UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of Earliest Event Reported): October 27, 2010

PDL BioPharma, Inc.

(Exact name of Company as specified in its charter)

000-19756
(Commission File Number)

Delaware	94-3023969
(State or Other Jurisdiction of Incorporation)	(I.R.S. Employer Identification No.)

932 Southwood Boulevard
Incline Village, Nevada 89451
(Address of principal executive offices, with zip code)

(775) 832-8500
(Company's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the Company under any of the following provisions:

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01 Entry into a Material Definitive Agreement.

On October 27, 2010, PDL BioPharma, Inc. (the "Company") announced that it has entered into separate privately negotiated exchange agreements under which it will retire $92.0 million in aggregate principal of the Company's outstanding 2.00% Convertible Senior Notes due February 15, 2012 (the "Existing Notes"). Holders of the Existing Notes will receive $92.0 million in aggregate principal of new 2.875% Convertible Senior Notes due February 15, 2015 (the "New Notes"). Following the exchange, $136.0 million of the Existing Notes will remain outstanding.

In addition, the Company announced that it entered into privately negotiated agreements to place an additional $88.0 million in aggregate principal of the New Notes for cash. The net cash proceeds from the issuance of such New Notes will be used for corporate, capital management and business development purposes.

The issuance of the New Notes will not be registered under the Securities Act of 1933, as amended (the "Securities Act"), in reliance on exemption from registration provided by Section 4(2) thereof. The shares of the Company's common stock issuable upon the conversion of the New Notes have been reserved for issuance by the Company and listed on the NASDAQ Stock Market.

The agreements executed in connection with the issuance of the New Notes contain representations and warranties to support the Company's reasonable belief that the holders and investors (i) had access to information concerning the Company's operations and financial condition, (ii) are either accredited investors or qualified institutional buyers as defined by the rules promulgated under the Securities Act and (iii) are not affiliates of the Company, among other matters.

The New Notes will be issued pursuant to an indenture between the Company, as issuer, and The Bank of New York Mellon Trust Company, N.A., as Trustee (the "New Notes Indenture").

The following table outlines the terms of the New Notes:

New Notes – Summary of Terms

Principal Amount	$180,000,000
Ranking	Senior
Interest Rate	2.875%
Conversion Price	$7.11
Dividend Threshold Amount for Calculation of Adjustment to Conversion Rate	$0.00

Maturity Date	2/15/2015
Optional Redemption	The Company may redeem the New Notes, at any time on or after August 15, 2014, on at least 10 days and no more than 60 days notice, in whole or in part, at a redemption price equal to 100% of the New Notes to be redeemed together with accrued but unpaid interest thereon
Registration Rights	No registration rights. In accordance with Rule 144 under the Securities Act, New Notes issued solely in exchange for Existing Notes, and the shares of common stock into which such New Notes are convertible, will be freely tradable immediately upon issuance. All other New Notes (whether issued to an investor for cash or both in an exchange for Existing Notes and for cash) and the shares of common stock into which such New Notes are convertible will be restricted securities but eligible for resale in accordance with the requirements of Rule 144A under the Securities Act
Conversion by Holders	The New Notes are freely convertible at any time prior to the maturity Settlement in common stock only, except for cash payments for fractional shares
Limitation on Remedies for Event of Default Relating to a Filing Failure	For the first 180 days after the occurrence of an event of default relating to a filing failure, the Company may elect to pay an extension fee accruing at the rate of 1% per annum of the aggregate principal amount of the New Notes outstanding at that time
Adjustment to the Conversion Rate upon a Fundamental Change	Payable in additional shares of common stock, as set forth in the New Notes Indenture
Qualification under Trust Indenture Act	The New Notes Indenture will not be qualified under the Trust Indenture Trust Act and holders will not be entitled to the protection of any provisions of the Trust Indenture Act

This Current Report on Form 8-K does not constitute an offer to sell, or a solicitation of an offer to buy, any security and shall not constitute an offer, solicitation or sale in any jurisdiction in which such offering would be unlawful. The exchange and issuance is expected to close on or about November 1, 2010.

The foregoing description of the terms of the New Notes and the New Notes Indenture is qualified in its entirety by reference to the full text of the form of New Note and form of New Notes Indenture filed as Exhibit 4.1 to this Current Report on Form 8-K. A copy of the basic forms of exchange and purchase agreements are attached hereto as Exhibits 10.1, 10.2 and 10.3 and are incorporated herein by reference.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

Certain information required by Item 2.03 is contained in Item 1.01 and is incorporated by reference.

The New Notes will be senior unsecured obligations and will rank equally with all of the Company's existing and future senior debt and will be senior to all its future subordinated debt and will be structurally subordinated to all existing and future indebtedness and other liabilities of the Company's subsidiaries. In addition, the New Notes will be effectively subordinated to all of the Company's existing and future secured debt to the extent of the collateral securing such debt.

The New Notes are subject to acceleration upon the occurrence of an "event of default" as set forth in the New Notes Indenture, which consists generally of (i) default in the payment of any interest on any New Note when the same becomes due and payable and the default continues for a period of 30 days, (ii) default in the payment of any principal of (including, without limitation, any premium, if any, on) any New Note when the same becomes due and payable, (iii) failure to comply with any of the Company's other agreements contained in the New Notes or the New Notes indenture and the default continues for the period and after the specified notice, (iv) default in the payment of the purchase price of any New Note when the same becomes due and payable (v) failure to provide notice of a Fundamental Change (as that term is defined in the New Notes Indenture) to the Trustee and to each holder of the New Notes (a "Holder") if required by Section 3.9 of the New Notes Indenture for a period of 30 days after notice of failure to do so, (vi) any indebtedness of the Company or any significant subsidiary (as defined in Rule 1-02 of Regulation S-X under the Securities Act of 1933, as amended (the "Securities Act")) with an aggregate outstanding principal amount then outstanding in excess of $25,000,000 is not paid at final maturity thereof (either at its stated maturity or upon acceleration thereof), and such indebtedness is not discharged, or such acceleration is not rescinded or annulled, within a period of 30 days after written notice of such default has been delivered to the Company by Holders of at least 25% in aggregate principal of the New Notes then outstanding and (vii) certain events of bankruptcy, insolvency or reorganization of the Company or any of its significant subsidiaries (as defined in Rule 1-02 of Regulation S-X under the Securities Act).

The New Notes also provide the holders thereof the right, under certain circumstances, to require the Company to repurchase any or all of the New Notes held by such holder for cash at an amount equal to 100% of the principal amount of the New Notes to be repurchased plus accrued and unpaid interest upon the occurrence of a Fundamental Change (as defined in the New Notes Indenture).

The foregoing description of the terms of the New Notes indenture and the New Notes is qualified in its entirety by reference to the full text of the form of New Notes Indenture and form of New Note filed as Exhibit 4.1 to this Form 8-K.

Item 3.02 Unregistered Sales of Equity Securities.

Certain information required by Item 3.02 is contained in Item 1.01 and is incorporated by reference. The Company will issue the New Notes in reliance on the exemption from the registration requirements of the Securities Act provided by Section 4(2) of the Securities Act and Rule 506 of Regulation D promulgated thereunder.

A Holder may convert the principal amount of a New Note into the Company's common stock at any time prior to the close of business on the last business date prior to February 15, 2015, at the conversion rate in effect on the date of conversion. The Company will not issue fractional shares of common stock upon conversion of New Notes. The Company will instead pay an amount in cash for the current market value of the fractional shares.

The conversion rate is subject to certain anti-dilution adjustments, as fully set forth in the New Notes Indenture, upon the occurrence of certain events, including (i) dividend payments or distributions on the common stock payable exclusively in shares of common stock, (ii) the issuance of rights or warrants that allow common stockholders to purchase shares of common stock for a period expiring within 60 days from the date of issuance of the rights or warrants at less than the current market price, (iii) subdividing, splitting, combining or reclassifying the outstanding shares of common stock or issuing by reclassification of the shares of common stock any shares of the capital stock of the Company, (iv) distribution to the common stockholders of evidences of indebtedness, securities or assets or certain rights to purchase its securities, but excluding certain distributions, (v) a distribution consisting exclusively of cash to the common stockholders, (vi) a distribution of capital stock or similar equity interest of or relating to a subsidiary of the Company, (vii) a payment in respect of a tender offer or exchange offer by the Company or one of its subsidiaries for the common stock or (viii) a payment in respect of a repurchase of the common stock by the Company or one of its subsidiaries.

The foregoing description of the terms of the New Notes Indenture and the New Notes is qualified in its entirety by reference to the full text of the form of New Notes Indenture and form of New Note filed as Exhibit 4.1 to this Form 8-K.

Item 8.01 Other Events.

A press release announcing the transactions described herein is attached hereto as Exhibit 99.1 and incorporated herein by reference.

Cautionary Statements

This filing and the press release include "forward-looking statements" within the meaning of Section 27A of the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we can give no assurance that such expectations will prove to be correct. Important factors that could impair the Company's royalty assets or business are disclosed in the "Risk Factors" contained in the Company's 2009 Annual Report on Form 10-K and other periodic reports filed with the Securities and Exchange Commission. All forward-looking statements are expressly qualified in their entirety by such factors. We do not undertake any duty to update any forward-looking statement except as required by law.

Item 9.01 Financial Statements and Exhibits.

Exhibit No.	Description
4.1	New Notes Indenture
10.1	Form of Exchange Agreement
10.2	Form of Purchase Agreement
10.3	Form of Exchange and Purchase Agreement
99.1	Press Release, dated October 27, 2010

SIGNATURES

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

PDL BIOPHARMA, INC.
(Company)

By: /s/ Christine R. Larson
Christine R. Larson
Vice President and Chief Financial Officer

Dated: October 27, 2010

EXHIBIT INDEX

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PDL BIOPHARMA, INC.

2.875% CONVERTIBLE SENIOR NOTES DUE FEBRUARY 15, 2015

INDENTURE
DATED AS OF OCTOBER [ ], 2010

THE BANK OF NEW YORK MELLON TRUST COMPANY, N. A.
AS TRUSTEE

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THIS INDENTURE dated as of October [ ], 2010 is between PDL BioPharma, Inc., a corporation duly organized under the laws of the State of Delaware (the "Company"), and The Bank of New York Mellon Trust Company, N.A., a national banking association organized and existing under the laws of the United States, as Trustee (the "Trustee").

In consideration of the premises and the purchase of the Securities by the Holders thereof, both parties agree as follows for the benefit of the other and for the equal and ratable benefit of the registered Holders of the Company's 2.875% Convertible Senior Notes due February 15, 2015.

ARTICLE 1.
DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.1 DEFINITIONS.

"Additional Shares Table" means the table set forth in Schedule I hereto.

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

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

"Applicable Conversion Rate" means, at the time any determination thereof is to be made, the Initial Conversion Rate as adjusted pursuant to Sections 3.10 and 4.6.

"Applicable Procedures" means, with respect to any transfer or exchange of beneficial ownership interests in a Global Security, the rules and procedures of the Depositary, in each case to the extent applicable to such transfer or exchange.

"Board of Directors" means either the board of directors of the Company or any committee of the Board of Directors authorized to act for it with respect to this Indenture.

"Business Day" means each day that is not a Legal Holiday.

"Capital Stock" means (a) in the case of a corporation, corporate stock, (b) in the case of an association or business entity, shares, interests, participations, rights or other equivalents (however designated) of corporate stock, (c) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited) and (d) any other interest or participation that confers on a person the right to receive a share of the profits and losses of, or distribution of the assets of, the issuing person.

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

"Certificated Security" means a Security that is in substantially the form attached hereto as Exhibit A and that does not include the information or the schedule called for by footnotes 1 and 3 thereof.

"Closing Date" means October [ ], 2010.

"Closing Price" of the Common Stock on any date means the last reported sales price or, in case no such reported sale takes place on such date, the average of the reported closing bid and ask prices in either case on the Nasdaq National Market or, if the Common Stock is not listed or admitted to trading or, if not listed or admitted to trading on the Nasdaq National Market or any national securities exchange, the last reported sales price of the Common Stock as quoted on NASDAQ or, in case no reported sales take place, the average of the closing bid and ask prices as quoted on NASDAQ or any comparable system, the closing sales price or, in case no reported sale takes place, the average of the closing bid and ask prices, as furnished by any two members of the National Association of Securities Dealers, Inc. selected from time to time by the Company for that purpose. If no such prices are available, the current market price per share shall be the fair value of a share of Common Stock as determined in good faith by the Board of Directors.

"Common Stock" means the common stock of the Company, $0.01 par value, as it exists on the date of this Indenture, and any shares of any class or classes of capital stock of the Company resulting from any reclassification or reclassifications thereof and which have no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding-up of the Company and which are not subject to redemption by the Company; provided, however, that if at any time there shall be more than one such resulting class, the shares of each such class then so issuable on conversion of Securities shall be substantially in the proportion which the total number of shares of such class resulting from all such reclassifications bears to the total number of shares of all such classes resulting from all such reclassifications.

"Company" means the party named as such in the first paragraph of this Indenture until a successor replaces it pursuant to the applicable provisions of this Indenture, and thereafter "Company" shall mean such successor Company.

"Corporate Trust Office" means the office of the Trustee at which at any particular time the trust created by this Indenture shall be administered which office at the date of the execution of this Indenture is located at 700 South Flower Street, Suite 500, Los Angeles, California 90017, Attention: Corporate Trust Administration or at any other time at such other address as the Trustee may designate from time to time by notice to the Company.

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

"Exchange Act" means the Securities and Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder, as in effect from time to time.

"Final Maturity Date" means February 15, 2015.

"Fundamental Change" means the occurrence of any of the following at a time after the Securities are originally issued:

(a) the Common Stock (or other common stock into which the Securities are convertible or American Depository Shares representing such common stock) is neither traded on the New York Stock Exchange or another United States national securities exchange nor quoted on The Nasdaq Stock Market or another established automated over-the-counter trading market in the United States; or

(b) any Person acquires beneficial ownership, directly or indirectly, through a purchase, merger or other acquisition transaction or series of transactions, of shares of the Company's Capital Stock entitling the Person to exercise 50% or more of the total voting power of all shares of the Company's Capital Stock entitled to vote generally in elections of directors, other than an acquisition by the Company, any of its Subsidiaries or any of its employee benefit plans; or

(c) the Company merges or consolidates with or into any other Person (other than a Subsidiary of the Company), another Person merges with or into the Company, or the Company conveys, sells, transfers or leases all or substantially all of its assets to another Person, other than any transaction:

(i) that does not result in a reclassification, conversion, exchange or cancellation of any outstanding Common Stock;

(ii) pursuant to which the holders of Common Stock immediately prior to the transaction have the entitlement to exercise, directly or indirectly, 50% or more of the total voting power of all shares of the Capital Stock entitled to vote generally in the election of directors of the continuing or surviving corporation immediately after the transaction; or

(iii) that is effected solely to change the Company's jurisdiction of incorporation and results in a reclassification, conversion or exchange of outstanding shares of Common Stock solely into shares of common stock of the surviving entity.

For purposes of this definition, whether a Person is a "beneficial owner" will be determined in accordance with Rule 13d-3 under the Exchange Act and "Person" includes any syndicate or group that would be deemed to be a "person" under Section 13(d)(3) of the Exchange Act.

"Fundamental Change Repurchase Date" means the date specified as such in the notice delivered to Holders pursuant to Section 3.9(c) hereof.

"GAAP" means generally accepted accounting principles in the United States of America as in effect as of the date of this Indenture, including those set forth in (1) the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants, (2) the statements and pronouncements of the Financial Accounting Standards Board, (3) such other statements by such other entity as approved by a significant segment of the accounting profession and (4) the rules and regulations of the SEC governing the inclusion of financial statements (including pro forma financial statements) in registration statements filed under the Securities Act and periodic reports required to be filed pursuant to Section 13 of the Exchange Act, including opinions and pronouncements in staff accounting bulletins and similar written statements from the accounting staff of the SEC.

"Global Security" means a permanent Security that is in substantially the form attached hereto as Exhibit A and that includes the information and schedule called for by footnotes 1 and 3 thereof and which is deposited with the Depositary or its custodian and registered in the name of the Depositary or its nominee.

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

"Indenture" means this Indenture as amended or supplemented from time to time pursuant to the terms of this Indenture.

"Indirect Participant" means an entity that, with respect to any Depositary, clears through or maintains a direct or indirect, custodial relationship with a Participant.

"Initial Conversion Rate" means 140.571 shares of Common Stock per $1,000 principal amount of Securities.

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

"Officer" means the Chairman or any Co-Chairman of the Board, any Vice Chairman of the Board, the Chief Executive Officer, the President, any Vice President, the Chief Financial Officer, the Controller, the Secretary or any Assistant Controller or Assistant Secretary of the Company.

"Officers' Certificate" means a certificate signed by two Officers; provided, however, that for purposes of Sections 4.7 and 5.3, "Officers' Certificate" means a certificate signed by the principal executive officer, principal financial officer or principal accounting officer of the Company and by one other Officer.

"Opinion of Counsel" means a written opinion from legal counsel. The counsel may be an employee of or counsel to the Company.

"Participant" means a Person who has an account with the Depositary.

"Person" or "person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

"Principal" or "principal" of a debt security, including the Securities, means the principal of the security plus, when appropriate, the premium, if any, on the security.

"Public Acquirer Change of Control" means any event constituting a Fundamental Change that would otherwise give Holders the right to cause the Company to repurchase the Securities under Section 3.9 where either (a) the acquirer or (b) if not the acquirer, a direct or indirect majority-owned Subsidiary of the acquirer or (c) if not the acquirer or any direct or indirect majority-owned Subsidiary of the acquirer, a corporation by which the acquirer is majority-owned has a class of common stock (or American Depository Shares representing such common stock) traded on a U.S. national securities exchange or quoted on the Nasdaq Stock Market or which will be so traded or quoted when issued or exchanged in connection with such Fundamental Change. "Majority-owned" for the purposes of this definition means having "beneficial ownership" (as defined in Rule 13d-3 under the Exchange Act) of more than 50% of the total voting power of the respective Person's Voting Stock.

"Public Acquirer Common Stock" means the class of common stock (or American Depository Shares representing such common stock) of an entity referred to in sections (a), (b) or (c) of the first sentence of the definition of "Public Acquirer Change of Control."

"Redemption Date" when used with respect to any Security to be redeemed, means the date fixed for such redemption pursuant to this Indenture.

"Redemption Price" when used with respect to any Security to be redeemed, means the price fixed for such redemption pursuant to this Indenture, as set forth in the form of Security annexed as Exhibit A hereto.

"Rule 144" means Rule 144 under the Securities Act or any successor to such Rule.

"Rule 144A" means Rule 144A under the Securities Act or any successor to such Rule.

"SEC" means the Securities and Exchange Commission.

"Securities" means the 2.875% Convertible Senior Notes due February 15, 2015 or any of them (each, a "Security"), as amended or supplemented from time to time, that are issued under this Indenture, including any Exchange Agreement Securities, any Purchase Agreement Securities and any Additional Securities.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder, as in effect from time to time.

"Securities Custodian" means the Trustee, as custodian with respect to the Securities in global form, or any successor thereto.

"Significant Subsidiary" means, in respect of any Person, a Subsidiary of such Person that would constitute a "significant subsidiary", as such term is defined under Rule 1-02 of Regulation S-X under the Securities Act and the Exchange Act.

"Subsidiary" means, in respect of any Person, any corporation, association, partnership or other business entity of which more than 50% of the total voting power of shares of Capital Stock or other interests (including partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, general partners or trustees thereof is at the time owned or controlled, directly or indirectly, by (i) such Person; (ii) such Person and one or more Subsidiaries of such Person; or (iii) one or more Subsidiaries of such Person.

“TIA” means the Trust Indenture Act of 1939, as amended, and the rules and regulations thereunder as in effect on the date of this Indenture, except as provided in Section 10.3, and except to the extent any amendment to the Trust Indenture Act expressly provides for application of the Trust Indenture Act as in effect on another date.

“Trading Day” means, with respect to any security, each Monday, Tuesday, Wednesday, Thursday and Friday, other than any day on which securities are not generally traded on the principal exchange or market in which such security is traded.

“Transfer Restricted Global Security” means a Global Security that is a Transfer Restricted Security.

“Transfer Restricted Security” means a Security that is subject to resale restrictions pursuant to the Securities Act of 1933, as amended, and the rules and regulations thereunder.

“Trustee” means the party named as such in the first paragraph of this Indenture until a successor replaces it in accordance with the provisions of this Indenture, and thereafter means the successor.

“Trust Officer” when used with respect to the Trustee, means any vice president, any assistant vice president, any senior trust officer or assistant trust officer, any trust officer, or any other officer associated with the corporate trust department of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of such person's knowledge of and familiarity with the particular subject.

“Unrestricted Certificated Security” means a Certificated Security that is not a Transfer Restricted Security.

“Unrestricted Global Security” means a Global Security that is not a Transfer Restricted Security.

“Unrestricted Security” means a Security that is not a Transfer Restricted Security.

“Vice President” when used with respect to the Company or the Trustee, means any vice president, whether or not designated by a number or a word or words added before or after the title “vice president.”

“Voting Stock” of a Person means all classes of Capital Stock or other interests (including partnership interests) of such Person then outstanding and normally entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof.

SECTION 1.2 OTHER DEFINITIONS.

Term	Defined in Section
"Additional Securities"	2.14
"Additional Shares"	3.10
"Agent Members"	2.1(b)
"Bankruptcy Law"	7.1
"Company Order"	2.2
"Conversion Agent"	2.3
"Conversion Date"	4.2
"Custodian"	7.1
"DTC"	2.1
"Depositary"	2.1
"Event of Default"	7.1
"Exchange Agreement Securities"	2.1
"Fundamental Change Repurchase Price"	3.9(a)
"Legal Holiday"	11.7
"Legend"	2.12
"Paying Agent"	2.3
"Primary Registrar"	2.3
"Public Acquisition Notice"	3.11
"Purchase Agreement Securities"	2.1
"QIB"	2.1
"Registrar"	2.3
"Restricted Shares"	5.6
"Stock Price"	3.10(b)

SECTION 1.3 RESERVED.

SECTION 1.4 RULES OF CONSTRUCTION.

Unless the context otherwise requires:

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

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

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

(D) provisions apply to successive events and transactions;

(E) the term "merger" includes a statutory share exchange and the term "merged" has a correlative meaning;

(F) the masculine gender includes the feminine and the neuter;

(G) references to agreements and other instruments include subsequent amendments thereto; and

(H) "herein", "hereof" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

ARTICLE 2.
THE SECURITIES

SECTION 2.1 FORM AND DATING.

The Securities and the Trustee's certificate of authentication shall be substantially in the respective forms set forth in Exhibit A, which Exhibit is incorporated in and made part of this Indenture. The Securities may have notations, legends or endorsements required by law, stock exchange rule or usage. The Company shall provide any such notations, legends or endorsements to the Trustee in writing. Each Security shall be dated the date of its authentication. The Securities are being offered and sold by the Company pursuant to either (i) one or more agreements between the Company and certain purchasers who are acquiring the Securities (A) solely in a cash purchase or (B) in a combined cash purchase and exchange for other securities of the Company (such Securities, "Purchase Agreement Securities"), or (ii) one or more agreements entered into between the Company and certain initial acquirors who are acquiring the Securities solely in exchange for other securities of the Company (such Securities, "Exchange Agreement Securities").

(a) Purchase Agreement Global Securities and Exchange Agreement Global Securities. All of the Purchase Agreement Securities issued on the Closing Date are initially being offered and sold to qualified institutional buyers as defined in Rule 144A (collectively, "QIBs" or individually, each a "QIB") in reliance on Section 4(2) of the Securities Act, shall be issued initially in the form of one or more Transfer Restricted Global Securities, which shall be deposited on behalf of the acquirors of the Purchase Agreement Securities represented thereby with the Trustee, at its Corporate Trust Office, as custodian for the depositary, The Depository Trust Company ("DTC") (such depositary, or any successor thereto, being hereinafter referred to as the "Depositary"), and registered in the name of its nominee, Cede & Co., duly executed by the Company and authenticated by the Trustee as hereinafter provided. The aggregate principal amount of these Transfer Restricted Global Securities may from time to time be increased or decreased by adjustments made on the records of the Securities Custodian as hereinafter provided, subject in each case to compliance with the Applicable Procedures.

