

DEVON ENERGY CORP/DE

FORM 8-K (Current report filing)

Filed 07/12/00 for the Period Ending 07/11/00

Address	333 W. SHERIDAN AVENUE OKLAHOMA CITY, OK 73102
Telephone	4055528183
CIK	0001090012
Symbol	DVN
SIC Code	1311 - Crude Petroleum and Natural Gas
Fiscal Year	12/31

DEVON ENERGY CORP/DE

FORM 8-K (Unscheduled Material Events)

Filed 7/12/2000 For Period Ending 7/11/2000

Address	20 N BROADWAY STE 1500 OKLAHOMA CITY, Oklahoma 73102
Telephone	405-235-3611
CIK	0001090012
Industry	Oil & Gas Operations
Sector	Energy
Fiscal Year	12/31

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): JULY 11, 2000

DEVON ENERGY CORPORATION

(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

DELAWARE	001-30176	73-1567067
(STATE OR OTHER JURISDICTION	(COMMISSION FILE NUMBER)	(IRS EMPLOYER
OF INCORPORATION OR		IDENTIFICATION NUMBER)
ORGANIZATION)		

20 NORTH BROADWAY, SUITE 1500, OKLAHOMA CITY, OK 73102
(ADDRESS OF PRINCIPAL EXECUTIVE OFFICES) (ZIP CODE)

REGISTRANT'S TELEPHONE NUMBER, INCLUDING AREA CODE: (405) 235-3611

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ITEM 5. Other Events

On May 25, 2000, the Company entered into an Agreement and Plan of Merger (the "Merger Agreement") with Devon Merger Co., a Delaware corporation and a direct and wholly-owned subsidiary of the Company, and Santa Fe Snyder Corporation, a Delaware corporation. On July 11, 2000, the parties to the Merger Agreement amended Section 7.1(a)(ii) of the Merger Agreement. A copy of the amendment to the Merger Agreement is filed as an exhibit to this report and is incorporated in this report by reference.

On June 27, 2000, the Company issued \$760,000,000 principal amount at maturity of Zero Coupon Convertible Senior Debentures due 2020 pursuant to an Indenture entered into with The Bank of New York, as trustee. The issue price was \$464.13 for each \$1,000.00 in face value, which will provide gross proceeds to the Company of approximately \$346 million. The issue price represents a yield-to-maturity of 3.875 percent per annum. The initial conversion rate is 5.7593 shares per \$1,000.00 face value, subject to adjustment in certain circumstances. The debentures can be put to the Company on the fifth, tenth and fifteenth anniversaries of the issue date at the issue price plus the accrued original issue discount and can be paid in cash or stock or a combination of both at the Company's option. The debentures are callable by the Company any time after five years at the issue price plus accrued original issue discount through the date of call. The Company has agreed to register for resale the debentures and the common stock issuable upon conversion or repurchase of the debentures, pursuant to a Registration Rights Agreement dated as of June 22, 2000 between the Company and the initial purchasers of the debentures. Copies of the Indenture and Registration Rights Agreement are filed as exhibits to this report and are incorporated in this report by reference.

This announcement is not, and is not to be deemed, an offer to sell the Zero Coupon Convertible Senior Debentures or the common stock underlying such securities to any party.

On June 22, 2000, the Company filed a registration statement on Form S-4 with unconformed forms of Consent of Director Nominee, attached as Exhibits 99.4, 99.5, 99.6 and 99.7, to be executed and conformed and filed by amendment. A copy of each such conformed Consent of Director Nominee is filed as an exhibit to this report and is incorporated in this report by reference.

ITEM 7. Financial Statements and Exhibits

(c) Exhibits

2.1 Amendment No. One to Agreement and Plan of Merger by and among Devon Energy Corporation, Devon Merger Co. and Santa Fe Snyder Corporation dated as of May 25, 2000, dated as of July 11, 2000

4.1 Registration Rights Agreement dated as of June 22, 2000 between Devon Energy Corporation and the initial purchasers

4.2 Indenture dated as of June 27, 2000 between Devon Energy Corporation and The Bank of New York, as Trustee

99.1 Consent of Director Nominee

99.2 Consent of Director Nominee

99.3 Consent of Director Nominee
99.4 Consent of Director Nominee

SIGNATURES

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

DEVON ENERGY CORPORATION

By: /s/ Duke R. Ligon

Duke R. Ligon
Senior Vice President and General Counsel

Date: July 12, 2000

AMENDMENT NO. ONE

TO

AGREEMENT AND PLAN OF MERGER

BY AND AMONG

**DEVON ENERGY CORPORATION, DEVON MERGER CO.
AND SANTA FE SNYDER CORPORATION**

DATED AS OF MAY 25, 2000

DATED AS OF JULY 11, 2000

**AMENDMENT NO. ONE
TO
AGREEMENT AND PLAN OF MERGER**

THIS AMENDMENT NO. ONE TO AGREEMENT AND PLAN OF MERGER, dated as of July 11, 2000 ("Amendment No. One"), amends the Agreement and Plan of Merger (the "Agreement") dated as of May 25, 2000 among Devon Energy Corporation, a Delaware corporation ("Devon"), Devon Merger Co., a Delaware corporation and direct and wholly-owned subsidiary of Devon ("Merger Co.") and Santa Fe Snyder Corporation, a Delaware corporation ("Santa Fe Snyder").

