall have the right to terminate this Contract upon delivery of written notice to the other Party. In the event of a termination pursuant to the immediately preceding sentence, Contractor shall refund all payments made by Purchaser for Deliverable Items not previously Accepted by Purchaser, except with respect to items referred to in Article 17.2, and Purchaser shall have no further obligation to make any further payments of the Firm Fixed Price to Contractor hereunder. Such refund shall be made no later than [CONFIDENTIAL INFORMATION REDACTED] days after Contractor's receipt of Purchaser's written notice requesting such refund.

17.2 In the event of termination pursuant to Article 17.1, upon Purchaser's request, Contractor shall deliver to Purchaser all partially completed items or services and work-in-process.

In the event of termination pursuant to Article 17.1, Contractor shall not be required to refund any amounts, and Purchaser shall remain liable for payment of all amounts, with respect to Deliverable Items for which Acceptance has occurred pursuant to the terms of Article 10 or Article 11, or that are retained by Purchaser whether or not completed, as follows: (i) at the price set forth in this Contract for such items for which an itemized price is set forth herein and (ii) at the reasonable out-of-pocket cost incurred by Contractor for (a) such items for which no itemized price is set forth herein and (b) partially completed items or services and work-in-progress.

ARTICLE 18 - PURCHASER DELAY OF WORK

Except in the case of a Force Majeure event, if the performance of all or any part of the work required of Contractor under this Contract is delayed or interrupted by Purchaser's failure to perform its contractual obligations within the time specified in this Contract or within a reasonable time if no time is specified, or an act by Purchaser that unreasonably interferes with Contractor's performance of its obligations under this Contract, Contractor shall give written notice to Purchaser of the failure or act causing such delay or interruption. If Purchaser does not promptly cease such act or correct such failure, this Contract shall be equitably adjusted in the price, performance requirements, Delivery schedule, and any other terms of this Contract affected by such act or failure to act of Purchaser.

ARTICLE 19 - PATENT INDEMNITY

19.1 Indemnification

Purchaser agrees that Contractor has the right to defend and, at Contractor's sole option to settle, and Contractor, at its own expense, hereby agrees to defend or, at Contractor's sole option to settle, and to indemnify and hold harmless Purchaser, and its Affiliates, and their respective officers, directors, employees, shareholders, agents and representatives from and against any and all claims, actions, suits or proceedings based on an allegation that the design or manufacture of any Deliverable Item or part thereof or the normal intended use, lease, sale or other disposition of any Deliverable Item or part thereof infringes any patent or other intellectual property right ("Intellectual Property Claim"), and shall pay any royalties and other liabilities adjudicated to be owing to the claimant (or, in Contractor's sole discretion, provided in settlement of the matter) as well as costs incurred in defending (including court costs and reasonable attorneys' fees) such Intellectual Property Claim; provided that Purchaser promptly notifies Contractor in writing of any such Intellectual Property Claim and gives Contractor the authority and all such assistance and information as may be requested from time to time by Contractor for the defense of such Intellectual Property Claim. Any such assistance or information which is furnished by Purchaser at the request of Contractor shall be at Contractor's expense.

In any proceeding relating to an Intellectual Property Claim, any person or entity entitled to indemnification hereunder (an "Indemnified Party") shall have the right to retain its own counsel at its own expense. Notwithstanding the foregoing, Contractor shall pay the fees and expenses of counsel retained by an Indemnified Party in the event that: (i) Contractor and such Indemnified Party shall have mutually

agreed to retention of such other counsel; or (ii) the named parties to any proceeding (including without limitation any impleaded parties) include both Contractor and such Indemnified Party and representation of both Contractor and such Indemnified Party by the same counsel would be inappropriate due to actual or potential conflict of interest between them.

19.2 Infringing Equipment

If the design or manufacture of any Deliverable Item or the normal intended use, lease, sale or other disposition of any Deliverable Item under this Contract is enjoined as a result of an Intellectual Property Claim or is otherwise prohibited, Contractor shall (i) resolve the matter so that the injunction or prohibition no longer pertains, (ii) procure for Purchaser the right to use the infringing item or (iii) modify the infringing item so that it becomes non-infringing while remaining in compliance with the Performance Specification (as may be waived pursuant to Article 9.4) in all respects. If Contractor is unable to accomplish (i), (ii) or (iii) as stated above, Purchaser shall have right to terminate this Contract with respect to such Deliverable Item, return such Deliverable Item to Contractor (in space, with respect to an in-orbit Satellite), and receive [CONFIDENTIAL INFORMATION REDACTED].

19.3 Combinations and Modifications

Contractor shall have no liability under this Article 19 for any Intellectual Property Claim arising solely from (i) use of any Deliverable Item in combination with other items, unless Contractor sold them as a combination intended to be so used or (ii) modifications of Deliverable Items after Acceptance, unless Contractor or one of its subcontractors (with the knowledge and consent of Contractor) made or specifically recommended such modifications.

19.4 Sole Remedies
Except in the case of willful misconduct or Gross Negligence by Contractor, the remedies set forth in this Article 19 are Purchaser's sole and exclusive remedies for or related to any Intellectual Property Claim, and Contractor's liability under this Article 19 for any Intellectual Property Claim with respect to a Deliverable Item shall in no event exceed [CONFIDENTIAL INFORMATION REDACTED]. In all cases Contractor's liability shall be subject to the limitation of liability set forth in Article 34.