All of the Exchange Agreement Securities issued on the Closing Date are being offered and sold in reliance on Section 4(2) of the Securities Act, shall be issued in the form of one or more Unrestricted Global Securities which shall be deposited on behalf of the holders of the Exchange Agreement Securities represented thereby with the Trustee, at its Corporate Trust Office, as custodian for the Depositary, and registered in the name of its nominee, Cede & Co., duly executed by the Company and authenticated by the Trustee as hereinafter provided. The aggregate principal amount of these Unrestricted Global Securities may from time to time be increased or decreased by adjustments made on the records of the Securities Custodian as hereinafter provided, subject in each case to compliance with the Applicable Procedures.

(b) Global Securities In General. Each Global Security shall represent such of the outstanding Securities as shall be specified therein and each shall provide that it shall represent the aggregate amount of outstanding Securities from time to time endorsed thereon and that the aggregate amount of outstanding Securities represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges, redemptions, purchases or conversions of such Securities. Any adjustment of the aggregate principal amount of a Global Security to reflect the amount of any increase or decrease in the amount of outstanding Securities represented thereby shall be made by the Trustee in accordance with instructions given by the Holder thereof as required by Section 2.12 hereof and shall be made on the records of the Trustee and the Depositary.

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

(c) Book Entry Provisions. The Company shall execute and the Trustee shall, in accordance with this Section 2.1(c), authenticate and deliver initially one or more Global Securities that (i) shall be registered in the name of the Depositary, (ii) shall be delivered by the Trustee to the Depositary or pursuant to the Depositary's instructions and (iii) shall bear legends substantially to the following effect:

"UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN. THIS SECURITY IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE THEREOF. THIS SECURITY IS EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITARY OR ITS NOMINEE ONLY IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE AND, UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN DEFINITIVE FORM, THIS SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY."

SECTION 2.2 EXECUTION AND AUTHENTICATION.

An Officer shall sign the Securities for the Company by manual or facsimile signature attested by the manual or facsimile signature of the Secretary or an Assistant Secretary of the Company. Typographic and other minor errors or defects in any such facsimile signature shall not affect the validity or enforceability of any Security which has been authenticated and delivered by the Trustee.

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

A Security shall not be valid until an authorized signatory of the Trustee manually signs the certificate of authentication on the Security. The signature shall be conclusive evidence that the Security has been authenticated under this Indenture.

On the Closing Date, the Company shall issue, and the Trustee shall authenticate and make available for delivery, Exchange Agreement Securities in the aggregate principal amount of $[ ] and Purchase Agreement Securities in the aggregate principal amount of $[ ]. After the Closing Date, the Company may issue, and the Trustee shall authenticate and make available for delivery, Additional Securities issued pursuant to Section 2.14. The Trustee shall so authenticate and make available for delivery Securities upon receipt of a written order or orders of the Company signed by two Officers of the Company (a "Company Order"). The Company Order shall specify the amount of Securities to be authenticated, shall specify whether such Securities will be represented by a Transfer Restricted Global Security or an Unrestricted Global Security and the date on which each original issue of Securities is to be authenticated.

The Company at any time or from time to time may, without the consent of any Holder, issue Additional Securities pursuant to Section 2.14, which Additional Securities shall be entitled to all of the benefits of this Indenture. Such Additional Securities will be deemed Securities for all purposes hereunder, including without limitation in determining the necessary Holders who may take the actions or consent to the taking of actions as specified in this Indenture.

The Trustee shall act as the initial authenticating agent. Thereafter, the Trustee may appoint an authenticating agent acceptable to the Company to authenticate Securities. An authenticating agent may authenticate Securities whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent shall have the same rights as an Agent to deal with the Company or an Affiliate of the Company.

The Securities shall be issuable only in registered form without coupons and only in denominations of $1,000 principal amount and any integral multiple thereof.

SECTION 2.3 REGISTRAR, PAYING AGENT AND CONVERSION AGENT.

The Company shall maintain one or more offices or agencies where Securities may be presented for registration of transfer or for exchange (each, a "Registrar"), one or more offices or agencies where Securities may be presented for payment (each, a "Paying Agent"), one or more offices or agencies where Securities may be presented for conversion (each, a "Conversion Agent") and one or more offices or agencies where notices and demands to or upon the Company in respect of the Securities and this Indenture may be served. The Company will at all times maintain a Paying Agent, Conversion Agent, Registrar and an office or agency where notices and demands to or upon the Company in respect of the Securities and this Indenture may be served in the Borough of Manhattan, The City of New York. One of the Registrars (the "Primary Registrar") shall keep a register of the Securities and of their transfer and exchange.

The Company shall enter into an appropriate agency agreement with any Agent not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such Agent. The Company shall notify the Trustee of the name and address of any Agent not a party to this Indenture. If the Company fails to maintain a Registrar, Paying Agent, Conversion Agent or agent for service of notices and demands in any place required by this Indenture, or fails to give the foregoing notice, the Trustee shall act as such. The Company or any Affiliate of the Company may act as Paying Agent (except for the purposes of Section 5.1 and Article 9).

The Company hereby initially designates the Trustee as Paying Agent, Registrar, Custodian and Conversion Agent, and each of the Corporate Trust Office of the Trustee and the office or agency of the Trustee in the Borough of Manhattan, The City of New York (which shall initially be The Bank of New York Mellon, an Affiliate of the Trustee, as agent of the Trustee located at 101 Barclay Street, Floor 4, New York, New York 10286, Attention: Corporate Trust Administration, one such office or agency of the Company for each of the aforesaid purposes.

SECTION 2.4 PAYING AGENT TO HOLD MONEY IN TRUST.

Prior to 11:00 a.m., New York City time, on each due date of the principal of or interest, if any, on any Securities, the Company shall deposit with a Paying Agent a sum sufficient to pay such principal or interest, if any, so becoming due. A Paying Agent shall hold in trust for the benefit of Securityholders or the Trustee all money held by the Paying Agent for the payment of principal of or interest, if any, on the Securities, and shall notify the Trustee of any default by the Company (or any other obligor on the Securities) in making any such payment. If the Company or an Affiliate of the Company acts as Paying Agent, it shall, before 11:00 a.m., New York City time, on each due date of the principal of or interest on any Securities, segregate the money and hold it as a separate trust fund. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee, and the Trustee may at any time during the continuance of any default, upon written request to a Paying Agent, require such Paying Agent to pay forthwith to the Trustee all sums so held in trust by such Paying Agent. Upon doing so, the Paying Agent (other than the Company) shall have no further liability for the money.

SECTION 2.5 SECURITYHOLDER LISTS.

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

SECTION 2.6 TRANSFER AND EXCHANGE.

(a) Subject to compliance with any applicable additional requirements contained in Section 2.12, when a Security is presented to a Registrar with a request to register a transfer thereof or to exchange such Security for an equal principal amount of Securities of other authorized denominations, the Registrar shall register the transfer or make the exchange as requested; provided, however, that every Security presented or surrendered for registration of transfer or exchange shall be duly endorsed or accompanied by an assignment form and, if applicable, a transfer certificate each in the form included in Exhibit A, and in form satisfactory to the Registrar duly executed by the Holder thereof or its attorney duly authorized in writing. To permit registration of transfers and exchanges, upon surrender of any Security for registration of transfer or exchange at an office or agency maintained pursuant to Section 2.3, the Company shall execute and the Trustee shall authenticate Securities of a like aggregate principal amount at the Registrar's request. Any exchange or transfer shall be without charge, except that the Company or the Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto, and provided, that this sentence shall not apply to any exchange pursuant to Section 2.10, 2.12(a), 3.6, 3.11, 4.2 (last paragraph) or 11.5.

Neither the Company, any Registrar nor the Trustee shall be required to exchange or register a transfer of (i) any Securities for a period of 15 days next preceding any mailing of a notice of Securities to be redeemed, (ii) any Securities or portions thereof selected or called for redemption (except, in the case of redemption of a Security in part, the portion thereof not to be redeemed) or (iii) any Securities or portions thereof in respect of which a notice pursuant to Section 3.9(d) hereof has been delivered and not withdrawn by the Holder thereof (except, in the case of the purchase of a Security in part, the portion thereof not to be purchased).

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

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

(c) Each Holder agrees to indemnify the Company and the Trustee against any liability that may result from the transfer, exchange or assignment of such Holder's Security in violation of any provision of this Indenture and/or applicable United States federal or state securities law.

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

SECTION 2.7 REPLACEMENT SECURITIES.

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

In case any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, or is about to be redeemed or purchased by the Company pursuant to Article 3, the Company in its discretion may, instead of issuing a new Security, pay, redeem or purchase such Security, as the case may be.

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

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

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

SECTION 2.8 OUTSTANDING SECURITIES.

Securities outstanding at any time are all Securities authenticated by the Trustee, except for those canceled by it, those converted pursuant to Article 4, those delivered to it for cancellation or surrendered for transfer or exchange and those described in this Section 2.8 as not outstanding.

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

If a Paying Agent (other than the Company or an Affiliate of the Company) holds on a Redemption Date, a Fundamental Change Repurchase Date or the Final Maturity Date money sufficient to pay the principal of (including premium, if any) and accrued interest on Securities (or portions thereof) payable on that date, then on and after such Redemption Date, Fundamental Change Repurchase Date or the Final Maturity Date, as the case may be, such Securities (or portions thereof, as the case may be) shall cease to be outstanding and interest on them shall cease to accrue; provided, that if such Securities are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefore satisfactory to the Trustee has been made.

Subject to the restrictions contained in Section 2.9, a Security does not cease to be outstanding because the Company or an Affiliate of the Company holds the Security.

SECTION 2.9 TREASURY SECURITIES.

In determining whether the Holders of the required principal amount of Securities have concurred in any notice, direction, waiver or consent, Securities owned by the Company or any other obligor on the Securities or by any Affiliate of the Company or of such other obligor shall be disregarded, except that, for purposes of determining whether the Trustee shall be protected in relying on any such notice, direction, waiver or consent, only Securities which a Trust Officer of the Trustee actually knows are so owned shall be so disregarded. Securities so owned which have been pledged in good faith shall not be disregarded if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to the Securities and that the pledgee is not the Company or any other obligor on the Securities or any Affiliate of the Company or of such other obligor.

SECTION 2.10 TEMPORARY SECURITIES.

Until definitive Securities are ready for delivery, the Company may prepare and execute, and, upon receipt of a Company Order, the Trustee shall authenticate and deliver, temporary Securities. Temporary Securities shall be substantially in the form of definitive Securities but may have variations that the Company with the consent of the Trustee considers appropriate for temporary Securities. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate and deliver definitive Securities in exchange for temporary Securities.

SECTION 2.11 CANCELLATION.

The Company at any time may deliver Securities to the Trustee for cancellation. The Registrar, the Paying Agent and the Conversion Agent shall forward to the Trustee or its agent any Securities surrendered to them for transfer, exchange, redemption, payment or conversion. The Trustee and no one else shall cancel, in accordance with its standard procedures, all Securities surrendered for transfer, exchange, redemption, payment, conversion or cancellation and shall deliver the canceled Securities to the Company. The Company may not issue any new Securities to replace any Securities that any Holder has converted pursuant to Article 4. Without limitation to the foregoing, any Securities acquired by any investment bankers or other purchasers pursuant to Section 3.8 shall be surrendered for conversion and thereafter cancelled, and may not be reoffered, sold or otherwise transferred.

SECTION 2.12 LEGEND; ADDITIONAL TRANSFER AND EXCHANGE REQUIREMENTS.

(a) If Securities are issued upon the transfer, exchange or replacement of Securities subject to restrictions on transfer and bearing the legends for Transfer Restricted Securities set forth on the forms of Securities attached hereto as Exhibit A (collectively, the "Legend"), or if a request is made to remove the Legend on a Security, the Securities so issued shall bear the Legend, or the Legend shall not be removed, as the case may be, unless there is delivered to the Company and the Registrar such satisfactory evidence, which shall include an Opinion of Counsel if requested by the Company or such Registrar, as may be reasonably required by the Company or the Registrar, that neither the Legend nor the restrictions on transfer set forth therein are required to ensure that transfers thereof comply with the provisions of Rule 144A or Rule 144 or that such Securities are not "restricted" within the meaning of Rule 144; provided that no such evidence need be supplied in connection with the sale of such Security pursuant to a registration statement that is effective at the time of such sale. Upon (i) provision of such satisfactory evidence if requested, or (ii) notification by the Company to the Trustee and Registrar of the sale of such Security pursuant to a registration statement that is effective at the time of such sale, the Trustee, at the written direction of the Company, shall authenticate and deliver a Security that does not bear the Legend. If the Legend is removed from the face of a Security and the Security is subsequently held by an Affiliate of the Company, the Legend shall be reinstated.

(b) No transfer of a Security to any Person shall be effective under this Indenture or the Securities unless and until such Security has been registered in the name of such Person. Notwithstanding any other provisions of this Indenture or the Securities, transfers of a Global Security, in whole or in part, shall be made only in accordance with this Section 2.12.

(c) The transfer and exchange of beneficial interests in the Global Securities shall be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures.

(i) Beneficial interests in any Transfer Restricted Global Security may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Transfer Restricted Global Security in accordance with the transfer restrictions set forth in the Legend. Beneficial interests in any Unrestricted Global Security may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same or any other Unrestricted Global Security. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.12(c)(i).

(ii) In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.12(c)(i), the transferor of such beneficial interest must deliver to the Registrar an order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Security in an amount equal to the beneficial interest to be transferred or exchanged and instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase.

(iii) A beneficial interest in any Transfer Restricted Global Security may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Transfer Restricted Global Security if the transfer complies with the requirements of Section 2.12(c)(ii) and the Registrar receives a duly executed certificate substantially in the form of Exhibit B hereto.

(iv) A beneficial interest in any Transfer Restricted Global Security may be exchanged for a beneficial interest in an Unrestricted Global Security or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Security if (1) the exchange or transfer complies with the requirements of Section 2.12(c)(ii) and (2) if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Legend are no longer required in order to maintain compliance with the Securities Act.

(d) The restrictions imposed by the Legend upon the transferability of any Security shall cease and terminate when such Security has been sold pursuant to an effective registration statement under the Securities Act or transferred in compliance with Rule 144 (or any successor provision thereto) or, if earlier, upon the expiration of the holding period applicable to sales thereof under Rule 144(d) under the Securities Act (or any successor provision). Any Security as to which such restrictions on transfer shall have expired in accordance with their terms or shall have terminated may, upon a surrender of such Security for exchange to the Registrar in accordance with the provisions of this Section 2.12 (accompanied, in the event that such restrictions on transfer have terminated by reason of a transfer in compliance with Rule 144 (or any successor provision), by, if requested, an Opinion of Counsel reasonably acceptable to the Company and to the Trustee, addressed to the Company and to the Trustee and in form acceptable to the Company and to the Trustee, to the effect that the transfer of such Security has been made in compliance with Rule 144 (or such successor provision), be exchanged for a new Security, of like tenor and aggregate principal amount, which shall not bear the restrictive Legend. The Company shall inform the Trustee of the effective date of any registration statement registering the Securities under the Securities Act. The Trustee shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with the aforementioned Opinion of Counsel or registration statement.

(e) As used in Section 2.12(c) and (d), the term "transfer" encompasses any sale, pledge, transfer, hypothecation or other disposition of any Security.

(f) (i) Notwithstanding any other provisions of this Indenture or the Securities, a Global Security shall not be exchanged in whole or in part for a Security registered in the name of any Person other than the Depositary or one or more nominees thereof, provided that a Global Security may be exchanged for Securities registered in the names of any person designated by the Depositary in the event that (A) the Depositary has notified the Company that it is unwilling or unable to continue as Depositary for such Global Security or such Depositary has ceased to be a "clearing agency" registered under the Exchange Act, and a successor Depositary is not appointed by the Company within 90 days, (B) the Company has provided the Depositary with written notice that it has decided to discontinue use of the system of book-entry transfer through the Depositary or any successor Depositary or (C) an Event of Default has occurred and is continuing. Any Global Security exchanged pursuant to clauses (A) or (B) above shall be so exchanged in whole and not in part, and any Global Security exchanged pursuant to clause (C) above may be exchanged in whole or from time to time in part as directed by the Depositary. Any Security issued in exchange for a Global Security or any portion thereof shall be a Global Security; provided that any such Security so issued that is registered in the name of a Person other than the Depositary or a nominee thereof shall not be a Global Security.

(ii) Securities issued in exchange for a Global Security or any portion thereof shall be issued in definitive, fully-registered book entry form, without interest coupons, shall have an aggregate principal amount equal to that of such Global Security or portion thereof to be so exchanged, shall be registered in such names and be in such authorized denominations as the Depositary shall designate and shall bear the applicable legends provided for herein. Any Global Security to be exchanged in whole shall be surrendered by the Depositary to the Trustee, as Registrar. With regard to any Global Security to be exchanged in part, either such Global Security shall be so surrendered for exchange or, if the Trustee is acting as custodian for the Depositary or its nominee with respect to such Global Security, the principal amount thereof shall be reduced, by an amount equal to the portion thereof to be so exchanged, by means of an appropriate adjustment made on the records of the Trustee. Upon any such surrender or adjustment, the Trustee shall authenticate and deliver the Security issuable on such exchange to or upon the order of the Depositary or an authorized representative thereof.

(iii) Subject to the provisions of clause (v) below, the registered Holder may grant proxies and otherwise authorize any Person, including Agent Members and persons that may hold interests through Agent Members, to take any action which a Holder is entitled to take under this Indenture or the Securities.

(iv) In the event of the occurrence of any of the events specified in clause (i) above, the Company will promptly make available to the Trustee a reasonable supply of Certificated Securities in definitive, fully registered form, without interest coupons.

(v) Neither Agent Members nor any other Persons on whose behalf Agent Members may act shall have any rights under this Indenture with respect to any Global Security registered in the name of the Depositary or any nominee thereof, or under any such Global Security, and the Depositary or such nominee, as the case may be, may be treated by the Company, the Trustee and any agent of the Company or the Trustee as the absolute owner and holder of such Global Security for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depositary or such nominee, as the case may be, or impair, as between the Depositary, its Agent Members and any other person on whose behalf an Agent Member may act, the operation of customary practices of such Persons governing the exercise of the rights of a holder of any Security.

SECTION 2.13 CUSIP NUMBERS.

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

SECTION 2.14 ADDITIONAL SECURITIES.

If authorized by a resolution of the Board of Directors, the Company shall be entitled to issue additional Securities under this Indenture ("Additional Securities") which shall have substantially identical terms as the Securities, other than with respect to the date of issuance, issue price, amount of interest payable on the first interest payment date applicable thereto, and, if such Additional Securities shall be issued in the form of Unrestricted Securities or Transfer Restricted Securities, other than with respect to transfer restrictions in respect of Securities that are, respectively, Transfer Restricted Securities or Unrestricted Securities; provided that such issuance shall be made in compliance with this Indenture; provided, further, that no Additional Securities may be issued with the same "CUSIP", "ISIN" or "Common Code" number as other Securities unless it is so permitted in accordance with applicable law. The Securities issued on the Closing Date and any Additional Securities shall be treated as a single class for all purposes under this Indenture.

With respect to any Additional Securities, the Company shall set forth in an Officers' Certificate, a copy of which shall be delivered to the Trustee, or in a supplemental indenture, the following information:

(1) the aggregate principal amount of Securities outstanding immediately prior to the issuance of such Additional Securities;

(2) the aggregate principal amount of such Additional Securities to be authenticated and delivered pursuant to this Indenture;

(3) the issue price, if any, and the issue date of such Additional Securities and the amount of interest payable on the first interest payment date applicable thereto;

(4) the "CUSIP", "ISIN" or "Common Code" number, as applicable, of such Additional Securities;

(5) whether such Additional Securities are Purchase Agreement Securities or Exchange Agreement Securities; and

(6) whether such Additional Securities shall be Transfer Restricted Securities or Unrestricted Securities.

In connection with the authentication of any Additional Securities, the Trustee shall receive, and will be fully protected in relying upon, an Opinion of Counsel stating:

(1) if the form of such Securities has been established by or pursuant to a Board Resolution as permitted by Section 2.14, that such form has been established in conformity with the provisions of this Indenture,

(2) if the terms of such Securities have been established by or pursuant to a Board Resolution as permitted by Section 2.14, that such terms have been established in conformity with the provisions of this Indenture,

(3) that such Securities, when authenticated and delivered by the Trustee and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and binding obligations of the Company enforceable in accordance with their terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, moratorium, or other laws relating to or affecting creditors' rights and by general principles of equity; and

(4) that all conditions precedent to the execution and delivery by the Company of such Securities have been complied with, and the issuance of the Securities is in compliance with the Indenture.

ARTICLE 3.
REDEMPTION AND PURCHASES

SECTION 3.1 OPTIONAL REDEMPTION.

(a) The Company shall not have the option to redeem the Securities pursuant to this Section 3.1 prior to August 15, 2014. Thereafter, the Company shall have the option to redeem the Securities, in whole or in part, at a redemption price equal to 100% of the aggregate principal amount of the Securities to be redeemed, plus accrued and unpaid interest thereon, to the Redemption Date.

(b) Any redemption pursuant to this Section 3.1 shall be made pursuant to the provisions of Section 3.2 through 3.8 hereof.

SECTION 3.2 RIGHT TO REDEEM; NOTICE TO TRUSTEE.

If the Company elects to redeem Securities pursuant to Section 3.1 and paragraph 6 of the Securities, it shall notify the Trustee at least 45 days prior to the Redemption Date as fixed by the Company (unless a shorter notice shall be satisfactory to the Trustee) of the Redemption Date and the principal amount of Securities to be redeemed. If fewer than all of the Securities are to be redeemed, the record date relating to such redemption shall be selected by the Company and given to the Trustee, which record date shall not be less than ten days after the date of notice to the Trustee.

SECTION 3.3 SELECTION OF SECURITIES TO BE REDEEMED.

If less than all of the Securities are to be redeemed, unless the procedures of the Depositary provide otherwise, the Trustee shall, at least 10 days but not more than 60 days prior to the Redemption Date, select the Securities to be redeemed. The Trustee shall make the selection from the Securities outstanding and not previously called for redemption, by lot, pro rata or otherwise in accordance with applicable procedures of DTC. Securities in denominations of $1,000 may only be redeemed in whole. The Trustee may select for redemption portions (equal to $1,000 or any integral multiple thereof) of the principal of Securities that have denominations larger than $1,000. Provisions of this Indenture that apply to Securities called for redemption also apply to portions of Securities called for redemption.

If any Security selected for partial redemption is converted in part before termination of the conversion right with respect to the portion of the Security so selected, the converted portion of such Security shall be deemed to be the portion selected for redemption. Securities which have been converted during a selection of Securities to be redeemed (as described in the previous paragraph) shall be treated by the Trustee as outstanding and thus eligible to be selected for redemption.

SECTION 3.4 NOTICE OF REDEMPTION.

At least 10 days but not more than 60 days before a Redemption Date, the Company shall mail or cause to be mailed (or transmitted electronically in accordance with DTC procedures) a notice of redemption to each Holder of Securities to be redeemed at such Holder's address as it appears on the Primary Registrar's books.

The notice shall identify the Securities (including CUSIP numbers) to be redeemed and shall state:

(1) the Redemption Date;

(2) the Redemption Price;

(3) the Applicable Conversion Rate;

(4) the name and address of each Paying Agent and Conversion Agent;

(5) that Securities called for redemption must be presented and surrendered to a Paying Agent to collect the Redemption Price;

(6) that Holders who wish to convert Securities must surrender such Securities for conversion no later than the close of business on the Business Day immediately preceding the Redemption Date and must satisfy the other requirements set forth in paragraph 9 of the Securities;

(7) that, unless the Company defaults in making the payment of the Redemption Price, interest on Securities called for redemption shall cease accruing on and after the Redemption Date and the only remaining right of the Holder shall be to receive payment of the Redemption Price plus accrued interest, if any, up to but not including the Redemption Date, upon presentation and surrender to a Paying Agent of the Securities; and

(8) if any Security is being redeemed in part, the portion of the principal amount of such Security to be redeemed and that, after the Redemption Date, upon presentation and surrender of such Security, a new Security or Securities in aggregate principal amount equal to the unredeemed portion thereof will be issued.