Section 7.1(a)(ii) is hereby amended to read in its entirety as follows:

"(ii) a majority of the outstanding shares of Devon Common Stock and the Northstar Exchangeable Shares, voting as a single class with the Devon Special Voting Stock voting for the Northstar Exchangeable Shares as provided in Devon's charter, represented in person or by proxy at a meeting at which a quorum is present."

No further changes are made to the Agreement.

IN WITNESS WHEREOF, the parties have executed this Amendment No. One and caused the same to be duly delivered on their behalf on the day and year first written above.

DEVON ENERGY CORPORATION

By /s/ Duke R. Ligon

Name: Duke R. Ligon
Title: Senior Vice President and General Counsel

DEVON MERGER CO.

By /s/ Duke R. Ligon

Name: Duke R. Ligon
Title: Vice President

SANTA FE SNYDER CORPORATION

By /s/ Dave Hicks

Name: Dave Hicks
Title: Vice President - Law and General Counsel

REGISTRATION RIGHTS AGREEMENT

Dated as of June 22, 2000

By and Among

DEVON ENERGY CORPORATION,

as Issuer,

and

[Intentionally Omitted]

and

[Intentionally Omitted]

as Initial Purchasers

Zero Coupon Convertible Senior Debentures due 2020

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REGISTRATION RIGHTS AGREEMENT

PREAMBLE

This Registration Rights Agreement (the "AGREEMENT") is dated as of June 22, 2000, by and among DEVON ENERGY CORPORATION, a Delaware corporation (the "COMPANY"), [Intentionally Omitted] and [Intentionally Omitted] (collectively, the "INITIAL PURCHASERS").

RECITALS

This Agreement is entered into in connection with the Purchase Agreement, dated today (the "PURCHASE AGREEMENT"), by and among the Company and the Initial Purchasers, which provides for the sale by the Company to the Initial Purchasers of \$760,000,000 aggregate principal amount at maturity of the Company's Zero Coupon Convertible Senior Debentures due 2020 (the "FIRM DEBENTURES"), which are convertible into common stock of the Company, par value \$0.10 per share (the "UNDERLYING SHARES"), plus up to an additional \$220,000,000 aggregate principal amount at maturity of debentures which the Initial Purchasers may subsequently elect to purchase pursuant to the terms of the Purchase Agreement (the "ADDITIONAL DEBENTURES" and together with the Firm Debentures, the "CONVERTIBLE DEBENTURES"). The Convertible Debentures are being issued pursuant to an indenture to be dated as of June 27, 2000 (the "INDENTURE"), between the Company and The Bank of New York, as trustee (the "TRUSTEE").

In order to induce the Initial Purchasers to enter into the Purchase Agreement, the Company has agreed to provide the registration rights set forth in this Agreement for the benefit of the Initial Purchasers and any subsequent holder or holders of the Convertible Debentures or Underlying Shares as provided herein. The execution and delivery of this Agreement is a condition to the Initial Purchasers' obligations to purchase the Firm Debentures under the Purchase Agreement.

AGREEMENT

The parties hereby agree as follows:

1. DEFINITIONS

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

ADDITIONAL DEBENTURES: Has the meaning given such term in the Recitals.

AGREEMENT: Has the meaning given such term in the Preamble.

AMOUNT OF REGISTRABLE SECURITIES: (a) With respect to Convertible Debentures constituting Registrable Securities, the aggregate principal amount at maturity of all such Convertible Debentures outstanding, (b) with respect to Underlying Shares constituting

Registrable Securities, the aggregate number of such Underlying Shares outstanding multiplied by the Conversion Price (as defined in the Indenture relating to the Convertible Debentures upon the conversion of which such Underlying Shares were issued) in effect at the time of computing the Amount of Registrable Securities or, if no such Convertible Debentures are then outstanding, the last Conversion Price that was in effect under such Indenture when any such Convertible Debentures were last outstanding, and (c) with respect to combinations thereof, the sum of (a) and (b) for the relevant Registrable Securities.

BOARD: The Board of Directors of the Company.

BUSINESS DAY: Any day that is not a Saturday, Sunday or a day on which banking institutions in New York are authorized or required by law to be closed.

CLOSING DATE: June 27, 2000.

COMPANY: Has the meaning given such term in the Preamble.

CONVERTIBLE DEBENTURES: Has the meaning given such term in the Recitals.

DAMAGES PAYMENT DATE: See Section 3(c) hereof.

DEPOSITARY: The Depository Trust Company until a successor is appointed by the Company.

EFFECTIVENESS DATE: The 180th day after the Closing Date.

EFFECTIVENESS PERIOD: See Section 2(a) hereof.

EXCHANGE ACT: The Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

HOLDER: Any holder owner of a beneficial interest in Registrable Securities.

INDEMNIFIED HOLDER: See Section 6 hereof.

INDEMNIFIED PERSON: See Section 6 hereof.

