
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 8-A

**For Registration of Certain Classes of Securities
Pursuant to Section 12(b) or 12(g) of
the Securities Exchange Act of 1934**

Eastman Kodak Company
(Exact name of registrant as specified in its charter)

New Jersey
(State or other Jurisdiction
of Incorporation)

1-87
(Commission
File Number)

16-0417150
(IRS Employer
Identification No.)

343 State Street, Rochester, New York
(Address of Principal Executive Offices)

14650
(Zip Code)

Registrant's telephone number, including area code: (585) 724-4000

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

None

If this form relates to the registration of a class of securities pursuant to Section 12(b) of the Exchange Act and is effective pursuant to General Instruction A. (c), check the following box.

If this form relates to the registration of a class of securities pursuant to Section 12(g) of the Exchange Act and is effective pursuant to General Instruction A. (d), check the following box.

Securities Act registration statement file number to which this form relates: 333-190957

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

Common Stock, \$0.01 par value per share
Warrants to purchase Common Stock, \$0.01 par value per share, exercisable on or before September 3, 2018

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

As previously reported, on January 19, 2012, Eastman Kodak Company (the "Company") and its certain of its subsidiaries (together with the Company, the "Debtors") filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), Case No. 12-10202 (ALG). On August 23, 2013, the Bankruptcy Court confirmed the revised First Amended Joint Chapter 11 Plan of Reorganization of Eastman Kodak Company and its Debtor Affiliates (the "Plan"). Capitalized terms used but not defined herein shall have the meanings given to them in the Plan.

This registration statement registers under Section 12(g) of the Securities Exchange Act of 1934 (the "Act") a new class of common stock of the Company, par value \$0.01 per share, initially issued pursuant to the Plan upon its effectiveness (the "Common Stock"), warrants to purchase shares of Common Stock at an exercise price of \$14.93 (the "125% Warrants") and warrants to purchase shares of Common Stock at an exercise price of \$16.12 (the "135% Warrants", together with the 125% Warrants, the "Warrants"). All previously issued and outstanding shares of the Company's common stock and all other previously issued and outstanding Equity Interests in the Debtors were cancelled upon the effectiveness of the Plan.

Common Stock

Reference is made to the information set forth in Item 4 of the Company's registration statement on Form S-8, filed September 3, 2013, which information is incorporated by reference herein.

Warrants

On the Effective Date of the Plan, the Company entered into a warrant agreement (the "Warrant Agreement") with ComputerShare Trust Company, N.A. and ComputerShare Inc., as warrant agent (the "Warrant Agent"). The below description of the Warrant Agreement is qualified in its entirety by reference to the Warrant Agreement, which is incorporated by reference herein. A copy of the Warrant Agreement is attached hereto as Exhibit 4.2.

In accordance with the Plan, the Company will issue, to the Holders of General Unsecured Claims and the Retiree Settlement Unsecured Claim, net-share-settled Warrants to purchase: (i) an aggregate of 2,085,008 shares of Common Stock at an exercise price of \$14.93 and (ii) an aggregate of 2,085,008 shares of Common Stock at an exercise price of \$16.12, in each case subject to certain antidilution adjustments and other applicable terms of the Warrant Agreement (the common stock issuable upon exercise of Warrants, the "Underlying Common Stock"). All unexercised Warrants shall expire, and the rights of Holders of such Warrants to purchase Underlying Common Stock shall terminate, at the close of business on September 3, 2018.

No Rights as Shareholders. Prior to the exercise of the Warrants, no holder of Warrants (solely in its capacity as a holder of Warrants) is entitled to any rights as a shareholder of the Company, including, without limitation, the right to vote on Company matters, to exercise any preemptive rights to which holders of Common Stock may be entitled, to receive notice of any meeting of shareholders of the Company for the election of directors or any other matter, or to receive notice of any proceedings of the Company.

Adjustments. The number of shares of Underlying Common Stock for which a Warrant is exercisable, and the exercise price of such Warrant (the "Exercise Price") are subject to adjustment from time to time pursuant to the Warrant Agreement upon the occurrence of certain events, including the payment of dividends to the holders of Common Stock; a subdivision of the Company's outstanding shares of Common Stock into a larger number of shares of Common Stock or a

combination of the Company's outstanding shares of Common Stock into a smaller number of shares of Common Stock; the consummation of a tender offer or exchange offer for all of a portion of the Common Stock for consideration exceeding the fair market value of the Common Stock; or the distribution to the holders of Common Stock of rights to purchase Common Stock for a per-share price less than the fair market value of the Common Stock.

Reorganization or Other Events; Cash Redemption Right. Upon the occurrence of certain events constituting a reorganization, recapitalization, reclassification, consolidation, merger or similar event, each holder of a Warrant will, at the election of the company, have the right to receive, upon exercise of a Warrant, an amount of securities, cash or other property ("Consideration") received in connection with such event with respect to or in exchange for the number of shares of Common Stock for which such Warrant is exercisable immediately prior to such event, *provided* that, at the Company's election upon the occurrence of such event, the Company may pay to such holder a cash amount equal to the fair market value of such Consideration (other than publicly held stock) received in connection with such event with respect to or in exchange for the number of shares of Common Stock for which such Warrant is exercisable immediately prior to such event, and, to the extent the Consideration received in connection with such event includes publicly held stock, such Warrant shall remain outstanding and shall be exercisable for such publicly held stock, as adjusted pursuant to the Warrant Agreement.

Item 2. Exhibits.

| Exhibit No. | Description of Exhibit |
|--------------------|---|
| 3.1 | Second Amended and Restated Certificate of Incorporation of Eastman Kodak Company (incorporated by reference to Exhibit 4.1 to the Company's registration statement on Form S-8 filed September 3, 2013). |
| 3.2 | Second Amended and Restated By-Laws of Eastman Kodak Company (incorporated by reference to Exhibit 4.2 to the Company's registration statement on Form S-8 filed September 3, 2013). |
| 4.1 | Registration Rights Agreement between Eastman Kodak Company and certain stockholders listed on Schedule 1 thereto, dated as of September 3, 2013. |
| 4.2 | Warrant Agreement between Eastman Kodak Company and ComputerShare Trust Company, N.A. and ComputerShare Inc. as Warrant Agent, dated as of September 3, 2013. |

SIGNATURES

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

Date: September 3, 2013

EASTMAN KODAK COMPANY

By: /s/ Patrick M. Sheller

Patrick M. Sheller

Senior Vice President

General Counsel, Secretary & Chief Administrative
Officer

Exhibit Index.

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REGISTRATION RIGHTS AGREEMENT

This Registration Rights Agreement (as amended from time to time, this "**Agreement**") is dated as of September 3, 2013, and is between Eastman Kodak Company, a New Jersey corporation (the "**Company**"), and the stockholders listed on Schedule 1 hereto (collectively, the "**Stockholders**" and, each individually, a "**Stockholder**"). References to Stockholders also include transferees to whom a Stockholder transfers Registrable Securities and related rights under this Agreement in accordance with Section 6.1. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Plan (as defined below).

INTRODUCTION

On the date hereof, the Company issued shares of common stock, par value \$0.01 per share (the "**Common Stock**"), pursuant to, and upon the terms set forth in, the Joint Plan of Reorganization of the Company and certain of its debtor affiliates under Title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (including the Plan Supplement and all other exhibits and schedules thereto, as amended, modified or supplemented, the "**Plan**"), confirmed by order dated August 23, 2013 of the United States Bankruptcy Court for the Southern District of New York.

In accordance with the Plan, the Company agrees for the benefit of the Stockholders as follows:

ARTICLE I**DEFINITIONS**

In this Agreement:

Exchange Act means the Securities Exchange Act of 1934.

Initial Eligible Holder(s) means, as of any time, one or more Stockholders holding an amount of Registrable Securities representing, as of such time, at least 10% of the shares of Common Stock outstanding as of the date hereof.

Initial Large Eligible Holder(s) means, as of any time, one or more Stockholders holding an amount of Registrable Securities representing, as of such time, at least 25% of the shares of Common Stock outstanding as of the date hereof.

Registrable Securities mean any shares of Common Stock held by the Stockholders (i) issued on the date hereof, (ii) issued upon exercise of any warrants issued pursuant to, and in accordance with, the Plan, (iii) which are contemplated by and to be distributed pursuant to the Plan or are acquired by an affiliate of the Company within twelve months of the date hereof, and are not otherwise eligible for resale without an exemption under Section 4(a)(1) of the Securities Act, or (iv) any other securities issued or issuable with respect to any of the shares described in clauses (i), (ii) and (iii) above in connection with a stock dividend, stock split or distribution, combination of shares, or in connection with a merger, consolidation, reclassification, recapitalization, reorganization or other similar transaction; *provided*, that any

such securities shall cease to constitute “Registrable Securities” upon the earliest to occur of: (A) the date on which such securities are disposed of pursuant to an effective registration statement under the Securities Act; (B) the date on which such securities become eligible for sale under Rule 144 (or any successor rule then in effect) promulgated under the Securities Act, without restriction thereunder and restrictive legends have been removed from all certificates representing the applicable Registrable Securities; and (C) the date on which such securities cease to be outstanding.

SEC means the U.S. Securities and Exchange Commission.

Securities Act means the Securities Act of 1933.

WKSI means a “well-known seasoned issuer,” as defined in Rule 405 under the Securities Act.

ARTICLE II

DEMAND AND PIGGYBACK RIGHTS

2.1 Right to Demand Initial Registration.

(a) Upon the demand of (i) one or more Initial Large Eligible Holders made at any time after the earlier of (A) the filing of the Company’s Annual Report on Form 10-K for the year ending December 31, 2013 and (B) June 30, 2014 or (ii) if the demand registration pursuant to the immediately preceding clause (i) has not been consummated by the Company prior to the second anniversary of the date hereof, one or more Initial Eligible Holders, the Company will, subject to Sections 2.1(b), 2.1(c) and 2.7(b), facilitate in the manner described in this Agreement a registered offering of the Registrable Securities requested by the demanding Initial Large Eligible Holder(s) or Initial Eligible Holder(s), as applicable, to be included in such registered offering (any such effectuated registered offering described in this Section 2.1(a), the “**Initial Registration**”).

(b) A demand by the Initial Large Eligible Holder(s) or the Initial Eligible Holder(s), as applicable, for a non-shelf registered offering pursuant to Section 2.1(a) may not be made, unless the Registrable Securities requested to be sold by such Initial Large Eligible Holder(s) or the Initial Eligible Holder(s), as applicable, in such non-shelf registered offering have an aggregate market value (based on the most recent closing price of the Common Stock at the time of the demand) of at least \$75 million.

(c) The Initial Registration pursuant to Section 2.1(a) may, at the Company’s option, include Common Stock to be sold by the Company for its own account and will also include Registrable Securities to be sold by Stockholders that exercise their related piggyback rights on a timely basis.

2.2 Right to Demand Subsequent Non-Shelf Registered Offerings.

(a) Subject to Sections 2.2(b), 2.2(c), 2.7 and 6.5, upon the demand of one or more Stockholders holding an amount of Registrable Securities representing at least 10% of the then outstanding shares of Common Stock made at any time and from time to time following the Initial Registration, if at the time of the demand the Company is not eligible to utilize Form S-3 or a successor form to sell Common Stock in a secondary offering on a delayed or continuous basis in accordance with Rule 415 under the Securities Act, the Company will facilitate in the manner described in this Agreement a non-shelf registered offering of the Registrable Securities requested by the demanding Stockholder(s) to be included in such offering.

(b) A demand by the Stockholder(s) for a non-shelf registered offering pursuant to Section 2.2(a) may not be made (i) more than four times in the aggregate, subject to Section 2.7(c), and (ii) unless the Registrable Securities requested to be sold by the demanding Stockholders in such non-shelf registered offering have an aggregate market value (based on the most recent closing price of the Common Stock at the time of the demand) of at least \$75 million; *provided* that the limitation included in clause (ii) shall not apply to open market sales to brokers or similar transactions that are not underwritten offerings.

(c) Any demanded non-shelf registered offering pursuant to Section 2.2(a) may, at the Company's option, include Common Stock to be sold by the Company for its own account and will also include Registrable Securities to be sold by Stockholders that exercise their related piggyback rights on a timely basis.

2.3 Right to Piggyback on Non-Shelf Registered Offering. In connection with any registered offering of Common Stock covered by a non-shelf registration statement (whether pursuant to the exercise of a demand right or at the initiative of the Company), the Stockholders may exercise piggyback rights to have included in such offering Registrable Securities held by them. The Company will facilitate in the manner described in this Agreement the exercise of any such piggyback rights.

2.4 Right to Demand and Be Included in a Shelf Registration. Subject to Sections 2.7 and 6.5, upon the demand of one or more Stockholders holding an amount of Registrable Securities representing at least 10% of the then outstanding shares of Common Stock made at any time and from time to time after the Initial Registration, if the Company is then eligible to utilize Form S-3 or a successor form to sell Common Stock in a secondary offering on a delayed or continuous basis in accordance with Rule 415 under the Securities Act, the Company will facilitate in the manner described in this Agreement a shelf registration of Registrable Securities held by the Stockholders. Any shelf registration filed by the Company covering Common Stock (whether pursuant to the exercise of a demand right or at the initiative of the Company) will cover Registrable Securities requested to be included by each of the Stockholders (regardless of whether they demanded the filing of such shelf registration or not) up to the total amount of their respective holdings or, if such shelf registration was made at the initiative of the Company, as may be agreed upon by the Stockholder(s) holding the majority of Registrable Securities requested to be included in such shelf registration or, if such shelf registration was demanded by Stockholders pursuant to this Section 2.4, as may be agreed upon by such demanding Stockholder(s). If at the time of such request the Company is a WKSI, such shelf registration would, at the request of the Stockholder(s) demanding such shelf registration, cover an unspecified amount of Common Stock to be sold by the Company and the Stockholders.

2.5 Demand and Piggyback Rights for Shelf Takedowns.

(a) Subject to Sections 2.5(b), 2.7 and 6.5, upon the demand of one or more Stockholders holding an amount of Registrable Securities representing at least 10% of the then outstanding shares of Common Stock made at any time and from time to time after the Initial Registration, the Company will facilitate in the manner described in this Agreement a “takedown” of Registrable Securities off of an effective shelf registration statement; *provided* that Stockholders may not make such demand (i) more than four times in the aggregate, subject to Section 2.7(c), and (ii) unless the Registrable Securities requested to be sold by the demanding Stockholders in such takedown have an aggregate market value (based on the most recent closing price of the Common Stock at the time of the demand) of at least \$75 million; *provided, further*, that the limitation included in clause (ii) of the immediately preceding proviso shall not apply to open market sales to brokers or similar transactions that are not underwritten offerings.

(b) In connection with any underwritten shelf takedown (whether pursuant to the exercise of a demand right or at the initiative of the Company), the Stockholders may exercise piggyback rights to have included in such takedown Registrable Securities held by them that are registered on such shelf registration statement. The Company will facilitate in the manner described in this Agreement the exercise of any such piggyback rights.

2.6 Right to Reload a Shelf. Beginning on the second anniversary of the date hereof, upon the written request of a Stockholder, the Company will file and seek the effectiveness of a post-effective amendment to an existing shelf registration statement in order to register up to a number of Registrable Securities equal to the sum of (i) the number of Registrable Securities not previously taken down off of such shelf registration statement by such Stockholder and not yet “reloaded” onto such shelf registration statement, and (ii) the number of Registrable Securities that such Stockholder was previously eligible to include in such shelf registration statement but which were not so included; *provided* that the Company shall not be required to file or seek the effectiveness of such a post-effective amendment more than once in any one-year period; *provided further* that when the Company effects a Stockholder’s request to “reload”, it shall notify the other Stockholders and provide such other Stockholders with a reasonable opportunity to include additional Registrable Securities in such “reload” amendment. The Stockholders and the Company will consult and coordinate with each other in order to accomplish such replenishments in a reasonable manner.

2.7 Limitations on Demand and Piggyback Rights.

(a) Any demand for the filing of a registration statement or for a registered offering or takedown will be subject to the constraints of any applicable lockup arrangements (whether relating to an offering demanded by Stockholders or initiated by the Company), and such demand must be deferred until such lockup arrangements no longer apply. If a demand has been made for a non-shelf registered offering or for a shelf takedown (or if the Company is pursuing a registered offering subject to piggyback rights), no further demands may be made so long as such offering is still being pursued. After a non-shelf registered offering or a shelf takedown demanded by a Stockholder (or a Piggyback Offering), no Stockholder may make a demand for a non-shelf registered offering or shelf takedown prior to the expiration of the lockup applicable to such prior demanded offering (or Piggyback Offering, as applicable) or, in any

event, for 60 days after the completion of such demanded offering (or Piggyback Offering, as applicable). A **“Piggyback Offering”** means a registered offering initiated by the Company in which the Stockholders exercised their piggyback rights hereunder and were able to include at least 80% of the amount of Registrable Securities requested to be included therein. Notwithstanding anything in this Agreement to the contrary, the Stockholders will not have piggyback or other registration rights with respect to registered primary offerings by the Company (i) covered by a Form S-8 registration statement or a successor form applicable to employee benefit-related offers and sales, (ii) where the Common Stock is not being sold solely for cash or (iii) where the offering is a bona fide offering of securities other than Common Stock, even if such securities are convertible into or exchangeable or exercisable for Common Stock. Notwithstanding any other provision of this Agreement, the Stockholders shall not have any right to demand a non-shelf registration statement with regard to any securities already registered under a shelf registration.