If any of the Securities to be redeemed is in the form of a Global Security, then the Company shall modify such notice to the extent necessary to accord with the procedures of the Depositary applicable to redemptions. At the Company's written request to the Trustee, upon reasonable prior notice (which shall be no less than 5 Business Days prior to the date of the notice of redemption), which request shall (i) be irrevocable once given and (ii) set forth all relevant information required by clauses (1) through (8) of the preceding paragraph, the Trustee shall give the notice of redemption in the Company's name and at the Company's expense.

SECTION 3.5 EFFECT OF NOTICE OF REDEMPTION.

Once notice of redemption is mailed, Securities called for redemption become due and payable on the Redemption Date and at the Redemption Price stated in the notice, together with accrued interest, if any, except for Securities that are converted in accordance with the provisions of Article 4. Upon presentation and surrender to a Paying Agent, Securities called for redemption shall be paid at the Redemption Price, plus accrued interest up to but not including the Redemption Date; provided that if the Redemption Date falls after an interest payment record date and on or before an interest payment date, then the interest will be payable to the Holders in whose name the Securities are registered at the close of business on the interest payment record date.

SECTION 3.6 DEPOSIT OF REDEMPTION PRICE.

Prior to 11:00 a.m. New York City time, on the Redemption Date, the Company shall deposit with a Paying Agent (or, if the Company acts as Paying Agent, shall segregate and hold in trust) an amount of money (in immediately available funds if deposited on such Redemption Date) sufficient to pay the Redemption Price of and accrued interest on all Securities to be redeemed on that date, other than Securities or portions thereof called for redemption on that date which have been delivered by the Company to the Trustee for cancellation or have been converted. The Paying Agent shall as promptly as practicable return to the Company any money not required for that purpose because of the conversion of Securities pursuant to Article 4 or, if such money is then held by the Company in trust and is not required for such purpose, it shall be discharged from the trust.

SECTION 3.7 SECURITIES REDEEMED IN PART.

Upon presentation and surrender of a Security that is redeemed in part, the Company shall execute and the Trustee shall authenticate and deliver to the Holder a new Security equal in principal amount to the unredeemed portion of the Security surrendered.

SECTION 3.8 CONVERSION ARRANGEMENT ON CALL FOR REDEMPTION.

In connection with any redemption of Securities, the Company may arrange for the purchase and conversion of any Securities called for redemption by an agreement with one or more investment bankers or other purchasers to purchase such Securities by paying to an agent or directly to the Holders who are selling such Securities, on or before 11:00 a.m. New York City time on the Redemption Date, an amount that, together with any amounts deposited with such Paying Agent by the Company for the redemption of such Securities, is not less than the Redemption Price, together with interest accrued to, but not including, the Redemption Date, of such Securities; provided that no later than three Business Days prior to the Redemption Date, the Company provides to the Trustee (i) written notice of such purchase of securities, and the aggregate principal amount to be purchase and (ii) a supplement to the Redemption Notice giving effect to any such purchase; provided. further that the Company shall provide the Trustee written confirmation on or prior to 11:00 a.m. New York City time on the Redemption Date that any such purchase has been consummated. Notwithstanding anything to the contrary contained in this Article 3, the obligation of the Company to pay the Redemption Price of such Securities, including all accrued interest, shall be deemed to be satisfied and discharged to the extent such amount is so paid by such purchasers; provided, however, that nothing in this Section 3.8 shall relieve the Company of its obligation to pay the Redemption Price, plus accrued interest to but excluding the relevant Redemption Date, on Securities called for redemption. If such an agreement with one or more investment banks or other purchasers is entered into, any Securities called for redemption and not surrendered for conversion by the Holders thereof prior to the relevant Redemption Date may, at the option of the Company upon written notice to the Trustee, be deemed, to the fullest extent permitted by law, acquired by such purchasers from such Holders and (notwithstanding anything to the contrary contained in Article 4) surrendered by such purchasers for conversion, all as of 11:00 a.m. New York City time on the Redemption Date, subject to payment of the above amount as aforesaid.

SECTION 3.9 REPURCHASE AT OPTION OF THE HOLDER UPON A FUNDAMENTAL CHANGE.

(a) Subject to the satisfaction of the requirements of this Section 3.9, if a Fundamental Change occurs at any time prior to the Final Maturity Date, each Holder will, upon receipt of the notice of the occurrence of a Fundamental Change described in Section 3.9(c), have the right (subject to the Company's rights upon delivery of a Public Acquisition Notice, as defined in Section 3.11) to require the Company to repurchase any or all of such Holder's Securities for cash in an amount equal to 100% of the principal amount of the Securities to be repurchased plus accrued and unpaid interest, if any, to (but not including) the Fundamental Change Repurchase Date (the "Fundamental Change Repurchase Price"), unless such Fundamental Change Repurchase Date falls after an interest payment record date and on or prior to the corresponding interest payment date, in which case the Fundamental Change Repurchase Price will include the full amount of accrued and unpaid Interest payable on such interest payment date to the Holder of record at the close of business on the corresponding interest payment record date.

(b) Notwithstanding the foregoing, Holders will not have the right to require the Company to repurchase any Securities if a Fundamental Change described in clause (b) or (c) in the definition of Fundamental Change occurs (and the Company will not be required to deliver the notice described in Section 3.9(c)), if either:

(1) the Closing Price for any five Trading Days within the period of 10 consecutive Trading Days ending immediately after the later of the effective date of the Fundamental Change or the date of the public announcement of the Fundamental Change, in the case of a Fundamental Change relating to an acquisition of Capital Stock under clause (b) of the definition of Fundamental Change, or the period of ten consecutive Trading Days ending immediately before the effective date of the Fundamental Change, in the case of a Fundamental Change relating to a merger, consolidation, asset sale or otherwise under clause (c) of the definition of Fundamental Change, equals or exceeds 105% of the quotient of $1,000 divided by the Applicable Conversion Rate in effect on each of those five Trading Days; or

(2) at least 95% of the consideration paid for the Common Stock (excluding cash payments for fractional shares and cash payments made pursuant to dissenters' or appraisal rights) in a merger or consolidation or a conveyance, sale, transfer or lease otherwise constituting a Fundamental Change under clause (b) and/or (c) of the definition of Fundamental Change consists of shares of Capital Stock (or American Depository Shares representing such Capital Stock) traded on the New York Stock Exchange or another United States national securities exchange or quoted on the Nasdaq Stock Market or another established automated over-the-counter trading market in the United States (or will be so traded or quoted immediately following the merger or consolidation) and as a result of the merger or consolidation the Securities become convertible into shares of such Capital Stock (or American Depository Shares representing such Capital Stock).

(c) Subject to Sections 3.9(b) and 3.11, on or before the 15th day after the effective date of a Fundamental Change (which Fundamental Change results in the Holders of such Securities having the right to cause the Company to repurchase their Securities), the Company will provide to all Holders of the Securities, the Trustee and the Paying Agent a notice of the occurrence of the Fundamental Change and of the resulting repurchase right. Such notice shall state:

(1) the events causing the Fundamental Change;

(2) whether the Fundamental Change falls under clause (b) or (c) of the definition of Fundamental Change, in which case the conversion adjustments described in Section 3.10 will be applicable;

(3) the effective date of the Fundamental Change;

(4) the last date on which a Holder may exercise its repurchase right;

(5) the Fundamental Change Repurchase Price;

(6) the Fundamental Change Repurchase Date;

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

(8) the Applicable Conversion Rate and any adjustments to the Applicable Conversion Rate and availability of Additional Shares, if and to the extent applicable;

(9) that the Securities with respect to which a Fundamental Change repurchase notice has been given by the Holder may be converted only if the Holder withdraws the Fundamental Change repurchase notice as described in clause (d) below; and

(10) the procedures that Holders must follow to require the Company to repurchase their Securities and to withdraw any repurchase notice.

Substantially simultaneously with providing such notice, the Company will issue a press release and publish the information through a public medium customary for such press releases.

(d) To exercise the repurchase right in connection with a Fundamental Change, a Holder must, before the close of business on the second Business Day immediately preceding the Fundamental Change Repurchase Date, deliver the Securities to be purchased to the Paying Agent, duly endorsed for transfer, or effect book-entry transfer of the Securities to the Paying Agent, and must deliver the Fundamental Change repurchase notice duly completed to the Paying Agent. The Fundamental Change repurchase notice must state:

(1) if the Securities are certificated, the certificate numbers of the Securities to be delivered for repurchase;

(2) the portion of the principal amount of the Securities to be repurchased, which must be equal to $1,000 or an integral multiple thereof; and

(3) that the Securities are to be repurchased by the Company pursuant to the applicable provisions of the Securities and this Indenture.

If the Securities are not in certificated form, the repurchase notice must comply with the Applicable Procedures.

A Holder may withdraw any Fundamental Change repurchase notice (in whole or in part) by a written notice of withdrawal delivered to the Paying Agent prior to the close of business on the Business Day prior to the Fundamental Change Repurchase Date. The notice of withdrawal must state:

(1) the principal amount of the Securities for which the repurchase notice has been withdrawn;

(2) if certificated Securities have been issued, the certificate numbers of the withdrawn Securities; and

(3) the principal amount, if any, that remains subject to the repurchase notice.

If the Securities are not in certificated form, the withdrawal notice must comply with the Applicable Procedures.

(e) The Company must repurchase the Securities for which a Fundamental Change repurchase notice has been delivered and not withdrawn no less than 20 and no more than 35 days after the date of the Company's notice of the occurrence of the relevant Fundamental Change, subject to extension to comply with applicable law. To receive payment of the Fundamental Change Repurchase Price, a Holder must either effect book-entry transfer or deliver the Securities, together with necessary endorsements, to the office of the Paying Agent after delivery of the repurchase notice. Holders will receive payment of the Fundamental Change Repurchase Price promptly following the later of the Fundamental Change Repurchase Date or the time of book-entry transfer or the delivery of the Securities. If the Paying Agent holds money sufficient to pay the Fundamental Change Repurchase Price of the Securities on or prior to the Business Day following the Fundamental Change Repurchase Date, then:

(1) the Securities will cease to be outstanding and Interest, if any, will cease to accrue (whether or not book-entry transfer of the Securities is made or whether or not the Securities are delivered to the Paying Agent); and

(2) all other rights of the Holder will terminate (other than the right to receive the Fundamental Change Repurchase Price upon delivery or transfer of the Securities).

SECTION 3.10 ADJUSTMENT TO APPLICABLE CONVERSION RATE UPON A FUNDAMENTAL CHANGE.

(a) If and only to the extent that a Holder converts Securities in connection with a Fundamental Change described in clause (b) or (c) of the definition of Fundamental Change (and subject to the Company's rights upon delivery of a Public Acquisition Notice as defined in Section 3.11), the Company will increase the Applicable Conversion Rate for the Securities surrendered for conversion by a number of additional shares (the "Additional Shares") as described in this Section 3.10; provided, however, that no increase will be made in the case of a Fundamental Change if at least 95% of the consideration paid for the Common Stock (excluding cash payments for fractional shares and cash payments made pursuant to dissenters' or appraisal rights) in such Fundamental Change transaction consists of shares of Capital Stock (or American Depository Shares representing such Capital Stock) traded on the New York Stock Exchange or another United States national securities exchange or quoted on the Nasdaq Stock Market or another established automated over-the-counter trading market in the United States (or that will be so traded or quoted immediately following the transaction).

(b) The number of Additional Shares will be determined by reference to the Additional Shares Table, based on the effective date of the Fundamental Change transaction and the price (the "Stock Price") paid per share of Common Stock in such Fundamental Change transaction. If holders of Common Stock receive only cash in such Fundamental Change transaction, the Stock Price will be the cash amount paid per share of Common Stock. Otherwise, the Stock Price will be the average of the Closing Prices of the Common Stock on each of the five consecutive Trading Days prior to but not including the effective date of the Fundamental Change.

(c) A conversion of Securities by a Holder will be deemed for these purposes to be "in connection with" a Fundamental Change if the conversion notice is received by the Conversion Agent on or subsequent to the effective date of the Fundamental Change and prior to the 45th day following the effective date of the Fundamental Change (or, if earlier and to the extent applicable, the close of business on the second Business Day immediately preceding the Fundamental Change Repurchase Date).

(d) The Stock Prices set forth in the first row of the Additional Shares Table (i.e., the column headers) will be adjusted as of any date on which the Applicable Conversion Rate is adjusted, as described in Section 4.6. The adjusted Stock Prices will equal (i) the Stock Prices applicable immediately prior to such adjustment, multiplied by (ii) a fraction, (A) the numerator of which is the Applicable Conversion Rate immediately prior to the adjustment giving rise to the Stock Price adjustment and (B) the denominator of which is the Applicable Conversion Rate as so adjusted. The number of Additional Shares will be adjusted in the same manner and for the same events as the Applicable Conversion Rate as set forth in Section 4.6.

(e) The exact Stock Price and effective date of the Fundamental Change may not be set forth on the Additional Shares Table; in which case, if the Stock Price is:

(1) between two Stock Price amounts on the Additional Shares Table or the effective date of the Fundamental Change is between two dates on the Additional Shares Table, the number of Additional Shares will be determined by straight-line interpolation between the number of Additional Shares set forth for the higher and lower Stock Price amounts and the two dates, as applicable, based on a 365-day year;

(2) more than $13.70 per share (subject to adjustment), no Additional Shares will be issued upon conversion; and

(3) less than $5.70 per share (subject to adjustment), no Additional Shares will be issued upon conversion.

(f) Notwithstanding the foregoing, in no event will the total number of shares of Common Stock issuable upon conversion exceed 175.4386 per $1,000 principal amount of Securities, subject to adjustment in the same manner and for the same events as the Applicable Conversion Rate as set forth in Section 4.6.

SECTION 3.11 PUBLIC ACQUIRER CHANGE OF CONTROL.

(a) Within 15 Trading Days prior to but not including the expected effective date of a Public Acquirer Change of Control, the Company will provide a notice (a "Public Acquisition Notice") to all Holders, the Trustee, any Paying Agent and any Conversion Agent describing the anticipated Public Acquirer Change of Control and stating whether the Company will:

(1) elect to adjust the Applicable Conversion Rate and related conversion obligation as described in this Section 3.11, in which case the Holders will not have the right to require the Company to repurchase their Securities as described in Section 3.9 and will not have the right to the Applicable Conversion Rate adjustment described in Section 3.10; or

(2) not elect to adjust the Applicable Conversion Rate and related conversion obligation as described in this Section 3.11, in which case the Holders will have the right (if applicable) to require the Company to repurchase their Securities as described in Section 3.9 and/or the right (if applicable) to an Applicable Conversion Rate adjustment as described in Section 3.10, in each case in accordance with the respective provisions of those Sections.

(b) If the Public Acquisition Notice indicates that the Company is making the election described in Section 3.11(a)(1), then the Applicable Conversion Rate and the related conversion obligation shall be adjusted such that from and after the effective date of the Public Acquirer Change of Control, Holders of the Securities will be entitled to convert their Securities into a number of shares of Public Acquirer Common Stock and the Applicable Conversion Rate will be adjusted by multiplying the Applicable Conversion Rate in effect immediately before the Public Acquirer Change of Control by a fraction:

(1) the numerator of which will be (A) in the case of a consolidation, merger or binding share exchange, pursuant to which Common Stock is converted into cash, securities or other property, the average value of all cash and any other consideration (as determined by the Board of Directors) paid or payable per share of Common Stock or (B) in the case of any other Public Acquirer Change of Control, the average of the Closing Price of the Common Stock for the five consecutive Trading Days prior to but excluding the effective date of such Public Acquirer Change of Control; and

(2) the denominator of which will be the average of the Closing Price of the Public Acquirer Common Stock for the five consecutive Trading Days prior to but excluding the effective date of such Public Acquirer Change of Control.

SECTION 3.12 COMPLIANCE WITH SECURITIES LAWS UPON PURCHASE OF SECURITIES.

In connection with any offer to purchase or purchase of Securities under Section 3.9, the Company shall (a) comply with Rule 13e-4 and Rule 14e-1 (or any successor to either such Rule), if applicable, under the Exchange Act, (b) file the related Schedule TO (or any successor or similar schedule, form or report) if required under the Exchange Act, and (c) otherwise comply with all federal and state securities laws in connection with such offer to purchase or purchase of Securities, all so as to permit the rights of the Holders and obligations of the Company under Sections 3.9 through 3.12 to be exercised in the time and in the manner specified therein.

SECTION 3.13 REPAYMENT TO THE COMPANY.

To the extent that the aggregate amount of cash deposited by the Company pursuant to Section 3.9 exceeds the aggregate Fundamental Change Repurchase Price together with interest, if any, thereon of the Securities or portions thereof that the Company is obligated to purchase, then promptly after the Fundamental Change Repurchase Date, the Trustee or a Paying Agent, as the case may be, shall return any such excess cash to the Company.

ARTICLE 4.
CONVERSION

SECTION 4.1 CONVERSION PRIVILEGE.

Subject to the further provisions of this Article 4 and paragraph 10 of the Securities, a Holder of a Security may convert the principal amount of such Security (or any portion thereof equal to $1,000 or any integral multiple of $1,000 in excess thereof) into Common Stock at any time prior to the close of business on the last Business Date prior to the Final Maturity Date, at the Applicable Conversion Rate in effect on the Conversion Date; provided, however, that, if such Security is called for redemption or submitted or presented for purchase pursuant to Article 3, such conversion right shall terminate at the close of business on the Business Day immediately preceding the Redemption Date or Fundamental Change Repurchase Date, as the case may be, for such Security or such earlier date as the Holder presents such Security for redemption or for purchase (unless the Company shall default in making the redemption payment or Fundamental Change Repurchase Price payment when due, in which case the conversion right shall terminate at the close of business on the date such default is cured and such Security is redeemed or purchased, as the case may be). The Initial Conversion Rate is subject to adjustment as provided in this Article 4.

Provisions of this Indenture that apply to conversion of all of a Security also apply to conversion of a portion of a Security.

A Security in respect of which a Holder has delivered a notice pursuant to Section 3.9 exercising the option of such Holder to require the Company to purchase such Security may be converted only if such notice is withdrawn by a written notice of withdrawal delivered to a Paying Agent prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date in accordance with Section 3.9.

A Holder of Securities is not entitled to any rights of a holder of Common Stock until such Holder has converted its Securities to Common Stock, and only to the extent such Securities are deemed to have been converted into Common Stock pursuant to this Article 4.

SECTION 4.2 CONVERSION PROCEDURE.

To convert a Security, a Holder must (a) complete and manually sign the conversion notice on the back of the Security and deliver such notice to a Conversion Agent, (b) surrender the Security to a Conversion Agent (or effect surrender in accordance with book-entry procedures), (c) furnish appropriate endorsements and transfer documents if required by a Registrar or a Conversion Agent, and (d) pay any transfer or similar tax, if required. The date on which the Holder satisfies all of those requirements is the "Conversion Date." As soon as practicable after the Conversion Date, the Company shall deliver to the Holder a certificate for the number of whole shares of Common Stock issuable upon the conversion and cash in lieu of any fractional shares pursuant to Section 4.3. Anything herein to the contrary notwithstanding, in the case of Global Securities, conversion notices may be delivered and such Securities may be surrendered for conversion in accordance with the Applicable Procedures as in effect from time to time.

The person in whose name the Common Stock certificate is registered shall be deemed to be a stockholder of record on the Conversion Date; provided, however, that no surrender of a Security on any date when the stock transfer books of the Company shall be closed shall be effective to constitute the person or persons entitled to receive the shares of Common Stock upon such conversion as the record holder or holders of such shares of Common Stock on such date, but such surrender shall be effective to constitute the person or persons entitled to receive such shares of Common Stock as the record holder or holders thereof for all purposes at the close of business on the next succeeding day on which such stock transfer books are open; provided, further, that such conversion shall be at the Applicable Conversion Rate in effect on the Conversion Date as if the stock transfer books of the Company had not been closed. Upon conversion of a Security, such person shall no longer be a Holder of such Security. No payment or adjustment will be made for dividends or distributions on shares of Common Stock issued upon conversion of a Security.

Securities so surrendered for conversion (in whole or in part) during the period from the close of business on any regular record date to the opening of business on the next succeeding interest payment date (excluding Securities or portions thereof called for redemption or presented for purchase upon a Fundamental Change on a Redemption Date or Fundamental Change Repurchase Date, as the case may be, during the period beginning at the close of business on a regular record date and ending at the opening of business on the first Business Day after the next succeeding interest payment date, or if such interest payment date is not a Business Day, the second such Business Day) shall also be accompanied by payment in funds acceptable to the Company of an amount equal to the interest payable on such interest payment date on the principal amount of such Security then being converted, and such interest shall be payable to such registered Holder notwithstanding the conversion of such Security, subject to the provisions of this Indenture relating to the payment of defaulted interest by the Company. Except as otherwise provided in this Section 4.2, no payment or adjustment will be made for accrued interest on a converted Security. If the Company defaults in the payment of interest payable on such interest payment date, the Company shall promptly repay such funds to such Holder.

Except as otherwise provided in this Section 4.2, the Company's delivery to the Holder of the full number of shares of Common Stock into which the Security is convertible, together with any cash payment for such Holder's fractional shares pursuant to Section 4.3, will be deemed to satisfy the Company's obligation to pay the principal amount of the Security and accrued but unpaid interest attributable to the period from the most recent interest payment date to the conversion date. As a result, accrued but unpaid interest to the conversion date is deemed to be paid in full rather than cancelled, extinguished or forfeited.

Nothing in this Section shall affect the right of a Holder in whose name any Security is registered at the close of business on a record date to receive the interest payable on such Security on the related interest payment date in accordance with the terms of this Indenture and the Securities. If a Holder converts more than one Security at the same time, the number of shares of Common Stock issuable upon the conversion shall be based on the aggregate principal amount of Securities converted.

Upon surrender of a Security that is converted in part, the Company shall execute, and the Trustee shall authenticate and deliver to the Holder, a new Security equal in principal amount to the unconverted portion of the Security surrendered.

SECTION 4.3 FRACTIONAL SHARES.

The Company will not issue fractional shares of Common Stock upon conversion of Securities. In lieu thereof, the Company will pay an amount in cash for the current market value of the fractional shares. The current market value of a fractional share shall be determined, (calculated to the nearest 1/1000th of a share) by multiplying the Closing Price of the Common Stock on the Trading Day immediately prior to the Conversion Date by such fractional share and rounding the product to the nearest whole cent.

SECTION 4.4 TAXES ON CONVERSION.

If a Holder converts a Security, the Company shall pay any documentary, stamp or similar issue or transfer tax due on the issue of shares of Common Stock upon such conversion. However, the Holder shall pay any such tax which is due because the Holder requests the shares to be issued in a name other than the Holder's name. The Company (through its stock transfer agent) may refuse to deliver the certificate representing the Common Stock being issued in a name other than the Holder's name until the Company (through its stock transfer agent) receives a sum sufficient to pay any tax which will be due because the shares are to be issued in a name other than the Holder's name. Nothing herein shall preclude any tax withholding required by law or regulation.

SECTION 4.5 COMPANY TO PROVIDE STOCK.

The Company shall, prior to issuance of any Securities hereunder, and from time to time as may be necessary, reserve, out of its authorized but unissued Common Stock, a sufficient number of shares of Common Stock to permit the conversion of all outstanding Securities into shares of Common Stock.

All shares of Common Stock delivered upon conversion of the Securities shall be newly issued shares, shall be duly authorized, validly issued, fully paid and nonassessable and shall be free from preemptive rights and free of any lien or adverse claim.