ARTICLE 20 - INDEMNITY FOR BODILY INJURY AND PROPERTY DAMAGE

20.1 Contractor's Indemnification of Purchaser
Contractor shall defend, indemnify and hold harmless Purchaser, and its Affiliates, and their respective directors, officers, employees, shareholders, agents and representatives from and against all losses, damages, liabilities, suits and expenses (including, but not limited to, reasonable attorneys' fees) (collectively "Losses") attributable to third party claims for bodily injury or property damage, but only if such Losses were caused by, or resulted from, negligent acts or omissions, Gross Misconduct or willful misconduct by Contractor or its employees, agents, consultants or representatives. For the avoidance of doubt, and except for Losses resulting from the Gross Negligence or willful misconduct of Contractor, Contractor shall have no indemnity obligation under this Article 20.1 for any Losses with respect to the operation or use of a Satellite after Launch, even if such Losses are attributable to an act or omission of Contractor or its employees prior to Launch. In all cases Contractor's liability shall be subject to the limitation of liability set forth in Article 34.

20.2 Purchaser's Indemnification of Contractor

Purchaser shall defend, indemnify and hold harmless Contractor, and its Affiliates, and their respective directors, officers, employees, shareholders, agents and representatives from and against all Losses attributable to third party claims for bodily injury or property damage, but only if such Losses were caused by, or resulted from, negligent acts or omissions, Gross Negligence or willful misconduct by Purchaser or its employees, agents, consultants or representatives.

20.3 Conditions to Indemnification

The right to any indemnity specified in Article 20.1 or 20.2 shall be subject to the following conditions:

a. The Party seeking indemnification shall promptly advise the other Party in writing of the filing of any suit or of any written or oral claim for indemnification upon receipt thereof and shall provide the other Party, at its request, with such assistance and information available to the indemnified party as is relevant to the defense of such suit or claim. Any such assistance or information which is furnished by the indemnified Party at the request of the indemnifying Party shall be at the indemnifying Party's expense.

b. The Party seeking indemnification shall not make any admission nor shall it reach a compromise or settlement without the prior written approval of the other Party, which approval shall not be unreasonably withheld or delayed.

c. The indemnifying Party shall assist and shall have the right to assume, when not contrary to the governing rules of procedure, the defense of any claim or suit in settlement thereof and shall satisfy any judgments rendered by a court of competent jurisdiction in such suits and shall make all settlement payments.

d. The Party seeking indemnification may participate in any defense at its own expense, using counsel reasonably acceptable to the indemnifying Party, provided there is no conflict of interest and that such participation would not adversely affect the conduct of the proceedings.

e. Notwithstanding the foregoing, the indemnifying party shall pay the fees and expenses of counsel retained by an indemnified party in the event that: (i) the indemnifying party and such indemnified party shall have mutually agreed to retention of such other counsel; or (ii) the named parties to any proceeding (including without limitation any impleaded parties) include both the indemnifying party and such indemnified party and representation of both the indemnifying party and such indemnified party by the same counsel would be inappropriate due to actual or potential conflicts of interest between them.

ARTICLE 21 - TERMINATION FOR CONVENIENCE

21.1 Reimbursement of Contractor

Purchaser may terminate this Contract without cause, in whole or in part, by giving Contractor written notice [CONFIDENTIAL INFORMATION REDACTED] days prior to the date of such termination. In the event of such termination, Contractor will immediately cease work as directed in the termination notice and it is agreed that the termination charges shall be negotiated. In no event shall the termination charges pursuant to this Article 21.1 exceed [CONFIDENTIAL INFORMATION REDACTED]

In no event will the aggregate of the amounts previously paid by Purchaser under this Contract and the amounts to be paid by Purchaser under this Article 21.1 [CONFIDENTIAL INFORMATION REDACTED].

21.2 Partial Termination

If the termination by Purchaser is partial, the price for the non-terminated portion of this Contract shall be increased by [CONFIDENTIAL INFORMATION REDACTED] equal to [CONFIDENTIAL INFORMATION REDACTED]; however, in no event will the aggregate of the amounts previously paid by Purchaser under this Contract and the amounts to be paid by Purchaser for the non-terminated portion of this Contract, as increased under this Article 21.2, [CONFIDENTIAL INFORMATION REDACTED].

21.3 Title Transfer

In the event of a termination pursuant to this Article 21, a termination settlement meeting shall be held at a mutually agreed time and place no later than [CONFIDENTIAL INFORMATION REDACTED] days after submission of a claim by Contractor pursuant to Article 21.1. At or prior to the date of such termination settlement meeting, Contractor shall provide Purchaser with such documentation of the costs set forth in Articles 21.1 and 21.2 as Purchaser may reasonably request. Upon mutual agreement of the termination settlement, Contractor may submit an invoice to Purchaser for payment in accordance with the terms of Article 5.2. Upon mutual agreement of the termination settlement, subject to applicable U.S. Government export laws, Contractor shall, at Contractor's or subcontractor's plant, transfer title and risk of loss to Purchaser of all Deliverable Items referred to in Article 21.1(a), and all other partially completed or incomplete Deliverable Items for which Contractor is entitled to payment under this Article 21 at the time of the termination settlement. Purchaser may direct Contractor to undertake to reallocate to other uses, and/or to otherwise assist Purchaser in disposing/selling, items subject to termination under this Article 21 for the purpose of receiving a price refund or offset against Contractor's termination claim. Upon receipt of such direction, Contractor shall, on a reasonable efforts basis, attempt to reallocate, and/or to otherwise assist Purchaser in disposing/selling, the items and provide a refund (in cases where the

amounts generated are greater than Contractor's termination claim) to Purchaser or an offset (in cases where the amounts generated are less than or equal to Contractor's termination claim) against Contractor's termination claim, less any reasonable selling expenses.

21.4 Minimize Termination Costs

In the event of termination pursuant to this Article 21, Contractor shall take all actions necessary to reduce the termination costs due from Purchaser, including but not limited to, the immediate discontinuance of the terminated work under this Contract and the placing of no further orders for labor, materials or services required under the terminated portion of the Contract. Contractor agrees to take such action as may be necessary or as Purchaser may direct for protection of property in Contractor's possession in which Purchaser may have acquired an interest.