(b) The Company may postpone the filing or effectiveness of a demanded registration statement (or amendment or supplement thereto) or suspend the use or effectiveness of any shelf registration statement (and in each case suspend any other related action otherwise contemplated hereunder) for a reasonable “blackout period” if the board of directors of the Company determines in good faith that the demanded registration or the sale by a Stockholder of Registrable Securities under such shelf registration statement at such time (i) would adversely affect a pending or proposed significant corporate event, proposed financing or negotiations, discussions or pending proposals with respect thereto or (ii) would require the disclosure of material non-public information the disclosure of which at such time would, in the good faith judgment of the board of directors of the Company, be materially adverse to the interests of the Company; *provided* that the filing or effectiveness of a demanded registration statement (or amendment or supplement thereto) by the Company may not be postponed and the use or effectiveness of any shelf registration statement may not be suspended (A) in the case of clause (i) above, for more than ten days after the abandonment or consummation of any of the pending or proposed significant corporate event, proposed financing or the negotiations, discussions or pending proposals with respect thereto; (B) in the case of clause (ii) above, until the earlier to occur of the filing by the Company of its next succeeding Form 10-K or Form 10-Q or the date upon which such information is otherwise publicly disclosed by the Company; or (C) in any event, in the case of either clause (i) or (ii) above, for more than 90 days after the date of the determination of the board of directors of the Company; *provided* that the Company may not postpone the filing or effectiveness of a demanded registration statement (or amendment or supplement thereto) or suspend the use or effectiveness of any shelf registration statement for more than an aggregate of 90 days in any 365-day period. In addition to the foregoing, the Company shall have the right to suspend any Stockholder’s ability to use a prospectus in connection with non-underwritten sales off of a shelf registration statement during each of its regular quarterly blackout periods applicable to directors and senior officers under the Company’s policies in existence from time to time. The Company shall not be required to effectuate an underwritten offering (during such a regular quarterly blackout period or otherwise) to the extent the Company reasonably concludes, after consultation in good faith with the relevant Stockholders, that the Company cannot provide adequate, timely disclosure or satisfy other underwriting conditions in connection with such offering without undue burden.

(c) Notwithstanding any other provision of this Agreement, the Stockholders shall not have the right to demand more than five non-shelf registered offerings and shelf takedowns, in the aggregate, pursuant to Sections 2.1(a), 2.2(a) and 2.5(a) of this Agreement; *provided* that a non-shelf registration shall not count as a demand under this Agreement unless (i) the non-shelf registration statement has been abandoned or withdrawn by the demanding Stockholder(s) and such Stockholder(s) do not reimburse the Company for all reasonable out-of-pocket expenses incurred by the Company in connection with such non-shelf registration statement or (ii) both (x) the non-shelf registration statement has become effective and (y) such effective non-shelf registration statement includes at least 80% of the Registrable Securities requested to be included by the demanding Stockholder(s) (or any lesser percentage of such Registrable Securities, if the demanding Stockholder(s) elect to proceed with such offering; *provided* that, notwithstanding clause (i) above, if the demanding Stockholder(s) elect not to proceed with such offering for a lesser percentage of such Registrable Securities, such offering shall not count as a demand under this Agreement).

2.8 Maintain Effectiveness of Shelf Registration. Subject to the other provisions of this Agreement, the Company shall use reasonable best efforts to maintain the effectiveness of any shelf registration statement requested pursuant to Section 2.4 continuously until the earliest to occur of (x) the three-year anniversary of the date of the most recent effective date of such shelf registration statement, (y) the day after the date on which all of the Registrable Securities covered by such shelf registration statement have been sold pursuant thereto and (z) the first date on which there shall cease to be any Registrable Securities covered by such shelf registration statement (or which could be covered upon exercise of the “re-load rights” described in Section 2.6) outstanding.

ARTICLE III

NOTICES, CUTBACKS AND OTHER MATTERS

3.1 Notifications Regarding Registration Statements. Prior to exercising demand rights for a registration statement, the Stockholders will consult with each other in this regard. In order for one or more Stockholders to exercise their right to demand that a registration statement be filed, such Stockholders must so notify the Company in writing indicating the number of Registrable Securities sought to be registered and the proposed plan of distribution. If any Stockholders are entitled hereunder to piggyback rights with respect to a non-shelf registration statement or to request to have Registrable Securities included in a shelf registration statement, the Company will provide such Stockholders (or their representatives) with such notice as is necessary to provide such Stockholders with a reasonable opportunity to exercise such piggyback or inclusion rights. Pending any required public disclosure by the Company and subject to applicable legal requirements, the parties will maintain the confidentiality of all notices and other communications regarding any registration statement.

3.2 Notifications Regarding Registration Piggyback Rights or Inclusion in Shelf Registration. Any Stockholder wishing to exercise its piggyback rights with respect to a non-shelf registration statement or to include Registrable Securities in a shelf registration must notify the Company and the other Stockholders of the number of Registrable Securities it seeks to have included in such registration statement. Such notice must be given as soon as

practicable, but in no event later than 5:00 pm, New York City time, on the third trading day prior to (i) if applicable, the date on which the preliminary prospectus intended to be used in connection with pre-effective marketing efforts for the relevant offering is expected to be finalized, and (ii) in any case, the date on which the pricing of the relevant offering is expected to occur. Pending any required public disclosure by the Company and subject to applicable legal requirements, the parties will maintain the confidentiality of all notices and other communications regarding any piggyback registration or shelf registration.

3.3 Notifications Regarding Demanded Underwritten Takedowns.

(a) Prior to exercising their demand rights for an underwritten takedown of Registrable Securities off of a shelf registration statement, the Stockholders will consult with each other in this regard. The Company will keep the Stockholders (or their representatives) apprised of all pertinent aspects of any underwritten shelf takedown as is necessary to provide such Stockholders with a reasonable opportunity to exercise their related piggyback rights. Without limiting the Company's obligation as described in the preceding sentence, having a reasonable opportunity requires that the Stockholders be notified by the Company of an anticipated underwritten takedown (whether pursuant to a demand made by other Stockholders or made at the Company's own initiative) no later than 5:00 pm, New York City time, on the fourth trading day prior to (i) if applicable, the date on which the preliminary prospectus or prospectus supplement intended to be used in connection with pre-pricing marketing efforts for such takedown is finalized, and (ii) in any case, the date on which the pricing of the relevant takedown occurs.

(b) Any Stockholder wishing to exercise its piggyback rights with respect to an underwritten shelf takedown must notify the Company and the other Stockholders of the number of Registrable Securities it seeks to have included in such takedown. Such notice must be given as soon as practicable, but in no event later than 5:00 pm, New York City time, on the third trading day prior to (i) if applicable, the date on which the preliminary prospectus or prospectus supplement intended to be used in connection with marketing efforts for the relevant offering is expected to be finalized, and (ii) in any case, the date on which the pricing of the relevant takedown occurs.

(c) Pending any required public disclosure by the Company and subject to applicable legal requirements, the parties will maintain the confidentiality of all notices and other communications regarding a prospective underwritten takedown.

3.4 Plan of Distribution, Underwriters and Counsel. If a majority of the shares of Common Stock proposed to be sold in an underwritten offering through a non-shelf registration statement or through a shelf takedown is being sold by the Company for its own account, the Company will be entitled to determine the plan of distribution and select the managing underwriters for such offering. Otherwise, Stockholders holding a majority of the Registrable Securities requested to be included in such offering will be entitled to determine the plan of distribution and select the managing underwriters, in each case subject to the consent of the Company (not to be unreasonably withheld), and such majority will also be entitled to select counsel for the selling Stockholders (which may be the same as counsel for the Company). Notwithstanding any other provision of this Agreement, the Company shall not be required to register any securities other than Common Stock or provide registration rights to anyone other than a Stockholder.

3.5 Cutbacks. If a non-shelf registration or shelf takedown involves an underwritten offering and the managing underwriters advise the Company and the selling Stockholders that, in their opinion, the number of Registrable Securities requested to be included in an underwritten offering exceeds the amount that can be sold in such offering without adversely affecting the distribution of the Registrable Securities being offered, such offering will include only the number of Registrable Securities that the managing underwriters advise can be sold in such offering. If the Company has initiated the offering to sell Common Stock for its own account, the Company will have priority and, to the extent of any remaining capacity, the selling Stockholders will be subject to cutback pro rata based on the number of Registrable Securities initially requested by them to be included in such offering. If such non-shelf registration or shelf takedown is requested by one or more Stockholders, the Company shall include in such offering (i) *first*, all Registrable Securities requested to be registered or sold by the selling Stockholders, subject to a cutback pro rata based on the number of Registrable Securities initially requested by them to be included in such offering, without regard to which Stockholders demanded such offering, (ii) *second*, to the extent of any remaining capacity after giving effect to clause (i), the amount of Common Stock proposed to be sold by the Company for its own account, and (iii) *third*, to the extent of any remaining capacity after giving effect to clauses (i) and (ii), the amount of securities proposed to be sold by any other person selected by the Company.

3.6 Withdrawals. Even if Registrable Securities held by a Stockholder have been part of a registered underwritten offering, such Stockholder may, no later than the time at which the public offering price and underwriters' discount are determined with the managing underwriter, decline to sell all or any portion of the Registrable Securities being offered for its account; *provided* that if such registered underwritten offering has been made at the demand of any Stockholder(s) pursuant to Section 2.1(a), 2.2(a) or 2.5(a) of this Agreement and the Stockholder(s) who made the demand for such registered underwritten offering decline to sell, in whole or in part, the Registrable Securities being offered for their account, then, subject to the proviso in Section 2.7(c), the demand for such registered underwritten offering shall count as a demand for purposes of Section 2.7(c) of this Agreement unless such Stockholder(s) reimburse(s) the Company for all reasonable out-of-pocket expenses incurred by the Company in connection with such registered underwritten offering.

3.7 Lockups. In connection with any underwritten offering of Common Stock (whether demanded by any Stockholders or initiated by the Company), the Company and each Stockholder will agree (in the case of the Company, with respect to the Common Stock and any rights related thereto, in the case of the Stockholders, with respect to Registrable Securities respectively held by them and any rights related thereto) to be bound by the underwriting agreement's lockup restrictions (which must apply in like manner to all of them) that are agreed to (a) by the Company, if a majority of the Common Stock being sold in such offering is being sold for its account, and (b) by Stockholders holding a majority of Registrable Securities being sold by all Stockholders, if a majority of the Registrable Securities being sold in such offering are being sold by Stockholders.

3.8 Expenses. All expenses incurred in connection with any registration statement or registered offering covering Registrable Securities held by Stockholders, including, without limitation, all registration and filing fees, printing expenses, the fees and expenses of the independent certified public accountants, the expense of qualifying such Registrable Securities under state blue sky laws, and, subject to the consent of the Company (not to be unreasonably withheld), reasonable fees and expenses of one firm of attorneys selected by Stockholders holding a majority of Registrable Securities covered by such registration statement or included in such registered offering, will be borne by the Company. However, underwriters', brokers' and dealers' discounts and commissions applicable to Registrable Securities sold for the account of Stockholders (and any taxes related thereto) will be borne by such Stockholders pro rata based on the number of Registrable Securities sold by them. Without limiting the foregoing, nothing in this Agreement shall obligate the Company to pay expenses (including fees and expenses of counsel) of underwriters.

ARTICLE IV

FACILITATING REGISTRATIONS AND OFFERINGS

4.1 General. If the Company becomes obligated under this Agreement to facilitate a registration and offering of Registrable Securities on behalf of the Stockholders, the Company will do so with the same degree of care and dispatch as would reasonably be expected in the case of a registration and offering by the Company of securities for its own account, but in any event will use no less than commercially reasonable efforts to facilitate any such registration and offering of Registrable Securities on behalf of the Stockholders. Pursuant to and without limiting this general obligation, the Company will fulfill the obligations described in this Article IV.

4.2 Registration Statements. In connection with each registration statement that is demanded by Stockholders or as to which piggyback rights otherwise apply, the Company will:

(a) (i) prepare and file with the SEC a registration statement covering the applicable Registrable Securities, (ii) file amendments thereto as warranted, (iii) seek the effectiveness thereof, and (iv) file with the SEC such prospectuses and prospectus supplements as may be required, all in consultation with the demanding Stockholders (or their representatives) and as reasonably necessary in order to permit the offer and sale of such Registrable Securities in accordance with the applicable plan of distribution;

(b) (1) within a reasonable time prior to the filing of any registration statement, any prospectus, any amendment to a registration statement, any amendment or supplement to a prospectus or any issuer free writing prospectus covering Registrable Securities, provide copies of such documents to the demanding Stockholders (or their representatives) and to the underwriter or underwriters of an underwritten offering, if applicable, and to their respective counsel; fairly consider such reasonable changes in any such documents prior to or after the filing thereof as the counsel to the demanding Stockholders or the underwriter or the underwriters may request; and make such of the representatives of the Company as shall be reasonably requested by the demanding Stockholders or any underwriter available for discussion of such documents;

(2) within a reasonable time prior to the filing of any document which is to be incorporated by reference into a registration statement or a prospectus covering Registrable Securities, provide copies of such document to counsel for the demanding Stockholders and underwriters; fairly consider such reasonable changes in such document prior to or after the filing thereof as counsel for such demanding Stockholders or such underwriter shall request; and make such of the representatives of the Company as shall be reasonably requested by such counsel available for discussion of such document;

(c) use its commercially reasonable efforts to cause each registration statement and the related prospectus and any amendment or supplement thereto, as of the effective date of such registration statement, amendment or supplement and during the distribution of the registered Registrable Securities (x) to comply in all material respects with the requirements of the Securities Act and the rules and regulations of the SEC and (y) not to contain any 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;

(d) notify each selling Stockholder promptly, and, if requested by such Stockholder, confirm such advice in writing, (i) when a registration statement has become effective and when any post-effective amendments and supplements thereto become effective if such registration statement or post-effective amendment is not automatically effective upon filing pursuant to Rule 462, (ii) of the issuance by the SEC or any state securities authority of any stop order, injunction or other order or requirement suspending the effectiveness of a registration statement or the initiation of any proceedings for that purpose, (iii) if, between the effective date of a registration statement and the closing of any sale of securities covered thereby pursuant to any agreement to which the Company is a party, the representations and warranties of the Company contained in such agreement cease to be true and correct in all material respects or if the Company receives any notification with respect to the suspension of the qualification of the Registrable Securities for sale in any jurisdiction or the initiation of any proceeding for such purpose, and (iv) of the happening of any event during the period a registration statement is effective as a result of which such registration statement or the related prospectus contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading; *provided* that each selling Stockholder, upon receiving written notice of an event described in clauses (ii) to (iv) of this Section 4.2(d), shall discontinue (and direct any other person making offers and sales of Registrable Securities on its behalf to discontinue) offers and sales of Registrable Securities pursuant to any registration statement (other than those pursuant to a plan in effect prior to such event and that complies with Rule 10b5-1 under the Exchange Act) until it is advised in writing by the Company that the use of the applicable prospectus may be resumed and is furnished with an amended or supplemented prospectus;

(e) furnish counsel for each underwriter, if any, and for the Stockholders with copies of any written correspondence with the SEC or any state securities authority relating to the registration statement or prospectus;

(f) otherwise use its commercially reasonable efforts to comply with all applicable rules and regulations of the SEC, including making available to its security holders an earnings statement covering at least 12 months which shall satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder (or any similar provision then in force); and

(g) use its commercially reasonable efforts to obtain the withdrawal of any order suspending the effectiveness of a registration statement at the earliest possible time.

4.3 Non-Shelf Registered Offerings and Shelf Takedowns. In connection with any non-shelf registered offering or shelf takedown that is demanded by Stockholders or as to which piggyback rights otherwise apply, the Company will:

(a) cooperate with the selling Stockholders and the sole underwriter or managing underwriter of an underwritten offering, if any, to facilitate the timely preparation and delivery of certificates representing the Registrable Securities to be sold and not bearing any restrictive legends; and enable such Registrable Securities to be in such denominations (consistent with the provisions of the governing documents thereof, and registered in such names as the selling Stockholders or the sole underwriter or managing underwriter of an underwritten offering of Registrable Securities, if any, may reasonably request at least five days prior to any sale of such Registrable Securities;

(b) furnish to each Stockholder and to each underwriter, if any, participating in the relevant offering, without charge, as many copies of the applicable prospectus, including each preliminary prospectus, and any amendment or supplement thereto and such other documents as such Stockholder or underwriter may reasonably request in order to facilitate the public sale of the Registrable Securities, subject to the other provisions of this Agreement; the Company hereby consents to the use of the prospectus, including each preliminary prospectus, by each such Stockholder and underwriter in connection with the offering and sale of the Registrable Securities covered by the prospectus or the preliminary prospectus;

(c) (i) use its commercially reasonable efforts to register or qualify the Registrable Securities being offered and sold, no later than the time the applicable registration statement becomes effective, under all applicable state securities or "blue sky" laws of such jurisdictions as each underwriter, if any, or any Stockholder holding Registrable Securities covered by a registration statement, shall reasonably request; (ii) use reasonable efforts to keep each such registration or qualification effective during the period such registration statement is required to be kept effective; and (iii) do any and all other acts and things which may be reasonably necessary or advisable to enable each such underwriter, if any, and/or Stockholder to consummate the disposition in each such jurisdiction of such Registrable Securities owned by such Stockholder; *provided, however*, that the Company shall not be obligated to qualify as a foreign corporation or as a dealer in securities in any jurisdiction in which it is not so qualified, to subject itself to taxation in any such jurisdiction, or to consent to be subject to general service of process (other than service of process in connection with such registration or qualification or any sale of Registrable Securities in connection therewith) in any such jurisdiction;

(d) use its commercially reasonable efforts to cause all Registrable Securities being sold to be qualified for inclusion in or listed on The New York Stock Exchange or any

securities exchange on which Registrable Securities issued by the Company are then so qualified or listed if so requested by the demanding Stockholders or if so requested by the underwriter or underwriters of an underwritten offering of Registrable Securities, if any;

(e) cooperate and assist in any filings required to be made with The New York Stock Exchange or other securities exchange and, solely with regard to a registered non-shelf offering or an underwritten shelf takedown, in the performance of any reasonable due diligence investigation by the underwriters;

(f) solely with regard to a registered non-shelf offering or an underwritten shelf takedown, use its commercially reasonable efforts to facilitate the distribution and sale of any Registrable Securities to be offered pursuant to this Agreement, including without limitation by making road show presentations, holding meetings with and making calls to potential investors and taking such other actions as shall be reasonably requested by the demanding Stockholders or the lead managing underwriter;

(g) solely with regard to a registered non-shelf offering or an underwritten shelf takedown, enter into underwriting agreements in customary form, including provisions with respect to indemnification and contribution in customary form) and take all other customary and appropriate actions in order to expedite or facilitate the disposition of such Registrable Securities and in connection therewith:

1. make such representations and warranties to the selling Stockholders and the underwriters in such form, substance and scope as are customarily made by issuers to underwriters in similar underwritten offerings;

2. 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 lead managing underwriter) addressed to the underwriters and, if reasonably obtainable, each selling Stockholder covering the matters customarily covered in opinions delivered in similar underwritten offerings; and

3. obtain "cold comfort" letters and updates thereof from the Company's independent certified public accountants addressed to the underwriters, and, if reasonably obtainable, the selling Stockholders, which letters shall be customary in form and shall cover matters of the type customarily covered in "cold comfort" letters to underwriters in connection with similar underwritten offerings; and

(h) to the extent requested and customary for the relevant transaction, enter into a securities sales agreement with the Stockholders providing for, among other things, the appointment of such representative as agent for the selling Stockholders for the purpose of soliciting purchases of Registrable Securities, which agreement shall be customary in form, substance and scope and shall contain customary representations, warranties and covenants; *provided* that the Company shall not be required to enter into any such agreements unless they are in substantially the same form as shall be reasonably agreed upon, prior to the effectiveness of the initial shelf registration statement filed pursuant to Section 2.4, by the Company and demanding Stockholder(s).