The Company will endeavor promptly to comply with all federal and state securities laws regulating the offer and delivery of shares of Common Stock upon conversion of Securities, if any, and will list or cause to have quoted such shares of Common Stock on each national securities exchange or on the Nasdaq National Market or other over-the-counter market or such other market on which the Common Stock is then listed or quoted; provided, however, that if rules of such automated quotation system or exchange permit the Company to defer the listing of such Common Stock until the first conversion of the Securities into Common Stock in accordance with the provisions of this Indenture, the Company covenants to list such Common Stock issuable upon conversion of the Securities in accordance with the requirements of such automated quotation system or exchange at such time. Any Common Stock issued upon conversion of a Security hereunder which at the time of conversion was a Transfer Restricted Security will also be a Transfer Restricted Security.

In no event will the Company take any action that would require adjustment to the Applicable Conversion Rate, nor will the Company adjust the Applicable Conversion Rate, if such Applicable Conversion Rate adjustment would require the Company to issue, upon conversion of the Securities, a number of shares of Common Stock that would require the Company to obtain prior shareholder approval under the rules and regulations of the Nasdaq National Market, and, if applicable, the rules of the exchange or quotation system on which the Common Stock is then traded, without obtaining such prior shareholder approval.

SECTION 4.6 ANTI-DILUTION ADJUSTMENTS.

The Applicable Conversion Rate will be subject to adjustment, without duplication, upon the occurrence of any of the following events:

(a) the Company pays a dividend or makes a distribution on the Common Stock, payable exclusively in shares of Common Stock, in which event, the conversion rate in effect immediately before the close of business on the record date fixed for determination of stockholders entitled to receive that dividend will be increased by multiplying: (x) the Applicable Conversion Rate; by (y) a fraction, (1) the numerator of which is the sum of the number of shares of Common Stock outstanding before the close of business on such record date and the total number of shares constituting such dividend or other distribution, and (2) the denominator of which shall be the number of shares of Common Stock outstanding before the close of business on such record date;

(b) the Company issues to all or substantially all holders of Common Stock rights or warrants that allow such holders to purchase shares of Common Stock for a period expiring within 60 days from the date of issuance of the rights or warrants at less than the current market price; provided that the Applicable Conversion Rate will be readjusted to the extent that the rights or warrants are not exercised prior to their expiration and as a result no additional shares are delivered or issued pursuant to such rights or warrants;

(c) the Company:

(1) subdivides or splits the outstanding shares of Common Stock into a greater number of shares, in which event the Applicable Conversion Rate shall be proportionally increased immediately after the effective date of such subdivision or split;

(2) combines or reclassifies the outstanding shares of Common Stock into a smaller number of shares, in which event the Applicable Conversion Rate shall be proportionally reduced immediately after the effective date of such combination or reclassification; or

(3) issues by reclassification of the shares of Common Stock any shares of the Capital Stock of the Company;

(d) the Company distributes to all or substantially all holders of Common Stock evidences of indebtedness, securities or assets or certain rights to purchase its securities (provided, however, that if these rights are only exercisable upon the occurrence of specified triggering events, then the Applicable Conversion Rate will not be adjusted until the triggering events occur), but excluding:

(1) dividends or distributions described in paragraph (a) above;

(2) rights or warrants described in paragraph (b) above;

(3) dividends or distributions paid exclusively in cash described in paragraph (f), (g) or (h) below (the “distributed assets”), in which event (other than in the case of a spin-off as described below), the conversion rate in effect immediately before the close of business on the record date fixed for determination of stockholders entitled to receive that distribution will be increased by multiplying:

(x) the Applicable Conversion Rate; by

(y) a fraction, (1) the numerator of which is the current market price of the Common Stock and (2) the denominator of which is the current market price of the Common Stock minus the fair market value, as determined by the Board of Directors, whose determination in good faith will be conclusive, of the portion of those distributed assets applicable to one share of Common Stock.

For purposes of this paragraph (d) (unless otherwise stated), the "current market price" of the Common Stock means the average of the Closing Prices of the Common Stock for the five consecutive Trading Days ending on the Trading Day prior to the earlier of the record date or the ex-dividend Trading Day for such distribution, and the new Applicable Conversion Rate shall take effect immediately after the record date fixed for determination of the stockholders entitled to receive such distribution.

Notwithstanding the foregoing, in cases where (x) the fair market value per share of Common Stock of the distributed assets equals or exceeds the current market price of the Common Stock, or (y) the current market price of the Common Stock exceeds the fair market value per share of Common Stock of the distributed assets by less than $1.00, in lieu of the foregoing adjustment, the Holder will have the right to receive upon conversion, in addition to shares of Common Stock, the distributed assets the Holder would have received if the Holder had converted the Securities immediately prior to the record date.

(e) In respect of a dividend or other distribution of shares of Capital Stock of any class or series, or similar equity interests, of or relating to a Subsidiary of the Company or other business unit, referred to herein as a "spin-off", the Applicable Conversion Rate in effect immediately before the close of business on the record date fixed for determination of stockholders entitled to receive that distribution will be increased by multiplying:

(x) the Applicable Conversion Rate; by

(y) an adjustment factor equal to the sum of the daily adjustments for each of the ten consecutive Trading Days beginning on the effective day of the spin-off.

For purposes of this paragraph (e) (unless otherwise stated), the "daily adjustment" for any given Trading Day is equal to a fraction, the numerator of which is the closing price of the Common Stock on that Trading Day plus the closing price of the portion of those shares of Capital Stock or similar equity interests so distributed applicable to one share of the Common Stock on that Trading Day, and the denominator of which is the product of 10 and the closing price of the Common Stock on that Trading Day. The adjustment to the Applicable Conversion Rate in the event of a spin-off will occur on the tenth Trading Day from, and including, the effective date of the spin-off.

(f) the Company makes a distribution consisting exclusively of cash to all or substantially all holders of outstanding shares of Common Stock, in which event the Applicable Conversion Rate will be adjusted by multiplying:

(1) the Applicable Conversion Rate; by

(2) a fraction, (A) the numerator of which is the current market price of the Common Stock, and (B) the denominator of which is the current market price of the Common Stock, minus the amount per share of such distribution.

Notwithstanding the foregoing, in cases where (i) the amount per share of Common Stock of such distribution equals or exceeds the current market price of the Common Stock or (ii) the current market price of the Common Stock exceeds the amount per share of Common Stock of such distribution by less than $1.00, in lieu of the foregoing adjustment, the Holder will have the right to receive upon conversion, in addition to shares of Common Stock, such distribution the Holder would have received if the Holder had converted the Securities immediately prior to the record date. For purposes of this paragraph (f), the "current market price" of the Common Stock means the average of the Closing Prices of the Common Stock for the five consecutive Trading Days ending on the Trading Day prior to the ex-dividend Trading Day for such cash distribution, and the new Applicable Conversion Rate shall take effect immediately after the record date fixed for determination of the stockholders entitled to receive such distribution.

(g) the Company or one of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for the Common Stock, in which event, to the extent the cash and value of any other consideration included in the payment per share of the Common Stock exceeds the Closing Price of the Common Stock on the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender offer or exchange offer, as the case may be, the Applicable Conversion Rate will be adjusted by multiplying:

(1) the Applicable Conversion Rate; by

(2) a fraction, (A) the numerator of which will be the sum of (1) the fair market value, as determined by the Board of Directors, of the aggregate consideration payable for all shares of Common Stock the Company or any such Subsidiary purchases in the tender or exchange offer and (2) the product of (x) the number of shares of Common Stock outstanding less any such purchased shares and (y) the Closing Price of the Common Stock on the Trading Day next succeeding the date of the expiration of the tender or exchange offer, and (B) the denominator of which will be the product of (1) the number of shares of Common Stock outstanding, including any such purchased shares, and (2) the Closing Price of the Common Stock on the Trading Day next succeeding the date of expiration of the tender or exchange offer.

(h) the Company or one of its Subsidiaries makes a payment in respect of a repurchase of the Common Stock, the consideration for which exceeded the then-prevailing market price of the Common Stock (such amount being the "repurchase premium"), and that repurchase, together with any other repurchases of Common Stock by the Company or a Subsidiary involving a repurchase premium concluded within the preceding 12 months, resulted in the payment by the Company and its Subsidiaries of an aggregate consideration exceeding an amount equal to 10% of the market capitalization of the Common Stock, the Applicable Conversion Rate will be adjusted by multiplying:

(1) the Applicable Conversion Rate; by

(2) a fraction, (A) the numerator of which is the current market price of the Common Stock and (B) the denominator of which is (1) the current market price of the Common Stock, minus (2) the quotient of (x) the aggregate amount of all of the repurchase premiums paid in connection with such repurchases and (y) the number of shares of Common Stock outstanding on the day next succeeding the date of the repurchase triggering the adjustment, as determined by the Board of Directors;

provided that no adjustment to the Applicable Conversion Rate shall be made to the extent the Applicable Conversion Rate is not increased as a result of the above calculation; and provided further that the repurchases of Common Stock effected by the Company, its Subsidiaries or their respective agents in conformity with Rule 10b-18 under the Exchange Act will not be included in any adjustment to the Applicable Conversion Rate made under this paragraph (h). For purposes of this paragraph (h), (i) the market capitalization will be calculated by multiplying (A) the current market price of the Common Stock by (B) the number of shares of Common Stock then outstanding on the date of the repurchase triggering the adjustment, and (ii) the current market price will be the average of the Closing Prices of the Common Stock for the five consecutive Trading Days beginning on the Trading Day next succeeding the date of the repurchase triggering the adjustment, and (iii) in determining the repurchase premium, the "then-prevailing market price" of the Common Stock will be the average of the Closing Prices of the Common Stock for the five consecutive Trading Days ending on the relevant repurchase date.

In addition to the adjustments set forth above, the Company may increase the Applicable Conversion Rate as the Board of Directors considers advisable to avoid or diminish any income tax to holders of Common Stock or rights to purchase Common Stock resulting from any dividend or distribution of Capital Stock (or rights to acquire Capital Stock) or from any event treated as such for income tax purposes. The Company may also, from time to time, to the extent permitted by applicable law, increase the Applicable Conversion Rate by any amount for any period of at least 20 days if the Board of Directors has determined that such increase would be in the Company's best interests. If the Board of Directors makes such a determination, it will be conclusive. The Company will give Holders at least 15 days' notice of such an increase in the Applicable Conversion Rate.

No adjustment to the Applicable Conversion Rate or a Holder's ability to convert its Securities will be made if the Holder otherwise participated in the distribution without conversion or in certain other cases.

The Applicable Conversion Rate will not be adjusted:

(1) upon 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;

(2) upon the issuance of any shares of Common Stock or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by the Company or any of its Subsidiaries;

(3) upon the issuance of any shares of Common Stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security not described in the preceding clause (2) and outstanding as of the date the Securities were first issued;

(4) for a change in the par value of the Common Stock; or

(5) for accrued and unpaid interest, if any.

If a Holder will receive shares of Common Stock upon conversion of Securities, then the Holder will also receive any associated rights under any stockholder rights plan the Company may adopt, whether or not the rights have separated from the Common Stock at the time of conversion unless, prior to conversion, the rights have expired, terminated or been redeemed or exchanged.

Substantially simultaneously with an adjustment of the Applicable Conversion Rate, the Company will disseminate a press release detailing the new Applicable Conversion Rate and other relevant information.

SECTION 4.7 TRUSTEE'S DISCLAIMER.

The Trustee shall have no duty to determine when an adjustment under this Article 4 should be made, how it should be made or what such adjustment should be, but may accept as conclusive evidence of that fact or the correctness of any such adjustment, and shall be protected in relying upon, an Officers' Certificate. In addition, in no event shall the Trustee or Conversion Agent be responsible for making any calculations under this Indenture or for determining the Closing Price, the number of Additional Shares to be delivered, the amounts to be paid or for monitoring any stock price. For the avoidance of doubt, the Trustee and Conversion Agent shall rely conclusively on the calculations and information provided to them by the Company. The Trustee makes no representation as to the validity or value of any securities or assets issued upon conversion of Securities, and the Trustee shall not be responsible for the Company's failure to comply with any provisions of this Article 4.

The Trustee shall not be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture executed pursuant to Section 6.1, but may accept as conclusive evidence of the correctness thereof, and shall be fully protected in relying upon, the Officers' Certificate with respect thereto which the Company is obligated to file with the Trustee pursuant to Section 6.1.

ARTICLE 5.
COVENANTS

SECTION 5.1 PAYMENT OF SECURITIES.

The Company shall promptly make all payments in respect of the Securities on the dates and in the manner provided in the Securities and this Indenture. An installment of principal (including premium, if any) or interest shall be considered paid on the date it is due if the Paying Agent (other than the Company) holds by 11:00 a.m., New York City time, on that date money, deposited by the Company or an Affiliate thereof, sufficient to pay the installment. The Company shall, (in immediately available funds) to the fullest extent permitted by law, pay interest on overdue principal (including premium, if any) and overdue installments of interest at the rate borne by the Securities per annum.

Payment of the principal of (and premium, if any) and any interest on the Securities shall be made at the office or agency of the Company maintained for that purpose in the Borough of Manhattan, The City of New York (which shall initially be the office or agency of the Trustee in New York City), in Cash; provided, however, that at the option of the Company payment of interest may be made by check mailed to the address of the Person entitled thereto as such address appears in the Register; provided further that a Holder with an aggregate principal amount in excess of $2,000,000 will be paid by wire transfer in immediately available funds at the election of such Holder if such Holder has provided wire transfer instructions to the Company and the Trustee at least 10 Business Days prior to the payment date.

SECTION 5.2 SEC REPORTS.

The Company shall file all reports and other information and documents which it is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act, and within 15 days after it files them with the SEC, the Company shall file copies of all such reports, information and other documents with the Trustee. It is agreed that the filing of such reports via the SEC's EDGAR system shall constitute "filing" of such reports with the Trustee for purposes of this Section 5.2.

Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

SECTION 5.3 COMPLIANCE CERTIFICATES.

The Company shall deliver to the Trustee, within 90 days after the end of each fiscal year of the Company (beginning with the fiscal year ending December 31, 2010), an Officers' Certificate as to the signer's knowledge of the Company's compliance with all conditions and covenants on its part contained in this Indenture and stating whether or not the signer knows of any default or Event of Default. If such signer knows of such a default or Event of Default, the Officers' Certificate shall describe the default or Event of Default and the efforts to remedy the same. For the purposes of this Section 5.3, compliance shall be determined without regard to any grace period or requirement of notice provided pursuant to the terms of this Indenture. The Company shall, within 30 calendar days, upon becoming aware of any Event of Default, deliver to the Trustee a statement specifying such Event of Default.

SECTION 5.4 FURTHER INSTRUMENTS AND ACTS.

Upon request of the Trustee, the Company will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purposes of this Indenture.

SECTION 5.5 MAINTENANCE OF CORPORATE EXISTENCE.

Subject to Article 6, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence.

SECTION 5.6 RULE 144A INFORMATION REQUIREMENT.

Within the period prior to the expiration of the holding period applicable to sales thereof under Rule 144, and so long as there are any Transfer Restricted Securities or any shares of Common Stock issued upon conversion thereof that are restricted securities under Rule 144 ("Restricted Shares") outstanding, the Company covenants and agrees that it shall, during any period in which it is not subject to Section 13 or 15(d) under the Exchange Act, upon the request of any Holder or beneficial holder of Transfer Restricted Securities or Restricted Shares, make available to such Holder or beneficial holder, and any prospective purchaser of Transfer Restricted Securities or Restricted Shares, the information required pursuant to Rule 144A(d)(4) under the Securities Act, and it will take such further action as any Holder or beneficial holder of such Transfer Restricted Securities or Restricted Shares may reasonably request, all to the extent required from time to time to enable such Holder or beneficial holder to sell its Transfer Restricted Securities or Restricted Shares without registration under the Securities Act within the limitation of the exemption provided by Rule 144A. Upon the request of any Holder or any beneficial holder of the Transfer Restricted Securities or Restricted Shares, the Company will deliver to such Holder or beneficial holder a written statement as to whether it has complied with such requirements.

SECTION 5.7 STAY, EXTENSION AND USURY LAWS.

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

ARTICLE 6.
CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE

SECTION 6.1 COMPANY MAY CONSOLIDATE, ETC, ONLY ON CERTAIN TERMS.

The Company shall not consolidate with or merge into any other Person (in a transaction in which the Company is not the surviving corporation) or convey, transfer or lease its properties and assets substantially as an entirety to any Person, unless:

(1) in case the Company shall consolidate with or merge into another Person (in a transaction in which the Company is not the surviving corporation) or convey, transfer or lease its properties and assets substantially as an entirety to any Person, the Person formed by such consolidation or into which the Company is merged or the Person which acquires by conveyance or transfer, or which leases, the properties and assets of the Company substantially as an entirety shall be a corporation organized and validly existing under the laws of the United States of America, any State thereof or the District of Columbia and shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, in form satisfactory to the Trustee, the due and punctual payment of the principal of and any premium and interest on all the Securities and the performance or observance of every covenant of this Indenture on the part of the Company to be performed or observed and the conversion rights shall be provided for in accordance with Article 4, by supplemental indenture satisfactory in form to the Trustee, executed and delivered to the Trustee, by the Person (if other than the Company) formed by such consolidation or into which the Company shall have been merged or by the Person which shall have acquired the Company's assets;

(2) immediately after giving effect to such transaction, no Event of Default, and no event which, after notice or lapse of time or both, would become an Event of Default, shall have happened and be continuing; and

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

In the case of a reclassification, consolidation, merger, sale or transfer of assets or other transactions pursuant to which all or substantially all of the Common Stock would be converted into other securities, cash or property, the right to convert Securities into Common Stock will be changed into a right to convert Securities into the kind and amount of other securities, cash or property that the Holder would have received had the Holder converted such Securities immediately prior to the transaction, except that if the Company has exercised its option under Section 3.11(a)(1), the right to convert Securities into Common Stock will instead be changed into a right to convert Securities into Public Acquiror Common Stock in accordance with Section 3.11.

SECTION 6.2 SUCCESSOR SUBSTITUTED.

Upon any consolidation of the Company with, or merger of the Company into, any other Person or any conveyance, transfer or lease of the properties and assets of the Company substantially as an entirety in accordance with Section 6.1, there shall be an adjustment to the Applicable Conversion Rate and the successor Person formed by such consolidation or into which the Company is merged or to which such conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein, and thereafter, except in the case of a lease, the predecessor Person shall be relieved of all obligations and covenants under this Indenture and the Securities.

ARTICLE 7.
DEFAULT AND REMEDIES

SECTION 7.1 EVENTS OF DEFAULT.

An "Event of Default" shall occur if:

(1) the Company defaults in the payment of any interest on any Security when the same becomes due and payable and the default continues for a period of 30 days;

(2) the Company defaults in the payment of any principal of (including, without limitation, any premium, if any, on) any Security when the same becomes due and payable (whether at maturity, upon redemption, on a Fundamental Change Repurchase Date or otherwise);

(3) the Company fails to comply with any of its other agreements contained in the Securities or this Indenture and the default continues for the period and after the notice specified below;

(4) the Company defaults in the payment of the purchase price of any Security when the same becomes due and payable;

(5) the Company fails to provide notice of a Fundamental Change to the Trustee and to each Holder if required by Section 3.9 for a period of 30 days after notice of failure to do so; or

(6) any indebtedness under any bond, debenture, note or other evidence of indebtedness for money borrowed by the Company or any Significant Subsidiary (all or substantially all of the outstanding voting securities of which are owned, directly or indirectly, by the Company) or under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any indebtedness for money borrowed by the Company or any Significant Subsidiary (all or substantially all of the outstanding voting securities of which are owned, directly or indirectly, by the Company) (an "Instrument") with an aggregate outstanding principal amount then outstanding in excess of $25,000,000, whether such indebtedness now exists or shall hereafter be created, is not paid at final maturity of the Instrument (either at its stated maturity or upon acceleration thereof), and such indebtedness is not discharged, or such acceleration is not rescinded or annulled, within a period of 30 days after there shall have been given, by registered or certified mail, to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of the outstanding Securities a written notice specifying such default and requiring the Company to cause such indebtedness to be discharged or cause such default to be cured or waived or such acceleration to be rescinded or annulled and stating that such notice is a "Notice of Default" hereunder; or

(7) the Company or any Significant Subsidiary, pursuant to or within the meaning of any Bankruptcy Law:

(A) commences a voluntary case or proceeding;

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

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

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

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

(A) is for relief against the Company or any Significant Subsidiary in an involuntary case or proceeding;

(B) appoints a Custodian of the Company or any Significant Subsidiary or for all or substantially all of the property of the Company or any Significant Subsidiary; or

(C) orders the liquidation of the Company or any Significant Subsidiary; and in each case the order or decree remains unstayed and in effect for 60 consecutive days.

The term "Bankruptcy Law" means Title 11 of the United States Code (or any successor thereto) or any similar federal or state law for the relief of debtors. The term "Custodian" means any receiver, trustee, assignee, liquidator, sequestrator or similar official under any Bankruptcy Law.

A default under clause (3) above is not an Event of Default until the Trustee notifies the Company, or the Holders of at least 25% in aggregate principal amount of the Securities then outstanding notify the Company and the Trustee, in writing of the default, and the Company does not cure the default within 60 days after receipt of such notice. The notice given pursuant to this Section 7.1 must specify the default, demand that it be remedied and state that the notice is a "Notice of Default." When any default under this Section 7.1 is cured, it ceases.

The Trustee shall not be charged with knowledge of any Event of Default unless written notice from the Company, a Paying Agent, or any Holder thereof shall have been received by a Trust Officer at the Corporate Trust Office of the Trustee, and such notice references this Indenture.

SECTION 7.2 ACCELERATION.

If an Event of Default (other than an Event of Default specified in clause (7) or (8) of Section 7.1) occurs and is continuing, the Trustee may, by notice to the Company, or the Holders of at least 25% in aggregate principal amount of the Securities then outstanding may, by notice to the Company and the Trustee, declare all unpaid principal to the date of acceleration on the Securities then outstanding (if not then due and payable) to be due and payable upon any such declaration, and the same shall become and be immediately due and payable. If an Event of Default specified in clause (7) or (8) of Section 7.1 occurs, all unpaid principal of the Securities then outstanding shall ipso facto become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder. The Holders of a majority in aggregate principal amount of the Securities then outstanding by notice to the Trustee may rescind an acceleration and its consequences if (a) all existing Events of Default, other than the nonpayment of the principal of the Securities which has become due solely by such declaration of acceleration, have been cured or waived; (b) to the extent the payment of such interest is lawful, interest (calculated at the rate per annum borne by the Securities) on overdue installments of interest and overdue principal, which has become due otherwise than by such declaration of acceleration, has been paid; (c) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction; and (d) all payments due to the Trustee and any predecessor Trustee under Section 8.7 have been made. No such rescission shall affect any subsequent default or impair any right consequent thereto.

Notwithstanding the foregoing, the Company may, at its option, elect that the sole remedy for an Event of Default relating to its failure to comply with the Company's obligation to file reports with the SEC in accordance with Section 5.2 (a "Filing Failure") shall for the first one hundred eighty (180) days after the occurrence of such Event of Default (the "Extension Period") consist exclusively of the right of Holders to receive a fee (the "Extension Fee") accruing at the rate of 1.00% per annum of the aggregate principal amount of Securities that are then outstanding, on the terms and in the manner described below. Any Extension Fee shall be paid at the same times and in the same manner as interest shall be paid in accordance with this Indenture. The Extension Fee shall accrue on the Securities that are then outstanding from the first day of the Event of Default to, but excluding, the earlier of (i) the date on which the Company has made the filings initially giving rise to the Filing Failure and (ii) the date that is one hundred eighty (180) days after the occurrence of the Event of Default. The Company must give written notice of its election to pay the Extension Fee prior to the occurrence of the Event of Default. On the 181st day after such Event of Default (if the Event of Default relating to the reporting obligations is not cured or waived prior to such 181st day), the Securities shall be subject to acceleration as provided in this Section 7.2. This right shall not affect the rights of Holders of Securities if any other Event of Default occurs under the Indenture. If the Company does not pay the Extension Fee on a timely basis in accordance with this Section 7.2, the Securities shall be subject to acceleration as provided in this Section 7.2. Notwithstanding the foregoing, if an additional Filing Failure occurs during an Extension Period, the Securities will be subject to acceleration for such additional Filing Failure at the end of the Extension Period for the first Filing Failure to the extent it has not been remedied before the end of the first Extension Period, provided, however, that to the extent the Company has agreed to pay an additional Extension Fee in accordance with the terms of this Section 7.2 as to such additional Filing Failure, and the first Filing Failure has been remedied before the end of the first Extension Period, the Securities will not be subject to acceleration until the end of the additional Extension Period as to such additional Filing Failure. For the avoidance of doubt, notwithstanding the occurrence of multiple overlapping Filing Failures, the aggregate amount of all Extension Fees paid in a year shall not exceed 1.00% per annum of the aggregate principal amount of the Securities that are outstanding as of the beginning of such year.