21.5 Continued Efforts

Contractor shall continue performance of the portion of this Contract not terminated. Purchaser shall have no obligations to Contractor with respect to the terminated portion of this Contract except as set forth in this Article 21.

21.6 Settlements

Contractor agrees to advise Purchaser in writing of all proposed settlements with vendors in excess of [CONFIDENTIAL INFORMATION REDACTED] in the event of termination under this Article 21, and Contractor further agrees not to enter into any binding settlements until Purchaser has approved the proposed settlement or [CONFIDENTIAL INFORMATION REDACTED] days have elapsed from the date Purchaser was first notified of such proposed settlement.

21.7 Measurement of Costs

Costs shall be determined in accordance with generally accepted accounting principals and verified by an independent certified accounting firm of national reputation mutually acceptable to Purchaser and Contractor with costs therefor shared equally by both Parties.

ARTICLE 22 - [CONFIDENTIAL INFORMATION REDACTED]

ARTICLE 22A - [CONFIDENTIAL INFORMATION REDACTED]

ARTICLE 23 - DEFAULT

23.1 Failure to Perform by Contractor
Subject to Article 23.4 below, if (i) Contractor fails to Deliver a Satellite within the time specified for Delivery thereof plus the maximum number of days for late delivery liquidated damages specified in Article [CONFIDENTIAL INFORMATION REDACTED] ; (ii) Acceptance of any other Deliverable Item does not occur within the time specified for delivery thereof in this Contract (or, in either case, such longer time as may be agreed to in writing by Purchaser), or (iii) Contractor fails to prosecute the work hereunder or to perform any other material provision of this Contract, thereby endangering performance of this Contract within the time period set forth in Subsection (i) above, and in each case Contractor does not cure such failure within [CONFIDENTIAL INFORMATION REDACTED] days (or such longer period as may be agreed to in writing by Purchaser) after receipt from Purchaser of written notice of such failure, Purchaser may terminate this Contract in whole or in part by written notice to Contractor.

23.2 Termination Liability
In the event of a termination for default pursuant to Article 23.1, Contractor shall [CONFIDENTIAL INFORMATION REDACTED]. In all cases Contractor's liability shall be subject to the limitation of liability set forth in Article 34.

23.3 Partially Completed Items and Work In Process; Contractor's Reimbursement for Terminated Work
In the event of termination pursuant to Article 23.1, upon Purchaser's request, Contractor shall deliver to Purchaser all partially completed items or services and work-in-process.

In the event of termination pursuant to Article 23.1, Contractor shall not be required to refund any amounts, and Purchaser shall remain liable for payment of all amounts, with respect to Deliverable Items for which Acceptance has occurred pursuant to the terms of Article 10 or Article 11, or that are retained by Purchaser whether or not completed, as follows: (i) at the price set forth in this Contract for such items for which an itemized price is set forth herein and (ii) [CONFIDENTIAL INFORMATION REDACTED] for (a) such items for which no itemized price is set forth herein and (b) partially completed items or services and work-in-progress.

23.4 Invalid Default Termination
If, after termination pursuant to Article 23.1, it is finally determined by arbitration, legal proceeding or mutual agreement that Contractor was not in default, or that the default was excusable, the rights and obligations of the Parties shall be the same as if the termination had occurred under Article 21; except that, Contractor shall also be entitled to recover [CONFIDENTIAL INFORMATION REDACTED].

23.5 Contractor Termination

Contractor may terminate this Contract upon Purchaser's failure to comply with any material provision of this Contract by giving written notice to Purchaser of its intention to so terminate. Such notice shall set forth the provision or provisions with which Purchaser has failed to comply and a reasonably detailed description of such failure. Such termination shall become effective upon Purchaser's failure to correct such nonperformance within [CONFIDENTIAL INFORMATION REDACTED] days (or such longer period as may be agreed to in writing by Contractor) after receipt of such notice from Contractor.

In the event of termination pursuant to this Article 23.5, Contractor shall be paid as if the termination were for convenience pursuant to Article 21. Further, and without limiting Contractor's other rights or remedies, Contractor may immediately take over all or part of the Deliverable Items and Contract work-in-process and use them in any manner Contractor may elect. In such case, the fair market value of any Deliverable Items or Contract work-in-progress retained by Contractor shall be off-set against Purchaser's termination liability. If, after termination pursuant to this Article 23.5, it is finally determined by arbitration pursuant to Article 25 that Purchaser did not fail in the performance of its obligations under this Contract, Contractor shall be liable to Purchaser for its reasonable direct damages resulting from such termination of this Contract (in no event exceeding amounts payable to Purchaser pursuant to Articles 23.2 and 23.3, except in the case of Gross Negligence or willful misconduct, and in all cases subject to the limitation of liability set forth in Article 34).

ARTICLE 24 - INTENTIONALLY DELETED

ARTICLE 25 - ARBITRATION

25.1 Arbitration

Any dispute (except as set forth in Article 25.2) arising between the Parties with respect to the performance of obligations under, or interpretation of, this Contract that cannot be settled by negotiation between the Parties within [CONFIDENTIAL INFORMATION REDACTED] days of written notice from one Party to the other stating such first Party's intent to resort to arbitration ("Notice of Arbitration"), shall be determined by submission to binding arbitration in accordance with the provisions of the "Uniform Arbitration Act of 1975", part 2 of article 22 of title 13, Colorado Revised Statutes, as amended from time to time, and not by a lawsuit or resort to court process except as Colorado law provides for judicial review of arbitration proceedings. Any such arbitration shall be conducted in the City and County of Denver, Colorado by a panel of three arbitrators who shall be selected within [CONFIDENTIAL INFORMATION REDACTED] days of such Notice of Arbitration, as follows: (i) one arbitrator shall selected by each Party; and (ii) the third arbitrator shall be selected by the arbitrators chosen by the Parties. In resolving any dispute, the arbitrators shall apply the substantive laws of the State of New York (without regard to its conflict of law rules), but shall apply the Colorado Rules of Civil Procedure and the Colorado Rules of Evidence, and shall take into account usages, customs and practices in the performance of contracts for the purchase and sale of commercial communications satellites. Proceedings and documents provided and generated in connection with any arbitration hereunder shall be in the English language. Each Party shall bear its own costs and expenses (including the costs and expenses of the arbitrator it selected) and one-half of the costs and expenses of the third arbitrator, unless otherwise determined in the arbitral award. The Parties agree that, in no event, shall the arbitrators' decision include a recovery under any