The above shall be done at such times as customarily occur in similar registered offerings or shelf takedowns.

4.4 Due Diligence. In connection with each registration and offering of Registrable Securities to be sold by Stockholders, the Company will, in accordance with customary practice, make reasonably available for inspection by representatives of the Stockholders and underwriters and any counsel or accountant retained by such Stockholder or underwriters all relevant financial and other records, pertinent corporate documents and properties of the Company and cause appropriate officers, managers and employees of the Company to supply all information reasonably requested by any such representative, underwriter, counsel or accountant in connection with their due diligence exercise. Such access to information, documents, personnel and other matters shall be provided to such participants, at such times and in such manner as are customary for offerings of the relevant type and as do not unreasonably burden the Company or unreasonably interfere with its operations. All information, documents and other matters provided or made accessible by the Company in connection with a registered offering hereunder shall be kept confidential pending any public disclosure thereof by the Company and subject to applicable legal requirements.

4.5 Information from Stockholders. Each Stockholder that holds Registrable Securities covered by any registration statement will furnish to the Company such information regarding itself as is required to be included in the registration statement, the ownership of Registrable Securities by such Stockholder and the proposed distribution by such Stockholder of such Registrable Securities as the Company may from time to time reasonably request in writing. Each selling Stockholder participating in a registered offering hereunder shall do so on the terms and conditions applicable to such offering and the applicable plan of distribution; *provided* that no such selling Stockholder shall be required to make any representations or warranties to or agreements with the Company or the underwriters other than representations, warranties or agreements regarding such selling Stockholder and such selling Stockholder's Registrable Securities. Notwithstanding any other provision of this Agreement, the Company shall not be required to file a registration statement or include Registrable Securities therein unless it has received from the Stockholders, within a reasonable period of time prior to the anticipated filing date of such registration statement, all requested information required to be included in the registration statement.

ARTICLE V

INDEMNIFICATION

5.1 Indemnification by the Company. In the event of any registration under the Securities Act by any registration statement pursuant to rights granted in this Agreement of Registrable Securities held by Stockholders, the Company will indemnify and hold harmless such Stockholders and their respective officers, directors and affiliates, and each underwriter of such securities and each other person, if any, who controls such Stockholders or such underwriter within the meaning of the Securities Act, against any losses, claims, damages, or liabilities (including legal fees and costs of court), joint or several, to which such Stockholders and their respective officers, directors or affiliates, or such underwriter or any such controlling person may become subject under the Securities Act or otherwise, insofar as such losses, claims, damages, or

liabilities (or any actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact (i) contained, on its effective date, in any registration statement under which such securities were registered under the Securities Act or any amendment or supplement to any of the foregoing, or which arise out of or are based upon the omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading or (ii) contained in any preliminary prospectus, if used prior to the effective date of such registration statement, or in the final prospectus (as amended or supplemented if the Company shall have filed with the SEC any amendment or supplement to the final prospectus), or which arise out of or are based upon the omission or alleged omission (if so used) to state a material fact required to be stated in such prospectus or necessary to make the statements in such prospectus not misleading; and will reimburse such Stockholders and their respective officers, directors and affiliates and each such underwriter and each such controlling person for any legal or any other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, or liability; *provided, however*, that the Company shall not be liable to a Stockholder or its respective officers, directors and affiliates or an underwriter or any other person who controls such Stockholder or such underwriter in any such case if and to the extent that any such loss, claim, damage, or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in such registration statement, such amendment or supplement or such prospectus, in reliance upon and in conformity with information furnished in writing to the Company by or on behalf of such Stockholder or such underwriter specifically for use in the preparation thereof.

5.2 Indemnification by Stockholders. Each Stockholder severally (and not jointly) will indemnify and hold harmless (in the same manner and to the same extent as set forth in Section 5.1) the Company, each director of the Company, each officer of the Company who shall sign the registration statement, and any person who controls the Company within the meaning of the Securities Act, with respect to any statement or omission from such registration statement, any preliminary or other prospectus, or any amendment or supplement thereto, if and to the extent such statement or omission was made in reliance upon and in conformity with information furnished in writing to the Company by or on behalf of such Stockholder specifically for use in the preparation of such registration statement, prospectus or amendment or supplement; *provided, however*, that the total amount to be indemnified by such Stockholder pursuant to this Section 5.2 shall be limited to the net proceeds (after deducting underwriters' discounts and commissions) received by such Stockholder in the offering to which such registration statement relates; *provided, further*, that a Stockholder shall not be liable in any case to the extent that prior to the filing of any such registration statement, prospectus or any amendment thereof or supplement thereto, such Stockholder has furnished in writing to the Company information expressly for use in, and within a reasonable period of time prior to the effectiveness of, such registration statement, prospectus or any amendment thereof or supplement thereto which corrected or made not misleading information previously provided by such Stockholder to the Company.

5.3 Indemnification Procedures. Promptly after receipt by an indemnified party of notice of the commencement of any action involving a claim referred to in the preceding Sections of this Article V, the indemnified party will, if a resulting claim is to be made or may be made against an indemnifying party, give written notice to the indemnifying party of the

commencement of the action. The failure of any indemnified party to give notice shall not relieve the indemnifying party of its obligations in this Article V, except to the extent that the indemnifying party is actually prejudiced by the failure to give notice. If any such action is brought against an indemnified party, the indemnifying party will be entitled to participate in and to assume the defense of the action with counsel reasonably satisfactory to the indemnified party, and after notice from the indemnifying party to such indemnified party of its election to assume defense of the action, the indemnifying party will not be liable to such indemnified party for any legal or other expenses incurred by the latter in connection with the action's defense. An indemnified party shall have the right to employ separate counsel in any action or proceeding and participate in the defense thereof, but the fees and expenses of such counsel shall be at such indemnified party's expense unless (a) the employment of such counsel has been specifically authorized in writing by the indemnifying party, which authorization shall not be unreasonably withheld, (ii) the indemnifying party has not assumed the defense and employed counsel reasonably satisfactory to the indemnified party within 30 days after notice of any such action or proceeding, or (iii) the named parties to any such action or proceeding (including any impleaded parties) include the indemnified party and the indemnifying party and the indemnified party shall have been advised by such counsel that there may be one or more legal defenses available to the indemnified party that are different from or additional to those available to the indemnifying party (in which case the indemnifying party shall not have the right to assume the defense of such action or proceeding on behalf of the indemnified party), it being understood, however, that the indemnifying party shall not, in connection with any one such action or separate but substantially similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys (in addition to one local counsel for each jurisdiction, if necessary, in the good faith opinion of both counsel for the indemnifying party and counsel for the indemnified party in order to adequately represent the indemnified parties) for all indemnified parties with regard to all claims arising out of similar circumstances; and that all such fees and expenses shall be reimbursed as they are incurred upon written request and presentation of invoices. Whether or not a defense is assumed by the indemnifying party, the indemnifying party will not be subject to any liability for any settlement made without its consent. No indemnifying party will consent to entry of any judgment or enter into any settlement which (i) does not include as an unconditional term the giving by the claimant or plaintiff, to the indemnified party, of a release from all liability in respect of such claim or litigation or (ii) involves the imposition of equitable remedies or the imposition of any non-financial obligations on the indemnified party.

5.4 Contribution. If the indemnification required by this Article V from the indemnifying party is unavailable to or insufficient to indemnify and hold harmless an indemnified party in respect of any indemnifiable losses, claims, damages, liabilities, or expenses as required by this Article V, then the indemnifying party shall contribute to the amount paid or payable by the indemnified party as a result of such losses, claims, damages, liabilities, or expenses in such proportion as is appropriate to reflect (i) the relative benefit of the indemnifying and indemnified parties and (ii) if the allocation in clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect the relative benefit referred to in clause (i) and also the relative fault of the indemnified and indemnifying parties, in connection with the actions which resulted in such losses, claims, damages, liabilities, or expenses, as well as any other relevant equitable considerations. The relative fault of the indemnifying party and the

indemnified party shall be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact, has been made by, or relates to information supplied by, such indemnifying party or parties, and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such action. The amount paid or payable by a party as a result of the losses, claims, damage, liabilities, and expenses referred to above shall be deemed to include any legal or other fees or expenses reasonably incurred by such party in connection with any investigation or proceeding. The Company and Stockholders agree that it would not be just and equitable if contribution pursuant to this Section 5.4 were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to in the prior provisions of this Section 5.4. For purposes of this Section 5.4, each person who controls any Stockholder or any underwriter thereof within the meaning of either the Securities Act or the Exchange Act and each officer, director and affiliate of any such Stockholder shall have the same rights to contribution as the Company, subject in each case to the applicable terms and conditions of this Section 5.4.

Notwithstanding the provisions of this Section 5.4, no indemnifying party shall be required to contribute any amount in excess of the amount by which the total price at which the securities were offered to the public by the indemnifying party exceeds the amount of any damages which the indemnifying party has otherwise been required to pay by reason of an untrue statement or omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such a fraudulent misrepresentation.

ARTICLE VI

OTHER AGREEMENTS

6.1 Transfer of Rights.

(a) Any Stockholder may transfer its rights under this Agreement (in whole but not in part) with respect to any Registrable Securities held by such Stockholder to any transferee of such Registrable Securities; provided that such transfer of Registrable Securities is made in accordance with the registration requirements of the Securities Act and of any applicable state securities law, Section 6.19 (Share Legend) of the Backstop Commitment Agreement, the Warrant Agreement and any applicable provisions of the Certificate of Incorporation of the Company; provided further that the Company may reasonably request opinions, certificates or other evidence of compliance therewith before effecting any such transfer. Subject to the foregoing, upon any such transfer of Registrable Securities, the transferring Stockholder shall cease to have any rights hereunder, and the transferee shall be considered a Stockholder for purposes hereof, with regard to such Registrable Securities. Any such transfer of registration rights will be effective upon receipt by the Company of (i) written notice from such Stockholder stating the name and address of any transferee and identifying the number of Registrable Securities with respect to which rights under this Agreement are being transferred and the nature of the rights so transferred, and (ii) a written agreement from the transferee of such Registrable Securities to be bound by the terms of this Agreement. However, if such transferees are receiving Registrable Securities from a Stockholder that complies with the transfer provisions

referenced above through an in-kind distribution with an ability to resell Registrable Securities off of a shelf registration statement, no such written agreement is required, and such in-kind transferees will, as transferee Stockholders, be entitled as third party beneficiaries to the rights under this Agreement so transferred. In that regard, in-kind transferees will not be given demand or piggyback rights; rather, their means of registered resale will, subject to Section 2.7(b), be limited to sales off of a shelf registration statement with respect to which no special actions are required by the Company or the other Stockholders. The Company and the transferring Stockholder will notify the other Stockholders as to the identity of the transferees and the nature of the rights so transferred.

(b) In the event the Company engages in a merger or consolidation in which the Registrable Securities are converted into securities of another company, or if there are any changes in the Common Stock by way of share split, stock dividend, combination or reclassification, appropriate arrangements will be made so that the registration rights provided under this Agreement continue to be provided to Stockholders by the issuer of such securities. To the extent any new issuer, or any other company acquired by the Company in a merger or consolidation, was bound by registration rights obligations that would conflict with the provisions of this Agreement, the Company will, unless Stockholders then holding a majority of the Registrable Securities otherwise agree, use commercially reasonable efforts to modify any such “inherited” registration rights obligations so as not to interfere in any material respects with the rights provided under this Agreement.

6.2 Rule 144. If the Company is subject to the requirements of Section 13, 14 or 15(d) of the Exchange Act, the Company covenants that it will file any reports required to be filed by it under the Securities Act and the Exchange Act, so as to enable such Stockholder to sell Registrable Securities without registration under the Securities Act within the limitation of the exemptions provided by (a) Rule 144 under the Securities Act, as such rule may be amended from time to time, or (b) any successor rule or regulation hereafter adopted by the SEC. Upon the request of any Stockholder, the Company will deliver to such Stockholder a written statement as to whether it has complied with such requirements.

6.3 In-Kind Distributions. If any Stockholder seeks to effectuate an in-kind distribution of all or part of its Registrable Securities to its direct or indirect equityholders, the Company will, subject to applicable lockups and transfer restrictions, cooperate with such Stockholder and the Company’s transfer agent to facilitate such in-kind distribution in the manner reasonably requested by such Stockholder.

6.4 Exchange Act Registration. Immediately following the date hereof, the Company shall cause the Common Stock to be registered under Section 12(g) of the Exchange Act.

6.5 Termination of Registration Rights. This Agreement, including, without limitation, the Company’s obligations under Sections 2.1, 2.2, 2.3, 2.4, 2.5 and 2.6 hereof, to register Registrable Securities for sale under the Securities Act shall terminate on the earliest to occur of (i) the first date on which Registrable Securities having an aggregate market value (based on the closing price of the Common Stock at the time of determination) of at least \$25 million are no longer outstanding, (ii) the first date on which all outstanding Registrable

Securities are eligible for sale under Rule 144 and restrictive legends have been removed from all certificates representing the applicable Registrable Securities, and (iii) the fifth anniversary of the Initial Registration. Notwithstanding any termination of this Agreement pursuant to this [Section 6.5](#), the parties' rights and obligations under [Section 3.8](#), [Article V](#) and [Section 6.6](#) hereof shall continue in full force and effect in accordance with their respective terms.

6.6 Board Observer.

(a) Each of the GSO Group, the BlueMountain Group, Karfunkel, the United Equities Group and the Contrarian Group (each such term as defined below and each an "**Investor Group**") shall have the right, for so long as it holds Registrable Securities representing at least 10.0% of the Common Stock issued and outstanding on the date hereof and subject to the limitations set forth in this [Section 6.6](#) and applicable laws and regulations (including the listing standards of a national securities exchange), to designate, by written notice to the Company, one individual employee of such Investor Group (a "**Board Observer**") to attend all meetings of the Company's board of directors prior to the first anniversary of the Effective Date (as defined in the Plan) in a nonvoting, non-participating observer capacity, *provided* that the Company shall not be required to allow any Board Observer to attend any executive session of the board of directors of the Company or meeting of any committee thereof. Unless otherwise requested by such Investor Group, the Company shall, so long as a Board Observer has been designated pursuant to this [Section 6.6](#), provide such Board Observer with (i) notice of all meetings of the board of directors that such Board Observer has a right to attend, (ii) all written materials delivered to the members of the board of directors for consideration at such meetings, and (iii) all proposed written consent actions provided to the board of directors (but not any committee thereof), in each case at the same time such notice and information is delivered to the members of the board of directors; *provided* that (A) the Company shall not be required to allow any Board Observer to attend any meeting of the board of directors or to provide any Board Observer with any notices, information or other materials pursuant to this [Section 6.6](#) until such Board Observer and the relevant designating Investor Group have entered into confidentiality agreements with the Company with respect thereto, in form and substance to be agreed upon between the Company and such Investor Group as soon as reasonably practicable following the later of the date hereof or the date of a Board Observer designation (such agreements not to include any "cleansing" or similar provision requiring the Company to publicly disclose any non-public information) and (B) each Investor Group designating a Board Observer will, and will cause such Board Observer to, abide by any confidentiality or trading policies to which directors and/or officers of the Company, and the designating Investor Group, if applicable, are subject.

(b) Notwithstanding the foregoing, the Company has the right to withhold any notice or information from any Board Observer and to exclude any Board Observer from any meeting or portion thereof (1) to protect the attorney-client privilege between the Company and its counsel and/or the confidentiality of litigation, intellectual property, trade secret or other especially sensitive business information (including, without limitation, to ensure compliance with confidentiality undertakings under applicable law or contracts with third parties), (2) in cases where there may be a conflict of interest between the Company and the applicable Investor Group or any of its Affiliates or (3) to the extent the Company's board of directors otherwise determines, in its sole discretion, to be in the best interests of the Company.

(c) The rights of an Investor Group to designate a Board Observer pursuant to this Section 6.6 shall (i) terminate on the first anniversary of the Effective Date (unless extended by the board of directors of the Company in its sole discretion), (ii) be suspended for any period of time during which a representative designated by such Investor Group to be elected or appointed to the Company's board of directors, or an Affiliate of such Investor Group, serves as a member of the Company's board of directors and (iii) be subject to such additional requirements, conditions and procedures as the Company's board of directors may from time to time determine, in its sole discretion, to be necessary or appropriate.

(d) For purposes of this Section 6.6, (i) the term "**GSO Group**" collectively refers to GSO Special Situations Fund LP, GSO Special Situations Overseas Master Fund Ltd., GSO Credit-A Partners LP, GSO Palmetto Opportunistic Investment Partners LP, FS Investment Corporation, Locust Street Funding LLC, FS Investment Corporation II and their respective Affiliates that are Stockholders, (ii) the term "**BlueMountain Group**" collectively refers to BlueMountain Credit Alternatives Master Fund L.P., BlueMountain Credit Opportunities Master Fund I L.P., BlueMountain Timberline Ltd., BlueMountain Strategic Credit Master Fund L.P., BlueMountain Kicking Horse Fund L.P., BlueMountain Long/Short Credit Master Fund L.P., BlueMountain Distressed Master Fund L.P., BlueMountain Monteners Master Fund SCA SICAV-SIF, BlueMountain Long/Short Credit and Distressed Reflection Fund P.L.C. and their respective Affiliates that are Stockholders, (iii) the term "**Karfunkel**" collectively refers to George Karfunkel and his Affiliates that are Stockholders, (iv) the term "**United Equities Group**" collectively refers to United Equities Commodities Company, Momar Corporation and their respective Affiliates that are Stockholders, and (v) the term "**Contrarian Group**" collectively refers to Contrarian Funds, LLC and its Affiliates that are Stockholders. Notwithstanding anything in this Agreement to the contrary, the rights of each Investor Group pursuant to this Section 6.6 shall be personal to such Investor Group and cannot be assigned or otherwise transferred by such Investor Group to any other person under any circumstances. Any purported assignment or transfer by any Investor Group of any right provided in this Section 6.6 shall be null and void *ab initio* and shall have no effect.