INDEMNIFYING PERSON: See Section 6 hereof.

INDENTURE: has the meaning given such term in the Recitals.

INITIAL PURCHASERS: has the meaning given such term in the Preamble.

INITIAL SHELF REGISTRATION: See Section 2(a) hereof.

INSPECTORS: See Section 4(n) hereof.

LIQUIDATED DAMAGES: See Section 3(a) hereof.

NASD: See Section 4(q) hereof.

PERSON: An individual, partnership, corporation, limited liability company, unincorporated association, trust or joint venture, or a governmental agency or political subdivision thereof.

PROSPECTUS: The prospectus included in any Registration Statement (including, without limitation, any prospectus subject to completion and a prospectus that includes any information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A promulgated under the Securities Act), as amended or supplemented by any prospectus supplement, and all other amendments and supplements to the Prospectus, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference in such Prospectus.

PURCHASE AGREEMENT: has the meaning given such term in the Recitals.

QIU: See Section 4(q) hereof.

RECORDS: See Section 4(n) hereof.

REGISTRABLE SECURITIES: All Convertible Debentures and all Underlying Shares upon original issuance thereof and at all times subsequent thereto until the earliest to occur of (i) a Registration Statement covering such Convertible Debentures and Underlying Shares having been declared effective by the SEC and such Convertible Debentures and Underlying Shares having been disposed of in accordance with such effective Registration Statement, (ii) such Convertible Debentures and Underlying Shares having been sold in compliance with Rule 144 or could (except with respect to affiliates of the Company within the meaning of the Securities Act) be sold in compliance with Rule 144 (k), or (iii) such Convertible Debentures and any Underlying Shares ceasing to be outstanding.

REGISTRATION DEFAULT: See Section 3(a) hereof.

REGISTRATION STATEMENT: Any registration statement of the Company filed with the SEC pursuant to the provisions of this Agreement, including the Prospectus, amendments and supplements to such registration statement, including post-effective amendments, all exhibits and all material incorporated by reference or deemed to be incorporated by reference in such registration statement.

RULE 144: Rule 144 promulgated under the Securities Act, as such Rule may be amended from time to time, or any similar rule (other than Rule 144A) or regulation hereafter adopted by the SEC providing for offers and sales of securities made in compliance therewith resulting in offers and sales by subsequent holders that are not affiliates of an issuer of such securities being free of the registration and prospectus delivery requirements of the Securities Act.

RULE 144A: Rule 144A promulgated under the Securities Act, as such Rule may be amended from time to time, or any similar rule (other than Rule 144) or regulation hereafter adopted by the SEC.

RULE 415: Rule 415 promulgated under the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the SEC.

SEC: The Securities and Exchange Commission.

SECURITIES ACT: The Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

SHELF REGISTRATION: See Section 2(b) hereof.

SHELF REGISTRATION STATEMENT: See Section 2(b) hereof.

SUBSEQUENT SHELF REGISTRATION: See Section 2(b) hereof.

TIA: The Trust Indenture Act of 1939, as amended, and the rules and regulations of the SEC promulgated thereunder.

TRUSTEE: has the meaning given such term in the Recitals.

UNDERLYING SHARES: has the meaning given such term in the Recitals.

UNDERWRITTEN REGISTRATION OR UNDERWRITTEN OFFERING: A registration in which securities of the Company are sold to an underwriter for reoffering to the public.

2. SHELF REGISTRATION

(a) SHELF REGISTRATION. As soon as practicable after the Closing Date, the Company shall use its reasonable best efforts to file with the SEC a Registration Statement for an offering to be made on a continuous basis pursuant to Rule 415 covering all of the Registrable Securities (the "INITIAL SHELF REGISTRATION"). The Initial Shelf Registration shall be on Form S-3 or another appropriate form permitting registration of such Registrable Securities for resale by Holders in the manner or manners designated by them (including, without limitation, one but only one underwritten offering). The Company shall not permit any securities other than the Registrable Securities to be included in the Initial Shelf Registration or any Subsequent Shelf Registration (as defined below).

The Company shall use its reasonable best efforts to cause the Initial Shelf Registration to be declared effective under the Securities Act on or prior to the Effectiveness Date and to keep such Initial Shelf Registration continuously effective under the Securities Act until the date that is two years from the Closing Date (as it may be shortened pursuant to clause (i) or clause (ii) immediately following, the "EFFECTIVENESS PERIOD"), or such shorter period ending when (i) all Registrable Securities covered by the Initial Shelf Registration have been sold in the manner set forth and as contemplated in the Initial Shelf Registration, (ii) the date on which all the Registrable Securities (x) held by Persons who are not affiliates of the Company may be resold pursuant to Rule 144(k) under the Securities Act or (y) cease to be outstanding, or (iii) a Subsequent Shelf Registration covering all of the Registrable Securities has been declared effective under the Securities Act.