theory of liability, or award in any amount, not expressly allowed under this Contract. In furtherance and without limitation of the foregoing, any award made by the arbitrators shall be within the limitations set forth in Article 34.

25.2 Gross Negligence or Willful Misconduct
If a dispute arises as to whether or not a Party has committed or acted with Gross Negligence or willful misconduct, that issue alone shall be resolved by a federal or state court in New York without a jury, and the court shall resolve such issue by applying the laws of the State of New York without regard to its conflict of law rules. THE PARTIES EXPRESSLY WAIVE THEIR RIGHT TO A JURY IN CONNECTION WITH SUCH DISPUTE.

ARTICLE 26 - INTER-PARTY WAIVER OF LIABILITY FOR A LAUNCH

26.1 Launch Services Agreement Inter-Party Waiver of Liability
The Parties hereby agree to be bound by the no-fault, no-subrogation inter-party waiver of liability and related indemnity provisions provided in the Launch Services Agreement with respect to the Launch of the Satellite and to use reasonable commercial efforts to cause their respective contractors and subcontractors at any tier (including suppliers of any kind) that are involved in the performance of this Contract and any other person having an interest in the Satellite or any Transponder thereon (including customers of Purchaser), as required by the Launch Services Agreement and as specified by Buyer, to accede to such waiver. The Parties shall execute and deliver any instrument that may be required by the Launch Agency to evidence their agreement to be bound by such waiver. Purchaser and Contractor also shall use reasonable commercial efforts to obtain, from their insurers, and shall use reasonable commercial efforts to

cause their respective contractors and subcontractors at any tier (including suppliers of any kind) that are involved in the performance of this Contract and any other person having an interest in any Satellite or any Transponder thereon (including customers of Purchaser) to obtain from their insurers, as required by the Launches Services Agreement and as specified by Buyer, an express waiver of such insurers' rights of subrogation, subject to terms and conditions as are then customarily available regarding such waivers, with respect to any and all claims that have been waived pursuant to this Article 26.

26.2 Indemnity Related to the Inter-Party Waiver of Liability
Each Party shall indemnify against and hold the other Party harmless from any claim against the other Party, its contractors and subcontractors at any tier (including suppliers of any kind) that are involved in the performance of this Contract, made by the Launch Agency or any of its contractors and subcontractors (including suppliers of any kind) that are involved in the performance of the Launch Services Agreement, resulting from the failure of the first Party to waive any liability against, or to use reasonable commercial efforts to cause any other person such Party is obligated to use reasonable commercial efforts to cause to waive any liability against, the Launch Agency or its contractors and subcontractors at any tier (including suppliers of any kind).

26.3 Survival of Obligations
The indemnification and hold harmless obligations provided in this Article 26 shall survive and remain in full force and effect, notwithstanding the expiration or termination of this Contract.

26.4 [CONFIDENTIAL INFORMATION REDACTED]

ARTICLE 27 - CORRECTIVE MEASURES

27.1 Unlaunched Satellites

If the performance data from any launched satellite manufactured by Contractor shows that such launched satellite will not or may not meet the performance specifications for such launched satellite at any time during its mission, then Contractor shall, at its sole cost and expense, if applicable, take appropriate corrective measures in the Satellite before it is Launched so as to eliminate therefrom the deficiencies noted in the launched satellite.

ARTICLE 28 - RESERVED

ARTICLE 29 -

[CONFIDENTIAL INFORMATION REDACTED]

ARTICLE 30 - MOST FAVORED NATION

30. If a total loss or destruction occurs with respect to a Satellite at any time during the period of [CONFIDENTIAL INFORMATION REDACTED] after Launch and Purchaser desires to obtain a new DBS satellite from Contractor, Contractor hereby guarantees that the price of such new satellite, [CONFIDENTIAL INFORMATION REDACTED].

ARTICLE 31 - RESERVED

ARTICLE 32 - RESERVED

ARTICLE 33 - GROUND STORAGE

33.1 Notification
Purchaser may direct Contractor to store the Satellite after completion of SPSR.

33.2 Storage Location
Ground Storage shall be performed at a Contractor controlled facility and shall be conducted in accordance with the satellite storage plan section(s) of the Statement of Work.

33.3 Storage Prices
There shall be no charge for storage and reverification work if the Contractor's failure to perform is the reason the Satellite is stored, or if the Satellite is stored for less than six months.

The firm fixed price for Ground Storage of the Satellite in all other circumstances shall be [CONFIDENTIAL INFORMATION REDACTED] per month storage cost while the Satellite is in Ground Storage. In addition, Purchaser shall also pay directly or reimburse Contractor for [CONFIDENTIAL INFORMATION REDACTED].

33.4 Payments
Payments shall be made on the thirtieth day of each month for the prior month's storage, provided an invoice is received at least thirty days prior to the payment date.