ARTICLE VII

MISCELLANEOUS

7.1 Notices. All notices, requests, demands and other communications required or permitted hereunder shall be made in writing by hand-delivery, registered first-class mail, telex, fax or air courier guaranteeing delivery:

(a) If to the Company, to:

Eastman Kodak Company
343 State Street
Rochester, New York 14650-0218
Attention: General Counsel
Fax: (585) 724-1089

or to such other person or address as the Company shall furnish to the Stockholders in writing;

- (b) If to a Stockholder, to the address set forth with respect to such Stockholder on Schedule 2 or to such other person or address as such Stockholder shall furnish to the Company and the other Stockholders in writing.

All such notices, requests, demands and other communications shall be deemed to have been duly given: at the time of delivery by hand, if personally delivered; five business days after being deposited in the mail, postage prepaid, if mailed domestically in the United States (and seven business days if mailed internationally); when answered back, if telexed; when receipt acknowledged, if telecopied; and on the business day for which delivery is guaranteed, if timely delivered to an air courier guaranteeing such delivery.

7.2 Section Headings. The article and section headings in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement. References in this Agreement to a designated "Article" or "Section" refer to an Article or Section of this Agreement unless otherwise specifically indicated.

7.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

7.4 Consent to Jurisdiction and Service of Process. The parties to this Agreement hereby agree to submit to the jurisdiction of the courts of the State of New York located in New York County and the courts of the United States of America located in the Southern District of New York, and appellate courts from any thereof in any action or proceeding arising out of or relating to this Agreement.

7.5 Waiver of Jury Trial. Each of the parties to this Agreement hereby unconditionally agrees to waive, to the fullest extent permitted by applicable law, its respective rights to a jury trial of any claim or cause of action (whether based on contract, tort or otherwise) based upon, arising out of or relating to this Agreement or the transactions contemplated hereby. The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this Agreement, including contract claims, tort claims and all other common law and statutory claims. Each party hereto: (i) acknowledges that this waiver is a material inducement to enter into this Agreement, that each has already relied on this waiver in entering into this Agreement, and that each will continue to rely on this waiver in their related future dealings, (ii) acknowledges that no representative, agent or attorney of any other party has represented, expressly or otherwise, that such other party would not in the event of any action or proceeding, seek to enforce the foregoing waiver and (iii) warrants and represents that it has reviewed this waiver with its legal counsel and that it knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS SECTION 7.5 AND EXECUTED BY EACH OF THE PARTIES HERETO), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT

AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

7.6 Remedies. Each party to this Agreement, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Agreement. Each party hereto agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Agreement and each party hereto agrees to waive the defense in any action for specific performance that a remedy at law would be adequate.

7.7 Amendments. This Agreement may be amended only by an instrument in writing executed by the Company and Stockholders holding at least 66 2/3% of the Registrable Securities collectively held by them. Any such amendment will apply to all Stockholders equally, without distinguishing between them.

7.8 Arm's Length Agreement. Each of the parties to this Agreement agrees and acknowledges that this Agreement has been negotiated in good faith, at arm's length, and not by any means prohibited by law.

7.9 Entire Agreement. This Agreement constitutes the entire agreement and understanding of the parties with respect to the transactions contemplated hereby and thereby. The registration rights granted under this Agreement supersede any registration, qualification or similar rights with respect to any of the shares of Common Stock granted under any other agreement, and any of such preexisting registration rights are hereby terminated. The Company shall not hereafter enter into any agreement with respect to its securities which is inconsistent with or violates the rights granted to the Stockholders in this Agreement.

7.10 Severability. The invalidity or unenforceability of any specific provision of this Agreement shall not invalidate or render unenforceable any of its other provisions. Any provision of this Agreement held invalid or unenforceable shall be deemed reformed, if practicable, to the extent necessary to render it valid and enforceable and to the extent permitted by law and consistent with the intent of the parties to this Agreement.

7.11 Counterparts. This Agreement may be executed in multiple counterparts, including by means of facsimile, each of which shall be deemed an original, but all of which together shall constitute the same instrument.

[signature pages follow]

So agreed:

EASTMAN KODAK COMPANY

By: /s/ William G. Love

Name: William G. Love
Title: Treasurer

GSO SPECIAL SITUATIONS FUND LP

By: GSO Capital Partners LP, its investment advisor

By: /s/ Douglas I. Ostrover

Name: Douglas I. Ostrover

Title: Authorized Signatory

GSO SPECIAL SITUATIONS OVERSEAS MASTER FUND LTD.

By: GSO Capital Partners LP, its investment advisor

By: /s/ Douglas I. Ostrover

Name: Douglas I. Ostrover

Title: Authorized Signatory

GSO CREDIT-A PARTNERS LP

By: GSO Capital Partners LP, its Investment Manager

By: /s/ Douglas I. Ostrover

Name: Douglas I. Ostrover

Title: Authorized Signatory

GSO PALMETTO OPPORTUNISTIC INVESTMENT PARTNERS LP

By: GSO Capital Partners LP, its Investment Manager

By: /s/ Douglas I. Ostrover

Name: Douglas I. Ostrover

Title: Authorized Signatory

FS INVESTMENT CORPORATION

By: GSO / Blackstone Debt Funds Management LLC, as Sub-Adviser

By: /s/ Daniel H. Smith

Name: Daniel H. Smith

Title: Authorized Signatory

LOCUST STREET FUNDING LLC

By: FS Investment Corporation, as Sole Member

By: GSO / Blackstone Debt Funds Management LLC, as Sub-Adviser

By: /s/ Daniel H. Smith

Name: Daniel H. Smith

Title: Authorized Signatory

FS INVESTMENT CORPORATION II

By: GSO / Blackstone Debt Funds Management LLC, as Sub-Adviser

By: /s/ Daniel H. Smith

Name: Daniel H. Smith

Title: Authorized Signatory

BLUE MOUNTAIN CREDIT ALTERNATIVES MASTER FUND L.P.

By: BlueMountain Capital Management, LLC, its investment manager

By: /s/ David M. O'Mara

Name: David M. O'Mara

Title: Assistant General Counsel & Vice President

BLUEMOUNTAIN CREDIT OPPORTUNITIES MASTER FUND I L.P.

By: BlueMountain Capital Management, LLC, its investment manager

By: /s/ David M. O'Mara

Name: David M. O'Mara

Title: Assistant General Counsel & Vice President

BLUEMOUNTAIN TIMBERLINE LTD.

By: BlueMountain Capital Management, LLC, its investment manager

By: /s/ David M. O'Mara

Name: David M. O'Mara

Title: Assistant General Counsel & Vice President

**BLUEMOUNTAIN STRATEGIC CREDIT MASTER
FUND L.P.**

By: BlueMountain Capital Management, LLC, its investment
manager

By: /s/ David M. O'Mara

Name: David M. O'Mara

Title: Assistant General Counsel & Vice President

BLUEMOUNTAIN KICKING HORSE FUND L.P.

By: BlueMountain Capital Management, LLC, its investment
manager

By: /s/ David M. O'Mara

Name: David M. O'Mara

Title: Assistant General Counsel & Vice President

**BLUEMOUNTAIN LONG/SHORT CREDIT MASTER
FUND L.P.**

By: BlueMountain Capital Management, LLC, its investment
manager

By: /s/ David M. O'Mara

Name: David M. O'Mara

Title: Assistant General Counsel & Vice President

BLUEMOUNTAIN DISTRESSED MASTER FUND L.P.

By: BlueMountain Capital Management, LLC, its investment manager

By: /s/ David M. O'Mara

Name: David M. O'Mara

Title: Assistant General Counsel & Vice President

**BLUEMOUNTAIN MONTENVERS MASTER FUND
SCA SICAV-SIF**

By: BlueMountain Capital Management, LLC, its investment manager

By: /s/ David M. O'Mara

Name: David M. O'Mara

Title: Assistant General Counsel & Vice President

**BLUEMOUNTAIN LONG/SHORT CREDIT AND
DISTRESSED REFLECTION FUND P.L.C., A SUB-
FUND OF AAI BLUEMOUNTAIN FUND P.L.C.**

By: BlueMountain Capital Management, LLC, its investment manager

By: /s/ David M. O'Mara

Name: David M. O'Mara

Title: Assistant General Counsel & Vice President

GEORGE KARFUNKEL
126 East 56th Street, 15th Floor
New York, New York 10022

By: /s/ George Karfunkel

Notarized By: /s/ Jamila Asha Folkes 8/29/13

UNITED EQUITIES COMMODITIES COMPANY

By: /s/ Moses Marx

Name: Moses Marx

Title: Partner

MOMAR CORPORATION

By: /s/ Phillippe D. Katz

Name: Phillippe D. Katz

Title: Secretary

CONTRARIAN FUNDS, LLC

By: Contrarian Capital Management, LLC as its manager

By: /s/ Jon R. Bauer

Name: Jon R. Bauer

Title: Managing Member

SL TRADE CLAIM I LLC

By: /s/ Marc Baum
Name: Marc Baum
Title: Director

SERENGETI LYCAON MM LP

By: /s/ Marc Baum
Name: Marc Baum
Title: Director

SERENGETI OPPORTUNITIES MM LP

By: /s/ Marc Baum
Name: Marc Baum
Title: Director

RAPAX OC MASTER FUND, LTD.

By: /s/ Marc Baum
Name: Marc Baum
Title: Director

Stockholders

GSO Special Situations Fund LP
GSO Special Situations Overseas Master Fund Ltd.
GSO Credit-A Partners LP
GSO Palmetto Opportunistic Investment Partners LP
FS Investment Corporation
Locust Street Funding LLC
FS Investment Corporation II
BlueMountain Credit Alternatives Master Fund L.P.
BlueMountain Credit Opportunities Master Fund I L.P.
BlueMountain Timberline Ltd.
BlueMountain Strategic Credit Master Fund L.P.
BlueMountain Kicking Horse Fund L.P.
BlueMountain Long/Short Credit Master Fund L.P.
BlueMountain Distressed Master Fund L.P.
BlueMountain Monteners Master Fund SCA SICAV-SIF
BlueMountain Long/Short Credit and Distressed Reflection Fund P.L.C., a Sub-Fund of AAI BlueMountain Fund P.L.C.
George Karfunkel
United Equities Commodities Company
Momar Corporation
Contrarian Funds, LLC
SL Trade Claim LLC
Serengeti Lycaon MM LP
Serengeti Opportunities MM LP
Rapax OC Master Fund, Ltd.

Stockholder Notice Addresses**If to GSO Capital Partners:**

c/o GSO Capital Partners LP
345 Park Avenue, 31st Floor
New York, NY 10154

with a copy (which shall not constitute notice) to:

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Attention: Peter V. Pantaleo
Facsimile: (212) 455-2502

If to BlueMountain Capital Management, LLC:

c/o BlueMountain Capital Management, LLC
280 Park Avenue, 5th Floor East
New York, NY 10017
Attn: General Counsel

with a copy to LegalNotices@bluemountaincapital.com

and a copy (which shall not constitute notice) to:

Kramer Levin Naftalis & Frankel LLP
1177 Avenue of the Americas
New York, New York 10036
Attention: Thomas Moers Mayer and John Bessonette
Facsimile: (212) 715-8000

If to George Karfunkel:

George Karfunkel
126 East 56th Street, 15th Floor
New York, New York 10022

with a copy (which shall not constitute notice) to:

Kasowitz Benson Torres & Friedman LLP
1633 Broadway
New York, New York 10019
Attention: Adam L. Shiff
Facsimile: (212) 506-1800

If to United Equities Commodities Company:

United Equities Commodities Company
160 Broadway
New York, New York 10038
Attn: Moses Marx

Momar Corporation
160 Broadway
New York, New York 10038
Attn: Moses Marx

with a copy (which shall not constitute notice) to:

Kasowitz Benson Torres & Friedman LLP
1633 Broadway
New York, New York 10019
Attention: Adam L. Shiff
Facsimile: (212) 506-1800

If to Contrarian Capital Management, LLC:

Contrarian Capital Management LLC
411 West Putnam Avenue, Suite 425
Greenwich, CT 06830

with a copy (which shall not constitute notice) to:

Kramer Levin Naftalis & Frankel LLP
1177 Avenue of the Americas
New York, New York 10036
Attention: Thomas Moers Mayer and John Bessonette
Facsimile: (212) 715-8000

If to Serengeti Asset Management LP

Serengeti Asset Management LP
632 Broadway, 12th Floor
New York, NY 10012

With a copy (which shall not constitute notice) to:

Sidley Austin LLP
787 Seventh Avenue
New York, NY 10019
Attention: Michael Greenblatt
Facsimile: (212) 839-5599

WARRANT AGREEMENT

BETWEEN

EASTMAN KODAK COMPANY

AND

COMPUTERSHARE TRUST COMPANY, N.A., and

COMPUTERSHARE INC.,

as WARRANT AGENT

Dated as of September 3, 2013

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List of Exhibits

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SCHEDULE A — Warrant Agent Compensation

WARRANT AGREEMENT

WARRANT AGREEMENT, dated as of September 3, 2013 (together with the Warrants, this "Agreement"), by and between Eastman Kodak Company, a New Jersey corporation (the "Company"), and Computershare Inc., a Delaware corporation and its wholly-owned subsidiary Computershare Trust Company, N.A., a federally chartered, limited purpose trust company (collectively, together with their respective successors and assigns, the "Warrant Agent" or individually, "Computershare" and the "Trust Company," respectively).

WITNESSETH:

WHEREAS, in accordance with the *First Amended Joint Chapter 11 Plan of Reorganization of Eastman Kodak Company and its Debtor Affiliates* (including the Plan Supplement and all other exhibits and schedules thereto, as may be amended, modified or supplemented from time to time, the "Plan") and that certain Backstop Commitment Agreement, dated as of June 18, 2013, by and between the Company and the Backstop Parties party thereto (the "Backstop Commitment Agreement"), the Company is issuing Warrants to purchase up to an aggregate of 4,170,016 shares of its Common Stock, subject to adjustment, including (a) 125% Warrants to purchase 2,085,008 shares of its Common Stock, subject to adjustment, and (b) 135% Warrants to purchase 2,085,008 shares of its Common Stock, subject to adjustment; and

WHEREAS, the Company desires the Warrant Agent to act on behalf of the Company, and the Warrant Agent is willing so to act, in connection with the issuance, transfer, exchange, replacement and exercise of the Warrants and other matters as provided herein.

NOW, THEREFORE, in consideration of the foregoing and for the purpose of defining the terms and provisions of the Warrants and the respective rights and obligations thereunder of the Company and the record holders of the Warrants, the Company and the Warrant Agent each hereby agree as follows:

1. DEFINITIONS.

As used in this Agreement, the following terms shall have the following meanings:

125% Warrants: the 125% Warrants issued by the Company pursuant to this Agreement and in accordance with the Plan.

125% Warrants Exercise Price: means \$14.93, subject to adjustment pursuant to this Agreement.

135% Warrants: the 135% Warrants issued by the Company pursuant to this Agreement and in accordance with the Plan.

135% Warrants Exercise Price: means \$16.12, subject to adjustment pursuant to this Agreement.

Affiliate: with respect to any particular Person, means any other Person controlling, controlled by or under common control with such particular Person. For the purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct the management and policies of a Person, whether through the ownership of voting securities, contract or otherwise.

Announcement Date: the meaning set forth in Section 4.4.

Backstop Commitment Agreement: the meaning set forth in the recitals to this Agreement.

Backstop Parties: the meaning set forth in the Backstop Commitment Agreement.

Bankruptcy Code: means title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.*

Beneficial Holder: means any Person that holds Warrants through the book-entry facilities of the Depository or through persons that are direct participants in the Depository.

Board: the board of directors of the Company.

Book-Entry Warrants: the meaning set forth in Section 2.1.

Business Day: any day that is not a Saturday, Sunday, or a day on which the New York Stock Exchange is required or permitted to be closed.

Certificate of Incorporation: the Company’s certificate of incorporation (or equivalent organizational document), as amended from time to time.

Closing Sale Price: as of any date, the last reported per share sales price of a share of Common Stock or the applicable security on such date (or, if no last reported sale price is reported, the average of the bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices on such date) as reported on the New York Stock Exchange, or if the Common Stock or such other security is not listed on the New York Stock Exchange, as reported by the principal U.S. national or regional securities exchange or quotation system on which the Common Stock or such other security is then listed or quoted; provided, however, that in the absence of such listing or quotations, the Closing Sale Price shall be determined by an Independent Financial Expert appointed for such purpose, using one or more valuation methods that the Independent Financial Expert in its best professional judgment determines to be most appropriate, assuming such Common Stock or securities are fully distributed and are to be sold in an arm’s-length transaction and there was no compulsion on the part of any party to such sale to buy or sell and taking into account all relevant factors.

Code: the U.S. Internal Revenue Code of 1986, as amended from time to time.

Common Stock: the common stock, par value \$0.01, of the Company.

Company: the meaning set forth in the preamble to this Agreement, including all successors and assigns.

Depository: means The Depository Trust Company.

Consideration: The stock, securities, other equity interests or other assets (including cash) received with respect to or in exchange for shares of Common Stock in connection with an Organic Change.

Distribution: the meaning set forth in Section 4.2.

Exchange Act: the U.S. Securities Exchange Act of 1934, as amended from time to time.

Exercise Date: the meaning set forth in Section 3.4.

Exercise Price: means (i) with respect to the 125% Warrants, the 125% Warrants Exercise Price, and (ii) with respect to the 135% Warrants, the 135% Warrants Exercise Price.

Expiration Date: the meaning set forth in Section 3.3.