(b) **SUBSEQUENT SHELF REGISTRATIONS.** If the Initial Shelf Registration or any Subsequent Shelf Registration ceases to be effective for any reason at any time during the Effectiveness Period (other than because of the sale of all of the securities registered thereunder), the Company shall use its reasonable best efforts to obtain the withdrawal of any order suspending the effectiveness thereof, and in any event shall within 45 days of such cessation of effectiveness amend the Initial Shelf Registration in a manner to obtain the withdrawal of the order suspending the effectiveness thereof, or file an additional "shelf" Registration Statement pursuant to Rule 415 covering all of the Registrable Securities (a "SUBSEQUENT SHELF REGISTRATION"). If a Subsequent Shelf Registration is filed, the Company shall use its reasonable best efforts to cause the Subsequent Shelf Registration to be declared effective under the Securities Act as soon as practicable after such filing and to keep such Registration Statement continuously effective for a period equal to the number of days in the Effectiveness Period less the aggregate number of days during which the Initial Shelf Registration or any Subsequent Shelf Registration was previously continuously effective. As used herein the term "SHELF Registration" means the Initial Shelf Registration and any Subsequent Shelf Registration and the term "SHELF REGISTRATION STATEMENT" means any Registration Statement filed in connection with a Shelf Registration.

(c) **SUPPLEMENTS AND AMENDMENTS.** The Company shall supplement and amend the Shelf Registration if required by the rules, regulations or instructions applicable to the registration form used for such Shelf Registration, if required by the Securities Act, or if reasonably requested by the Holders of the majority in Amount of Registrable Securities covered by such Registration Statement or by any underwriter of such Registrable Securities.

3. LIQUIDATED DAMAGES

(a) The Company and the Initial Purchaser agree that the Holders of Registrable Securities will suffer damages if the Company fails to fulfill its obligations under Section 2 hereof and that it would not be feasible to ascertain the extent of such damages with precision. Accordingly, the Company agrees to pay liquidated damages on the Registrable Securities at a rate of 0.50% per annum on the Amount of Registrable Securities ("LIQUIDATED DAMAGES") under the circumstances (each of which shall be given independent effect; each a "REGISTRATION DEFAULT"):

(i) if the Company fails to use its reasonable best efforts to cause the Initial Shelf Registration to be declared effective by the SEC on or prior to the Effectiveness Date, then commencing one day after the Effectiveness Date, Liquidated Damages shall accrue on the Registrable Securities; and

(ii) if a Shelf Registration has been declared effective and such Shelf Registration ceases to be effective at any time during the Effectiveness Period (other than as permitted under SECTION 2(b) or 3(b)), then Liquidated Damages shall accrue on the Registrable Securities;

PROVIDED, HOWEVER, that Liquidated Damages on the Registrable Securities may not accrue under more than one of the foregoing clauses (i) and (ii); PROVIDED, FURTHER, HOWEVER, that (1) upon the effectiveness of the Shelf Registration as required hereunder (in the case of clause (a)(i) of this

SECTION 3), or (2) upon the effectiveness of a Shelf Registration which had ceased to remain effective (in the case of (a)(ii) of this SECTION 3), Liquidated Damages on the Registrable Securities as a result of such clause (or the relevant subclause thereof), as the case may be, shall cease to accrue. It is understood and agreed that, notwithstanding any provision to the contrary, so long as any Registrable Security is then capable of being sold under an effective Shelf Registration Statement, no Liquidated Damages shall accrue on such Registrable Security.

(b) Notwithstanding paragraph (a) of this SECTION 3, if the Company determines in good faith that it is the best interest of the Company not to disclose the existence of or facts surrounding any proposed or pending material corporate transaction involving the Company or its subsidiaries and the Company notifies the selling Holders within two Business Days after such determination is made, the Company may suspend the effectiveness of a Shelf Registration as a result of such nondisclosure for up to 60 days in any three-month period but not in excess of 90 days in any twelve-month period, without paying Liquidated Damages.

(c) Any amounts of Liquidated Damages due pursuant to SECTION 3(a)(i) or 3(a)(ii) will be payable in cash semi-annually on each June 27 and December 27 (each a "DAMAGES PAYMENT DATE"), commencing with the first such date occurring after any such Liquidated Damages commences to accrue, to Holders of record on the June 15 or December 15 next preceding such Damages Payment Date with respect to Convertible Debentures that are Registrable Securities and to Persons that are Holders of record on the June 15 or December 15 next preceding such Damages Payment Date with respect to Underlying Shares that are Registrable Securities. The amount of Liquidated Damages for Registrable Securities will be determined on the basis of a 360-day year comprised of twelve 30-day months.

4. REGISTRATION PROCEDURES

In connection with the filing of any Registration Statement pursuant to SECTION 2 hereof, the Company shall effect such registrations to permit the sale of the securities covered thereby in accordance with the intended method or methods of disposition thereof, and pursuant thereto and in connection with any Registration Statement filed by the Company hereunder the Company shall:

(a) Prepare and file with the SEC a Registration Statement or Registration Statements as prescribed by SECTION 2 hereof, and use its reasonable best efforts to cause each such Registration Statement to become effective and remain effective as provided herein; PROVIDED, HOWEVER, that before filing any Registration Statement or Prospectus or any amendments or supplements thereto, the Company shall furnish to and afford the Holders of the Registrable Securities covered by such Registration Statement and the managing underwriters, if any, a reasonable opportunity to review copies of all such documents proposed to be filed (in each case, where possible, at least five Business Days prior to such filing, or such later date as is reasonable under the circumstances). The Company shall not file any Registration Statement or Prospectus or any amendments or supplements thereto if the Holders of a majority in Amount of Registrable Securities covered by such Registration Statement or the managing underwriters, if any, shall reasonably object.