SECTION 7.3 OTHER REMEDIES.

If an Event of Default occurs and is continuing, the Trustee may, but shall not be obligated to, pursue any available remedy by proceeding at law or in equity to collect the payment of the principal of or interest on the Securities or to enforce the performance of any provision of the Securities or this Indenture.

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

SECTION 7.4 WAIVER OF DEFAULTS AND EVENTS OF DEFAULT.

Subject to Sections 7.7 and 10.2, the Holders of a majority in aggregate principal amount of the Securities then outstanding by notice to the Trustee may waive an existing default or Event of Default and its consequence, except a default or Event of Default in the payment of the principal of, premium, if any, or interest on any Security, a failure by the Company to convert any Securities into Common Stock in accordance with the provisions of the Securities and this Indenture or any default or Event of Default in respect of any provision of this Indenture or the Securities which, under Section 10.2, cannot be modified or amended without the consent of the Holder of each Security affected. When a default or Event of Default is waived, it is cured and ceases.

SECTION 7.5 CONTROL BY MAJORITY.

The Holders of a majority in aggregate principal amount of the Securities then outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture, that the Trustee determines may be unduly prejudicial to the rights of another Holder or the Trustee, or that may involve the Trustee in personal liability unless the Trustee is offered indemnity satisfactory to it; provided, however, that the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

SECTION 7.6 LIMITATIONS ON SUITS.

A Holder may not pursue any remedy with respect to this Indenture or the Securities (except actions for payment of overdue principal or interest or for the conversion of the Securities pursuant to Article 4) unless:

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

(2) the Holders of at least 25% in aggregate principal amount of the then outstanding Securities make a written request to the Trustee to pursue the remedy;

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

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

(5) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority in aggregate principal amount of the Securities then outstanding.

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

SECTION 7.7 RIGHTS OF HOLDERS TO RECEIVE PAYMENT AND TO CONVERT.

Notwithstanding any other provision of this Indenture, the right of any Holder of a Security to receive payment of the principal of and interest on the Security, on or after the respective due dates expressed in the Security and this Indenture, to convert such Security in accordance with Article 4 and to bring suit for the enforcement of any such payment on or after such respective dates or the right to convert, is absolute and unconditional and shall not be impaired or affected without the consent of the Holder.

SECTION 7.8 COLLECTION SUIT BY TRUSTEE.

If an Event of Default in the payment of principal or interest specified in clause (1) or (2) of Section 7.1 occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company or another obligor on the Securities for the whole amount of principal and accrued interest remaining unpaid, together with, to the extent that payment of such interest is lawful, interest on overdue principal and on overdue installments of interest, in each case at the rate per annum borne by the Securities and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

SECTION 7.9 TRUSTEE MAY FILE PROOFS OF CLAIM.

The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders allowed in any judicial proceedings relative to the Company (or any other obligor on the Securities), its creditors or its property and shall be entitled and empowered to collect and receive any money or other property payable or deliverable on any such claims and to distribute the same, and any Custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 8.7, and to the extent that such payment of the reasonable compensation, expenses, disbursements and advances in any such proceedings shall be denied for any reason, payment of the same shall be secured by a lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other property which the Holders may be entitled to receive in such proceedings, whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to, or, on behalf of any Holder, to authorize, accept or adopt any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

SECTION 7.10 PRIORITIES.

If the Trustee collects any money pursuant to this Article 7, it shall pay out the money in the following order:

First, to the Trustee for amounts due under Section 8.7;

Second, to Holders for amounts due and unpaid on the Securities for principal and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Securities for principal (including premium, if any) and interest, respectively; and

Third, the balance, if any, to the Company or to such other person a court of competent jurisdiction may determine.

The Trustee may fix a record date and payment date for any payment to Holders pursuant to this Section 7.10.

SECTION 7.11 UNDERTAKING FOR COSTS.

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 7.11 does not apply to a suit made by the Trustee, a suit by a Holder pursuant to Section 7.7, or a suit by Holders of more than 10% in aggregate principal amount of the Securities then outstanding.

ARTICLE 8.
TRUSTEE

SECTION 8.1 DUTIES OF TRUSTEE.

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

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

(1) the Trustee need perform only those duties as are specifically set forth in this Indenture and no others and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. The Trustee, however, shall examine any certificates and opinions which by any provision hereof are specifically required to be delivered to the Trustee to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

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

(1) this paragraph does not limit the effect of subsection (b) of this Section 8.1;

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

(3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 7.5.

(d) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers unless the Trustee shall have received adequate indemnity in its opinion against potential costs and liabilities incurred by it relating thereto.

(e) Every provision of this Indenture that in any way relates to the Trustee is subject to subsections (a), (b), (c) and (d) of this Section 8.1.

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

SECTION 8.2 RIGHTS OF TRUSTEE.

Subject to Section 8.1:

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

(b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel, which shall conform to Section 11.4(b). The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or Opinion of Counsel.

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

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

(e) The Trustee may consult with counsel of its selection, and the advice or opinion of such counsel as to matters of law shall be full and complete authorization and protection in respect of any such action taken, omitted or suffered by it hereunder in good faith and in accordance with the advice or opinion of such counsel.

(f) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders pursuant to this Indenture, unless such Holders shall have offered to the Trustee security or indemnity satisfactory to the Trustee against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction.

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

(h) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Trust Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office, and such notice references the Securities and this Indenture.

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

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

(k) The Trustee may request that the Company deliver a certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture.

(l) In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

SECTION 8.3 INDIVIDUAL RIGHTS OF TRUSTEE.

The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company or an Affiliate of the Company with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights. However, the Trustee is subject to Sections 8.10 and 8.11.

SECTION 8.4 TRUSTEE'S DISCLAIMER.

The Trustee makes no representation as to the validity, priority or adequacy of this Indenture or the Securities, it shall not be accountable for the Company's use of the proceeds from the Securities, and it shall not be responsible for any statement in the recitals contained herein or the Securities other than its certificate of authentication.

SECTION 8.5 NOTICE OF DEFAULT OR EVENTS OF DEFAULT.

If a default or an Event of Default occurs and is continuing and if it is known to the Trustee, the Trustee shall mail to each Securityholder notice of the default or Event of Default within 90 days after it is known to the Trustee. However, the Trustee may withhold the notice if and so long as a committee of its Trust Officers in good faith determines that withholding notice is in the interests of Securityholders, except in the case of a default or an Event of Default in payment of the principal of or interest on any Security.

SECTION 8.6 RESERVED.

SECTION 8.7 COMPENSATION AND INDEMNITY.

The Company shall pay to the Trustee from time to time such compensation (as agreed to from time to time by the Company and the Trustee in writing) for its services (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust). The Company shall reimburse the Trustee upon request for all reasonable disbursements, expenses and advances incurred or made by it. Such expenses may include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

The Company shall indemnify the Trustee or any predecessor Trustee (which for purposes of this Section 8.7 shall include its officers, directors, employees and agents) for, and hold it harmless against, any and all loss, liability or expense including taxes (other than taxes based upon, measured by or determined by the income of the Trustee), (including reasonable legal fees and expenses) incurred by it in connection with the acceptance or administration of its duties under this Indenture or any action or failure to act as authorized or within the discretion or rights or powers conferred upon the Trustee hereunder including the reasonable costs and expenses of the Trustee and its counsel in defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder. The Trustee shall notify the Company promptly of any claim asserted against the Trustee for which it may seek indemnity. The Company need not pay for any settlement without its written consent, which shall not be unreasonably withheld.

The Company need not reimburse the Trustee for any expense or indemnify it against any loss or liability incurred by it resulting from its gross negligence or bad faith.

To secure the Company's payment obligations in this Section 8.7, the Trustee shall have a senior claim to which the Securities are hereby made subordinate on all money or property held or collected by the Trustee, except such money or property held in trust to pay the principal of and interest on the Securities.

When the Trustee incurs expenses or renders services after an Event of Default specified in clause (7) or (8) of Section 7.1 occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under any Bankruptcy Law. The obligations of the Company under this Section 8.7 shall survive the termination or satisfaction and discharge of this Indenture or the resignation or removal of the Trustee for any reason.

SECTION 8.8 REPLACEMENT OF TRUSTEE.

The Trustee may resign by so notifying the Company. The Holders of a majority in aggregate principal amount of the Securities then outstanding may remove the Trustee by so notifying the Trustee and may, with the Company's written consent, appoint a successor Trustee. The Company may remove the Trustee if:

(1) the Trustee fails to comply with Section 8.10;

(2) the Trustee is adjudged a bankrupt or an insolvent;

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

(4) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company shall promptly appoint a successor Trustee. The resignation or removal of a Trustee shall not be effective until a successor Trustee shall have delivered the written acceptance of its appointment as described below.

If a successor Trustee does not take office within 45 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company or the Holders of 10% in principal amount of the Securities then outstanding may petition any court of competent jurisdiction for the appointment of a successor Trustee at the expense of the Company.

If the Trustee fails to comply with Section 8.10, any Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Immediately after that, the retiring Trustee shall transfer all property held by it as Trustee to the successor Trustee and be released from its obligations (exclusive of any liabilities that the retiring Trustee may have incurred while acting as Trustee) hereunder, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. A successor Trustee shall mail notice of its succession to each Holder.

A retiring Trustee shall not be liable for the acts or omissions of any successor Trustee after its succession.

Notwithstanding replacement of the Trustee pursuant to this Section 8.8, the Company's obligations under Section 8.7 shall continue for the benefit of the retiring Trustee.

SECTION 8.9 SUCCESSOR TRUSTEE BY MERGER, ETC.

If the Trustee consolidates with, merges or converts into, or transfers all or substantially all of its corporate trust assets (including the administration of this Indenture) to, another corporation, by sale or otherwise, the resulting, surviving or transferee corporation, without any further act, shall be the successor Trustee, provided such transferee corporation shall qualify and be eligible under Section 8.10. Such successor Trustee shall promptly mail notice of its succession to the Company and each Holder.

SECTION 8.10 ELIGIBILITY; DISQUALIFICATION.

The Trustee shall always satisfy the requirements of paragraphs (1), (2) and (5) of TIA Section 310(a). The Trustee (or its parent holding company) shall have a combined capital and surplus of at least $50,000,000. If at any time the Trustee shall cease to satisfy any such requirements, it shall resign immediately in the manner and with the effect specified in this Article 8. The Trustee shall be subject to the provisions of TIA Section 310(b). Nothing herein shall prevent the Trustee from filing with the SEC the application referred to in the penultimate paragraph of TIA Section 310(b).

SECTION 8.11 PREFERENTIAL COLLECTION OF CLAIMS AGAINST COMPANY.

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

SECTION 8.12 MAY HOLD SECURITIES.

The Trustee, any Paying Agent or any other agent of the Company, in its individual or any other capacity, may become the owner or pledgee of Securities and may otherwise deal with the Company with the same rights it would have if it were not Trustee, Paying Agent or such other agent.

SECTION 8.13 MONEY HELD IN TRUST.

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

ARTICLE 9.
SATISFACTION AND DISCHARGE OF INDENTURE

SECTION 9.1 SATISFACTION AND DISCHARGE OF INDENTURE.

This Indenture shall cease to be of further effect (except as to any surviving rights of conversion, registration of transfer or exchange of Securities herein expressly provided for and except as further provided below), and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture, when

(1) either

(A) all Securities theretofore authenticated and delivered (other than Securities which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 2.7) have been delivered to the Trustee for cancellation; or

(B) all such Securities not theretofore delivered to the Trustee for cancellation

(i) have become due and payable, or

(ii) will become due and payable at the Final Maturity Date within one year, or

(iii) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company,

and the Company, in the case of clause (i), (ii) or (iii) above, has irrevocably deposited or caused to be irrevocably deposited with the Trustee or a Paying Agent (other than the Company or any of its Affiliates) as trust funds in cash in an amount sufficient to pay and discharge the entire indebtedness on such Securities not theretofore delivered to the Trustee for cancellation, for principal (including premium, if any) and interest to the date of such deposit (in the case of Securities which have become due and payable) or to the Final Maturity Date or Redemption Date, as the case may be;

(2) the Company has paid or caused to be paid all other sums payable hereunder by the Company; and

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustee under Section 8.7 shall survive and, if money shall have been deposited with the Trustee pursuant to subclause (B) of clause (1) of this Section, the provisions of Sections 2.3, 2.4, 2.5, 2.6, 2.7, 2.12, 3.9, 3.10, 3.11, 3.12 and 11.5, Article 4, the last paragraph of Section 5.2 and this Article 9, shall survive until the Securities have been paid in full.

SECTION 9.2 APPLICATION OF TRUST MONEY.

Subject to the provisions of Section 9.3, the Trustee or a Paying Agent shall hold in trust, for the benefit of the Holders, all money deposited with it pursuant to Section 9.1 and shall apply the deposited money in accordance with this Indenture and the Securities to the payment of the principal of and interest on the Securities.

SECTION 9.3 REPAYMENT TO COMPANY.

The Trustee and each Paying Agent shall promptly pay to the Company upon request any excess money (i) deposited with them pursuant to Section 9.1 and (ii) held by them at any time.

The Trustee and each Paying Agent shall pay to the Company upon request any money held by them for the payment of principal or interest that remains unclaimed for two years after a right to such money has matured; provided, however, that the Trustee or such Paying Agent, before being required to make any such payment, may at the expense of the Company cause to be mailed to each Holder entitled to such money notice that such money remains unclaimed and that after a date specified therein, which shall be at least 30 days from the date of such mailing, any unclaimed balance of such money then remaining will be repaid to the Company. After payment to the Company, Holders entitled to money must look to the Company for payment as general creditors unless an applicable abandoned property law designates another person. In the absence of a written request from the Company to return unclaimed funds to the Company, the Trustee shall from time to time deliver all unclaimed funds to or as directed by applicable escheat authorities, as determined by the Trustee in its sole discretion, in accordance with the customary practices and procedures of the Trustee. Any unclaimed funds held by the Trustee pursuant to this Section 9.3 shall be held uninvested and without any liability for interest.

SECTION 9.4 RESERVED.

SECTION 9.5 RESERVED.

SECTION 9.6 RESERVED.

SECTION 9.7 REINSTATEMENT.

If the Trustee or any Paying Agent is unable to apply any money in accordance with Section 9.2 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's obligations under this Indenture and the Securities shall be revived and reinstated as though no deposit had occurred pursuant to Section 9.1 until such time as the Trustee or such Paying Agent is permitted to apply all such money in accordance with Section 9.2; provided, however, that if the Company has made any payment of the principal of or interest on any Securities because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Securities to receive any such payment from the money held by the Trustee or such Paying Agent.

ARTICLE 10.
AMENDMENTS, SUPPLEMENTS AND WAIVERS

SECTION 10.1 WITHOUT CONSENT OF HOLDERS.

The Company and the Trustee may amend or supplement this Indenture or the Securities without notice to or consent of any Securityholder:

(a) to comply with Section 6.1;

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

(c) to make any other change that does not adversely affect the rights of any Securityholder;

(d) to comply with the provisions of the TIA;

(e) to add to the covenants of the Company for the equal and ratable benefit of the Securityholders or to surrender any right, power or option conferred upon the Company;

(f) to secure the Company's obligations with respect to the Securities; or

(g) to appoint a successor Trustee.

SECTION 10.2 WITH CONSENT OF HOLDERS.

The Company and the Trustee may amend or supplement this Indenture or the Securities with the written consent of the Holders of at least a majority in aggregate principal amount of the Securities then outstanding. The Holders of at least a majority in aggregate principal amount of the Securities then outstanding may waive compliance in a particular instance by the Company with any provision of this Indenture or the Securities without notice to any Securityholder. However, notwithstanding the foregoing but subject to Section 10.4, without the written consent of each Securityholder affected, an amendment, supplement or waiver, including a waiver pursuant to Section 7.4, may not:

(a) change the stated maturity of the principal of, or interest on, any Security;

(b) reduce the principal amount of, or any premium or interest on, any Security;

(c) reduce the amount of principal payable upon acceleration of the maturity of any Security;

(d) change the place or currency of payment of principal of, or any premium or interest on, any Security;

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

(f) modify the provisions with respect to the purchase right of Holders pursuant to Article 3 upon a Fundamental Change in a manner adverse to Holders;

(g) adversely affect the right of Holders to convert Securities other than as provided in or under Article 4 of this Indenture;

(h) reduce the percentage of the aggregate principal amount of the outstanding Securities whose Holders must consent to a modification or amendment;

(i) reduce the percentage of the aggregate principal amount of the outstanding Securities necessary for the waiver of compliance with certain provisions of this Indenture or the waiver of certain defaults under this Indenture; and

(j) modify any of the provisions of this Section or Section 7.4, except to increase any such percentage or to provide that certain provisions of this Indenture cannot be modified or waived without the consent of the Holder of each outstanding Security affected thereby.

It shall not be necessary for the consent of the Holders under this Section 10.2 to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section 10.2 becomes effective, the Company shall mail to the Holders affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amendment, supplement or waiver.

To the extent that the Company or any of the Subsidiaries hold any Securities, such Securities shall be disregarded for purposes of voting in connection with any notice, waiver, consent or direction requiring the vote or concurrence of Securityholders.

SECTION 10.3 RESERVED.

SECTION 10.4 REVOCATION AND EFFECT OF CONSENTS.

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder is a continuing consent by the Holder and every subsequent Holder of a Security or portion of a Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent is not made on any Security. However, any such Holder or subsequent Holder may revoke the consent as to its Security or portion of a Security if the Trustee receives the notice of revocation before the date the amendment, supplement or waiver becomes effective.

After an amendment, supplement or waiver becomes effective, it shall bind every Securityholder, unless it makes a change described in any of clauses (a) through (j) of Section 10.2. In that case the amendment, supplement or waiver shall bind each Holder of a Security who has consented to it and every subsequent Holder of a Security or portion of a Security that evidences the same debt as the consenting Holder's Security.

SECTION 10.5 NOTATION ON OR EXCHANGE OF SECURITIES.

If an amendment, supplement or waiver changes the terms of a Security, the Trustee may require the Holder of the Security to deliver it to the Trustee. The Trustee may place an appropriate notation on the Security about the changed terms and return it to the Holder. Alternatively, if the Company or the Trustee so determines, the Company in exchange for the Security shall issue and the Trustee shall authenticate a new Security that reflects the changed terms.

SECTION 10.6 TRUSTEE TO SIGN AMENDMENTS, ETC.

The Trustee shall sign any amendment or supplemental indenture authorized pursuant to this Article 10 if the amendment or supplemental indenture does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee may, in its sole discretion, but need not sign it. In signing or refusing to sign such amendment or supplemental indenture, the Trustee shall be entitled to receive and, subject to Section 8.1, shall be fully protected in relying upon, an Opinion of Counsel stating that such amendment or supplemental indenture is authorized or permitted by this Indenture. The Company may not sign an amendment or supplement indenture until the Board of Directors approves it.

SECTION 10.7 EFFECT OF SUPPLEMENTAL INDENTURES.

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

ARTICLE 11.
MISCELLANEOUS

SECTION 11.1 RESERVED.

SECTION 11.2 NOTICES.

Any demand, authorization notice, request, consent or communication shall be given in writing and delivered in person or mailed by first-class mail, postage prepaid, addressed as follows or transmitted by facsimile transmission (confirmed by delivery in person or mail by first-class mail, postage prepaid, or by guaranteed overnight courier) to the following facsimile numbers:

If to the Company, to:

PDL BioPharma, Inc.
932 Southwood Boulevard
Incline Village, Nevada 89451
Attention: Chief Financial Officer or General Counsel
Facsimile No.: [ ]
Phone No.: (775) 832-8500

If to the Trustee, to:

The Bank of New York Mellon Trust Company, N.A.
700 South Flower St., Suite 500
Los Angeles, California 90017
Attention: Corporate Trust Administration
Facsimile No.: (213) 630-6298
Phone No.: (213) 630-6256

Such notices or communications shall be effective when received.

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

Any notice or communication mailed to a Securityholder shall be mailed by first-class mail or delivered by an overnight delivery service or by other electronic means to it at its address shown on the register kept by the Primary Registrar.

Failure to mail a notice or communication to a Securityholder or any defect in it shall not affect its sufficiency with respect to other Securityholders. If a notice or communication to a Securityholder is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods (including pdf files). If the party elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The party providing electronic instructions agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk or interception and misuse by third parties.

SECTION 11.3 RESERVED.

SECTION 11.4 CERTIFICATE AND OPINION AS TO CONDITIONS PRECEDENT.

(a) Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee at the request of the Trustee:

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

(2) an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent (including any covenants, compliance with which constitutes a condition precedent) have been complied with.

(b) Each Officers' Certificate and Opinion of Counsel with respect to compliance with a condition or covenant provided for in this Indenture shall include:

(1) a statement that the person making such certificate or opinion has read such covenant or condition;

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

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

(4) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with;

provided however, that with respect to matters of fact an Opinion of Counsel may rely on an Officers' Certificate or certificates of public officials.

SECTION 11.5 RECORD DATE FOR VOTE OR CONSENT OF SECURITYHOLDERS.

The Company (or, in the event deposits have been made pursuant to Section 9.1, the Trustee) may set a record date for purposes of determining the identity of Holders entitled to vote or consent to any action by vote or consent authorized or permitted under this Indenture, which record date shall not be more than thirty (30) days prior to the date of the commencement of solicitation of such action. Notwithstanding the provisions of Section 10.4, if a record date is fixed, those persons who were Holders of Securities at the close of business on such record date (or their duly designated proxies), and only those persons, shall be entitled to take such action by vote or consent or to revoke any vote or consent previously given, whether or not such persons continue to be Holders after such record date.

SECTION 11.6 RULES BY TRUSTEE, PAYING AGENT, REGISTRAR AND CONVERSION AGENT.

The Trustee may make reasonable rules (not inconsistent with the terms of this Indenture) for action by or at a meeting of Holders. Any Registrar, Paying Agent or Conversion Agent may make reasonable rules for its functions.

SECTION 11.7 LEGAL HOLIDAYS.

A "Legal Holiday" is a Saturday, Sunday or a day on which state or federally chartered banking institutions in New York, New York and the state in which the Corporate Trust Office is located are not required to be open. If a payment date is a Legal Holiday, payment shall be made on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period. If a regular record date is a Legal Holiday, the record date shall not be affected.

SECTION 11.8 GOVERNING LAW.

This Indenture and the Securities shall be governed by, and construed in accordance with, the laws of the State of New York.

SECTION 11.9 NO ADVERSE INTERPRETATION OF OTHER AGREEMENTS.

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

SECTION 11.10 NO RECOURSE AGAINST OTHERS.

All liability described in paragraph 19 of the Securities of any director, officer, employee or shareholder, as such, of the Company is waived and released.

SECTION 11.11 SUCCESSORS.

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

SECTION 11.12 MULTIPLE COUNTERPARTS.

The parties may sign multiple counterparts of this Indenture. Each signed counterpart shall be deemed an original, but all of them together represent the same agreement.

SECTION 11.13 SEPARABILITY.