Fair Market Value:

(i) in the case of shares or securities, the average of the daily volume weighted average prices per share of such shares or securities for the ten consecutive trading days immediately preceding the day as of which Fair Market Value is being determined, as reported on the New York Stock Exchange, or if such shares or securities are not listed on the New York Stock Exchange, as reported by the principal U.S. national or regional securities exchange or quotation system on which such shares or securities are then listed or quoted; provided, however, if (x) such shares or securities are not listed or quoted on the New York Stock Exchange or any U.S. national or regional securities exchange or quotations system or (y) a transaction impacting such shares or securities makes it unjust or inequitable to value such shares or securities in the manner provided above as reasonably determined in good faith by the Board, then the Fair Market Value of such securities shall be the fair market value per share or unit of such shares or securities as determined by an Independent Financial Expert appointed for such purpose, using one or more valuation methods that such Independent Financial Expert in its best professional judgment determines to be most appropriate, assuming that such shares or other securities are fully distributed and are to be sold in an arm's-length transaction and that there is no compulsion on the part of any party to such sale to buy or sell, and taking into account all relevant factors.

(ii) in the case of cash, the amount thereof.

(iii) in the case of other property, the Fair Market Value of such property shall be the fair market value thereof as determined by an Independent Financial Expert appointed for such purpose, using one or more valuation methods that such Independent Financial Expert in its best professional judgment determines to be most appropriate, assuming that such property is to be sold in an arm's-length transaction and that there is no compulsion on the part of any party to such sale to buy or sell, and taking into account all relevant factors.

Holders: from time to time, the Beneficial Holders and Registered Holders of the Warrants and, unless otherwise provided or indicated herein, the holders of the Underlying Common Stock, solely in their capacity as such.

Independent Financial Expert: an independent, nationally recognized financial advisory firm selected by the Board in good faith.

Initial Warrantholder: means any holder of Class 4 General Unsecured Claims or the Class 6 Retiree Settlement Unsecured Claim (each as defined in the Plan).

Majority Holders: means, at any time, Holders of a majority in number of the outstanding Warrants, in each case not held by the Company or any of the Company's Affiliates.

Net Share Amount: the meaning set forth in Section 3.4.

Organic Change: any recapitalization, reorganization, reclassification, consolidation, merger, sale of all or substantially all of the Company's assets or other transaction, which in each case is effected in such a way that the shares of Common Stock are converted into the right to receive (either directly or upon subsequent liquidation) stock, securities, other equity interests or assets (including cash) with respect to or in exchange for shares of Common Stock.

Person: any individual, corporation, partnership, joint venture, association, joint stock company, limited liability company, limited liability partnership, trust, unincorporated organization or government or any agency or political subdivision thereof.

Plan: the meaning set forth in the recitals to this Agreement.

Premium Per Post-Tender Share: the meaning set forth in Section 4.4.

Public Stock: means common stock listed on a recognized U.S. national securities exchange with an aggregate market capitalization (held by non-Affiliates of the issuer) in excess of \$1 billion in Fair Market Value.

Registered Holder: means the Person in whose name any Warrant is registered upon the Warrant Register.

Securities Act: the U.S. Securities Act of 1933, as amended from time to time.

Settlement Date: means, in respect of a Warrant that is exercised hereunder, a reasonable time, not to exceed three (3) Business Days, immediately following the Exercise Date for such Warrant.

Stock Dividend: the meaning set forth in Section 4.1.

Underlying Common Stock: the shares of Common Stock issuable or issued upon the exercise of the Warrants.

Warrant Agent: the meaning set forth in the preamble to this Agreement.

Warrant Exercise Form: the meaning set forth in Section 3.4.

Warrant Certificates: the meaning set forth in Section 2.1.

Warrant Register: the meaning set forth in Article 6.

Warrant Statements: the meaning set forth in Section 2.1.

Warrants: the 125% Warrants and the 135% Warrants.

2. ORIGINAL ISSUE OF WARRANTS.

2.1 Issuance of Warrants; Form of Warrant Statements and Warrant Certificates. On the terms and subject to the conditions of this Agreement and in accordance with the terms of the Plan, as of the Effective Date (as defined in the Plan), Warrants to purchase shares of Underlying Common Stock will be issued by the Company: (i) by book-entry registration on the books of the Warrant Agent, as evidenced by statements substantially in the form attached hereto as Exhibit A-1, with respect to 125% Warrants, and Exhibit A-2, with respect to 135% Warrants, issued by the Warrant Agent from time to time to the Holders of such Warrants reflecting such book-entry position (the "Warrant Statements", and such Warrants, the "Book-Entry Warrants") and/or (ii) in the form of certificates substantially in the form attached hereto as Exhibit A-3, with respect to 125% Warrants, and Exhibit A-4, with respect to 135% Warrants ("Warrant Certificates"), provided that all 125% Warrants and 135% Warrants that bear the legend described in Section 3.6 shall be in the form of Warrant Certificates. The Warrant Statements and Warrant Certificates shall have such appropriate instructions, omissions, substitutions and other variations as are required or permitted by this Agreement (but which do not affect the rights, duties or responsibilities of the Warrant Agent), and shall be dated the date on which countersigned by the Warrant Agent. The Warrant Statements and Warrant Certificates may have such legends and endorsements stamped or otherwise imprinted thereon, and the Warrant Register may include such restrictive notations with respect to certain Warrants, as may be required by the Certificate of Incorporation or as may be required to comply with any law or with any rule or regulation pursuant thereto or with any rule or regulation of any securities exchange on which the Warrants may be listed.

2.2 Execution of Warrant Statements and Warrant Certificates; Vesting.

(a) Simultaneously with the execution of this Agreement, the Warrant Certificates and Warrant Statements evidencing or reflecting the Warrants to be issued to the Initial Warrantholders in accordance with the Plan shall be executed by the Company and delivered to the Warrant Agent for countersignature, by manual or facsimile signature, and the Warrant Agent shall thereupon (i) countersign such Warrant Certificates and Warrant Statements and (ii) register in the Warrant Register the Warrants issued to each Registered Holder of Warrants. The Warrant Agent is hereby irrevocably (but subject to Article 8) authorized to countersign and deliver Warrant Certificates and Warrant Statements as required by this Section 2.2 and as otherwise provided herein. The Warrant Certificates and Warrant Statements shall be executed on behalf of the Company by an officer of the Company, either manually or by facsimile signature printed thereon.

(b) Each Warrant Certificate shall represent such number of the outstanding Warrants as specified therein, and each shall provide that it shall represent the aggregate amount of outstanding Warrants from time to time endorsed thereon and that the aggregate amount of outstanding Warrants represented thereby may from time to time be reduced or increased, as appropriate, in accordance with the terms of this Agreement.

(c) Subsequent to the original issuance of the Warrants to the Initial Warranholders, the Warrant Agent shall countersign a Warrant Certificate only if such Warrant Certificate is issued in exchange or substitution for one or more previously countersigned Warrant Certificates or in connection with their transfer as provided in this Agreement.

(d) The Warrant Certificates and Warrant Statements shall be countersigned by the Warrant Agent, either manually or by facsimile signature, and shall not be valid for any purpose unless so countersigned. In case any officer of the Company whose signature shall have been placed upon any of the Warrant Certificates or Warrant Statements shall cease to be such officer of the Company before countersignature by the Warrant Agent and issue and delivery thereof, such Warrant Certificates or Warrant Statements may, nevertheless, be countersigned by the Warrant Agent, either manually or by facsimile signature printed thereon, and delivered with the same force and effect as though such Person had not ceased to be such officer of the Company.

(e) No Warrant Certificate shall be entitled to any benefit under this Agreement or be valid or obligatory for any purpose, and no Warrant evidenced thereby may be exercised, unless such Warrant Certificate has been countersigned by the manual or facsimile signature of the Warrant Agent. Such signature by the Warrant Agent upon any Warrant Certificate executed by the Company shall constitute conclusive evidence that such Warrant Certificate has been duly issued under the terms of this Agreement.

3. EXERCISE PRICE; EXERCISE OF WARRANTS AND EXPIRATION OF WARRANTS.

3.1 Exercise Price. Subject to Section 3.3 and to the other provisions of this Agreement, each Warrant shall entitle the Holder thereof to purchase one share of Common Stock for each Warrant represented thereby at the applicable Exercise Price, subject to all adjustments made on or prior to the date of exercise thereof in accordance with this Agreement.

3.2 Exercise of Warrants. The Warrants shall be exercisable in whole or in part from time to time on any Business Day beginning on the date hereof and ending on the Expiration Date, in the manner provided for herein.

3.3 Expiration of Warrants. Any unexercised Warrants shall expire and the rights of the Holders of such Warrants to purchase Underlying Common Stock shall terminate at the close of business on September 3, 2018 (the "Expiration Date").

3.4 Method of Exercise; Settlement of Warrant. In order to exercise a Warrant, a Holder of Warrants must submit to the Warrant Agent (or, with respect to a Beneficial Holder of Warrants, to such Beneficial Holder's broker) a duly completed and executed exercise form for the exercise of such Warrants substantially in the form of Exhibit B hereto (each, a "Warrant Exercise Form", and the date of submission of such duly completed and executed Warrant Exercise Form, the "Exercise Date").

(a) For each Warrant exercised hereunder, on the Settlement Date for such Warrant, the Company shall cause to be delivered to the Holder thereof a number of shares of Common Stock (which will in no event be less than zero) (the “Net Share Amount”) equal to (i) the number of shares of Common Stock issuable upon exercise of such Warrant at such time, multiplied by (ii) the Closing Sale Price on the relevant Exercise Date, minus the Exercise Price (determined as of such Exercise Date), divided by (iii) such Closing Sale Price, together with cash in respect of any fractional shares of Common Stock as provided in Section 3.4(e). The Warrant Agent shall not take any action under this Section unless and until the Company has provided it with written instructions indicating the Net Share Amount. The Warrant Agent shall have no duty or obligation to investigate or confirm whether the Company’s determination of the Net Share Amount is accurate or correct.

(b) Upon the proper exercise of any Warrants in accordance with the foregoing provisions, the Warrant Agent shall promptly notify the Company, and the Company shall instruct its transfer agent to transfer to the Holder of such Warrants appropriate evidence of ownership of any shares of Underlying Common Stock or other securities or property to which such Holder is entitled, registered or otherwise placed in the name of the Holder or, subject to Section 3.6, in the name or names of such other Persons as may be directed in writing by the Holder, and shall deliver such evidence of ownership to the Person or Persons entitled to receive the same, together with cash in respect of any fractional shares of Common Stock as provided in Section 3.4(e), provided that if the Holder shall direct that such securities be registered in the name of a Person other than the Holder, such direction shall be tendered in conjunction with any evidence of authority that may be required by the Warrant Agent, including but not limited to, a signature guarantee from an eligible guarantor institution participating in a signature guarantee program approved by the Securities Transfer Association. Upon the due exercise of Warrants in accordance with this Section 3.4, the Holder thereof (or such other Persons as directed by such Holder pursuant to this Section 3.4(b)) shall be deemed to own and have all of the rights associated with any Underlying Common Stock or other property to which such Holder is entitled pursuant to this Agreement upon the due exercise of Warrants in accordance with this Agreement.

(c) The Company acknowledges that the bank accounts maintained by the Warrant Agent in connection with its performance under this Agreement shall be in the Warrant Agent’s name and that the Warrant Agent may receive investment earnings in connection with the investment at the Warrant Agent’s risk and for its benefit of funds held in those accounts from time to time. The Company will not receive interest on any deposits.

(d) All disputes or questions as to the validity, form and sufficiency (including time of receipt) of any exercised Warrant, Warrant Exercise Form or Warrant Certificate will be determined by the Company in its reasonable discretion, which determination shall be final and binding absent any manifest error. The Company reserves the right to reject any and all Warrant Exercise Forms that the Company determines not to be duly completed and executed, or for which any corresponding agreement by the Company to issue Common Stock would, in the opinion of the Company, be unlawful. Such determination by the Company shall be final and binding on all Holders, absent manifest error. The Company reserves the right to waive any condition to the exercise of Warrants or defects or irregularity with regard to any exercise of Warrants. Neither the Company nor the Warrant Agent shall be under any duty to give notice to

the Holders of the Warrants of any defects or irregularities with regard to any exercise of Warrants, nor shall the Company or the Warrant Agent incur any liability for the failure to give such notice.

(e) The Company shall not be required to issue any fraction of a share of Common Stock upon exercise of any Warrants; provided that, if more than one Warrant shall be exercised hereunder at one time by the same Holder, the number of full shares of Common Stock which shall be issuable upon exercise thereof shall be computed on the basis of all Warrants so exercised, and shall include the aggregation of all fractional shares of Common Stock issuable upon exercise of such Warrants. If after giving effect to the aggregation of all shares of Common Stock (and fractions thereof) issuable upon exercise of Warrants by the same Holder at one time as set forth in the previous sentence, any fraction of a share of Common Stock would, except for the provisions of this Section 3.4(e), be issuable on the exercise of any Warrant or Warrants, the Company shall pay the Holder cash in lieu of such fractional share valued at the Closing Sale Price on the Exercise Date.

3.5 Transferability of Warrants and Common Stock. Except as any Holder may otherwise agree in writing with respect to its Warrants or shares of Underlying Common Stock, any Warrants, all rights with respect thereto and any shares of Underlying Common Stock may be sold, transferred or disposed of, in whole or in part, without any requirement of obtaining the consent of the Company to so sell, transfer or dispose of, provided that any such sale, transfer or disposition shall be in accordance with the terms of this Agreement, including, without limitation, Section 3.6 and Article 6 hereof and the terms of the Certificate of Incorporation and the by-laws of the Company.

A party requesting transfer of any Warrants must provide to the Warrant Agent any evidence of authority that may be required by the Warrant Agent, including but not limited to, a signature guarantee from an eligible guarantor institution participating in a signature guarantee program approved by the Securities Transfer Association.

3.6 Compliance with Law.

(a) The Warrants are issued, and any shares of Underlying Common Stock shall be issued, in reliance upon the exemption from the registration requirements of Section 5 of the Securities Act provided by section 1145 of the Bankruptcy Code (provided that any such securities issued to “underwriters” within the meaning of section 1145(b) of the Bankruptcy Code shall instead be issued pursuant to another available exemption from said registration requirements of Section 5). Neither the Warrants nor (except with respect to the Backstop Parties) any shares of Underlying Common Stock will be registered under the Securities Act or any state or local law requiring registration for offer or sale of a security. To the extent a holder of the Warrants or Underlying Common Stock is an “underwriter” as defined in section 1145(b) of the Bankruptcy Code, the Warrants and shares of Underlying Common Stock may not be sold or transferred in the absence of an effective registration statement under the Securities Act or an available exemption from registration thereunder.

(b) The Company may stop any transfer of Warrants or Underlying Common Stock if (i) such Warrants or Underlying Common Stock are not registered under the Securities

Act and (ii) the Company has reason to believe such transfer may not be exempt from registration under the Securities Act. The Company may require any Holder to provide evidence that a transfer of Warrants or Underlying Common Stock is exempt from registration under the Securities Act.

(c) To the extent the Company determines that the exemption from registration provided under section 1145 of the Bankruptcy Code is not available with respect to any issuance or transfer of Warrants or shares of Underlying Common Stock, the Warrant Certificates representing such Warrants or certificates representing such shares of Underlying Common Stock may be stamped or otherwise imprinted with a legend, and the Warrant Register may include a restrictive notation with respect to such Warrants, in substantially the following form:

“[THESE WARRANTS AND THE SECURITIES ISSUABLE UPON THE EXERCISE HEREOF] [THE SECURITIES REPRESENTED BY THIS CERTIFICATE] HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “ACT”), OR ANY APPLICABLE STATE SECURITIES LAWS, AND MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT OR AN AVAILABLE EXEMPTION FROM REGISTRATION UNDER THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS.”

In the event that such shares of Underlying Common Stock are uncertificated, such shares shall be subject to a restrictive notation substantially similar to such legend in the stock ledger or other appropriate records maintained by the Company or its transfer agent.

In addition to the foregoing, the shares of Underlying Common Stock shall be stamped or otherwise imprinted with such legends (or, with respect to uncertificated shares of Underlying Common Stock, shall be subject to such restrictive notations) as may be required by the Certificate of Incorporation or as may be required to comply with any law or with any rule or regulation pursuant thereto or with any rule or regulation of any securities exchange on which the shares of Underlying Common Stock may be listed.

(d) Any legend or restrictive notation referenced in Sections 2.1 or 3.6(c) shall be removed from the Warrant Register, Warrant Certificates or certificates evidencing shares of Underlying Common Stock (or, in the case of uncertificated shares, from the appropriate records) at any time after the restrictions described in such legend or restrictive notation cease to be applicable, provided that the Company may request from any Holder opinions, certificates or other evidence that such restrictions have ceased to be applicable before removing such legend or restrictive notation.

4. ADJUSTMENTS AND OTHER RIGHTS.

4.1 Stock Dividend; Subdivision or Combination of Common Stock. If the Company at any time issues to holders of the Common Stock a dividend payable solely in, or other distribution solely of, Common Stock (a “Stock Dividend”), the Exercise Price in effect at the close of business on the record date for such dividend or distribution shall be reduced

immediately thereafter to the price determined by multiplying such Exercise Price by the quotient of (x) the number of shares of Common Stock outstanding at the close of business on such record date divided by (y) the sum of such number of shares and the total number of shares constituting such dividend or other distribution. If the Company at any time subdivides or combines (by stock split, reverse stock split, recapitalization or otherwise) the outstanding Common Stock into a greater or smaller number of shares, the Exercise Price in effect immediately prior to the time of effectiveness of such subdivision or combination shall be adjusted at such time of effectiveness to the price determined by multiplying such Exercise Price by the quotient of (x) the number of shares of Common Stock outstanding immediately prior to such time of effectiveness divided by (y) the number of shares of Common Stock outstanding at the time of effectiveness of and after giving effect to such subdivision or combination. In any such event referred to in this Section 4.1, the number of shares of Common Stock issuable upon exercise of each Warrant as in effect immediately prior to the Exercise Price adjustment contemplated by the foregoing shall be adjusted immediately thereafter to the amount determined by multiplying such number by the quotient of (x) the Exercise Price in effect immediately prior to such Exercise Price adjustment divided by (y) the Exercise Price determined in accordance with such Exercise Price adjustment.