33.5 Title and Risk of Loss
Title and risk of loss to a Satellite delivered for Ground Storage shall remain with Contractor at the storage site. Contractor shall assume full responsibility for any loss or damage to the Satellite during Ground Storage.

33.6 Notification of Intention to Launch a Previously Stored Satellite
Purchaser shall notify Contractor in writing that a Satellite in Ground Storage should be removed from Ground Storage and delivered to the Launch Site. This notification must be received by Contractor not less than [CONFIDENTIAL INFORMATION REDACTED] months prior to the scheduled date for Delivery to the Launch Site of the Satellite. Failure to notify Contractor in a timely manner will result in an adjustment to the Delivery schedule for such Satellite.

ARTICLE 34 - LIMITATION OF LIABILITY

NEITHER PARTY SHALL BE LIABLE DIRECTLY OR INDIRECTLY TO THE OTHER PARTY OR ITS AFFILIATES, OR THEIR OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS OR SUBCONTRACTORS AT ANY TIER (INCLUDING SUPPLIERS OF ANY KIND), AGENTS OR CUSTOMERS, TO ITS PERMITTED ASSIGNEES OR SUCCESSOR OWNERS OF ANY SATELLITE OR OTHER DELIVERABLE ITEM OR TO ANY OTHER PERSON CLAIMING BY OR THROUGH SUCH PARTY FOR ANY AMOUNTS REPRESENTING [CONFIDENTIAL INFORMATION REDACTED], ARISING FROM OR RELATING TO THE PERFORMANCE OR NONPERFORMANCE OF THIS CONTRACT OR ANY ACTS OR OMISSIONS ASSOCIATED THEREWITH OR RELATED TO THE USE OF ANY ITEMS DELIVERED OR SERVICES FURNISHED HEREUNDER, WHETHER THE BASIS OF SUCH LIABILITY IS BREACH OF CONTRACT, TORT, STATUTE OR OTHER LEGAL OR EQUITABLE THEORY, EXCEPT THAT IN THE EVENT OF WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY CONTRACTOR OR PURCHASER SUCH PARTY MAY BE LIABLE AND RESPONSIBLE FOR AMOUNTS REPRESENTING [CONFIDENTIAL INFORMATION REDACTED].

IN NO EVENT SHALL EITHER PARTY'S TOTAL LIABILITY UNDER OR IN CONNECTION WITH THIS CONTRACT EXCEED THE FIRM FIXED PRICE (PROVIDED REFUNDS UNDER ARTICLE 23.2 AND PAYMENTS FOR LOSSES UNDER ARTICLE 39 WILL NOT COUNT AGAINST THIS FIGURE), EXCEPT FOR LIABILITY ARISING FROM WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY A PARTY, IN WHICH CASE THE TOTAL LIABILITY OF A PARTY MAY NOT EXCEED THE FIRM FIXED PRICE PLUS [CONFIDENTIAL INFORMATION REDACTED].

ARTICLE 35 - DISCLOSURE AND HANDLING OF PROPRIETARY INFORMATION

35.1 Definition of Proprietary Information

For the purpose of this Contract, "Proprietary Information" means all information (other than Deliverable Data, which is subject to the provisions of Article 36), in whatever form transmitted, that is disclosed by such Party (hereinafter referred to as the "disclosing party") to the other Party hereto (hereinafter referred to as the "receiving party") relating to the performance by the disclosing party of this Contract and: (i) is identified as proprietary by means of a written legend thereon, or (ii) if disclosed orally, is identified as proprietary at the time of initial disclosure. Proprietary Information shall not include any information disclosed by a Party that (i) is already known to the receiving party at the time of its disclosure, as evidenced by written records of the receiving party, without an obligation of confidentiality at the time of disclosure; (ii) is or becomes publicly known through no wrongful act of the receiving party; (iii) is independently developed by the receiving party as evidenced by written records of the receiving party; (iv) such Party is legally compelled to disclose; or (v) is obtained from a third party without restriction and without breach of this Contract.

35.2 Terms for Handling and Use of Proprietary Information
For a period of [CONFIDENTIAL INFORMATION REDACTED] years after receipt of any Proprietary Information (or until such time as such Proprietary Information becomes publicly known as provided in Article 35.1), the receiving party shall not disclose Proprietary Information that it obtains from the disclosing party to any person or entity except its employees and agents who have a need to know in order to perform under this Contract and who have been informed of and have agreed to abide by the receiving party's obligations under this Article 35. The receiving party shall use not less than the same degree of care to avoid disclosure of such Proprietary Information as it uses for its own Proprietary Information of like importance; but in no event less than a reasonable degree of care. Proprietary Information shall be used only for the purpose of performing the obligations under this Contract, or as the disclosing party otherwise authorizes in writing.

IN NO EVENT SHALL EITHER PARTY DISCLOSE OR TRANSFER TECHNICAL INFORMATION OR PROVIDE TECHNICAL SERVICES TO INSURANCE BROKERS, UNDERWRITERS OR OTHER THIRD PERSONS OR ENTITIES WITHOUT THE OTHER PARTY'S PRIOR WRITTEN APPROVAL (WHICH SHALL NOT BE UNREASONABLY WITHHELD OR DELAYED) AND, WHERE REQUIRED, PRIOR APPROVAL OF THE U.S. DEPARTMENT OF STATE.

35.3 Legally Required Disclosures
Notwithstanding the foregoing, in the event that the receiving party becomes legally compelled to disclose Proprietary Information of the disclosing party, including this Contract or other supporting document(s), the receiving party shall, to the extent practicable under the circumstances, provide the disclosing party with written notice thereof so that the disclosing party may seek a protective order or other appropriate remedy, or to allow the disclosing party to redact

such portions of the Proprietary Information as the disclosing party deems appropriate. In any such event, the receiving party will disclose only such information as is legally required, and will cooperate with the disclosing party (at the disclosing party's expense) to obtain confidential and proprietary treatment for any Proprietary Information being disclosed.