(b) Prepare and file with the SEC such amendments and post-effective amendments to each Shelf Registration, as may be necessary to keep such Registration Statement continuously effective for the Effectiveness Period; cause the related Prospectus to be supplemented by any Prospectus supplement required by applicable law, and as so supplemented to be filed pursuant to Rule 424 (or any similar provisions then in force) promulgated under the Securities Act; and comply with the provisions of the Securities Act and the Exchange Act applicable to it with respect to the disposition of all securities covered by such Registration Statement as so amended or in such Prospectus as so supplemented. The Company shall be deemed not to have used its reasonable best efforts to keep a Registration Statement effective during the Effectiveness Period if it voluntarily takes any action that would result in selling Holders of the Registrable Securities covered thereby not being able to sell such Registrable Securities during such period unless such action is required by applicable law or unless the Company complies with this Agreement, including without limitation the provisions of SECTION 4(k) hereof.

(c) Notify the selling Holders of Registrable Securities and the managing underwriters, if any, as promptly as reasonably practicable (i) when a Prospectus or any prospectus supplement or post-effective amendment has been filed, and, with respect to a Registration Statement or any post-effective amendment, when the same has become effective under the Securities Act (including in such notice a written statement that any Holder may, upon request, obtain, at the sole expense of the Company, one conformed copy of such Registration Statement or post-effective amendment including financial statements and schedules, documents incorporated or deemed to be incorporated by reference and exhibits), (ii) of the issuance by the SEC of any stop order suspending the effectiveness of a Registration Statement or of any order preventing or suspending the use of any preliminary prospectus or the initiation of any proceedings for that purpose, (iii) of the happening of any event, the existence of any condition or any information becoming known that makes any statement made in such Registration Statement or related Prospectus or any document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires the making of any changes in or amendments or supplements to such Registration Statement, Prospectus or documents so that, in the case of the Registration Statement, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, and that in the case of the Prospectus, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading and (iv) of the Company's determination that a post-effective amendment to a Registration Statement would be appropriate.

(d) Use its reasonable best efforts to prevent the issuance of any order suspending the effectiveness of a Registration Statement or of any order preventing or suspending the use of a Prospectus and, if any such order is issued, to use its reasonable best efforts to obtain the withdrawal of any such order at the earliest possible moment.

(e) If requested by the managing underwriter or underwriters, if any, or the Holders of the majority in Amount of Registrable Securities being sold in connection

with an underwritten offering (i) as soon as reasonably practicable incorporate in a prospectus supplement or post-effective amendment such information as the managing underwriter or underwriters, if any, or such Holders reasonably determine is necessary to be included therein, (ii) make all required filings of such prospectus supplement or such post-effective amendment as soon as reasonably practicable after the Company has received notification of the matters to be incorporated in such prospectus supplement or post-effective amendment and (iii) supplement or make amendments to such Registration Statement.

(f) Furnish to each selling Holder of Registrable Securities, a single counsel to such Holders (chosen in accordance with SECTION 5(b)) and each managing underwriter, if any, at the sole expense of the Company, one conformed copy of the Registration Statement or Registration Statements and each post-effective amendment thereto, including financial statements and schedules, and, if reasonably requested, all documents incorporated or deemed to be incorporated therein by reference and all exhibits.

(g) Deliver to each selling Holder of Registrable Securities, a single counsel to such Holders (chosen in accordance with SECTION 5(b)) and the underwriters, if any, at the sole expense of the Company, as many copies of the Prospectus (including each form of preliminary prospectus) and each amendment or supplement thereto and any documents incorporated by reference therein as such Persons may reasonably request; and, subject to the last paragraph of this SECTION 4, the Company hereby consents to the use of such Prospectus and each amendment or supplement thereto by each of the selling Holders of Registrable Securities and the underwriters or agents, if any, and dealers, if any, in connection with the offering and sale of the Registrable Securities covered by such Prospectus and any amendment or supplement thereto.

(h) Prior to any public offering of Registrable Securities, to use its reasonable best efforts to register or qualify, to the extent required by applicable law, and to cooperate with the selling Holders of Registrable Securities and the managing underwriter or underwriters, if any, in connection with the registration or qualification (or exemption from such registration or qualification) of such Registrable Securities or offer and sale under the securities or Blue Sky laws of such jurisdictions within the United States as any selling Holder, or the managing underwriter or underwriters, if any, reasonably request in writing; PROVIDED, HOWEVER, that where Registrable Securities are offered other than through an underwritten offering, the Company agrees to cause the Company's counsel to perform Blue Sky investigations and file registrations and qualifications required to be filed pursuant to this SECTION 4(h); keep each such registration or qualification (or exemption therefrom) effective during the period such Registration Statement is required to be kept effective and do any and all other acts or things reasonably necessary or advisable to enable the disposition in such jurisdictions of the Registrable Securities covered by the applicable Registration Statement; PROVIDED, HOWEVER, that the Company shall not be required to (A) qualify generally to do business in any jurisdiction where it is not then so qualified, (B) take any action that would subject it to general service of process in any such jurisdiction where it is not then so subject or

(C) subject itself to taxation in excess of a nominal dollar amount in any such jurisdiction where it is not then so subject.