4.2 Other Dividends and Distributions. If at any time the Company shall fix a record date for the making of a dividend or other distribution (other than (i) as contemplated by Section 4.5, (ii) a Stock Dividend covered by Section 4.1 or (iii) a distribution of rights or warrants covered by Section 4.3), to the holders of its Common Stock (each, a "Distribution") of:

- (A) any evidences of its indebtedness, any shares of its capital stock or any other securities or property of any nature whatsoever (including cash); or
- (B) any options, warrants or other rights to subscribe for or purchase any of the foregoing;

then, in each such case, the Exercise Price in effect immediately prior to the close of business on such record date shall be reduced immediately thereafter to the price determined by multiplying such Exercise Price by the quotient of (x) the Fair Market Value of the Common Stock on the last trading day immediately preceding the first date on which the Common Stock trades regular way on the principal national securities exchange or quotation system on which the Common Stock is listed or admitted to trading without the right to receive such Distribution, minus the amount of cash and/or the Fair Market Value of the securities, evidences of indebtedness, assets, rights or warrants to be so distributed in respect of one share of Common Stock divided by (y) the Fair Market Value of the Common Stock on the last trading day immediately preceding the first date on which the Common Stock trades regular way on the principal national securities exchange or quotation system on which the Common Stock is listed or admitted to trading without the right to receive such Distribution; such adjustment shall be made successively whenever such a record date is fixed. In such event, the number of shares of Common Stock issuable upon the exercise of each Warrant as in effect immediately prior to the close of business on such record date shall be increased immediately thereafter to the amount determined by multiplying such number by the quotient of (x) the Exercise Price in effect immediately prior to the adjustment contemplated by the immediately preceding sentence divided by (y) the new Exercise Price determined in accordance with the immediately preceding sentence. If the

Distribution includes Common Stock as well as other property referred to in Section 4.2(A) or (B), then instead of adjusting for the entire Distribution under this Section 4.2 the Common Stock portion of such Distribution shall be treated as a Stock Dividend that results in an adjustment to the Exercise Price and number of shares of Common Stock issuable upon exercise of each Warrant under Section 4.1 of this Agreement and the other property distributed in such Distribution shall result in a further adjustment to such adjusted Exercise Price and number of shares under this Section 4.2. In the event that such Distribution is not so made, the Exercise Price and the number of shares of Common Stock issuable upon exercise of each Warrant then in effect shall be readjusted, effective as of the date when the Board determines not to distribute such shares, evidences of indebtedness, assets, rights, cash or warrants, as the case may be, to the Exercise Price that would then be in effect and the number of Shares that would then be issuable upon exercise of such Warrant if such record date had not been fixed.

4.3 Rights Offerings. If at any time the Company shall: (i) distribute rights or warrants to all or substantially all holders of its Common Stock entitling them, for a period of not more than forty-five (45) days, to subscribe for or purchase shares of Common Stock at a price per share less than the Fair Market Value of the Common Stock on the last trading day preceding the date on which the Board declares such distribution of rights or warrants or (ii) issue or sell to any Person shares of Common Stock at a price per share less than the Fair Market Value of the Common Stock on such date of issuance or sale,, the Exercise Price in effect immediately prior to the close of business on the record date for such distribution or the date of such issuance or sale shall be reduced immediately thereafter to the price determined by multiplying such Exercise Price by the quotient of (x) the number of shares of Common Stock outstanding at the close of business on such record date or the date of such issuance or sale plus the number of shares of Common Stock which the aggregate of the offering price of the total number of shares of Common Stock so offered for subscription or purchase, or issued or sold, would purchase at such Fair Market Value divided by (y) the number of shares of Common Stock outstanding at the close of business on such record date or the date of such issuance or sale plus the number of shares of Common Stock so offered for subscription or purchase, or issued or sold. In such event, the number of shares of Common Stock issuable upon the exercise of each Warrant as in effect immediately prior to the close of business on such record date or the date of such issuance or sale shall be increased immediately thereafter to the amount determined by multiplying such number by the quotient of (x) the Exercise Price in effect immediately prior to the adjustment contemplated by the immediately preceding sentence divided by (y) the new Exercise Price determined in accordance with the immediately preceding sentence. In case any rights or warrants referred to in this Section 4.3 in respect of which an adjustment shall have been made shall expire unexercised and any shares that would have been underlying such rights or warrants shall not have been allocated pursuant to any backstop commitment or any similar arrangement, the Exercise Price and the number of shares of Common Stock issuable upon exercise of each Warrant then in effect shall be readjusted at the time of such expiration to the Exercise Price that would then be in effect and the number of Shares that would then be issuable upon exercise of each Warrant if no adjustment had been made on account of such expired rights or warrants.

4.4 Issuer Tender or Exchange Offers. If the Company or any subsidiary of the Company shall consummate a tender or exchange offer for all or any portion of the Common Stock for a consideration per share with a Fair Market Value greater than the Fair Market Value of the Common Stock on the date such tender or exchange offer is first publicly announced (the

“Announcement Date”), the Exercise Price in effect immediately prior to the expiration date for such tender or exchange offer shall be reduced immediately thereafter to the price determined by multiplying such Exercise Price by the quotient of (x) the Fair Market Value of the Common Stock on the Announcement Date minus the Premium Per Post-Tender Share divided by (y) the Fair Market Value of the Common Stock on the Announcement Date. In such event, the number of shares of Common Stock issuable upon the exercise of each Warrant as in effect immediately prior to such expiration date shall be increased immediately thereafter to the amount determined by multiplying such number by the quotient of (x) the Exercise Price in effect immediately prior to the adjustment contemplated by the immediately preceding sentence divided by (y) the new Exercise Price determined in accordance with the immediately preceding sentence. As used in this Section 4.4 with respect to any tender or exchange offer, “Premium Per Post-Tender Share” means the quotient of (x) the amount by which the aggregate Fair Market Value of the consideration paid in such tender or exchange offer exceeds the aggregate Fair Market Value on the Announcement Date of the shares of Common Stock purchased therein divided by (y) the number of shares of Common Stock outstanding at the close of business on the expiration date for such tender or exchange offer (after giving pro forma effect to the purchase of shares being purchased in the tender or exchange offer).

4.5 Reorganization, Reclassification, Consolidation, Merger or Sale. Prior to the consummation of any Organic Change, the Company shall make appropriate provision to ensure that each Holder of Warrants shall thereafter have the right to acquire and receive upon exercise of its Warrants, in lieu of or in addition to (as the case may be) the Common Stock immediately theretofore issuable upon the exercise of such Holder’s Warrants, such Consideration as may be issued or payable in connection with such Organic Change with respect to or in exchange for such Common Stock (but not including Consideration with respect to which the Company has exercised its cash redemption right pursuant to Article 5), for an aggregate Exercise Price per Warrant equal to the aggregate Exercise Price per Warrant as in effect immediately prior to such Organic Change. In any such case, the Company shall make appropriate provision to ensure that all of the provisions of the Warrants shall thereafter be applicable to such Consideration. The Company shall not effect any such Organic Change unless, prior to the consummation thereof, (i) the successor entity (if other than the Company) resulting from such Organic Change or the entity purchasing such assets assumes by written instrument all the Company’s obligations under this Agreement and the Warrants and (ii) the Company provides written notice of such assumption to the Warrant Agent. If the holders of Common Stock have the opportunity to make any election with respect to the Consideration to be received in connection with an Organic Change, the Consideration applicable to the Warrants pursuant to this Section 4.5 shall be determined by reference to the weighted average of the types and amounts of Consideration received in such transaction in respect of shares of Common Stock held by holders who are not Affiliates of the Company or any entity acquiring the Company.

4.6 Other Adjustments. The Board shall make appropriate adjustments to the amount of cash or number of shares of Common Stock, as the case may be, due upon exercise of the Warrants, as may be necessary or appropriate to effectuate the intent of this Article 4 and to avoid unjust or inequitable results as determined in its reasonable good-faith judgment, in each case to account for any adjustment to the Exercise Price and the number of shares purchasable on exercise of Warrants that becomes effective, or any event requiring an adjustment to the Exercise Price and the number of shares issuable on exercise of Warrants where the record date or

effective date (in the case of a subdivision or combination of the Common Stock) of such event occurs, during the period beginning on, and including, the relevant Exercise Date and ending on, and including, the relevant Settlement Date.

4.7 Notice of Adjustment. Whenever the number of shares of Common Stock issuable upon the exercise of each Warrant is adjusted, as herein provided, the Company shall cause the Warrant Agent promptly to mail by first class mail, postage prepaid, to each Holder of Warrants notice of such adjustment or adjustments and shall promptly deliver to the Warrant Agent a certificate of a firm of independent public accountants selected by the Board (who may be the regular accountants employed by the Company) setting forth the adjusted Exercise Price, the number of shares of Common Stock issuable upon the exercise of each Warrant after such adjustment, a brief statement in reasonable detail of the facts requiring such adjustment and the computation by which such adjustment was made. The Warrant Agent shall be fully protected in relying on such certificate, and on any adjustment contained therein, and shall not be deemed to have any knowledge of such adjustment unless and until it shall have received such certificate, and shall be under no duty or responsibility with respect to any such certificate, except to exhibit the same from time to time, to any Holder desiring an inspection thereof during reasonable business hours. The Warrant Agent shall not at any time be under any duty or responsibility to any Holders to determine whether any facts exist that may require any adjustment of the number of shares of Common Stock or other stock or property issuable on exercise of the Warrants, or with respect to the nature or extent of any such adjustment when made, or with respect to the method employed in making such adjustment or the validity or the value, kind or amount of any shares of Common Stock or other stock or property which may be issuable on exercise of the Warrants, or to investigate or confirm whether the information contained in the above referenced certificate complies with the terms of this Agreement or any other document. The Warrant Agent shall not be responsible for any failure of the Company to make any cash payment or to issue, transfer or deliver any shares of Common Stock or security instruments or other securities or properties upon the exercise of any Warrant. Notwithstanding anything to the contrary in this Section 4.7, the failure to deliver any notice under this Section 4.7 or any defect therein shall not affect the validity of any corporate action required to be described in such notice. For the avoidance of doubt, no such notice shall supersede or limit any adjustment otherwise required under this Agreement by reason of any event as to which notice is required under this Section 4.7.

4.8 Restrictions on Adjustments.

(a) Neither the Exercise Price nor the number of shares of Common Stock issuable upon exercise of any Warrant shall be adjusted upon: (i) the issuance of any securities by the Company on the Effective Date and pursuant to the Plan; (ii) the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in shares of Common Stock under any plan; (iii) the issuance of securities by the Company to employees, officers, directors or consultants of the Company or its subsidiaries pursuant to management or director incentive plans or stock or stock option compensation plans, including pursuant to any employment, severance or consulting agreements; or (iv) a change in par value of the Common Stock.

(b) In no event shall the Company adjust the Exercise Price or make a corresponding adjustment to the number of shares of Common Stock issuable upon exercise of any Warrant to the extent that the adjustment would reduce the Exercise Price below the par value per share of the Common Stock.

(c) Until the date that is six (6) months prior to the Expiration Date, no adjustment shall be made to the Exercise Price or the number of shares of Common Stock issuable upon exercise of any Warrant pursuant to this Article 4 if such adjustment would result in a change of less than 1 percent in the Exercise Price, unless the Company so elects; provided, however, that any adjustment that would have been made but for this Section 4.8(c) shall be carried forward and shall be made on the earlier of (i) the next adjustment to the Exercise Price or to the number of shares of Common Stock issuable upon exercise of the Warrants pursuant to this Article 4, (ii) as soon as such unmade adjustment, together with any other adjustments not previously made by reason of this Section 4.8(c), would result in a change of at least 1 percent in the Exercise Price or (iii) the date that is six (6) months prior to the Expiration Date.

5. CASH REDEMPTION RIGHT.

5.1 Cash Redemption in Connection with Organic Change. In connection with an Organic Change, the Company may by written notice to the Holders not less than ten (10) Business Days prior to the effective date of such Organic Change elect the following treatment with respect to each outstanding Warrant: (i) the Company shall pay to the Holder of such Warrant as of the date of such Organic Change the Fair Market Value of any Consideration, other than Public Stock, received in connection with such Organic Change with respect to or in exchange for the number of shares of Common Stock immediately theretofore acquirable and receivable upon exercise of such Warrant, which amount shall be paid in immediately available funds, not later than the date which is ten (10) Business Days after the effective date of such Organic Change, and (ii) to the extent the Consideration received in connection with such Organic Change with respect to or in exchange for shares of Common Stock includes Public Stock, such Warrant shall remain outstanding after such Organic Change, as further adjusted pursuant to Section 4.5 and the other provisions of Article 4.

5.2 Warrant Agent. The Warrant Agent shall have no duty or obligation to make any payment required under this Article 5 unless and until it has been provided with available cash.

6. EXCHANGE AND TRANSFER OF WARRANTS.

6.1 Warrant Register. The Company shall cause to be kept at the office of the Warrant Agent designated for such purpose a register in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of the Warrants and of transfers or exchanges of outstanding Warrants as herein provided (the "Warrant Register").

6.2 Transfer or Exchange of Warrants. The Warrant Agent shall, in accordance with the terms of this Agreement, from time to time register the transfer of outstanding Warrants in the Warrant Register, or exchange outstanding Warrants for an equal number of Warrants of other authorized denominations, upon delivery to the Warrant Agent, at its office designated for such purpose, of a written instrument of transfer or exchange in the form attached hereto as

Exhibit C or otherwise satisfactory to the Warrant Agent, duly completed and executed by the Holder thereof or by its attorney duly authorized in writing, and upon payment of any charges provided herein, and, with respect to the transfer of a Warrant Certificate, upon surrender to the Warrant Agent of such Warrant Certificate, duly endorsed. Upon any such registration of transfer, a new Warrant Certificate or a Warrant Statement, as the case may be, shall be issued to the transferee. Neither the Company nor the Warrant Agent will be liable or responsible for any registration or transfer of any Warrants that are registered or to be registered in the name of a fiduciary or the nominee of a fiduciary.

6.3 Treatment of Registered Holders. Each Holder of a Warrant, by accepting the same, consents and agrees with the Company, the Warrant Agent and every subsequent Holder of such Warrant that, prior to registration of transfer or exchange of any Warrant in accordance with the procedures set forth in this Agreement, the Company and the Warrant Agent may treat the Person in whose name any Warrant is registered upon the Warrant Register as the absolute owner thereof for all purposes, notwithstanding any notice to the contrary.

6.4 Exchange of a Warrant Certificate for a Beneficial Interest in Warrants Held Through Depository. Upon surrender to the Warrant Agent of a Warrant Certificate, and receipt by the Warrant Agent of appropriate instruments of transfer with respect thereto, in form satisfactory to the Warrant Agent, together with written instructions directing the Warrant Agent to reflect on the Warrant Register an increase in the number of Warrants held by the Depository equal to the number of Warrants represented by such Warrant Certificate, the Warrant Agent shall, in accordance with this Agreement, cancel such Warrant Certificate on the Warrant Register and cause, or direct the Depository to cause, in accordance with the standing instructions and procedures existing between the Depository and the Warrant Agent, the number of Warrants held by the Depository, as registered on the Warrant Register, to be increased accordingly. Notwithstanding anything to the contrary in this Section 6.4, Warrants represented by a Warrant Certificate may not be exchanged for Book-Entry Warrants until the legend set forth in Section 3.6 has ceased to be applicable, provided that the Company may reasonably request from any Holder opinions, certificates or other evidence that such legend has ceased to be applicable.

6.5 Obligations with Respect to Transfers and Exchanges of Warrants.

(a) All Warrants issued upon any registration of transfer or exchange thereof shall be the valid obligations of the Company, evidencing the same obligations, and entitled to the same benefits under this Agreement, as the Warrants surrendered for such registration of transfer or exchange.

(b) No service charge shall be made to a Holder for any registration of transfer or exchange of Warrants. The Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Warrants. The Warrant Agent shall have no duty under this Section or any Section of this Agreement requiring the payment of taxes and other governmental charges unless and until it is satisfied that all such taxes and/or governmental charges have been paid. The Warrant Agent shall be deemed satisfied if it receives a certificate from the Company stating that all required taxes and governmental charges have been paid.

6.6 Lost, Stolen or Destroyed Warrant Certificates. If at any time the Warrants are represented by certificates, the Warrant Agent shall issue replacement Warrant certificates for those certificates alleged to have been lost, stolen or destroyed, upon receipt by the Warrant Agent of an open penalty surety bond satisfactory to it and holding it and the Company harmless, absent notice to the Warrant Agent that such certificates have been acquired by a bona fide purchaser. The Warrant Agent may, at its option, issue replacement Warrant certificates for mutilated certificates upon presentation thereof without such indemnity.

7. WARRANT HOLDERS.

7.1 No Rights as Shareholder. Prior to the exercise of Warrants in accordance with this Agreement, no Holder of a Warrant shall be entitled to any rights of a shareholder of the Company, including, without limitation, the right to vote, to consent, to exercise any preemptive right, to receive any notice of meetings of shareholders for the election of directors of the Company or any other matter or to receive any notice of any proceedings of the Company, other than as expressly provided herein or as otherwise agreed in writing by the Company.

7.2 Right of Action. All rights of action in respect of this Agreement are vested in the Holders of the Warrants, and any Holder of Warrants, without the consent of the Warrant Agent or the Holder of any other Warrant, may, on such Holder's own behalf and for such Holder's own benefit, enforce, and may institute and maintain any suit, action or proceeding against the Company suitable to enforce, or otherwise in respect of, such Holder's right to exercise or exchange such Holder's Warrants in the manner provided in this Agreement or any other obligation of the Company under this Agreement.

8. WARRANT AGENT

8.1 Nature of Duties and Responsibilities Assumed. The Company hereby appoints the Warrant Agent to act as agent of the Company as expressly set forth in this Agreement. The Warrant Agent hereby accepts such appointment as agent of the Company and agrees to perform that agency upon the express terms and conditions herein set forth (and no implied terms), by all of which the Company and the Holders, by their acceptance thereof, shall be bound. The Warrant Agent shall not by countersigning Warrant Certificates or Warrant Statements or by any other act hereunder be deemed to make any representations as to the validity or authorization of the Warrants, the Warrant Certificates or Warrant Statements (except as to its countersignature thereon) or of any securities or other property delivered upon exercise or tender of any Warrant, or as to the accuracy of the computation of the Exercise Price or the number or kind or amount of stock or other securities or other property deliverable upon exercise of any Warrant, the independence of any Independent Financial Expert or the correctness of the representations of the Company made in such certificates that the Warrant Agent receives. The Warrant Agent shall not have any duty to calculate or determine any adjustments with respect to the Exercise Price and the Warrant Agent shall have no duty or responsibility in determining the accuracy or correctness of such calculation. The Warrant Agent shall not (a) be liable for any recital or statement of fact contained herein or in the Warrant Certificates or Warrant Statements or for any action taken, suffered or omitted to be taken by it in good faith on the belief that any Warrant Certificate or Warrant Statement or any other documents or any signatures are genuine or properly authorized, (b) be responsible for any failure on the part of the Company to comply

with any of its covenants and obligations contained in this Agreement or in the Warrant Certificates, or (c) be liable for any act or omission in connection with this Agreement except for its own gross negligence, willful misconduct or bad faith (as each is determined by a final, non-appealable judgment of a court of competent jurisdiction).