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

SECTION 11.14 TAX TREATMENT.

The Company agrees, and by acceptance of beneficial ownership in the Securities each beneficial holder of the Securities will be deemed to have agreed, for United States federal income tax purposes to treat the Securities as indebtedness that is not subject to the contingent payment debt instrument regulations under Treas. Reg. Sec. 1.1275-4.

SECTION 11.15 DESIGNATED SENIOR INDEBTEDNESS.

The Company's indebtedness under the Securities is "designated senior indebtedness" for purposes of the Indenture, dated as of July 14, 2003, between the Company and The Bank of New York Mellon Trust Company, N.A. (as successor to J.P. Morgan Trust Company, National Association).

SECTION 11.16 TABLE OF CONTENTS, HEADINGS, ETC.

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

SECTION 11.17 WAIVER OF JURY TRIAL

EACH OF THE COMPANY AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE SECURITIES OR THE TRANSACTION CONTEMPLATED HEREBY.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands as of the date and year first above written.

PDL BIOPHARMA, INC.

By: _____

Name:
Title:

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.

By: _____

Name:
Title:

Schedule I

Additional Shares Table

The following table sets forth the hypothetical Stock Price and number of Additional Shares per $1,000 principal amount of Securities:

Effective Date	$ 5.700	$ 6.700	$ 7.700	$ 8.700	$ 9.700	$ 10.700	$ 11.700	$ 12.700	$ 13.700
November 1, 2010	34.8676	23.7126	16.8706	12.4750	9.3568	7.3729	5.5914	4.4369	3.3560
February 15, 2011	34.8676	20.2082	12.9370	9.5663	7.1752	5.6538	4.2877	3.4024	2.5735
February 15, 2012	34.8676	16.7038	9.0035	6.6576	4.9935	3.9348	2.9840	2.3679	1.7910
February 15, 2013	34.8676	13.1995	5.0699	3.7490	2.8119	2.2157	1.6803	1.3334	1.0085
February 15, 2014	34.8676	9.6951	1.1364	0.8403	0.6303	0.4966	0.3766	0.2989	0.2261
February 15, 2015	34.8676	8.6827	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

EXHIBIT A

[FORM OF FACE OF SECURITY]

[UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN. THIS NOTE IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE THEREOF. THIS NOTE IS EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITARY OR ITS NOMINEE ONLY IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE AND, UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY.][1]

[THIS NOTE AND ANY COMMON STOCK ISSUABLE UPON THE CONVERSION OF THIS NOTE HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR ANY APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THIS NOTE IS HEREBY NOTIFIED THAT THE SELLER OF THIS NOTE MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER][2]

[THIS NOTE AND ANY COMMON STOCK ISSUABLE UPON THE CONVERSION OF THIS NOTE MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (A) (1) TO A PERSON WHO THE TRANSFEROR REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT ACQUIRING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A

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[1] These paragraphs should be included only if the Security is a Global Security.

[2] These paragraphs to be included only if the Security is a Transfer Restricted Security.

TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (2) PURSUANT TO AN EXEMPTION FROM REGISTRATION RIGHTS UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE), (3) TO AN INSTITUTIONAL INVESTOR THAT IS AN ACCREDITED INVESTOR WITHIN THE MEANING OF RULE 501(a)(1), (2), (3) OR (7) OF REGULATION D UNDER THE SECURITIES ACT (IF AVAILABLE) OR (4) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.][2]

[THIS NOTE, ANY SHARES OF COMMON STOCK ISSUABLE UPON ITS CONVERSION AND ANY RELATED DOCUMENTATION MAY BE AMENDED OR SUPPLEMENTED FROM TIME TO TIME TO MODIFY THE RESTRICTIONS ON RESALES AND OTHER TRANSFERS OF THIS NOTE AND ANY SUCH SHARES TO REFLECT ANY CHANGE IN APPLICABLE LAW OR REGULATION (OR THE INTERPRETATION THEREOF) OR IN PRACTICES RELATING TO THE RESALE OR TRANSFER OF RESTRICTED SECURITIES GENERALLY. THE HOLDER OF THIS NOTE AND SUCH SHARES SHALL BE DEEMED BY THE ACCEPTANCE OF THIS NOTE AND ANY SUCH SHARES TO HAVE AGREED TO ANY SUCH AMENDMENT OR SUPPLEMENT.][2]

PDL BIOPHARMA, INC.

CUSIP No.:

2.875% CONVERTIBLE SENIOR NOTES DUE FEBRUARY 15, 2015

PDL BIOPHARMA, Inc., a Delaware corporation (the "Company", which term shall include any successor corporation under the Indenture referred to on the reverse hereof), promises to pay to Cede & Co., or registered assigns, the principal sum of Dollars ($) on February 15, 2015, or such greater or lesser amount as is indicated on the Schedule of Exchanges of Notes on the other side of this Note.

Interest Payment Dates:	February 15 and August 15, commencing February 15, 2011
Record Dates:	February 1 and August 1

This Note is convertible as specified on the other side of this Note. Additional provisions of this Note are set forth on the other side of this Note.

SIGNATURE PAGE FOLLOWS

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

PDL BIOPHARMA, INC.

By: _____
Name:
Title:

Attest:

By: _____
Name:
Title:

Dated:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION
This is one of the Securities referred to
in the within-mentioned Indenture.

The Bank of New York Mellon Trust Company, N.A., as Trustee

_____
Authorized Signatory

[FORM OF REVERSE SIDE OF SECURITY]

PDL BIOPHARMA, INC.
2.875% CONVERTIBLE SENIOR NOTES DUE FEBRUARY 15, 2015

1. INTEREST

PDL BioPharma, Inc., a Delaware corporation (the "Company", which term shall include any successor corporation under the Indenture hereinafter referred to), promises to pay interest on the principal amount of this Security at the rate of 2.875% per annum. The Company shall pay interest semiannually on February 15 and August 15 of each year, commencing on February 15, 2011. Interest on the Securities shall accrue from the most recent date to which interest has been paid or, if no interest has been paid, from October [ ], 2010; provided, however, that if there is not an existing default in the payment of interest and if this Security is authenticated between a record date referred to on the face hereof and the next succeeding interest payment date, interest shall accrue from such interest payment date. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

2. METHOD OF PAYMENT

The Company shall pay interest on this Security (except defaulted interest) to the person who is the Holder of this Security at the close of business on February 1 or August 1, as the case may be, next preceding the related interest payment date. The Holder must surrender this Security to a Paying Agent to collect payment of principal. The Company will pay principal and interest in money of the United States that at the time of payment is legal tender for payment of public and private debts. The Company may, however, pay principal and interest in respect of any Certificated Security by check or wire payable in such money; provided, however, that a Holder with an aggregate principal amount in excess of $2,000,000 will be paid by wire transfer in immediately available funds at the election of such Holder if such Holder has provided wire transfer instructions to the Company and the Trustee at least 10 Business Days prior to the payment date.

3. PAYING AGENT, REGISTRAR AND CONVERSION AGENT

Initially, The Bank of New York Mellon Trust Company, N.A. (the "Trustee", which term shall include any successor trustee under the Indenture hereinafter referred to) will act as Paying Agent, Registrar and Conversion Agent. The Company may change any Paying Agent, Registrar or Conversion Agent without notice to the Holder. The Company or any of its Subsidiaries may, subject to certain limitations set forth in the Indenture, act as Paying Agent or Registrar.

4. INDENTURE, LIMITATIONS

This Security is one of a duly authorized issue of Securities of the Company designated as its 2.875% Convertible Senior Securities due February 15, 2015 (the "Securities"), issued under an Indenture, dated as of October [ ], 2010 (together with any supplemental indentures thereto, the "Indenture"), between the Company and the Trustee. The terms of this Security include, and are subject to, the terms of the Indenture. The Securities are unsecured obligations of the Company. The Indenture does not limit other debt of the Company, secured or unsecured.

5. OPTIONAL REDEMPTION

The Securities are subject to redemption, at any time on or after August 15, 2014, on at least 10 days and no more than 60 days notice, in whole or in part, at the election of the Company, at a redemption price equal to 100% of the aggregate principal amount of the Securities to be redeemed together with accrued interest up to but not including the Redemption Date; provided that if the redemption date falls after an interest payment record date and on or before an interest payment date, interest will be payable to the Holders in whose names the Securities are registered at the close of business on the relevant record dates.

No sinking fund is provided for the Securities.

6. NOTICE OF REDEMPTION

Notice of redemption will be mailed by first-class mail at least 10 days but not more than 60 days before the Redemption Date to each Holder of Securities to be redeemed at its registered address. Securities in denominations larger than $1,000 may be redeemed in part, but only in whole multiples of $1,000. On and after the Redemption Date, subject to the deposit with the Paying Agent of funds sufficient to pay the Redemption Price plus accrued interest, if any, accrued to, but excluding, the Redemption Date, interest shall cease to accrue on Securities or portions of them called for redemption.

7. REPURCHASE OF NOTES AT OPTION OF HOLDER UPON A FUNDAMENTAL CHANGE

Subject to the terms and conditions of the Indenture (including the rights of the Company upon delivery of a Public Acquisition Notice as described in Section 3.11 of the Indenture and Section 8 hereof), if a Fundamental Change occurs at any time prior to the Final Maturity Date, each Holder will, upon receipt of the notice of the occurrence of a Fundamental Change, have the right to require the Company to repurchase any or all of such Holder's Securities for cash in an amount equal to 100% of the Principal Amount of the Securities to be purchased plus accrued and unpaid interest, if any, to (but not including) the Fundamental Change Repurchase Date, unless such Fundamental Change Repurchase Date falls after an interest payment record date and on or prior to the corresponding interest payment date, in which case the Fundamental Change Repurchase Price will include the full amount of accrued and unpaid interest payable on such interest payment date to the Holder of record at the close of business on the corresponding interest payment record date. Subject to Sections 3.9(b) and 3.11 of the Indenture, on or before the 15th day after the effective date of a Fundamental Change, the Company will provide to all Holders of the Securities and the Trustee and Paying Agent a notice of the occurrence of the Fundamental Change and of the resulting repurchase right. To exercise the repurchase right, a Holder must deliver the Fundamental Change repurchase notice duly completed to the Paying Agent as described in the Indenture.

Notwithstanding the foregoing, the Holders will not have the right to require the Company to repurchase any Securities if a Fundamental Change described in clause (b), (c) or (d) in the definition of Fundamental Change occurs (and the Company will not be required to deliver the notice described in Section 3.9(c) of the Indenture), if either:

(1) the Closing Price for any five Trading Days within the period of 10 consecutive Trading Days ending immediately after the later of the effective date of the Fundamental Change or the date of the public announcement of the Fundamental Change, in the case of a Fundamental Change relating to an acquisition of Capital Stock under clause (b) of the definition of Fundamental Change, or the period of ten consecutive Trading Days ending immediately before the effective date of the Fundamental Change, in the case of a Fundamental Change relating to a merger, consolidation, asset sale or otherwise under clause (c) of the definition of Fundamental Change, equals or exceeds 105% of the quotient of $1,000 divided by the Applicable Conversion Rate in effect on each of those five Trading Days; or

(2) at least 95% of the consideration paid for the Common Stock (excluding cash payments for fractional shares and cash payments made pursuant to dissenters' or appraisal rights) in a merger or consolidation or a conveyance, sale, transfer or lease otherwise constituting a Fundamental Change under clause (b) and/or (c) of the definition of Fundamental Change consists of shares of Capital Stock (or American Depository Shares representing such Capital Stock) traded on the New York Stock Exchange or another United States national securities exchange or quoted on the Nasdaq Stock Market or another established automated over-the-counter trading market in the United States (or will be so traded or quoted immediately following the merger or consolidation) and as a result of the merger or consolidation the Securities become convertible into shares of such Capital Stock (or American Depository Shares representing such Capital Stock).

Holders have the right to withdraw any Fundamental Change repurchase notice, in whole or in part, by delivering to the Paying Agent a written notice of withdrawal in accordance with the provisions of the Indenture.

If cash sufficient to pay the Fundamental Change Repurchase Price of all Securities or portions thereof to be purchased as of the Fundamental Change Repurchase Date, has been deposited with the Paying Agent on or prior to the Business Day following the Fundamental Change Repurchase Date, all interest shall cease to accrue on such Securities (or portions thereof) immediately after such Fundamental Change Repurchase Date and the Holder thereof shall have no other rights as such other than the right to receive the Fundamental Change Repurchase Price, upon surrender of such Securities.

8. PUBLIC ACQUIRER CHANGE OF CONTROL

Within fifteen Trading Days prior to but not including the expected effective date of a Fundamental Change that is also a Public Acquirer Change of Control, the Company will provide a Public Acquisition Notice to all Holders, the Trustee, any Paying Agent and any Conversion Agent describing the anticipated Public Acquirer Change of Control and stating whether the Company will:

(i) elect the adjust the Applicable Conversion Rate and related conversion obligation as described in Section 3.11 of the Indenture, in which case the Holders will not have the right to require the Company repurchase their Securities as described in Section 3.9 of the Indenture and will not have the right to the Applicable Conversion Rate adjustment described in Section 3.10 of the Indenture; or

(ii) not elect to adjust the Applicable Conversion Rate and related conversion obligation as described in Section 3.11 of the Indenture, in which case the Holders will have the right to require the Company to repurchase their Securities as described in Section 3.9 of the Indenture and/or the right to an Applicable Conversion Rate adjustment as described in Section 3.10 of the Indenture, in each case in accordance with the respective provisions of those Sections.

If the Public Acquisition Notice indicates that the Company is making the election described in clause (i) above, then the Applicable Conversion Rate and the related conversion obligation shall be adjusted such that from and after the effective date of the Public Acquirer Change of Control, Holders of the Securities will be entitled to convert their Securities into a number of shares of Public Acquirer Common Stock pursuant to Section 3.11 of the Indenture.

9. CONVERSION

A Holder of a Security may convert the principal amount of such Security (or any portion thereof equal to $1,000 or any integral multiple of $1,000 in excess thereof) into Common Stock at any time prior to the close of business on the last Business Day prior to the Final Maturity Date, at the Applicable Conversion Rate in effect on the Conversion Date; provided, however, that, if such Security is called for redemption or submitted or presented for purchase pursuant to Article 3 of the Indenture, such conversion right shall terminate at the close of business on the Business Day immediately preceding the Redemption Date or Fundamental Change Repurchase Date, as the case may be, for such Security or such earlier date as the Holder presents such Security for redemption or for purchase (unless the Company shall default in making the redemption payment or Fundamental Change Repurchase Price payment when due, in which case the conversion right shall terminate at the close of business on the date such default is cured and such Security is redeemed or purchased, as the case may be).

The Initial Conversion Rate means 140.571 shares of Common Stock per $1,000 principal amount of Securities, subject to adjustment under certain circumstances as provided in the Indenture. No fractional shares will be issued upon conversion; in lieu thereof, an amount will be paid in cash based upon the Closing Price (as defined in the Indenture) of the Common Stock on the Trading Day immediately prior to the Conversion Date.

To convert a Security, a Holder must (a) complete and manually sign the conversion notice set forth below and deliver such notice to a Conversion Agent, (b) surrender the Security to a Conversion Agent, and (c) furnish appropriate endorsements and transfer documents if required by a Registrar or a Conversion Agent. Securities so surrendered for conversion (in whole or in part) during the period from the close of business on any regular record date to the opening of business on the next succeeding interest payment date (excluding Securities or portions thereof called for redemption or subject to purchase upon a Fundamental Change on a Redemption Date or Fundamental Change Repurchase Date, as the case may be, during the period beginning at the close of business on a regular record date and ending at the opening of business on the first Business Day after the next succeeding interest payment date, or if such interest payment date is not a Business Day, the second such Business Day) shall also be accompanied by payment in funds acceptable to the Company of an amount equal to the interest payable on such interest payment date on the principal amount of such Security then being converted, and such interest shall be payable to such registered Holder notwithstanding the conversion of such Security, subject to the provisions of this Indenture relating to the payment of defaulted interest by the Company. If the Company defaults in the payment of interest payable on such interest payment date, the Company shall promptly repay such funds to such Holder. A Holder may convert a portion of a Security equal to $1,000 or any integral multiple thereof.

A Security in respect of which a Holder had delivered a Fundamental Change repurchase notice exercising the option of such Holder to require the Company to purchase such Security may be converted only if the Fundamental Change repurchase notice is withdrawn in accordance with the terms of the Indenture.

10. CONVERSION ARRANGEMENT ON CALL FOR REDEMPTION

Any Securities called for redemption, unless surrendered for conversion before the close of business on the Business Day immediately preceding the Redemption Date, may be deemed to be purchased from the Holders of such Securities at an amount not less than the Redemption Price, together with accrued interest, if any, to, but not including, the Redemption Date, by one or more investment bankers or other purchasers who may agree with the Company to purchase such Securities from the Holders, to convert them into Common Stock of the Company and to make payment for such Securities to the Paying Agent in trust for such Holders.

11. DENOMINATIONS, TRANSFER, EXCHANGE

The Securities are in registered form, without coupons, in denominations of $1,000 and integral multiples of $1,000. A Holder may register the transfer of or exchange Securities in accordance with the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and to pay any taxes or other governmental charges that may be imposed in relation thereto by law or permitted by the Indenture.

12. PERSONS DEEMED OWNERS

The Holder of a Security may be treated as the owner of it for all purposes.

13. UNCLAIMED MONEY

If money for the payment of principal or interest remains unclaimed for two years, the Trustee or Paying Agent will pay the money back to the Company at its written request, subject to applicable unclaimed property law. After that, Holders entitled to money must look to the Company for payment as general creditors unless an applicable abandoned property law designates another person.

14. AMENDMENT, SUPPLEMENT AND WAIVER

Subject to certain exceptions, the Indenture or the Securities may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the Securities then outstanding, and an existing default or Event of Default and its consequence or compliance with any provision of the Indenture or the Securities may be waived in a particular instance with the consent of the Holders of a majority in aggregate principal amount of the Securities then outstanding. Without the consent of or notice to any Holder, the Company and the Trustee may amend or supplement the Indenture or the Securities to, among other things, cure any ambiguity, defect or inconsistency or make any other change that does not adversely affect the rights of any Holder.

15. SUCCESSOR ENTITY

When a successor corporation assumes all the obligations of its predecessor under the Securities and the Indenture in accordance with the terms and conditions of the Indenture, the predecessor corporation (except in certain circumstances specified in the Indenture) shall be released from those obligations.

16. DEFAULTS AND REMEDIES

Under the Indenture, an Event of Default includes: (i) default for 30 days in payment of any interest on any Securities; (ii) default in payment of any principal (including, without limitation, premium, if any) on the Securities when due; (iii) failure by the Company for 60 days after notice to it to comply with any of its other agreements contained in the Indenture or the Securities; (iv) default in the payment of certain indebtedness of the Company or a Significant Subsidiary; (v) the Company fails to provide a notice of a Fundamental Change within 30 days after notice of failure to timely deliver the same; and (vi) certain events of bankruptcy, insolvency or reorganization of the Company or any Significant Subsidiary. If an Event of Default (other than as a result of certain events of bankruptcy, insolvency or reorganization of the Company) occurs and is continuing, the Trustee or the Holders of at least 25% in aggregate principal amount of the Securities then outstanding may declare all unpaid principal to the date of acceleration on the Securities then outstanding to be due and payable immediately, all as and to the extent provided in the Indenture. If an Event of Default occurs as a result of certain events of bankruptcy, insolvency or reorganization of the Company, unpaid principal of the Securities then outstanding shall become due and payable immediately without any declaration or other act on the part of the Trustee or any Holder, all as and to the extent provided in the Indenture. Holders may not enforce the Indenture or the Securities except as provided in the Indenture. The Trustee may require indemnity satisfactory to it before it enforces the Indenture or the Securities. Subject to certain limitations, Holders of a majority in aggregate principal amount of the Securities then outstanding may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders notice of any continuing default (except a default in payment of principal or interest) if it determines that withholding notice is in their interests. The Company is required to file periodic reports with the Trustee as to the absence of default.

17. TRUSTEE DEALINGS WITH THE COMPANY

The Bank of New York Mellon Trust Company, N.A., the Trustee under the Indenture, in its individual or any other capacity, may make loans to, accept deposits from and perform services for the Company or an Affiliate of the Company, and may otherwise deal with the Company or an Affiliate of the Company, as if it were not the Trustee.

18. NO RECOURSE AGAINST OTHERS

A director, officer, employee or stockholder, as such, of the Company shall not have any liability for any obligations of the Company under the Securities or the Indenture nor for any claim based on, in respect of or by reason of such obligations or their creation. The Holder of this Security by accepting this Security waives and releases all such liability. The waiver and release are part of the consideration for the issuance of this Security.

19. AUTHENTICATION

This Security shall not be valid until the Trustee or an authenticating agent manually signs the certificate of authentication on the other side of this Security.

20. ABBREVIATIONS AND DEFINITIONS

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

All terms defined in the Indenture and used in this Security but not specifically defined herein are defined in the Indenture and are used herein as so defined.

21. INDENTURE TO CONTROL; GOVERNING LAW

In the case of any conflict between the provisions of this Security and the Indenture, the provisions of the Indenture shall control. This Security shall be governed by, and construed in accordance with, the laws of the State of New York.

The Company will furnish to any Holder, upon written request and without charge, a copy of the Indenture. Requests may be made to: PDL BioPharma, Inc., 932 Southwood Boulevard, Incline Village, Nevada 89451, Attention: Investor Relations.

ASSIGNMENT FORM

To assign this Note, fill in the form below:

I or we assign and transfer this Security to

(Insert assignee's soc. sec. or tax I.D. no.)

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

and irrevocably appoint

agent to transfer this Note on the books of the Company. The agent may substitute another to act for him or her.

Your Signature:

Date:

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

*Signature guaranteed by:

By:

* The signature must be guaranteed by an institution which is a member of one of the following recognized signature guaranty programs: (i) the Securities Transfer Agent Medallion Program (STAMP); (ii) the New York Stock Exchange Medallion Program (MSP); (iii) the Stock Exchange Medallion Program (SEMP); or (iv) such other guaranty program acceptable to the Trustee.

CONVERSION NOTICE

To convert this Security into Common Stock of the Company, check the box: o

To convert only part of this Security, state the principal amount to be converted (must be $1,000 or a integral multiple of $1,000): $.

If you want the stock certificate made out in another person's name, fill in the form below:

(Insert assignee's soc. sec. or tax I.D. no.)

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

Your Signature:

Date:

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

*Signature guaranteed by:

By:

* The signature must be guaranteed by an institution which is a member of one of the following recognized signature guaranty programs: (i) the Securities Transfer Agent Medallion Program (STAMP); (ii) the New York Stock Exchange Medallion Program (MSP); (iii) the Stock Exchange Medallion Program (SEMP); or (iv) such other guaranty program acceptable to the Trustee.

Participant Name and Number

OPTION TO ELECT REPURCHASE
UPON A FUNDAMENTAL CHANGE

To: PDL BioPharma, Inc.

The undersigned registered owner of this Security hereby irrevocably acknowledges receipt of a notice from PDL BioPharma, Inc. (the "Company") as to the occurrence of a Fundamental Change with respect to the Company and requests and instructs the Company to redeem the entire principal amount of this Security, or the portion thereof (which is $1,000 or an integral multiple thereof) below designated, in accordance with the terms of the Indenture referred to in this Note at the Fundamental Change Repurchase Price, together with accrued interest to, but excluding, such date, to the registered Holder hereof.

Dated: _____

_____

Signature(s)

Signature(s) must be guaranteed by a qualified guarantor institution with membership in an approved signature guarantee program pursuant to Rule 17Ad-15 under the Securities Exchange Act of 1934.

_____

Signature Guaranty

Principal amount to be redeemed
(in an integral multiple of $1,000, if less than all):

_____

NOTICE: The signature to the foregoing Election must correspond to the name as written upon the face of this Security in every particular, without alteration or any change whatsoever.