(i) Cooperate in all reasonable respects with the selling Holders of Registrable Securities and the managing underwriter or underwriters, if any, to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold, which certificates shall not bear any restrictive legends and shall be in a form eligible for deposit with The Depository Trust Company; and enable such Registrable Securities to be in such denominations and registered in such names as the managing underwriter or underwriters, if any, or selling Holders may reasonably request.

(j) Use its reasonable best efforts to cause the Registrable Securities covered by any Shelf Registration Statement to be registered with or approved by such other governmental agencies or authorities as may be reasonably necessary to enable the seller or sellers thereof or the underwriter or underwriters, if any, to consummate the disposition of such Registrable Securities, except as may be required solely as a consequence of the nature of such selling Holder's business, in which case the Company will cooperate in all reasonable respects with the filing of such Registration Statement and the granting of such approvals.

(k) Upon the occurrence of any event contemplated by SECTION 4(c)(ii), 4(c)(iii) or 4(c)(iv) hereof, as promptly as practicable prepare and (subject to SECTION 4(a) hereof) file with the SEC, at the sole expense of the Company, a supplement or post-effective amendment to the Registration Statement or a supplement to the related Prospectus or any document incorporated or deemed to be incorporated therein by reference, or file any other required document so that, as thereafter delivered to the purchasers of the Registrable Securities being sold thereunder, any such Prospectus will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(l) Prior to the effective date of the Initial Registration Statement relating to the Registrable Securities, (i) provide the Trustee with certificates for the Registrable Securities in a form eligible for deposit with The Depository Trust Company and (ii) provide a CUSIP number for the Registrable Securities.

(m) In connection with any underwritten offering of Registrable Securities pursuant to a Shelf Registration, enter into an underwriting agreement as is customary in underwritten offerings of securities similar to the Registrable Securities and take all such other actions as are reasonably requested by the managing underwriter or underwriters in order to expedite or facilitate the registration or the disposition of such Registrable Securities and, in such connection,

(i) make such representations and warranties to, and covenants with, the underwriters with respect to the business of the Company and its subsidiaries (including any acquired business, properties or entity, if applicable) and the Registration Statement, Prospectus and documents, if any, incorporated or deemed to be incorporated by reference therein, in each case, as are customarily made by issuers to underwriters in underwritten offerings of securities similar to the Registrable Securities

and confirm the same in writing if and when requested; (ii) obtain the written opinion of counsel to the Company and written updates thereof in form, scope and substance reasonably satisfactory to the managing underwriter or underwriters, addressed to the underwriters covering the matters customarily covered in opinions requested in underwritten offerings of securities similar to the Registrable Securities and such other matters as may be reasonably requested by the managing underwriter or underwriters; and (iii) obtain "cold comfort" letters and updates thereof in form, scope and substance reasonably satisfactory to the managing underwriter or underwriters from the independent certified public accountants of the Company (and, if necessary, any other independent certified public accountants of any subsidiary of the Company or of any business acquired by the Company for which financial statements and financial data are, or are required to be, included or incorporated by reference in the Registration Statement), addressed to each of the underwriters, such letters to be in customary form and covering matters of the type customarily covered in "cold comfort" letters in connection with underwritten offerings of securities similar to the Registrable Securities and such other matters as reasonably requested by the managing underwriter or underwriters as permitted by the Statement on Auditing Standards No. 72. The above shall be done as and to the extent required by such underwriting agreement.

(n) Make available for inspection by any selling Holder of Registrable Securities, any underwriter participating in any such disposition of Registrable Securities, and any attorney, accountant or other agent retained by any such selling Holder, or underwriter (collectively, the "INSPECTORS"), at the offices where normally kept, during reasonable business hours and at such time or times as shall be mutually convenient for the Company and the Inspectors as a group, all financial and other records, pertinent corporate documents and instruments of the Company and its subsidiaries (collectively, the "RECORDS") as shall be reasonably necessary to enable them to exercise any applicable due diligence responsibilities, and cause the officers, directors and employees of the Company and its subsidiaries to supply all information reasonably requested by any such Inspector in connection with such Registration Statement. Records that the Company determines, in good faith, to be confidential and any Records that it notifies the Inspectors are confidential shall not be disclosed by any Inspector unless (i) the disclosure of such Records is necessary to avoid or correct a material misstatement or material omission in such Registration Statement, (ii) the release of such Records is ordered pursuant to a subpoena or other order from a court of competent jurisdiction, (iii) disclosure of such information is, in the opinion of counsel for any Inspector, necessary or advisable in connection with any action, claim, suit or proceeding, directly involving or potentially involving such Inspector and arising out of, based upon, relating to, or involving this Agreement or any transactions contemplated hereby or arising hereunder or (iv) the information in such Records has been made generally available to the public other than through the acts of such Inspector; PROVIDED, HOWEVER, that prior notice shall be provided as soon as practicable to the Company of the potential disclosure of any information by such Inspector pursuant to clauses (ii) or (iii) of this sentence to permit the Company to obtain a protective order (or waive the provisions of this paragraph (n)). Each Inspector shall take such actions as are reasonably necessary to protect the confidentiality of such information (if practicable) to the extent such actions are otherwise not inconsistent with, an impairment of, or in derogation of the rights and

interests of the Holder or any Inspector, unless and until such information in such Records has been made generally available to the public other than as a result of a breach of this Agreement.