35.4 Title; Return

All Proprietary Information disclosed under this Contract in tangible form (including without limitation information incorporated in computer software or held in electronic storage means) shall be and remain the property of the disclosing party. All notes, memoranda or other materials created or fabricated by the receiving party, including without limitation evaluations, based upon Proprietary information or prepared by the receiving party which include Proprietary Information shall be considered Proprietary Information for all purposes under this Contract. Upon request of the disclosing party, all such Proprietary Information shall be returned to the disclosing party or shall be destroyed by the receiving party and shall not thereafter be retained in any form by the receiving party. Upon request of the disclosing party, the receiving party shall certify in writing that such party has either returned or destroyed all Proprietary Information previously received from the disclosing party. The rights and obligations of the Parties under this Article 35 shall survive any such return or destruction of Proprietary Information.

35.5 Specific Performance

The Parties acknowledge and agree that the unauthorized use or disclosure by the receiving party of any Proprietary Information disclosed by the disclosing party would result in irreparable injury to

the disclosing party. The Parties agree that that the disclosing party shall, in addition to and not in lieu of any other available legal or equitable remedies or damages, be entitled to a temporary injunction to restrain threatened or actual breaches of the terms of this Article 35 by the receiving party, its agents, employees, representatives and all other persons acting for any of the above-mentioned persons or entities.

35.6 Disclosure of Contract Terms

Notwithstanding anything to the contrary in this Article 35, and subject to applicable export restrictions, the terms and conditions of this Contract may not be disclosed by either Party to any person except with the prior written consent of the other Party, provided, in each case, that the recipient of such information agrees to treat such information as confidential and executes and delivers a confidentiality agreement reasonably acceptable to both Parties or is otherwise subject to confidentiality obligations reasonably satisfactory to both Parties; provided, further, that either Party shall have the right to disclose such information as is required under applicable law or the binding order of a court or government agency; and provided further that Purchaser shall have the right to disclose any or all of the terms and conditions of this Contract to its insurance brokers and underwriters as Purchaser deems necessary in its sole judgment.

ARTICLE 36 - INTELLECTUAL PROPERTY RIGHTS - RIGHTS IN DATA

36.1 Intellectual Property Rights

(a) Contractor hereby grants to Purchaser a fully-paid up, royalty free, irrevocable, and non-exclusive license to practice and have practiced throughout the world exclusively for the purpose of (i)

operating, maintaining or using the Deliverable Items, or (ii) developing, operating, maintaining or using ground equipment with such Deliverable Items any inventions (including without limitation software), whether patented or unpatented or otherwise subject to intellectual property protections, now or hereafter owned by Contractor, or to which Contractor has or may acquire rights, which inventions are incorporated in any Deliverable Item or required in order to practice or have practiced any invention incorporated in any Deliverable Item.

36.2 Rights in Data

Contractor shall retain title to all Deliverable Data utilized or developed by Contractor during the performance of this Contract. Subject to U.S. export regulations and applicable export restrictions, Purchaser's officers, directors, employees, consultants and representatives shall have the non-exclusive right to obtain and use the Deliverable Data for any and all purposes related to the testing, operation, use and maintenance of the Satellite. Purchaser's officers, directors, employees, consultants and representatives shall not disclose Deliverable Data to other companies, organizations or persons without the express prior written consent of Contractor, which consent shall not be unreasonably withheld or delayed. Purchaser shall have no rights in Deliverable Data other than as expressly stated in this Contract, and title to Deliverable Data shall not pass to Purchaser or any other entity pursuant to the terms hereof.

36.3 No Additional Obligation

Nothing contained in this Article shall require Contractor to provide any data other than as set forth in the Statement of Work.

ARTICLE 37 - PUBLIC RELEASE OF INFORMATION

Either Party intending to disclose publicly whether through the issuance of news releases, articles, brochures, advertisements, prepared speeches or other information releases concerning this Contract or the transactions contemplated herein shall obtain the prior written approval of the other Party with respect to the content and timing of such issuance. A Party's approval under this Article 37 shall not be unreasonably delayed or denied. Notwithstanding the above, either Party may release information described herein as required by securities laws or other applicable laws.

ARTICLE 38 - NOTICES

38.1 Written Notification
Each notice or correspondence required or permitted to be given hereunder shall be given in writing (except where oral notice is specifically authorized) to the respective addresses or facsimile numbers and to the attention of the individuals set forth below by post, facsimile transmission, overnight courier or first class registered or certified mail, return receipt requested, postage prepaid. The sending of such notice with confirmation of successful receipt of the complete transmission (in the case of facsimile transmissions) or receipt of such notice (in the case of delivery by first class registered or certified mail or by overnight courier service) shall constitute the giving thereof.

In the case of Purchaser:

[CONFIDENTIAL INFORMATION REDACTED]

With a separately delivered copy to:
[CONFIDENTIAL INFORMATION REDACTED]

In the case of Contractor:

[CONFIDENTIAL INFORMATION REDACTED]

38.2 Change of Address
Either Party may from time to time change its notice address or the persons to be notified by giving the other Party written notice (as provided above) of such new information and the date upon which such change shall become effective.