_____

Participant Name and Number

SCHEDULE OF EXCHANGES OF SECURITY[3]

The following exchanges, redemptions, repurchases or conversions of a part of this global Note have been made:

Principal Amount of this Global Security Following Such Decrease Date of Exchange (or Increase)	Authorized Signatory of Securities Custodian	Amount of Decrease in Principal Amount of this Global Security	Amount of Increase in Principal Amount of this Global Security

[3] This schedule should be included only if the Security is a Global Security.

EXHIBIT B

CERTIFICATE TO BE DELIVERED UPON EXCHANGE OR REGISTRATION OF TRANSFER OF TRANSFER RESTRICTED SECURITIES(4)

Re: 2.875% Convertible Senior Securities due February 15, 2015 (the "Securities") of PDL BioPharma, Inc.

This certificate relates to $ principal amount of Securities owned in (check applicable box)

☐ book-entry or ☐ definitive form by (the "Transferor").

The Transferor has requested a Registrar or the Trustee to exchange or register the transfer of such Securities.

In connection with such request and in respect of each such Security, the Transferor does hereby certify that the Transferor is familiar with transfer restrictions relating to the Securities as provided in Section 2.12 of the Indenture dated as of October [ ], 2010 between PDL BioPharma, Inc. and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Indenture"), and the transfer of such Security is being made pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "Securities Act") (check applicable box) or the transfer or exchange, as the case may be, of such Security does not require registration under the Securities Act because (check applicable box):

☐ Such Security is being transferred pursuant to an effective registration statement under the Securities Act.

☐ Such Security is being transferred outside the United States in an offshore transaction in accordance with Rule 904 under the Securities Act.

☐ Such Security is being acquired for the Transferor's own account, without transfer.

☐ Such Security is being transferred to the Company or a Subsidiary (as defined in the Indenture) of the Company.

☐ Such Security is being transferred to a person the Transferor reasonably believes is a "qualified institutional buyer" (as defined in Rule 144A or any successor provision thereto ("Rule 144A") under the Securities Act) that is purchasing for its own account or for the account of a "qualified institutional buyer", in each case to whom notice has been given that the transfer is being made in reliance on such Rule 144A, and in each case in reliance on Rule 144A.

(4) This certificate should only be included if this Security is a Transfer Restricted Security.

☐ Such Security is being transferred pursuant to and in compliance with an exemption from the registration requirements under the Securities Act in accordance with Rule 144 (or any successor thereto) ("Rule 144") under the Securities Act.

☐ Such Security is being transferred pursuant to and in compliance with an exemption from the registration requirements of the Securities Act (other than an exemption referred to above) and as a result of which such Security will, upon such transfer, cease to be a "restricted security" within the meaning of Rule 144 under the Securities Act.

Date: _____

_____
(Insert Name of Transferor)

EXCHANGE AGREEMENT

_____ (including any other persons or entities exchanging Existing Notes hereunder for whom the undersigned Holder holds contractual and investment authority, the "**Holder**") enters into this Exchange Agreement (the "**Agreement**") with PDL BioPharma, Inc. (the "**Company**") on _____, 2010 whereby the Holder will exchange (the "**Exchange**") the Company's 2.00% Convertible Senior Notes due 2012 (the "**Existing Notes**") for the Company's new _____% Convertible Senior Notes due 2015 (the "**New Notes**") that will be issued pursuant to the provisions of an Indenture dated as of _____, 2010 (the "**Indenture**") between the Company and The Bank of New York Mellon Trust Company, N.A., as Trustee (the "**Trustee**").

On and subject to the terms hereof, the parties hereto agree as follows:

Article I: Exchange of the Existing Notes for New Notes

Subject to the terms set forth in this Agreement at the Closing (as defined herein), the Holder hereby agrees to exchange and deliver to the Company the following Existing Notes, and in exchange therefor the Company hereby agrees to issue to the Holder the principal amount of New Notes described below and to pay in cash the following accrued but unpaid interest on such Existing Notes:

Principal Amount of Existing Notes to be Exchanged: $ _____
(the "**Exchanged Notes**").

Principal Amount of New Notes to be Issued in the Exchange: $ _____
(the "**Holder's New Notes**").

Cash Payment of Accrued but Unpaid Interest on Exchanged Notes: $ _____
(the "**Cash Payment**").

The closing of the Exchange (the "**Closing**") shall occur on a date (the "**Closing Date**") no later than three business days after the date of this Agreement. At the Closing, (a) the Holder shall deliver or cause to be delivered to the Company all right, title and interest in and to the Exchanged Notes free and clear of any mortgage, lien, pledge, charge, security interest, encumbrance, title retention agreement, option, equity or other adverse claim thereto (collectively, "**Liens**"), together with any documents of conveyance or transfer that the Company may deem necessary or desirable to transfer to and confirm in the Company all right, title and interest in and to the Exchanged Notes free and clear of any Liens, and (b) the Company shall issue to the Holder the Holder's New Notes and shall deliver to the Holder the Cash Payment; provided, however, that the parties acknowledge that the issuance of the Holder's New Notes to the Holder may be delayed due to procedures and mechanics within the system of the Depository Trust Company and that such delay will not be a default under this Agreement so long as (i) the Company is using its best efforts to effect the issuance of one or more global notes representing the New Notes, (ii) such delay is no longer than three business days, and (iii) interest shall accrue on such New Notes from the date of the Indenture. Simultaneously with or after the Closing, the Company may issue New Notes to one or more other holders of outstanding Existing Notes or to other investors, subject to the terms of the Indenture.

Article II: Covenants, Representations and Warranties of the Holder

The Holder hereby covenants as follows, and makes the following representations and warranties, each of which is and shall be true and correct on the date hereof and at the Closing, to the Company, Lazard Frères & Co. LLC and Lazard Capital Markets LLC, and all such covenants, representations and warranties shall survive the Closing.

Section 2.1 **Power and Authorization.** The Holder is duly organized, validly existing and in good standing, and has the power, authority and capacity to execute and deliver this Agreement, to perform its obligations hereunder, and to consummate the Exchange contemplated hereby. If the Holder that is signatory hereto is executing this Agreement to effect the exchange of Exchanged Notes beneficially owned by one or more other persons or entities (who are thus included in the definition of "Holder" hereunder), (a) such signatory Holder has all requisite discretionary and contractual authority to enter into this Agreement on behalf of, and bind, each such other person or entity that is a beneficial owner of Exchanged Notes, and (b) Exhibit A hereto is a true, correct and complete list of (i) the name of each party delivering (as beneficial owner) Exchanged Notes hereunder, (ii) the principal amount of such Holder's Exchanged Notes, (iii) the principal amount of Holder's New Notes to be issued to such Holder in respect of its Exchanged Notes, and (iv) the amount of the cash payment to be made to such Holder in respect of the accrued interest on its Exchanged Notes.

Section 2.2 **Valid and Enforceable Agreement; No Violations.** This Agreement has been duly executed and delivered by the Holder and constitutes a legal, valid and binding obligation of the Holder, enforceable against the Holder in accordance with its terms, except that such enforcement may be subject to (a) bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or other similar laws affecting or relating to enforcement of creditors' rights generally, and (b) general principles of equity, whether such enforceability is considered in a proceeding at law or in equity (the "**Enforceability Exceptions**"). This Agreement and consummation of the Exchange will not violate, conflict with or result in a breach of or default under (i) the Holder's organizational documents, (ii) any agreement or instrument to which the Holder is a party or by which the Holder or any of its assets are bound, or (iii) any laws, regulations or governmental or judicial decrees, injunctions or orders applicable to the Holder.

Section 2.3 **Title to the Exchanged Notes.** The Holder is the sole legal and beneficial owner of the Exchanged Notes. The Holder has good, valid and marketable title to the Exchanged Notes, free and clear of any Liens (other than pledges or security interests that the Holder may have created in favor of a prime broker under and in accordance with its prime brokerage agreement with such broker). The Holder has not, in whole or in part, except as described in the preceding sentence, (a) assigned, transferred, hypothecated, pledged, exchanged or otherwise disposed of any of the Exchanged Notes or its rights in the Exchanged Notes, or (b) given any person or entity any transfer order, power of attorney or other authority of any nature whatsoever with respect to the Exchanged Notes. Upon the Holder's delivery of the Exchanged Notes to the Company pursuant to the Exchange, the Exchanged Notes shall be free and clear of all Liens created by the Holder.

Section 2.4 **Accredited Investor.** The Holder is an "accredited investor" within the meaning of Rule 501 of Regulation D ("**Regulation D**") promulgated under the Securities Act of 1933, as amended (the "**Securities Act**").

Section 2.5 **No Affiliate Status.** The Holder is not, and has not been during the consecutive three month period preceding the date hereof, a director, officer or "affiliate" within the meaning of Rule 144 promulgated under the Securities Act (an "**Affiliate**") of the Company. To its knowledge, the Holder did not acquire any of the Exchanged Notes, directly or indirectly, from an Affiliate of the Company.

Section 2.6 **No Illegal Transactions.** The Holder has not, directly or indirectly, and no person acting on behalf of or pursuant to any understanding with the Holder has, engaged in any transactions in the securities of the Company (including, without limitation, any Short Sales (as defined below) involving any of the Company's securities) since the time that such Holder was first contacted by either the Company, Lazard Frères & Co. LLC or Lazard Capital Markets LLC or any other person regarding an investment in the New Notes or the Company. Such Holder covenants that neither it nor any person acting on its behalf or pursuant to any understanding with such Holder will engage, directly or indirectly, in any transactions in the securities of the Company (including Short Sales) prior to the time the transactions contemplated by this Agreement are publicly disclosed. "**Short Sales**" include, without limitation, all "short sales" as defined in Rule 200 of Regulation SHO promulgated under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), and all types of direct and indirect stock pledges, forward sale contracts, options, puts, calls, short sales, swaps, derivatives and similar arrangements (including on a total return basis), and sales and other transactions through non-U.S. broker-dealers or foreign regulated brokers. Solely for purposes of this Section 2.6, subject to the Holder's compliance with its obligations under the U.S. federal securities laws and the Holder's internal policies, "Holder" shall not be deemed to include any subsidiaries or affiliates of the Holder that are effectively walled off by appropriate "Chinese Wall" information barriers approved by the Holder's legal or compliance department (and thus have not been privy to any information concerning the Exchange).

Section 2.7 **Adequate Information; No Reliance.** The Holder acknowledges and agrees that (a) the Holder has been furnished with all materials it considers relevant to making an investment decision to enter into the Exchange and has had the opportunity to review the Company's filings with the Securities and Exchange Commission (the "**SEC**"), including, without limitation, all filings made pursuant to the Exchange Act, (b) the Holder has had a full opportunity to ask questions of the Company concerning the Company, its business, operations, financial performance, financial condition and prospects, and the terms and conditions of the Exchange, (c) the Holder has had the opportunity to consult with its accounting, tax, financial and legal advisors to be able to evaluate the risks involved in the exchange of the Existing Notes pursuant hereto and to make an informed investment decision with respect to such Exchange and (d) the Holder is not relying, and has not relied, upon any statement, advice (whether accounting, tax, financial, legal or other), representation or warranty made by the Company or any of its affiliates or representatives including, without limitation, Lazard Frères & Co. LLC and Lazard Capital Markets LLC, except for (A) the publicly available filings made by the Company with the SEC under the Exchange Act, and (B) the representations and warranties made by the Company in this Agreement.

Section 2.8 **No Public Market.** The Holder understands that no public market exists for the New Notes, and that there is no assurance that a public market will ever develop for the New Notes.

Article III: Covenants, Representations and Warranties of the Company

The Company hereby covenants as follows, and makes the following representations and warranties, each of which is and shall be true and correct on the date hereof and at the Closing, to the Holder, Lazard Frères & Co. LLC and Lazard Capital Markets LLC, and all such covenants, representations and warranties shall survive the Closing.

Section 3.1 **Power and Authorization.** The Company is duly incorporated, validly existing and in good standing under the laws of its state of incorporation, and has the power, authority and capacity to execute and deliver this Agreement and the Indenture, to perform its obligations hereunder and thereunder, and to consummate the Exchange contemplated hereby.

Section 3.2 **Valid and Enforceable Agreements; No Violations.** This Agreement has been duly executed and delivered by the Company and constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except that such enforcement may be subject to the Enforceability Exceptions. At the Closing, the Indenture, substantially in the form of Exhibit B hereto, will have been duly executed and delivered by the Company and will govern the terms of the New Notes, and the Indenture will constitute a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except that such enforcement may be subject to the Enforceability Exceptions. This Agreement, the Indenture and consummation of the Exchange will not violate, conflict with or result in a breach of or default under (i) the charter, bylaws or other organizational documents of the Company, (ii) any agreement or instrument to which the Company is a party or by which the Company or any of its assets are bound, or (iii) any laws, regulations or governmental or judicial decrees, injunctions or orders applicable to the Company.

Section 3.3 **Validity of the Holder's New Notes.** The Holder's New Notes have been duly authorized by the Company and, when executed and authenticated in accordance with the provisions of the Indenture and delivered to the Holder pursuant to the Exchange against delivery of the Exchanged Notes in accordance with the terms of this Agreement, the Holder's New Notes will be valid and binding obligations of the Company, enforceable in accordance with their terms, except that such enforcement may be subject to the Enforceability Exceptions, and the issuance of the Holder's New Notes will not be subject to any preemptive, participation, rights of first refusal or other similar rights. Assuming the accuracy of the Holder's representations and warranties hereunder, the Holder's New Notes (a) will be issued in the Exchange exempt from the registration requirements of the Securities Act pursuant to Section 4(2) of the Securities Act and Rule 506 of Regulation D, (b) will be free of any restrictions on resale by the Holder pursuant to Rule 144 promulgated under the Securities Act, and (c) will be issued in compliance with all applicable state and federal laws concerning the issuance of the Holder's New Notes.

Section 3.4 **Validity of Underlying Common Stock.** The Holder's New Notes will be convertible into shares of the Company's common stock, par value $0.01 per share (the "**Conversion Shares**") in accordance with the terms of the Indenture. The Conversion Shares have been duly authorized and reserved by the Company for issuance upon conversion of the Holder's New Notes and, when issued upon conversion of the Holder's New Notes in accordance with the terms of the Holder's New Notes and the Indenture, will be validly issued, fully paid and non-assessable, and the issuance of the Conversion Shares will not be subject to any preemptive, participation, rights of first refusal or other similar rights.

Section 3.5 **Listing Approval.** At the Closing Date, the Conversion Shares shall be listed on the NASDAQ Stock Market.

Section 3.6 **Disclosure.** On or before the first business day following the date of this Agreement, the Company shall issue a publicly available press release or file with the SEC a Current Report on Form 8-K disclosing all material terms of the Exchange and certain other matters concerning the Company (to the extent not previously publicly disclosed).

Article IV: Miscellaneous

Section 4.1 **Entire Agreement.** This Agreement and any documents and agreements executed in connection with the Exchange embody the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersede all prior and contemporaneous oral or written agreements, representations, warranties, contracts, correspondence, conversations, memoranda and understandings between or among the parties or any of their agents, representatives or affiliates relative to such subject matter, including, without limitation, any term sheets, emails or draft documents.

Section 4.2 **Construction.** References in the singular shall include the plural, and vice versa, unless the context otherwise requires. References in the masculine shall include the feminine and neuter, and vice versa, unless the context otherwise requires. Headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meanings of the provisions hereof. Neither party, nor its respective counsel, shall be deemed the drafter of this Agreement for purposes of construing the provisions of this Agreement, and all language in all parts of this Agreement shall be construed in accordance with its fair meaning, and not strictly for or against either party.

Section 4.3 **Governing Law.** This Agreement shall in all respects be construed in accordance with and governed by the substantive laws of the State of New York, without reference to its choice of law rules.

Section 4.4 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Any counterpart or other signature hereon delivered by facsimile shall be deemed for all purposes as constituting good and valid execution and delivery of this Agreement by such party.

[Signature Page Follows]

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed as of the date first above written.

"HOLDER":	**"COMPANY"**:
_____	**PDL BIOPHARMA, INC.**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

EXHIBIT A
Exchanging Beneficial Owners

Name of Beneficial Owner	Principal Amount of Exchanged Notes	Principal Amount of Holder's New Notes	Cash Interest Payment

EXHIBIT B
Form of Indenture

PRIVATE PLACEMENT PURCHASE AGREEMENT

_____ (including any other persons or entities purchasing Notes (as defined below) hereunder for whom the undersigned Holder holds contractual and investment authority, the "**Holder**") enters into this Private Placement Purchase Agreement (the "**Agreement**") with PDL BioPharma, Inc. (the "**Company**") on _____, 2010 whereby the Holder will purchase (the "**Purchase**") a portion of the Company's _____% Convertible Senior Notes due 2015 (the "**Notes**") that will be issued pursuant to the provisions of an Indenture dated as of _____, 2010 between the Company and The Bank of New York Mellon Trust Company, N.A., as Trustee (the "**Trustee**"), as it may be supplemented or amended from time to time (the "**Indenture**").

On and subject to the terms hereof, the parties hereto agree as follows:

Article I: Purchase of Notes

Subject to the terms set forth in this Agreement, the Holder hereby agrees to purchase from the Company, and the Company hereby agrees to issue and sell to the Holder, the following principal amount of the Notes for the cash purchase price specified below:

Principal Amount of Notes to be Purchased: $_____ (the "**Purchased Notes**").

Purchase Price: _____% of the principal amount of the Purchased Notes ($_____) (the "**Purchase Price**").

The closing of the Purchase (the "**Closing**") shall occur on a date (the "**Closing Date**") no later than three business days after the date of this Agreement. At the Closing, (a) the Holder shall deliver or cause to be delivered to the Company the Purchase Price, and (b) the Company shall issue to the Holder the Purchased Notes; provided, however, that the parties acknowledge that the issuance of the Purchased Notes to the Holder may be delayed due to procedures and mechanics within the system of the Depository Trust Company and that such delay will not be a default under this Agreement so long as (i) the Company is using its best efforts to effect the issuance of one or more global notes representing the Purchased Notes, (ii) such delay is no longer than three business days, and (iii) interest shall accrue on such Purchased Notes from the Closing Date. Simultaneously with or after the Closing, the Company may issue Notes to one or more other investors.

Article II: Covenants, Representations and Warranties of the Company

The Company hereby covenants as follows, and makes the following representations and warranties, each of which is and shall be true and correct on the date hereof and on the Closing Date, to the Holder, Lazard Frères & Co. LLC and Lazard Capital Markets LLC, and all such covenants, representations and warranties shall survive the Purchase.

Section 2.1 **Power and Authorization.** The Company is duly incorporated, validly existing and in good standing, and has the power, authority and capacity to execute and deliver this Agreement and the Indenture, to perform its obligations hereunder and thereunder, and to consummate the Purchase contemplated hereby.

Section 2.2 **Valid and Enforceable Agreements; No Violations.** This Agreement has been duly executed and delivered by the Company and constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except that such enforcement may be subject to (a) bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or other similar laws affecting or relating to enforcement of creditors' rights generally, and (b) general principles of equity, whether such enforceability is considered in a proceeding at law or in equity (the "**Enforceability Exceptions**"). At the Closing, the Indenture, substantially in the form of Exhibit A hereto, will have been duly executed and delivered by the Company and will govern the terms of the Purchased Notes, and will constitute a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except that such enforcement may be subject to the Enforceability Exceptions. This Agreement, the Indenture and consummation of the Purchase will not violate, conflict with or result in a breach of or default under (i) the charter, bylaws or other organizational documents of the Company, (ii) any agreement or instrument to which the Company is a party or by which the Company or any of its assets are bound, or (iii) any laws, regulations or governmental or judicial decrees, injunctions or orders applicable to the Company.

Section 2.3 **Validity of the Purchased Notes.** The Purchased Notes have been duly authorized by the Company and, when executed and authenticated in accordance with the provisions of the Indenture and delivered to the Holder pursuant to the Purchase in accordance with the terms of this Agreement, the Purchased Notes will be valid and binding obligations of the Company, enforceable in accordance with their terms, except that such enforcement may be subject to the Enforceability Exceptions, and the issuance of the Purchased Notes will not be subject to any preemptive, participation, rights of first refusal or other similar rights. Assuming the accuracy of the Holder's representations and warranties hereunder, the Purchased Notes (a) will be issued in the Purchase exempt from the registration requirements of the Securities Act of 1933, as amended (the "**Securities Act**") pursuant to Section 4(2) of the Securities Act and Rule 506 of Regulation D promulgated under the Securities Act, and (b) will be issued in compliance with all applicable state and federal laws concerning the issuance of the Purchased Notes.

Section 2.4 **Validity of Underlying Common Stock.** The Purchased Notes will be convertible into shares (the "**Conversion Shares**") of the Company's common stock, par value $0.01 per share (the "**Common Stock**"), in accordance with the terms of the Purchased Notes. The Conversion Shares have been duly authorized and reserved by the Company for issuance upon conversion of the Purchased Notes and, when issued upon conversion of the Purchased Notes in accordance with the terms of the Purchased Notes and the Indenture, will be validly issued, fully paid and non-assessable, and the issuance of the Conversion Shares will not be subject to any preemptive, participation, rights of first refusal or other similar rights.

Section 2.5 **Listing Approval.** At the Closing Date, the Conversion Shares shall be listed on the NASDAQ Stock Market.

Section 2.6 **Disclosure.** On or before the first business day following the date of this Agreement, the Company shall issue a publicly available press release or file with the Securities and Exchange Commission (the "**SEC**") a Current Report on Form 8-K disclosing all material terms of the Purchase and certain other matters concerning the Company (to the extent not previously publicly disclosed).

Article III: Covenants, Representations and Warranties of the Holder

The Holder hereby covenants as follows, and makes the following representations and warranties, each of which is and shall be true and correct on the date hereof and on the Closing Date, to the Company, Lazard Frères & Co. LLC and Lazard Capital Markets LLC, and all such covenants, representations and warranties shall survive the Purchase.

Section 3.1 **Power and Authorization.** The Holder is duly organized, validly existing and in good standing, and has the power, authority and capacity to execute and deliver this Agreement, to perform its obligations hereunder, and to consummate the Purchase contemplated hereby. If the Holder that is signatory hereto is executing this Agreement to effect the purchase of Notes by one or more other persons or entities (who are thus included in the definition of "Holder" hereunder), (a) such signatory Holder has all requisite discretionary and contractual authority to enter into this Agreement on behalf of, and bind, each such other person or entity that is acquiring Purchased Notes, and (b) Exhibit B hereto is a true, correct and complete list of (i) the name of each party acquiring (as beneficial owner) Purchased Notes hereunder, and (ii) the principal amount of Purchased Notes being acquired by such Holder.

Section 3.2 **Valid and Enforceable Agreement; No Violations.** This Agreement has been duly executed and delivered by the Holder and constitutes a legal, valid and binding obligation of the Holder, enforceable against the Holder in accordance with its terms, except that such enforcement may be subject to the Enforceability Exceptions. This Agreement and consummation of the Purchase will not violate, conflict with or result in a breach of or default under (i) the Holder's organizational documents, (ii) any agreement or instrument to which the Holder is a party or by which the Holder or any of its assets are bound, or (iii) any laws, regulations or governmental or judicial decrees, injunctions or orders applicable to the Holder.

Section 3.3 **Qualified Institutional Buyer.** The Holder is a "qualified institutional buyer" within the meaning of Rule 144A promulgated under the Securities Act.

Section 3.4 **Restricted Stock.** The Holder (a) acknowledges that the issuance of the Purchased Notes pursuant to the Purchase, and the issuance of any of the Conversion Shares upon conversion of the Purchased Notes, have not been and will not be registered under the Securities Act or any state securities laws, and the Purchased Notes and Conversion Shares are being offered and sold in reliance upon exemptions provided in the Securities Act and state securities laws for transactions not involving any public offering and, therefore, cannot be sold, transferred, offered for sale, pledged, hypothecated or otherwise disposed of unless they are subsequently registered and qualified under the Securities Act and applicable state laws or unless an exemption from such registration and qualification is available, and that evidence of the Purchased Notes and Conversion Shares will bear a legend to such effect, and (b) is purchasing the Purchased Notes and Conversion Shares for investment purposes only, for the account of the Holder and not with any view toward a distribution thereof or with any intention of selling, distributing or otherwise disposing of the Purchased Notes or Conversion Shares in a manner that would violate the registration requirements of the Securities Act. The Holder is able to bear the economic risk of holding the Purchased Notes and Conversion Shares for an indefinite period and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risks of its investment in the Purchased Notes and Conversion Shares. The Holder has received all such information regarding the Purchase and the Purchased Notes and Conversion Shares as it deems necessary to make a decision with respect to the Purchase.