(o) Provide (i) the Holders of the Registrable Securities to be included in such Registration Statement and not more than one counsel for all the Holders of such Registrable Securities chosen in accordance with SECTION 5(b), (ii) the underwriters (which term, for purposes of this Agreement, shall include a Person deemed to be an underwriter within the meaning of Section 2(11) of the Securities Act), if any, thereof, (iii) the sales or placement agent, if any, thereof, and (iv) one counsel for such underwriters or agents, reasonable opportunity to participate in the preparation of such Registration Statement, each prospectus included therein or filed with the SEC, and each amendment or supplement thereto.

(p) Comply with all applicable rules and regulations of the SEC and make generally available to its securityholders as soon as practicable after the effective date of the applicable Shelf Registration Statement an earning statements satisfying the provisions of Section 11(a) of the Securities Act (or otherwise provide in accordance with Section 11(a) of the Securities Act).

(q) Cooperate with each seller of Registrable Securities covered by any Registration Statement and each underwriter, if any, participating in the disposition of such Registrable Securities and their respective counsel in connection with any filings required to be made with the National Association of Securities Dealers, Inc. (the "NASD"), including, if the Conduct Rules of the NASD or any successor thereto as amended from time to time so require, engaging a "qualified independent underwriter" ("QIU") as contemplated therein and making Records available to such QIU as though it were a participating underwriter for the purposes of SECTION 4(n) and otherwise applying the provisions of this Agreement to such QIU (including indemnification) as though it were a participating underwriter.

(r) Cause the Indenture to be qualified under the TIA not later than the effective date of the first Registration Statement relating to the Registrable Securities; and in connection therewith, cooperate with the Trustee and the Holders of the Registrable Securities to effect such changes to the Indenture as may be required for the Indenture to be so qualified in accordance with the terms of the TIA; and execute, and use its reasonable best efforts to cause the Trustee to execute, all documents as may be required to effect such changes and all other forms and documents required to be filed with the SEC to enable the Indenture to be so qualified in a timely manner.

(s) Use its reasonable best efforts to take all other steps necessary or advisable to effect the registration of the Registrable Securities covered by a Registration Statement contemplated hereby.

The Company may require each seller of Registrable Securities as to which any registration is being effected to furnish to the Company such information regarding such seller and the distribution of such Registrable Securities as the Company may, from time to time,

reasonably request to the extent necessary or advisable to comply with the Securities Act. The Company may exclude from such registration the Registrable Securities of any seller if such seller fails to furnish such information within 20 Business Days after receiving such request. Each seller as to which any Shelf Registration is being effected agrees to furnish promptly to the Company all information required to be disclosed so that the information previously furnished to the Company by such seller is not materially misleading and does not omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances under which they were made.

Each Holder of Registrable Securities agrees by acquisition of such Registrable Securities that, upon actual receipt of any notice from the Company of the happening of any event of the kind described in SECTION 4(c)(ii), 4(c)(iii) or 4(c)(iv) hereof, such Holder will forthwith discontinue disposition of such Registrable Securities covered by such Registration Statement or Prospectus until such Holder's receipt of the copies of the supplemented or amended Prospectus contemplated by SECTION 4(k) hereof, or until it is advised in writing by the Company that the use of the applicable Prospectus may be resumed, and has received copies of any amendments or supplements thereto.

5. REGISTRATION EXPENSES

(a) All fees and expenses incident to the performance of or compliance with this Agreement by the Company shall be borne by the Company, including (i) all registration and filing fees (including (A) fees with respect to filings required to be made with the NASD in connection with an underwritten offering and (B) fees and expenses of compliance with state securities or Blue Sky laws (including reasonable fees and disbursements of counsel in connection with Blue Sky qualifications of the Registrable Securities and determination of the eligibility of the Registrable Securities for investment under the laws of such jurisdictions as provided in SECTION 4(h) hereof), (ii) printing expenses, including expenses of printing certificates for Registrable Securities in a form eligible for deposit with The Depository Trust Company and of printing prospectuses if the printing of prospectuses is requested by the managing underwriter or underwriters, if any, or by the Holders of the majority in Amount of Registrable Securities included in any Registration Statement, (iii) messenger, telephone and delivery expenses, (iv) fees and disbursements of counsel for the Company and reasonable fees and disbursements of one special counsel for the sellers of Registrable Securities (subject to the provisions of SECTION 5(b) hereof), (v) fees and disbursements of all independent certified public accountants referred to in SECTION 4(m)(iii) hereof (including the expenses of any special audit and "cold comfort" letters required by or incident to such performance), (vi) Securities Act liability insurance, if the Company desires such insurance, (vii) fees and expenses of all other Persons retained by the Company, (viii) internal expenses of the Company (including all salaries and expenses of officers and employees of the Company performing legal or accounting duties), (ix) the expense of any annual audit, (x) the fees and expenses incurred in connection with the listing of the securities to be registered on any securities exchange, if applicable, and (xi) the expenses relating to printing, word processing and distributing all Registration Statements, underwriting agreements, securities sales agreements and any other documents necessary in order to comply with this Agreement. Notwithstanding anything in this Agreement to the contrary, each Holder shall pay all underwriting discounts and brokerage commissions with respect to any Registrable Securities sold by it.