ARTICLE 39 -

[CONFIDENTIAL INFORMATION REDACTED]

ARTICLE 40 - ORDER OF PRECEDENCE

In the event of conflict among the terms of the Preamble and Articles 1 to 46 of this Contract and the Exhibits, the following order of decreasing precedence shall apply:

- This Contract (Preamble and Articles 1 through 46 and Attachment A and B)
- Exhibit A Statement of Work
- Exhibit B Performance Specification
- Exhibit C Product Assurance Program Plan
- Exhibit D Test Plan

ARTICLE 41 - GENERAL

41.1 Binding Effect; Assignment

This Contract shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Except as otherwise expressly set forth to the contrary herein, this Contract may not be assigned, either in whole or in part, by either Party without the express written approval of the other Party. Such approval shall not be unreasonably withheld or delayed. Contractor may require, as a condition of approving an assignment by Purchaser, that the proposed assignee establish irrevocable letters of credit, guarantees or other comparable assurances satisfactory to Contractor prior to such assignment becoming effective and that Purchaser remain primarily or secondarily liable hereunder. Either Party, upon prior written notice to the other Party, may grant security interests in its rights hereunder to lenders that provide financing for the performance by such Party of its obligations under this Contract or for the subject matter hereof. In the event that either Party is sold to or merged into another entity that shall be deemed an assignment requiring the other Party's approval hereunder. Notwithstanding anything to the contrary herein, Purchaser may assign this Contract, in whole or in part without Contractor's approval and without regard to the conditions set forth in the fourth sentence of this Article 41.1, to a person or entity that directly or indirectly controls, is controlled by or is under common control with Purchaser.

41.2 Severability

If any provision of this Contract is declared or found to be illegal, unenforceable or void, the Parties shall negotiate in good faith to agree upon a substitute provision that is legal and enforceable and is as nearly as possible consistent with the intentions underlying the original

provision. If the remainder of this Contract is not materially affected by such declaration or finding and is capable of substantial performance, then the remainder shall be enforced to the extent permitted by law.

41.3 Captions

The captions contained herein are for purposes of convenience only and shall not affect the construction of this Contract.

41.4 Relationships of the Parties

It is expressly understood that Contractor and Purchaser intend by this Contract to establish the relationship of independent contractors only, and do not intend to undertake the relationship of principal and agent or to create a joint venture or partnership or any other relationship, other than that of independent contractors, between them or their respective successors in interests. Neither Contractor nor Purchaser shall have any authority to create or assume, in the name or on behalf of the other Party, any obligation, expressed or implied, or to act or purport to act as the agent or the legally empowered representative of the other Party, for any purpose whatsoever.

41.5 Entire Agreement

The existing Contract between EchoStar Orbital Corporation and Space Systems/Loral, Inc. dated February 4, 2000, regarding the EchoStar 8 Satellite Program (110 degrees W.L.), is hereby amended, restated and superceded in its entirety by this Contract effective as of February 1, 2001, and the Parties hereby agree that, this Contract, including all Exhibits and the Attachments hereto, represents the entire understanding and agreement between the Parties hereto with respect to the subject matter hereof, and supersedes all prior negotiations and agreements with respect to the subject matter hereof. This Contract may not be modified or amended, and the Parties' rights and obligations may not be waived, except by the written agreement of both Parties.

41.6 Standard of Conduct
Both Parties agree that all their actions in carrying out the provisions of this Contract shall be in compliance with applicable laws and regulations and neither Party will pay or accept bribes, kickbacks or other illegal payments, or engage in unlawful conduct.

41.7 Construction
This Contract, the Exhibits and the Attachment hereto have been drafted jointly by the Parties and in the event of any ambiguities in the language hereof, there shall be no inference drawn in favor of or against either Party.

41.8 Counterparts
This Contract may be signed in any number of counterparts with the same effect as if the signature(s) on each counterpart were upon the same instrument.

41.9 Applicable Law
This Contract shall be interpreted, construed and governed, and the rights of the Parties shall be determined, in all respects, according to the laws of the State of New York without regard to its conflict of law rules.

41.10 Survival
Termination or expiration of this Contract for any reason shall not release either Party from any liabilities or obligations set forth in this Contract that (i) the Parties have expressly agreed shall survive any such termination or expiration or (ii) remain to be performed or by their nature would be intended to be applicable following any such termination or expiration.

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41.11 U.N. Convention on the International Sales of Goods
The U.N. Convention on the International Sales of Goods shall not apply or otherwise have any legal effect with respect to this Contract.

41.12 Waiver
No delay or omission by either Party to exercise any right or power shall impair any such right or power or be construed to be a waiver thereof. No payment of money by any person or entity shall be construed as a waiver of any right or power under this Contract. A waiver by any Party of any of the covenants, conditions or contracts to be performed by the other Party or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition or contract herein contained. No change, waiver or discharge hereof shall be valid unless in writing and signed by a duly authorized representative of the Party against which such change, waiver or discharge is sought to be enforced.

ARTICLE 42 - ATTACHMENTS

The following Attachments are incorporated in this Contract:

Attachment A Payment Plan

Attachment B Pages 5 through 11 of the EchoStar 5 Insurance Policy

ARTICLE 43 - TERMINATION RIGHT

Notwithstanding anything to the contrary herein, if by the TBD Deadline the Parties are unable to reach final agreement upon: (1) the pricing and schedule for the options described in Article [CONFIDENTIAL INFORMATION REDACTED], or (2) the TBD terms of this Contract, the Statement of Work, Satellite Performance Specification, Product Assurance Program Plan, Satellite Program Test Plan and Payment Plan, then Purchaser may immediately terminate this Contract by providing written notice to Contractor. If such termination occurs, then Purchaser shall pay Contractor [CONFIDENTIAL INFORMATION REDACTED] within [CONFIDENTIAL INFORMATION REDACTED] days of receipt of an invoice. All other liabilities and obligations of the Parties shall be released, waived and terminated, except for those set forth in Articles 20, 35 and 37.