The Warrant Agent may execute and exercise any of the rights and powers hereby vested in it or perform any duty hereunder either itself or by or through its attorneys, agents or employees, provided reasonable care has been exercised in the selection and in the continued employment of any such attorney, agent or employee. The Warrant Agent shall not be under any obligation or duty to institute, appear in or defend any action, suit or legal proceeding in respect hereof, unless first indemnified to its satisfaction, but this provision shall not affect the power of the Warrant Agent to take such action as the Warrant Agent may consider proper, whether with or without such indemnity. The Warrant Agent shall promptly notify the Company in writing of any claim made or action, suit or proceeding instituted against it arising out of or in connection with this Agreement.

The Company will perform, execute, acknowledge and deliver or cause to be performed, executed, acknowledged and delivered all such further acts, instruments and assurances as may reasonably be required by the Warrant Agent in order to enable it to carry out or perform its duties under this Agreement. The Warrant Agent shall be protected and shall incur no liability for or in respect of any action taken or thing suffered by it in reliance upon any notice, direction, consent, certificate, affidavit, statement or other paper or document reasonably believed by it to be genuine and to have been presented or signed by the proper parties.

The Warrant Agent shall act solely as agent of the Company hereunder and does not assume any obligation or relationship of agency or trust with any of the owners or Holders of the Warrants or Underlying Common Stock. The Warrant Agent shall not be liable except for the failure to perform such duties as are specifically set forth herein, and no implied covenants or obligations shall be read into this Agreement against the Warrant Agent, whose duties and obligations shall be determined solely by the express provisions hereof. Notwithstanding anything contained herein to the contrary, the Warrant Agent's aggregate liability during the term of this Agreement with respect to, arising from, or arising in connection with this Agreement, or from all services provided or omitted to be provided under this Agreement, whether in contract, or in tort, or otherwise, is limited to, and shall not exceed, the amounts paid hereunder by the Company to the Warrant Agent as fees and charges, but not including reimbursable expenses, during the twelve (12) months immediately preceding the event for which recovery from the Warrant Agent is being sought.

Whenever in the performance of its duties under this Agreement the Warrant Agent deems it necessary or desirable that any fact or matter be proved or established by the Company prior to taking or suffering any action hereunder, such fact or matter may be deemed to be conclusively proved and established by a certificate signed by any authorized officer of the Company and delivered to the Warrant Agent; and such certificate will constitute full authorization to the Warrant Agent for any action taken, suffered or omitted by it under the provisions of this Agreement in reliance upon such certificate. The Warrant Agent is hereby authorized and directed to accept instructions with respect to the performance of its duties hereunder from any one of the authorized officers of the Company, and to apply to such officers

for advice or instructions in connection with its duties, and may (at its own expense) consult with legal counsel with respect to any matter arising in connection with the services to be performed by the Warrant Agent under this Agreement. The Warrant Agent and its agents and subcontractors shall not be liable and shall be indemnified by the Company for any action taken or omitted by the Warrant Agent in good-faith reliance upon any Company instructions or upon the advice or opinion of counsel (including counsel to the Company). The Warrant Agent shall not be held to have notice of any change of authority of any person, until receipt of written notice thereof from the Company.

The Warrant Agent will not be under any duty or responsibility to insure compliance with any applicable federal or state securities laws in connection with the issuance, transfer or exchange of Warrants, except to the extent set forth in this Agreement.

The Warrant Agent shall have no duties, responsibilities or obligations as the Warrant Agent except those which are expressly set forth herein, and in any modification or amendment hereof to which the Warrant Agent has consented in writing, and no duties, responsibilities or obligations shall be implied or inferred. Without limiting the foregoing, unless otherwise expressly provided in this Agreement, the Warrant Agent shall not be subject to, nor be required to comply with, or determine if any person or entity has complied with, any other agreement between or among the parties hereto, even though reference thereto may be made in this Warrant Agreement, or to comply with any notice, instruction, direction, request or other communication, paper or document other than as expressly set forth in this Warrant Agreement.

In the event the Warrant Agent believes any ambiguity or uncertainty exists hereunder or in any notice, instruction, direction, request or other communication, paper or document received by the Warrant Agent hereunder, the Warrant Agent, may, in its sole discretion, refrain from taking any action, and shall be fully protected and shall not be liable in any way to the Company or any Holder or other person or entity for refraining from taking such action, unless the Warrant Agent receives written instructions signed by the Company which eliminate such ambiguity or uncertainty to the satisfaction of the Warrant Agent.

8.2 Compensation and Reimbursement; Indemnification. The Company agrees to pay to the Warrant Agent from time to time compensation for all services rendered by it hereunder in accordance with Schedule A hereto and as the Company and the Warrant Agent may agree from time to time, and to reimburse the Warrant Agent for reasonable expenses and disbursements actually incurred in connection with the preparation, delivery, negotiation, amendment, execution and administration of this Agreement (including the reasonable compensation and out of pocket expenses of its counsel). The Company covenants and agrees to indemnify and to hold the Warrant Agent harmless against any costs, expenses (including reasonable fees of its legal counsel), losses or damages, which may be paid, incurred or suffered by or to which it may become subject, arising from or out of, directly or indirectly, any claims or liability resulting from its actions as the Warrant Agent pursuant hereto; provided that such covenant and agreement does not extend to, and the Warrant Agent shall not be indemnified with respect to, such costs, expenses, losses and damages incurred or suffered by the Warrant Agent as a result of, or arising out of, its gross negligence, bad faith, or willful misconduct.

8.3 Indemnification (Instructions). From time to time, the Company may provide the Warrant Agent with instructions concerning the services performed by the Warrant Agent hereunder. In addition, at any time, the Warrant Agent may apply to any officer of the Company for instruction, and may (at its own expense) consult with legal counsel with respect to any matter arising in connection with the services to be performed by the Warrant Agent under this Agreement. The Warrant Agent and its agents and subcontractors shall not be liable and shall be indemnified by the Company for any action taken or omitted by the Warrant Agent in reliance upon any Company instructions or upon the advice or opinion of counsel (including counsel to the Company). The Warrant Agent shall not be held to have notice of any change of authority of any person, until receipt of written notice thereof from the Company.

8.4 Warrant Agent May Hold Company Securities. The Warrant Agent and any shareholder, director, officer or employee of the Warrant Agent may buy, sell or deal in any of the Warrants or other securities of the Company or its Affiliates or become pecuniarily interested in transactions in which the Company or its Affiliates may be interested, or contract with or lend money to the Company or its Affiliates or otherwise act as fully and freely as though it were not the Warrant Agent under this Agreement. Nothing herein shall preclude the Warrant Agent from acting in any other capacity for the Company or for any other legal entity.

8.5 Resignation and Removal; Appointment of Successor. (a) No resignation or removal of the Warrant Agent and no appointment of a successor warrant agent shall become effective until the acceptance of such appointment by the successor warrant agent as provided herein. The Warrant Agent may resign its duties and be discharged from all further duties and liability hereunder (except liability arising as a result of the Warrant Agent's own gross negligence, willful misconduct or bad faith) after giving written notice to the Company at least thirty (30) days prior to the date such resignation will become effective. The Company may remove and replace the Warrant Agent at any time upon written notice provided at least thirty (30) days prior to the date of such removal, and the Warrant Agent shall thereupon in like manner be discharged from all further duties and liabilities hereunder, except as aforesaid. The Warrant Agent shall, at the Company's expense, cause to be mailed (by first-class mail, postage prepaid) to each Holder of a Warrant at its last address as shown on the Warrant Register a copy of said notice of resignation or notice of removal, as the case may be. Upon such resignation or removal, the Company shall appoint in writing a new warrant agent. Any new warrant agent shall be a reputable bank, trust company or transfer agent doing business under the laws of the United States or any state thereof, in good standing and having a combined capital and surplus of not less than \$50,000,000. The combined capital and surplus of any such new warrant agent shall be deemed to be the combined capital and surplus as set forth in the most recent annual report of its condition published by such warrant agent prior to its appointment, provided that such reports are published at least annually pursuant to law or to the requirements of a Federal or state supervising or examining authority. After acceptance in writing of such appointment by the new warrant agent, it shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named herein as the Warrant Agent, without any further assurance, conveyance, act or deed; but if for any reason it shall be necessary or expedient to execute and deliver any further assurance, conveyance, act or deed, the same shall be done at the expense of the Company and shall be legally and validly executed and delivered by the resigning or removed Warrant Agent. Not later than the effective date of any such appointment, the Company shall give notice thereof to the resigning or removed Warrant Agent. Failure to give

any notice provided for in this Section 8.5(a), however, or any defect therein, shall not affect the legality or validity of the resignation or removal of the Warrant Agent or the appointment of a new warrant agent, as the case may be.

(b) Any Person into which the Warrant Agent or any new warrant agent may be merged, or any Person resulting from any consolidation to which the Warrant Agent or any new warrant agent shall be a party, or any Person to which the Warrant Agent or any new warrant agent shall sell or otherwise transfer all or substantially all the assets and business of the Warrant Agent or any new warrant agent, shall be a successor warrant agent under this Agreement without any further act, provided that such Person would be eligible for appointment as a new Warrant Agent under the provisions of Section 8.5(a). Any such successor warrant agent shall promptly cause notice of succession as Warrant Agent to be mailed (by first-class mail, postage prepaid) to each Holder of a Warrant at such Holder's last address as shown on the Warrant Register.

8.6 Damages. No party to this Agreement shall be liable to any other party for any consequential, indirect, punitive, special or incidental damages under any provision of this Agreement or for any consequential, indirect, punitive, special or incidental damages arising out of any act or failure to act hereunder even if that party has been advised of or has foreseen the possibility of such damages.

8.7 Force Majeure. Notwithstanding anything to the contrary contained herein, the Warrant Agent will not be liable for any delays or failures in performance resulting from acts beyond its reasonable control including, without limitation, acts of God, terrorist acts, shortage of supply, breakdowns or malfunctions, interruptions or malfunction of computer facilities, or loss of data due to power failures or mechanical difficulties with information storage or retrieval systems, labor difficulties, war, or civil unrest.

8.8 Survival. The provisions of this Article 8 shall survive the termination of this Warrant Agreement and the resignation or removal of the Warrant Agent.

9. REPRESENTATIONS AND WARRANTIES.

The Company represents and warrants to the Warrant Agent that the issuance of the Warrants and the shares of Underlying Common Stock shall be exempt from registration under the Securities Act and all applicable state securities laws, and that the Warrants and shares of Underlying Common Stock shall be validly issued, fully paid and non-assessable.

10. COVENANTS.

10.1 Exchange Listing. If at any time the Common Stock shall be listed on any national securities exchange or automated quotation system, the Company shall use reasonable best efforts to list the Underlying Common Stock, and maintain such listing, on the principal exchange or automated quotation system on which the then outstanding Common Stock is listed or, if not possible, another national securities exchange or automated quotation system.

10.2 Reservation of Common Stock for Issuance on Exercise of Warrants. The Company covenants that it will 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 exercise of Warrants as herein provided, such number of shares of Common Stock as shall then be issuable upon the exercise of all Warrants issuable hereunder plus such number of shares of Common Stock as shall then be issuable upon the exercise of other outstanding warrants, options and rights (whether or not vested), the settlement of any forward sale, swap or other derivative contract, and the conversion of all outstanding convertible securities or other instruments convertible into Common Stock or rights to acquire Common Stock, and the Company's transfer agent is hereby irrevocably authorized and directed at all times to reserve such number of authorized and unissued shares or treasury shares of Common Stock as shall be required for such purpose. If at any time prior to the Expiration Date the number and kind of authorized but unissued shares or treasury shares of the Company's capital stock shall not be sufficient to permit exercise in full of the Warrants, the Company will use its reasonable best efforts to promptly take such corporate action as may, in the opinion of counsel, be necessary to increase the Company's authorized but unissued shares or treasury shares to such number of shares of Common Stock as shall be sufficient for such purposes; provided, however, that the foregoing shall in no way limit the obligations of the Company with respect to the covenants set forth in the first sentence of this Section 10.2. The Company covenants that all shares of Common Stock which shall be issuable under this Agreement shall, upon such issue, be duly authorized, validly issued, fully paid and non-assessable, and free from all taxes, liens, charges and security interests created by or imposed upon the Company with respect to the issuance thereof.

10.3 Notice of Certain Events. To the extent not given (on or before the time period required below) by any statement or other notice delivered or required to be delivered pursuant to this Agreement, and excluding any event of which notice is required to be given pursuant to Article 4, the Company shall cause the Warrant Agent promptly to give notice, by first class mail, postage prepaid, to each Holder of Warrants if any of the following events shall occur:

(a) the Company shall authorize the payment of any dividend or distribution (other than a dividend to which adjustments set forth in this Agreement apply) to all holders of Common Stock; or

(b) the Company shall authorize the issuance to all holders of Common Stock of any additional securities or the distribution of rights, options or warrants to subscribe for or purchase any securities (other than a Stock Dividend or distribution of rights or warrants to which the adjustments set forth in this Agreement apply); or

(c) any Organic Change shall occur or shall be authorized by the Company.

Such giving of notice shall be initiated at least ten (10) Business Days prior to the date fixed as a record date or effective date or the date of closing of the Company's stock transfer books for the determination of the shareholders entitled to such dividend, distribution or issuance or, if applicable, for the determination of shareholders entitled to vote on such Organic Change. With respect to an Organic Change for which no shareholder vote is to be held, such giving of notice shall be initiated not later than the date which is five (5) Business Days after such Organic Change. Such notice shall specify such record date or the date of closing of the stock transfer books, or date of such Organic Change, as the case may be. Failure to provide such notice shall not affect the validity of any action taken in connection with such dividend, distribution, issuance, Organic Change or other event.

10.4 Further Assurances. The Company shall perform, acknowledge and deliver or cause to be performed, acknowledged and delivered all such further and other acts, documents, instruments and assurances as may be reasonably required by the Warrant Agent for the carrying out or performing by the Warrant Agent of the provisions of this Agreement.

11. GENERAL PROVISIONS.

11.1 Money and Other Property Deposited with the Warrant Agent. Any moneys, securities or other property which at any time shall be deposited by the Company or on its behalf with the Warrant Agent pursuant to this Agreement shall be and are hereby assigned, transferred and set over to the Warrant Agent in trust for the purpose for which such moneys, securities or other property shall have been deposited; but such moneys, securities or other property need not be segregated from other funds, securities or other property except to the extent required by law. The Warrant Agent shall distribute any money deposited with it for payment and distribution to a Holder to an account designated by such Holder in such amount as is appropriate. Any money deposited with the Warrant Agent for payment and distribution to the Holders that remains unclaimed for two (2) years after the date the money was deposited with the Warrant Agent shall be paid to the Company. The Warrant Agent shall not be under any liability for interest on any monies at any time received by it pursuant to any of the provisions of this Agreement.

11.2 Confidentiality. The Warrant Agent and the Company agree that all books, records, information and data pertaining to the business of the other party, including *inter alia*, personal, non-public Holder information, which are exchanged or received pursuant to the negotiation or the carrying out of this Agreement including the fees for services set forth in the Schedule A attached to this Agreement shall remain confidential, and shall not be voluntarily disclosed to any other person, except as may be required by law, including, without limitation, pursuant to subpoenas from state or federal government authorities (e.g., in divorce and criminal actions).

11.3 Surrender of Certificates. Any Warrant Certificate surrendered to the Company pursuant to this Agreement be delivered to the Warrant Agent, and all Warrant Certificates surrendered or so delivered to the Warrant Agent shall be promptly cancelled by the Warrant Agent and shall not be reissued by the Company. The Warrant Agent shall destroy such cancelled Warrant Certificates.

11.4 Payment of Taxes. The Company shall pay all documentary, transfer, stamp and other similar taxes that may be imposed in respect of the issuance or delivery of the Warrants or in respect of the issuance or delivery by the Company of any securities upon exercise of the Warrants with respect thereto. The Company shall not be required, however, to pay any tax or other charge imposed in connection with any transfer involved in the issue of any Warrants, certificate for shares of Common Stock or other property underlying the Warrants or payment of cash to any Person other than the Holder of a Warrant upon the exercise or redemption thereof, and in case of such transfer or payment, the Warrant Agent and the Company shall not be required to issue any security or to pay any cash until such tax or charge has been paid or it has

been established to the Warrant Agent's and the Company's satisfaction that no such tax or other charge is due. The Company and each Initial Warrantholder agree that neither the issuance nor exercise of the Warrants is governed by Section 83(a) of the Code or otherwise a compensatory transaction, and the Company agrees that it will not deduct any amount as compensation in connection with such issuance or exercise for federal income tax purpose.

11.5 Notices.

(a) Any notice, demand or delivery authorized by this Agreement shall be sufficiently given or made when sent if sent by first-class mail, postage prepaid, addressed to any Holder of a Warrant at such Holder's address as shown on the Warrant Register and to the Company or the Warrant Agent as follows:

If to the Company, to:

Eastman Kodak Company
343 State Street
Rochester, New York 14650-0218
Attention: General Counsel
Telephone: (585) 724-9549
Facsimile: (585) 724-1089

with a copy to (which shall not constitute notice):

Sullivan & Cromwell LLP
125 Broad Street
New York, New York 10004-2498
Attention: Andrew G. Dietderich
Telephone: (212) 558-4000
Facsimile: (212) 558-3588

If to the Warrant Agent, to:

Computershare Trust Company, N.A.
250 Royall Street
Canton, Massachusetts 02021
Attention: Client Administration
Facsimile: (781) 575-2549

with a copy to:

Computershare Inc.
480 Washington Blvd.
Jersey City, New Jersey 07310
Attention: Client Administration
Facsimile: (201) 680-4665

or such other address as shall have been furnished to the party giving or making such notice, demand or delivery.