Section 3.5 **No Affiliate Status.** The Holder is not, and has not been during the consecutive three month period preceding the date hereof, a director, officer or "affiliate" within the meaning of Rule 144 promulgated under the Securities Act (an "**Affiliate**") of the Company.

Section 3.6 **No Illegal Transactions.** The Holder has not, directly or indirectly, and no person acting on behalf of or pursuant to any understanding with the Holder has, engaged in any transactions in the securities of the Company (including, without limitation, any Short Sales (as defined below) involving any of the Company's securities) since the time that such Holder was first contacted by either the Company, Lazard Frères & Co. LLC or Lazard Capital Markets LLC or any other person regarding an investment in the Purchased Notes or the Company. Such Holder covenants that neither it nor any person acting on its behalf or pursuant to any understanding with such Holder will engage, directly or indirectly, in any transactions in the securities of the Company (including Short Sales) prior to the time the transactions contemplated by this Agreement are publicly disclosed. "**Short Sales**" include, without limitation, all "short sales" as defined in Rule 200 of Regulation SHO promulgated under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), and all types of direct and indirect stock pledges, forward sale contracts, options, puts, calls, short sales, swaps, derivatives and similar arrangements (including on a total return basis), and sales and other transactions through non-U.S. broker-dealers or foreign regulated brokers. Solely for purposes of this Section 3.6, subject to the Holder's compliance with its obligations under the U.S. federal securities laws and the Holder's internal policies, "Holder" shall not be deemed to include any subsidiaries or affiliates of the Holder that are effectively walled off by appropriate "Chinese Wall" information barriers approved by the Holder's legal or compliance department (and thus have not been privy to any information concerning the Purchase).

Section 3.7 **Adequate Information; No Reliance.** The Holder acknowledges and agrees that (a) the Holder has been furnished with all materials it considers relevant to making an investment decision to enter into the Purchase and has had the opportunity to review the Company's filings with the SEC, including, without limitation, all filings made pursuant to the Exchange Act, (b) the Holder has had a full opportunity to ask questions of the Company concerning the Company, its business, operations, financial performance, financial condition and prospects, and the terms and conditions of the Purchase, (c) the Holder has had the opportunity to consult with its accounting, tax, financial and legal advisors to be able to evaluate the risks involved in the exchange of the Existing Notes pursuant hereto and to make an informed investment decision with respect to such Purchase and (d) the Holder is not relying, and has not relied, upon any statement, advice (whether accounting, tax, financial, legal or other), representation or warranty made by the Company or any of its affiliates or representatives including, without limitation, Lazard Frères & Co. LLC and Lazard Capital Markets LLC, except for (A) the publicly available filings made by the Company with the SEC under the Exchange Act, and (B) the representations and warranties made by the Company in this Agreement.

Section 3.8 **No Public Market.** The Holder understands that no public market exists for the Purchased Notes, and that there is no assurance that a public market will ever develop for the Purchased Notes.

Article IV: Miscellaneous

Section 4.1 **Entire Agreement.** This Agreement and any documents and agreements executed in connection with the Purchase embody the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersede all prior and contemporaneous oral or written agreements, representations, warranties, contracts, correspondence, conversations, memoranda and understandings between or among the parties or any of their agents, representatives or affiliates relative to such subject matter, including, without limitation, any term sheets, emails or draft documents.

Section 4.2 **Construction.** References in the singular shall include the plural, and vice versa, unless the context otherwise requires. References in the masculine shall include the feminine and neuter, and vice versa, unless the context otherwise requires. Headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meanings of the provisions hereof. Neither party, nor its respective counsel, shall be deemed the drafter of this Agreement for purposes of construing the provisions of this Agreement, and all language in all parts of this Agreement shall be construed in accordance with its fair meaning, and not strictly for or against either party.

Section 4.3 **Governing Law.** This Agreement shall in all respects be construed in accordance with and governed by the substantive laws of the State of New York, without reference to its choice of law rules.

Section 4.4 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Any counterpart or other signature hereon delivered by facsimile shall be deemed for all purposes as constituting good and valid execution and delivery of this Agreement by such party.

[Signature Page Follows]

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed as of the date first above written.

"HOLDER":	**"COMPANY"**:
_____	**PDL BIOPHARMA, INC.**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

EXHIBIT B
Purchasing Beneficial Owners

Name of Beneficial Owner	Principal Amount of Purchased Notes

EXCHANGE AND PURCHASE AGREEMENT
(Restricted Convertible Notes)

_____ (including any other persons or entities exchanging Existing Notes (as defined below) or purchasing New Notes (as defined below) hereunder for whom the undersigned Holder holds contractual and investment authority, the "**Holder**") enters into this Exchange and Purchase Agreement (the "**Agreement**") with PDL BioPharma, Inc., a Delaware corporation (the "**Company**"), on _____, 2010 whereby the Holder will (a) exchange (the "**Exchange**") the Company's 2.00% Convertible Senior Notes due 2012 (the "**Existing Notes**") for a portion of the Company's new _____% Convertible Senior Notes due 2015 (the "**New Notes**") that will be issued pursuant to the provisions of an Indenture dated as of _____, 2010 (the "**Indenture**") between the Company and The Bank of New York Mellon Trust Company, N.A., as Trustee (the "**Trustee**"), and (b) purchase for cash (the "**Purchase**") an additional portion of the New Notes.

On and subject to the terms hereof, the parties hereto agree as follows:

Article I: Exchange of Existing Notes and Purchase of New Notes

Section 1.1 **Exchange.** At the Closing (as defined herein), the Holder hereby agrees to exchange and deliver to the Company the following Existing Notes, and in exchange therefor the Company hereby agrees to issue to the Holder the principal amount of New Notes described below and to pay in cash the following accrued but unpaid interest on such Existing Notes:

Principal Amount of Existing Notes to be Exchanged: $_____
(the "**Exchanged Existing Notes**").

Principal Amount of New Notes to be Issued in the Exchange: $_____
(the "**Exchanged New Notes**").

Cash Payment of Accrued but Unpaid Interest on Exchanged Existing Notes: $_____
(the "**Cash Payment**").

Section 1.2 **Purchase.** At the Closing (as defined herein), the Holder hereby agrees to purchase from the Company, and the Company hereby agrees to issue and sell to the Holder, the following principal amount of the Notes for the cash purchase price specified below:

Principal Amount of Notes to be Purchased: $_____
(the "**Purchased New Notes**")

Purchase Price for Purchased New Notes: _____% of the principal amount of the Purchased New Notes ($_____) (the "**Purchase Price**").

Section 1.3 **Closing.** The closing (the "**Closing**") of the Exchange and Purchase (collectively, the "**Transactions**") shall occur on a date (the "**Closing Date**") no later than three business days after the date of this Agreement. At the Closing, (a) the Holder shall deliver or cause to be delivered to the Company all right, title and interest in and to the Exchanged Existing Notes free and clear of any mortgage, lien, pledge, charge, security interest, encumbrance, title retention agreement, option, equity or other adverse claim thereto (collectively, "**Liens**"), together with any documents of conveyance or transfer that the Company may deem necessary or desirable to transfer to and confirm in the Company all right, title and interest in and to the Exchanged Existing Notes free and clear of any Liens and the Purchase Price, and (b) the Company shall issue to the Holder the Exchanged New Notes and the Purchased New Notes (collectively, the "**Holder's New Notes**") and shall deliver to the Holder the Cash Payment; provided, however, that the parties acknowledge that the issuance of the Holder's New Notes to the Holder may be delayed due to procedures and mechanics within the system of the Depository Trust Company and that such delay will not be a default under this Agreement so long as (i) the Company is using its best efforts to effect the issuance of one or more global notes representing the New Notes, (ii) such delay is no longer than three business days, and (iii) interest shall accrue on such New Notes from the Closing Date. Simultaneously with or after the Closing, the Company may issue New Notes to one or more other holders of outstanding Existing Notes or to other investors.

Article II: Covenants, Representations and Warranties of the Holder

The Holder hereby covenants as follows, and makes the following representations and warranties, each of which is and shall be true and correct on the date hereof and on the Closing Date, to the Company, Lazard Frères & Co. LLC and Lazard Capital Markets LLC, and all such covenants, representations and warranties shall survive the Closing.

Section 2.1 **Power and Authorization.** The Holder is duly organized, validly existing and in good standing, and has the power, authority and capacity to execute and deliver this Agreement, to perform its obligations hereunder, and to consummate the Transactions contemplated hereby. If the Holder that is signatory hereto is executing this Agreement to effect the exchange of Exchanged Existing Notes beneficially owned by one or more other persons or entities or to effect the purchase of the Purchased New Notes by one or more other persons or entities (all of whom are thus included in the definition of "Holder" hereunder), (a) such signatory Holder has all requisite discretionary authority to enter into this Agreement on behalf of, and bind, each such other person or entity that is a beneficial owner of Exchanged Existing Notes or that is purchasing Purchased New Notes; (b) Exhibit A hereto is a true, correct and complete list of (i) the name of each party delivering (as beneficial owner) Exchanged Existing Notes hereunder, (ii) the principal amount of such Holder's Exchanged Existing Notes, (iii) the principal amount of Exchanged New Notes to be issued to such Holder in respect of its Exchanged Existing Notes, and (iv) the amount of the cash payment to be made to such Holder in respect of the accrued interest on its Exchanged Existing Notes; and (c) Exhibit B hereto is a true, correct and complete list of (i) the name of each party acquiring (as beneficial owner) Purchased New Notes hereunder, and (ii) the principal amount of Purchased New Notes being acquired by such Holder.

Section 2.2 **Valid and Enforceable Agreement; No Violations.** This Agreement has been duly executed and delivered by the Holder and constitutes a legal, valid and binding obligation of the Holder, enforceable against the Holder in accordance with its terms, except that such enforcement may be subject to (a) bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or other similar laws affecting or relating to enforcement of creditors' rights generally, and (b) general principles of equity, whether such enforceability is considered in a proceeding at law or in equity (the "**Enforceability Exceptions**"). This Agreement and consummation of the Transactions will not violate, conflict with or result in a breach of or default under (i) the Holder's organizational documents, (ii) any agreement or instrument to which the Holder is a party or by which the Holder or any of its assets are bound, or (iii) any laws, regulations or governmental or judicial decrees, injunctions or orders applicable to the Holder.

Section 2.3 **Title to the Exchanged Existing Notes.** The Holder is the sole legal and beneficial owner of the Exchanged Existing Notes, and the Holder has good, valid and marketable title to the Exchanged Existing Notes, free and clear of any Liens (other than pledges or security interests that the Holder may have created in favor of a prime broker under and in accordance with its prime brokerage agreement with such broker). The Holder has not, in whole or in part, except as described in the preceding sentence, (a) assigned, transferred, hypothecated, pledged, exchanged or otherwise disposed of any of the Exchanged Existing Notes or its rights in the Exchanged Existing Notes, or (b) given any person or entity any transfer order, power of attorney or other authority of any nature whatsoever with respect to the Exchanged Existing Notes. Upon the Holder's delivery of the Exchanged Existing Notes to the Company pursuant to the Exchange, the Exchanged Existing Notes shall be free and clear of all Liens created by the Holder.

Section 2.4 **Qualified Institutional Buyer.** The Holder is a "qualified institutional buyer" within the meaning of Rule 144A promulgated under the Securities Act of 1933, as amended (the "**Securities Act**").

Section 2.5 **No Affiliate Status.** The Holder is not, and has not been during the consecutive three month period preceding the date hereof, a director, officer or "affiliate" within the meaning of Rule 144 promulgated under the Securities Act (an "**Affiliate**") of the Company.

Section 2.6 **Restricted Stock.** The Holder (a) acknowledges that the issuance of all the Holder's New Notes pursuant to the Transactions (whether in the Exchange or the Purchase), and the issuance of any of the shares of the Company's common stock, par value $0.01 per share (the "**Common Stock**"), upon conversion of the Holder's New Notes (the "**Conversion Shares**"), have not been and will not be registered under the Securities Act or any state securities laws, and the Holder's New Notes and Conversion Shares are being offered and sold in reliance upon exemptions provided in the Securities Act and state securities laws for transactions not involving any public offering and, therefore, cannot be sold, transferred, offered for sale, pledged, hypothecated or otherwise disposed of unless they are subsequently registered and qualified under the Securities Act and applicable state laws or unless an exemption from such registration and qualification is available, and that evidence of the Holder's New Notes and Conversion Shares will bear a legend to such effect, and (b) is acquiring the Holder's New Notes and Conversion Shares for investment purposes only, for the account of the Holder and not with any view toward a distribution thereof or with any intention of selling, distributing or otherwise disposing of the Holder's New Notes or Conversion Shares in a manner that would violate the registration requirements of the Securities Act. The Holder is able to bear the economic risk of holding the Holder's New Notes and Conversion Shares for an indefinite period and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risks of its investment in the Holder's New Notes and Conversion Shares.

Section 2.7 **No Illegal Transactions.** The Holder has not, directly or indirectly, and no person acting on behalf of or pursuant to any understanding with the Holder has, engaged in any transactions in the securities of the Company (including, without limitation, any Short Sales (as defined below) involving any of the Company's securities) since the time that such Holder was first contacted by either the Company, Lazard Frères & Co. LLC or Lazard Capital Markets LLC or any other person regarding an investment in the New Notes or the Company. Such Holder covenants that neither it nor any person acting on its behalf or pursuant to any understanding with such Holder will engage, directly or indirectly, in any transactions in the securities of the Company (including Short Sales) prior to the time the transactions contemplated by this Agreement are publicly disclosed. "**Short Sales**" include, without limitation, all "short sales" as defined in Rule 200 of Regulation SHO promulgated under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), and all types of direct and indirect stock pledges, forward sale contracts, options, puts, calls, short sales, swaps, derivatives and similar arrangements (including on a total return basis), and sales and other transactions through non-U.S. broker-dealers or foreign regulated brokers. Solely for purposes of this Section 2.7, subject to the Holder's compliance with its obligations under the U.S. federal securities laws and the Holder's internal policies, "Holder" shall not be deemed to include any subsidiaries or affiliates of the Holder that are effectively walled off by appropriate "Chinese Wall" information barriers approved by the Holder's legal or compliance department (and thus have not been privy to any information concerning the Transactions).

Section 2.8 **Adequate Information; No Reliance.** The Holder acknowledges and agrees that (a) the Holder has been furnished with all materials it considers relevant to making an investment decision to enter into the Transactions and to invest in the Holder's New Notes and Conversion Shares and has had the opportunity to review the Company's filings with the Securities and Exchange Commission (the "**SEC**"), including, without limitation, all filings made pursuant to the Exchange Act, (b) the Holder has had a full opportunity to ask questions of the Company concerning the Company, its business, operations, financial performance, financial condition and prospects, and the terms and conditions of the Transactions, (c) the Holder has had the opportunity to consult with its accounting, tax, financial and legal advisors to be able to evaluate the risks involved in the Transactions and to make an informed investment decision with respect to the Transactions and (d) the Holder is not relying, and has not relied, upon any statement, advice (whether accounting, tax, financial, legal or other), representation or warranty made by the Company or any of its affiliates or representatives including, without limitation, Lazard Frères & Co. LLC and Lazard Capital Markets LLC, except for (A) the publicly available filings made by the Company with the SEC under the Exchange Act, and (B) the representations and warranties made by the Company in this Agreement.

Section 2.9 **No Public Market.** The Holder understands that no public market exists for the New Notes, and that there is no assurance that a public market will ever develop for the New Notes.

Article III: Covenants, Representations and Warranties of the Company

The Company hereby covenants as follows, and makes the following representations and warranties, each of which is and shall be true and correct on the date hereof and on the Closing Date, to the Holder, Lazard Frères & Co. LLC and Lazard Capital Markets LLC, and all such covenants, representations and warranties shall survive the Closing.

Section 3.1 **Power and Authorization.** The Company is duly incorporated, validly existing and in good standing under the laws of its state of incorporation, and has the power, authority and capacity to execute and deliver this Agreement and the Indenture, to perform its obligations hereunder and thereunder, and to consummate the Transactions contemplated hereby.

Section 3.2 **Valid and Enforceable Agreements; No Violations.** This Agreement has been duly executed and delivered by the Company and constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except that such enforcement may be subject to the Enforceability Exceptions. At the Closing, the Indenture, substantially in the form of Exhibit C hereto, will have been duly executed and delivered by the Company and will govern the terms of the Holder's New Notes, and will constitute a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except that such enforcement may be subject to the Enforceability Exceptions. This Agreement, the Indenture and consummation of the Transactions will not violate, conflict with or result in a breach of or default under (i) the charter, bylaws or other organizational documents of the Company, (ii) any agreement or instrument to which the Company is a party or by which the Company or any of its assets are bound, or (iii) any laws, regulations or governmental or judicial decrees, injunctions or orders applicable to the Company

Section 3.3 **Validity of the Holder's New Notes.** The Holder's New Notes have been duly authorized by the Company and, when executed and authenticated in accordance with the provisions of the Indenture and delivered to the Holder pursuant to the Transactions against delivery of the Exchanged Existing Notes and payment of the Purchase Price in accordance with the terms of this Agreement, the Holder's New Notes will be valid and binding obligations of the Company, enforceable in accordance with their terms, except that such enforcement may be subject to the Enforceability Exceptions, and the issuance of the Holder's New Notes will not be subject to any preemptive, participation, rights of first refusal and other similar rights. Assuming the accuracy of the Holder's representations and warranties hereunder, the Holder's New Notes (a) will be issued in the Transactions exempt from the registration requirements of the Securities Act pursuant to Section 4(2) of the Securities Act and Rule 506 of Regulation D promulgated under the Securities Act, and (b) will be issued in compliance with all applicable state and federal laws concerning the issuance of the Holder's New Notes.

Section 3.4 **Validity of Underlying Common Stock .** The Holder's New Notes will be convertible into the Conversion Shares in accordance with the terms of the Indenture. The Conversion Shares have been duly authorized and reserved by the Company for issuance upon conversion of the Holder's New Notes and, when issued upon conversion of the Holder's New Notes in accordance with the terms of the Holder's New Notes and the Indenture, will be validly issued, fully paid and non-assessable, and the issuance of the Conversion Shares will not be subject to any preemptive, participation, rights of first refusal and other similar rights.

Section 3.5 **Listing Approval.** At the Closing Date, the Conversion Shares shall be listed on the NASDAQ Stock Market.

Section 3.6 **Disclosure.** On or before the first business day following the date of this Agreement, the Company shall issue a publicly available press release or file with the SEC a Current Report on Form 8-K disclosing all material terms of the Transactions and certain other matters concerning the Company (to the extent not previously publicly disclosed).

Article IV: Miscellaneous

Section 4.1 **Entire Agreement.** This Agreement and any documents and agreements executed in connection with the Transactions embody the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersede all prior and contemporaneous oral or written agreements, representations, warranties, contracts, correspondence, conversations, memoranda and understandings between or among the parties or any of their agents, representatives or affiliates relative to such subject matter, including, without limitation, any term sheets, emails or draft documents.

Section 4.2 **Construction.** References in the singular shall include the plural, and vice versa, unless the context otherwise requires. References in the masculine shall include the feminine and neuter, and vice versa, unless the context otherwise requires. Headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meanings of the provisions hereof. Neither party, nor its respective counsel, shall be deemed the drafter of this Agreement for purposes of construing the provisions of this Agreement, and all language in all parts of this Agreement shall be construed in accordance with its fair meaning, and not strictly for or against either party.

Section 4.3 **Governing Law.** This Agreement shall in all respects be construed in accordance with and governed by the substantive laws of the State of New York, without reference to its choice of law rules.

Section 4.4 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Any counterpart or other signature hereon delivered by facsimile shall be deemed for all purposes as constituting good and valid execution and delivery of this Agreement by such party.

[Signature Page Follows]

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed as of the date first above written.

"HOLDER":	**"COMPANY"**:
_____	**PDL BIOPHARMA, INC.**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

EXHIBIT A
Exchanging Beneficial Owners

Name of Beneficial Owner	Principal Amount of Exchanged Existing Notes	Principal Amount of Exchanged New Notes	Cash Interest Payment

EXHIBIT B
Purchasing Beneficial Owners

Name of Beneficial Owner	Principal Amount of Purchased New Notes

EXHIBIT C
Form of Indenture

CONFIDENTIAL DRAFT

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PDL BioPharma Announces Exchange to Retire a Portion of 2.00% Convertible Senior Notes due February 15, 2012

INCLINE VILLAGE, NV, October 27, 2010 – PDL BioPharma, Inc. (PDL, the Company) (NASDAQ: PDLI) today announced that it has entered into separate privately negotiated exchange agreements under which it will retire $92.0 million in aggregate principal of the Company's outstanding 2.00% Convertible Senior Notes due February 15, 2012 (the 2012 Notes). Pursuant to the exchange agreements, the holders of the 2012 Notes will receive $92.0 million in aggregate principal of new 2.875% Convertible Senior Notes due February 15, 2015 (the 2015 Notes). Following the exchange, $136.0 million of the 2012 Notes will remain outstanding.

The Company also announced that it entered into privately negotiated agreements to place an additional $88.0 million in aggregate principal amount of the 2015 Notes for cash. The net cash proceeds from the issuance of such 2015 Notes will be used for corporate, capital management and business development purposes. The shares of the Company's common stock issuable upon the conversion of the 2015 Notes have been reserved for issuance by the Company and listed on the NASDAQ Stock Market.

The issuance of the 2015 Notes will not be registered under the Securities Act of 1933, as amended, in reliance on exemption from registration thereunder.

No Solicitation

This press release does not constitute an offer to sell, or a solicitation of an offer to buy, any security and shall not constitute an offer, solicitation or sale in any jurisdiction in which such offering would be unlawful.

About PDL BioPharma

PDL pioneered the humanization of monoclonal antibodies and, by doing so, enabled the discovery of a new generation of targeted treatments for cancer and immunologic diseases. PDL is focused on maximizing the value of its antibody humanization patents and related assets. The Company receives royalties on sales of a number of humanized antibody products marketed by leading pharmaceutical and biotechnology companies today based on patents which expire in late 2014. For more information, please visit www.pdl.com.

Forward-Looking Statements

This press release contains forward-looking statements. Each of these forward-looking statements involves risks and uncertainties. Actual results may differ materially from those, express or implied, in these forward-looking statements. Factors that may cause differences between current expectations and actual results include, but are not limited to, the following:

- The expected rate of growth in royalty-bearing product sales by PDL's existing licensees;
- The relative mix of royalty-bearing Genentech products manufactured and sold outside the U.S. versus manufactured or sold in the U.S.;
- The ability of our licensees to receive regulatory approvals to market and launch new royalty-bearing products and whether such products, if launched, will be commercially successful;
- Changes in any of the other assumptions on which PDL's projected royalty revenues are based;
- The outcome of pending litigation or disputes; and
- The failure of licensees to comply with existing license agreements, including any failure to pay royalties due.

Other factors that may cause PDL's actual results to differ materially from those expressed or implied in the forward-looking statements in this press release are discussed in PDL's filings with the SEC, including the "Risk Factors" section of its annual and quarterly reports filed with the SEC. Copies of PDL's filings with the SEC may be obtained at the "Investors" section of PDL's website at www.pdl.com. PDL expressly disclaims any obligation or undertaking to release publicly any updates or revisions to any forward-looking statements contained herein to reflect any change in PDL's expectations with regard thereto or any change in events, conditions or circumstances on which any such statements are based for any reason, except as required by law, even as new information becomes available or other events occur in the future. All forward-looking statements in this press release are qualified in their entirety by this cautionary statement.