ARTICLE 44 - COOPERATION REGARDING SPOT BEAMS

Until the TBD Deadline, Contractor shall use reasonable commercial efforts to cooperate with [CONFIDENTIAL INFORMATION REDACTED] regarding the coordination and development of the requirements and footprints for the spot beams for the Satellite and [CONFIDENTIAL INFORMATION REDACTED] satellite being manufactured by [CONFIDENTIAL INFORMATION REDACTED] In addition, upon Purchaser's request, Contractor shall use reasonable commercial efforts to cooperate with [CONFIDENTIAL INFORMATION REDACTED] as necessary to change the initial requirements and/or footprints of the spot beams for the Satellite and the [CONFIDENTIAL INFORMATION REDACTED] satellite. Finally, Contractor shall use reasonable commercial efforts to cooperate with [CONFIDENTIAL INFORMATION REDACTED] as necessary to ensure that the spot beams of the Satellite and the [CONFIDENTIAL INFORMATION REDACTED] satellite, as deployed, will operate in accordance with the final approved requirements and footprints. In performing

the above obligations, Contractor shall not be required to disclose any of its proprietary information to [CONFIDENTIAL INFORMATION REDACTED].

ARTICLE 45 -

[CONFIDENTIAL INFORMATION REDACTED]

ARTICLE 46 - KEY PERSONNEL

The Contractor will assign properly qualified and experienced personnel to the program contemplated under the Contract. Personnel assigned to the following positions shall be considered "Key Personnel":

a) the Contractor's Program Manager
b) the Contractor's Contracts Manager
c) the Contractor's Product Assurance Manager
d) the Contractor's Systems Engineering Manager
e) the Contractor's Vehicle Manager

The Purchaser shall have the right to approve the Contractor's Program Manager which approval shall not be unreasonably withheld or delayed. Key Personnel shall not be assigned to other duties without the Contractor giving prior written notice to and consulting with the Purchaser. The Contractor shall provide a chart to the Purchaser of the program Key Personnel and shall keep such chart current.

Additionally, for so long as Randy Tyner is associated with Contractor as an employee or consultant, Purchaser shall have unrestricted access to Mr. Tyner for purposes of designing the payload and its specifications. Mr. Tyner shall have a key decision-making role on payload-related issues, and shall be a primary interface with the Purchaser on all payload-related technical and performance issues.

IN WITNESS THEREOF, the Parties have executed this Amended and Restated Contract by their duly authorized officers as of the date set forth in the Preamble.

SPACE SYSTEMS/LORAL, INC.	ECHOSTAR ORBITAL CORPORATION
By: ----------	By: ----------
Name: ----------	Name: ----------
Title: ----------	Title: ----------

ATTACHMENT A

PAYMENT PLAN

[CONFIDENTIAL INFORMATION REDACTED]

ATTACHMENT B

EXHIBIT 10.3

CONTRACT AMENDMENT NO. 1 TO THE ECHOSTAR IX CONTRACT
CONTRACT NO. TP99022 BETWEEN
ECHOSTAR ORBITAL CORPORATION AND
SPACE SYSTEMS/LORAL, INC.

THIS CONTRACT AMENDMENT NO. 1 (the "Amendment") is entered into effective as of the 9th day of November 2000, between ECHOSTAR ORBITAL CORPORATION (the "Purchaser") and SPACE SYSTEMS/LORAL, INC. (the "Contractor").

WHEREAS, Contractor and Purchaser are parties to Contract No. TP99022 (the "Contract") dated February 22, 2000,

WHEREAS, Contractor and Purchaser desire to amend the Contract to recognize a price increase of [CONFIDENTIAL INFORMATION REDACTED] to Purchaser's share of the Firm Fixed Price for incorporating the additional technical specification requirements for the Ka-band payload set forth in Exhibit B to the Contract, Echo IX Performance Specification, dated October 18, 2000,

WHEREAS, Contractor and Purchaser desire to amend the Contract to recognize a price increase of [CONFIDENTIAL INFORMATION REDACTED] to Skynet's share of the Firm Fixed Price for incorporating certain changes to the C-Band payload, and

WHEREAS, Contractor and Purchaser desire to amend Attachment A to the Contract;

NOW, THEREFORE, in consideration of the mutual covenants and conditions in this Amendment and in the Contract and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Price Increase: The Firm Fixed Price set forth in Section 4.1 of the Contract is hereby increased by [CONFIDENTIAL INFORMATION REDACTED] increase to Purchaser's share of the Firm Fixed Price and a [CONFIDENTIAL INFORMATION REDACTED] increase to Skynet's share of the Firm Fixed Price) FROM[CONFIDENTIAL INFORMATION REDACTED] . Purchaser's share of such increase shall be invoiced in the manner set forth in the revised Attachment A to the Contract attached hereto. Purchaser's total share of the Firm Fixed Price is hereby increased to [CONFIDENTIAL INFORMATION REDACTED] and Skynet's total share of the Firm Fixed Price is hereby increased to [CONFIDENTIAL INFORMATION REDACTED].

2. Attachment A: Attachment A to the Contract is hereby replaced and superceded in its entirety by the revised Attachment A to the Contract attached hereto.

3. Defined Terms: All capitalized terms in this Amendment, not otherwise defined herein, shall have the same meaning as ascribed to them in the Contract.

4. Ratification and Affirmation: The Contract, as modified by the express terms of this Amendment, is hereby ratified and affirmed by Purchaser and Contractor, and shall remain in full force and effect.

5. Counterparts: This Amendment may be executed in one or more counterparts, all of which taken together shall constitute the Amendment.

IN WITNESS WHEREOF, the parties have executed this Amendment effective as of the date first written above:

CONTRACTOR:	PURCHASER:
SPACE SYSTEMS/LORAL, INC.	ECHOSTAR ORBITAL CORPORATION
By: ----------	By: ----------
Name: R. A. Haley	Name: ----------
Title: Senior Vice President & CFO	Title: ----------

ATTACHMENT A

[CONFIDENTIAL INFORMATION REDACTED]