(b) Any notice required to be given by the Company to the Holders pursuant to this Agreement, shall be made by mailing by registered mail, return receipt requested, to the Holders at their respective addresses shown on the Warrant Register. The Company hereby irrevocably authorizes the Warrant Agent, in the name and at the expense of the Company, to mail any such notice upon receipt thereof from the Company. Any notice that is mailed in the manner herein provided shall be conclusively presumed to have been duly given when sent, whether or not the Holder receives the notice.

(c) Any notice required to be given by the Company to the Warrant Agent, or by the Warrant Agent to the Company, shall be made by overnight delivery service to the addresses listed in Section 11.5(a). Any notice that is mailed in the manner herein provided shall be conclusively presumed to have been duly given when sent, whether or not the parties receive the notice.

11.6 Applicable Law; Jurisdiction. This Agreement and each Warrant issued hereunder and all rights arising hereunder shall be governed by the internal laws of the State of New York. In connection with any action, suit or proceeding arising out of or relating to this Agreement or the Warrants, the parties hereto and each Holder irrevocably submit to (i) the exclusive jurisdiction of the United States Bankruptcy Court for the Southern District of New York until the chapter 11 cases of the Company and its affiliated debtors and debtors in possession are closed, and (ii) the nonexclusive jurisdiction of any federal or state court located within the County of New York, State of New York.

11.7 Persons Benefiting. This Agreement shall be binding upon and inure to the benefit of the Company and the Warrant Agent, and their respective successors, assigns, beneficiaries, executors and administrators, and the Holders from time to time of the Warrants. The Holders of the Warrants are express third party beneficiaries of this Agreement and each such Holder of Warrants is hereby conferred the benefits, rights and remedies under or by reason of the provisions of this Agreement as if a signatory hereto. Nothing in this Agreement is intended or shall be construed to confer upon any Person, other than the Company, the Warrant Agent and the Holders of the Warrants, any right, remedy or claim under or by reason of this Agreement or any part hereof.

11.8 Counterparts. This Agreement may be executed in any number of counterparts, each or which shall be deemed an original, but all of which together constitute one and the same instrument. A signature to this Agreement transmitted electronically shall have the same authority, effect, and enforceability as an original signature.

11.9 Amendments.

(a) The Company and the Warrant Agent may from time to time supplement or amend this Agreement without the approval of any Holder in order to cure any ambiguity, to correct or supplement any provision contained herein which may be defective or inconsistent with any other provisions herein, or to make any other provisions with regard to matters or questions arising hereunder which the Company and the Warrant Agent may deem necessary or desirable and, in each case, which shall not adversely affect the interests of any Holder.

(b) In addition to the foregoing, with the consent of the Majority Holders, the Company and the Warrant Agent may modify this Agreement and/or the terms of the Warrants for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Warrant Agreement or modifying in any manner the rights of the Holders hereunder; provided, however, that no modification affecting the terms upon which the Warrants are exercisable, redeemable or transferable, or reduction in the percentage required for consent to modification of this Agreement, may be made without the consent of each Holder affected thereby.

(c) In the event of any amendment of this Agreement or of the terms of the Warrants, the Company will give prompt notice thereof to all Holders and, if appropriate, notation thereof will be made on all Warrant Certificates and Warrant Statements thereafter issued.

(d) As a condition precedent to the Warrant Agent's execution of any amendment, the Company shall deliver to the Warrant Agent a certificate from a duly authorized officer of the Company that states that the proposed amendment is in accordance with the terms of this Section 11.9.

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

11.11 Entire Agreement. This Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof. In the event of any conflict, discrepancy, or ambiguity between the terms and conditions contained in this Agreement and any schedules or attachments hereto, the terms and conditions contained in this Agreement shall take precedence.

11.12 Consequential Damages. Neither party to this Agreement shall be liable to the other party for any consequential, indirect, special or incidental damages under any provisions of this Agreement or for any consequential, indirect, penal, special or incidental damages arising out of any act or failure to act hereunder even if that party has been advised of or has foreseen the possibility of such damages.

11.13 Specific Performance. The parties shall be entitled to specific performance of the terms of this Agreement. Each of the parties hereto hereby waives (i) any defenses in any action for specific performance, including the defense that a remedy at law would be adequate and (ii) any requirement under any law to post a bond or other security as a prerequisite to obtaining equitable relief.

[signature page follows]

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

EASTMAN KODAK COMPANY

By: /s/ William G. Love

Name: William G. Love

Title: Treasurer

COMPUTERSHARE, INC.

By: /s/ George Dalton

Name: George Dalton

Title: Vice President

COMPUTERSHARE TRUST COMPANY, N.A.

By: /s/ George Dalton

Name: George Dalton

Title: Vice President

[SIGNATURE PAGE TO WARRANT AGREEMENT]

EXHIBIT A-1

**FORM OF WARRANT STATEMENT
FOR 125% WARRANTS**

EXHIBIT A-2

**FORM OF WARRANT STATEMENT
FOR 135% WARRANTS**

EXHIBIT A-3

FORM OF WARRANT CERTIFICATE
FOR 125% WARRANTS

THESE WARRANTS AND THE SECURITIES ISSUABLE UPON THE EXERCISE HEREOF ARE SUBJECT TO THE PROVISIONS OF THE WARRANT AGREEMENT DATED AS OF [—], 2013 BETWEEN EASTMAN KODAK COMPANY (THE “COMPANY”) AND [—], WARRANT AGENT. A COPY OF SUCH WARRANT AGREEMENT IS AVAILABLE AT THE OFFICES OF THE COMPANY.

WARRANTS TO PURCHASE COMMON STOCK
OF EASTMAN KODAK COMPANY

No. Certificate for 125% Warrants

This certifies that [HOLDER], or registered assigns, is the registered holder of the number of 125% Warrants set forth above. Each 125% Warrant entitles the holder thereof (a “Holder”), subject to the provisions contained herein and in the Warrant Agreement referred to below, to purchase from EASTMAN KODAK COMPANY (the “Company”) a number of shares of the Company’s common stock, par value \$0.01 (“Common Stock”), equal to \$14.93 divided by the Exercise Price (as defined in the Warrant Agreement referred to below), for a price per share of Common Stock equal to the Exercise Price.

This Warrant Certificate is issued under and in accordance with the Warrant Agreement, dated as of [—], 2013 (the “Warrant Agreement”), between the Company and [—], a [—], as warrant agent (the “Warrant Agent”, which term includes any successor Warrant Agent under the Warrant Agreement), and is subject to the terms and provisions contained in the Warrant Agreement, to all of which terms and provisions the Holder of this Warrant Certificate consents by acceptance hereof. The Warrant Agreement is hereby incorporated herein by reference and made a part hereof. Reference is hereby made to the Warrant Agreement for a full statement of the respective rights, limitations of rights, duties, obligations and immunities thereunder of the Company, the Warrant Agent and the Holders of the Warrants.

This Warrant Certificate shall terminate and be void as of the close of business on [—], 2018 (the “Expiration Date”).

As provided in the Warrant Agreement and subject to the terms and conditions therein set forth, the 125% Warrants shall be exercisable from time to time on any Business Day and ending on the Expiration Date.

The Exercise Price and the number of shares of Common Stock issuable upon the exercise of each 125% Warrant are subject to adjustment as provided in the Warrant Agreement.

All shares of Common Stock issuable by the Company upon the exercise of 125% Warrants shall, upon such issue, be duly and validly issued and fully paid and non-assessable.

The Company shall pay all transfer, stamp and other similar taxes that may be imposed in respect of the issuance or delivery of the 125% Warrants or in respect of the issuance or delivery by the Company of any securities upon exercise of the 125% Warrants with respect thereto. The Company shall not be required, however, to pay any tax or other charge imposed in connection with any transfer involved in the issue of any 125% Warrants, certificate for shares of Common Stock or other securities underlying the 125% Warrants or payment of cash in each case to any Person other than the Holder of a Warrant upon the exercise or redemption thereof, and in case of such transfer or payment, the Warrant Agent and the Company shall not be required to issue any security or to pay any cash until such tax or charge has been paid or it has been established to the Warrant Agent's and the Company's satisfaction that no such tax or other charge is due.

This Warrant Certificate and all rights hereunder are transferable by the registered holder hereof, subject to the terms of the Warrant Agreement. No service charge shall be required of a Holder for any registration of transfer or exchange of the Warrant Certificates, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Subject to compliance with any restrictions on transfer under applicable law and the Warrant Agreement, each taker and holder of this Warrant Certificate by taking or holding the same, consents and agrees that this Warrant Certificate when duly endorsed in blank shall be deemed negotiable and that when this Warrant Certificate shall have been so endorsed, the holder hereof may be treated by the Company, the Warrant Agent and all other Persons dealing with this Warrant Certificate as the absolute owner hereof for any purpose and as the Person entitled to exercise the rights represented hereby, or to the transfer hereof on the register of the Company maintained by the Warrant Agent, any notice to the contrary notwithstanding, but until such transfer on such register, the Company and the Warrant Agent may treat the registered Holder hereof as the owner for all purposes.

This Warrant Certificate and the Warrant Agreement are subject to amendment as provided in the Warrant Agreement.

All terms used in this Warrant Certificate that are defined in the Warrant Agreement shall have the meanings assigned to them in the Warrant Agreement.

Copies of the Warrant Agreement are on file at the office of the Company and the Warrant Agent and may be obtained by writing to the Company or the Warrant Agent at the following address: [—].

This Warrant Certificate shall not be valid for any purpose until it shall have been countersigned by the Warrant Agent.

Dated: [—], 2013

By: _____
Name and Title:

By: _____
Name and Title:

Countersigned:

[—], as Warrant Agent

By: _____
Name:
Authorized Officer

EXHIBIT A-4

FORM OF WARRANT CERTIFICATE
FOR 135% WARRANTS

THESE WARRANTS AND THE SECURITIES ISSUABLE UPON THE EXERCISE HEREOF ARE SUBJECT TO THE PROVISIONS OF THE WARRANT AGREEMENT DATED AS OF [—], 2013 BETWEEN EASTMAN KODAK COMPANY (THE “COMPANY”) AND [—], WARRANT AGENT. A COPY OF SUCH WARRANT AGREEMENT IS AVAILABLE AT THE OFFICES OF THE COMPANY.

WARRANTS TO PURCHASE COMMON STOCK
OF EASTMAN KODAK COMPANY

No. Certificate for 135% Warrants

This certifies that [HOLDER], or registered assigns, is the registered holder of the number of 135% Warrants set forth above. Each 135% Warrant entitles the holder thereof (a “Holder”), subject to the provisions contained herein and in the Warrant Agreement referred to below, to purchase from EASTMAN KODAK COMPANY (the “Company”) a number of shares of the Company’s common stock, par value \$0.01 (“Common Stock”) equal to \$16.12 divided by the Exercise Price (as defined in the Warrant Agreement referred to below), for a price per share of Common Stock equal to the Exercise Price.

This Warrant Certificate is issued under and in accordance with the Warrant Agreement, dated as of [—], 2013 (the “Warrant Agreement”), between the Company and [—], a [—], as warrant agent (the “Warrant Agent”, which term includes any successor Warrant Agent under the Warrant Agreement), and is subject to the terms and provisions contained in the Warrant Agreement, to all of which terms and provisions the Holder of this Warrant Certificate consents by acceptance hereof. The Warrant Agreement is hereby incorporated herein by reference and made a part hereof. Reference is hereby made to the Warrant Agreement for a full statement of the respective rights, limitations of rights, duties, obligations and immunities thereunder of the Company, the Warrant Agent and the Holders of the Warrants.

This Warrant Certificate shall terminate and be void as of the close of business on [—], 2018 (the “Expiration Date”).

As provided in the Warrant Agreement and subject to the terms and conditions therein set forth, the 135% Warrants shall be exercisable from time to time on any Business Day and ending on the Expiration Date.

The Exercise Price and the number of shares of Common Stock issuable upon the exercise of each 135% Warrant are subject to adjustment as provided in the Warrant Agreement.

All shares of Common Stock issuable by the Company upon the exercise of 135% Warrants shall, upon such issue, be duly and validly issued and fully paid and non-assessable.

The Company shall pay all transfer, stamp and other similar taxes that may be imposed in respect of the issuance or delivery of the 135% Warrants or in respect of the issuance or delivery by the Company of any securities upon exercise of the 135% Warrants with respect thereto. The Company shall not be required, however, to pay any tax or other charge imposed in connection with any transfer involved in the issue of any 135% Warrants, certificate for shares of Common Stock or other securities underlying the 135% Warrants or payment of cash in each case to any Person other than the Holder of a Warrant Certificate surrendered upon the exercise or redemption thereof, and in case of such transfer or payment, the Warrant Agent and the Company shall not be required to issue any security or to pay any cash until such tax or charge has been paid or it has been established to the Warrant Agent's and the Company's satisfaction that no such tax or other charge is due.

This Warrant Certificate and all rights hereunder are transferable by the registered holder hereof, subject to the terms of the Warrant Agreement. No service charge shall be required of a Holder for any registration of transfer or exchange of the Warrant Certificates, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Subject to compliance with any restrictions on transfer under applicable law and the Warrant Agreement, each taker and holder of this Warrant Certificate by taking or holding the same, consents and agrees that this Warrant Certificate when duly endorsed in blank shall be deemed negotiable and that when this Warrant Certificate shall have been so endorsed, the holder hereof may be treated by the Company, the Warrant Agent and all other Persons dealing with this Warrant Certificate as the absolute owner hereof for any purpose and as the Person entitled to exercise the rights represented hereby, or to the transfer hereof on the register of the Company maintained by the Warrant Agent, any notice to the contrary notwithstanding, but until such transfer on such register, the Company and the Warrant Agent may treat the registered Holder hereof as the owner for all purposes.

This Warrant Certificate and the Warrant Agreement are subject to amendment as provided in the Warrant Agreement.

All terms used in this Warrant Certificate that are defined in the Warrant Agreement shall have the meanings assigned to them in the Warrant Agreement.

Copies of the Warrant Agreement are on file at the office of the Company and the Warrant Agent and may be obtained by writing to the Company or the Warrant Agent at the following address: [—].

This Warrant Certificate shall not be valid for any purpose until it shall have been countersigned by the Warrant Agent.

Dated: [—], 2013

By: _____
Name and Title:

By: _____
Name and Title:

Countersigned:

[—], as Warrant Agent

By: _____
Name:
Authorized Officer

EXHIBIT B

**EXERCISE FORM
FOR HOLDERS OF [125%][135%] WARRANTS**

(To be executed only upon exercise of [125%][135%] Warrants)

To:

The undersigned irrevocably exercises _____ of the [125%][135%] Warrants for the purchase of one share (subject to adjustment in accordance with the Warrant Agreement) of common stock, par value \$0.01, of Eastman Kodak Company (the "Company"), at the Exercise Price and on the terms and conditions specified in the Warrant Agreement, dated as of [—], 2013, between the Company and [—], a [—], as warrant agent, and herewith surrenders all right, title and interest therein to _____ and directs that the shares of Common Stock deliverable upon the exercise of such Warrants be registered in the name and delivered at the address specified below.

Date _____

(Signature of Owner) *

(Street Address)

(City) (State) (Zip Code)

Signature Guaranteed by:

* The signature must correspond with the name of the Holder of the Warrants exercised hereby as it appears in the Warrant Register in every particular, without alteration or enlargement or any change whatever, and must be guaranteed by an eligible guarantor institution participating in a signature guarantee program approved by the Securities Transfer Association.

Securities to be issued to:

Please insert social security or identifying number:

Name:

Street Address:

City, State and Zip Code:

If said number of [125%][135%] Warrants shall not be all the [125%][135%] Warrants held by the undersigned, the undersigned requests that a new Warrant representing the balance of such [125%][135%] Warrants shall be registered, with the appropriate Warrant Statement or Warrant Certificate delivered as follows:

Please insert social security or identifying number:

Name:

Street Address:

City, State and Zip Code:

EXHIBIT C

FORM OF ASSIGNMENT

FOR VALUE RECEIVED the undersigned registered holder of the within [125%][135%] Warrants hereby sells, assigns, and transfers unto the Assignee(s) named below all of the right of the undersigned with respect to the number of [125%][135%] Warrants set forth below:

| <u>Names of Assignees</u> | <u>Address</u> | <u>Social Security or other Identifying Number of Assignee(s)</u> | <u>Series and Number of Warrants</u> |
|---------------------------|----------------|---|--|
| <hr/> | | | |

and does hereby irrevocably constitute and appoint _____ the undersigned's attorney to make such transfer on the books of _____ maintained for that purpose, with full power of substitution in the premises.

If said number of [125%][135%] Warrants shall not be all the [125%][135%] Warrants held by the undersigned, the undersigned requests that a new Warrant representing the balance of such [125%][135%] Warrants shall be registered, with the appropriate Warrant Statement or Warrant Certificate delivered as follows:

Please insert social security or identifying number:

Name:

Street Address:

City, State and Zip Code:

Date: _____

(Signature of Owner) *

(Street Address)

(City) (State) (Zip Code)

Signature Guaranteed by:

* The signature must correspond with the name of the Holder of the Warrants exercised hereby as it appears in the Warrant Register in every particular, without alteration or enlargement or any change whatever, and must be guaranteed by an eligible guarantor institution participating in a signature guarantee program approved by the Securities Transfer Association.

SCHEDULE A

WARRANT AGENT COMPENSATION

| <u>Service Description</u> | <u>Fees</u> |
|---|--------------|
| Warrant Agent | |
| Initial Setup (one-time charge) | \$ 10,000.00 |
| Annual Administration | \$ 10,000.00 |
| Warrant Conversion Agent | |
| Set Up and Administrative Fee | \$ 3,500.00 |
| Processing Accounts, each | \$ 50.00 |
| Conversions requiring additional handling (window items, deficient items, correspondence items, legal items, items not providing a taxpayer identification number, Transfer Requests, etc), additional each | \$ 15.00 |
| Requisitioning Funds, each requisition | \$ 25.00 |
| Expiration | \$ 1,000.00 |
| Special Services | Additional |
| Out of Pocket Expenses Including Postage, Printing, Stationery, Overtime, Transportation, Microfilming, Imprinting, Mailing, etc. | Additional |