(b) The Company shall reimburse the Holders of the Registrable Securities being registered in a Shelf Registration for the reasonable fees and disbursements of not more than one counsel chosen by the Holders of a majority in Amount of Registrable Securities to be included in such Registration Statement.

6. INDEMNIFICATION

The Company agrees to indemnify and hold harmless (i) each Initial Purchaser, (ii) each Holder and (iii) each Person, if any, who controls (within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act) any of the foregoing (any of the Persons referred to in this clause (iii) being hereinafter referred to as a "controlling person" and any person referred to in clause (i), (ii) or (iii) may hereinafter be referred to as an "INDEMNIFIED HOLDER"), from and against any and all losses, claims, damages, liabilities and judgments (including, without limitation, reasonable legal fees and other expenses incurred in connection with any suit, action or proceeding or any claim asserted) caused by any untrue statement or alleged untrue statement of a material fact contained in any Registration Statement or Prospectus, or any amendment or supplement thereto or any related preliminary prospectus, or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such losses, claims, damages or liabilities are caused by any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with information relating to any Indemnified Holder furnished to the Company in writing by such Indemnified Holder expressly for use in therein; PROVIDED, HOWEVER, that the Company shall not be liable to any Indemnified Holder under the indemnity agreement of this paragraph with respect to any preliminary prospectus to the extent that any such loss, claim, damage, liability, judgment or expense of such Indemnified Holder results from the fact that such Indemnified Holder sold Registrable Securities under a Registration Statement to a Person as to whom it shall be established that there was not sent or given, at or prior to the written confirmation of such sale, a copy of the Prospectus (or of the preliminary prospectus as then amended or supplemented if the Company shall have furnished such Indemnified Holder with such amendment or supplement thereto on a timely basis), in any case where such delivery is required by applicable law and the loss, claim, damage, liability or expense of such Indemnified Holder results from an untrue statement or omission of a material fact contained in the preliminary prospectus which was corrected in the Prospectus (or in the preliminary prospectus as then amended or supplemented if the Company shall have furnished such Indemnified Holder with such amendment or supplement thereto, as the case may be, on a timely basis). The Company shall notify such Indemnified Holder promptly of the institution, threat or assertion of any claim, proceeding (including any governmental investigation) or litigation in connection with the matters addressed by this Agreement which involves the Company or such Indemnified Holder.

Each Holder agrees, severally and not jointly, to indemnify and hold harmless the Company, its directors, officers and each Person who controls the Company within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act to the same extent as the foregoing indemnity from the Company to each Holder, but only with reference to such losses, claims, damages or liabilities which are caused by any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with information relating to a Holder furnished to the Company in writing by such Holder expressly for use in any

If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against any Person in respect of which indemnity may be sought pursuant to either of the two preceding paragraphs, such Person (the "INDEMNIFIED PERSON") shall promptly notify the Person or Persons against whom such indemnity may be sought (each an "INDEMNIFYING PERSON") in writing, and such Indemnifying Person, upon request of the Indemnified Person, shall retain counsel reasonably satisfactory to the Indemnified Person to represent the Indemnified Person and any others entitled to indemnification pursuant to this SECTION 6 that the Indemnifying Person may designate in such proceeding and shall pay the fees and expenses of such counsel related to such proceeding. In any such proceeding, any Indemnified Person shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Indemnified Person unless (i) such Indemnifying Person and the Indemnified Person shall have mutually agreed to the contrary, (ii) such Indemnifying Person has failed within a reasonable time to retain counsel reasonably satisfactory to such Indemnified Person or (iii) the named parties in any such proceeding (including any impleaded parties) include an Indemnifying Person and an Indemnified Person and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood that an Indemnifying Person shall not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the fees and expenses of more than one separate firm (in addition to any local counsel) for all Indemnified Persons, and that all such fees and expenses shall be reimbursed as they are incurred. Any such separate firm for the Indemnified Holders shall be designated in writing by the Holders of the majority in Amount of Registrable Securities, and any such separate firm for the Company, its directors, respective officers and such control Persons of the Company shall be designated in writing by the Company. The Indemnifying Person shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, such Indemnifying Person agrees to indemnify any Indemnified Person from and against any loss or liability by reason of such settlement or judgment. No Indemnifying Person shall, without the prior written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding in respect of which any Indemnified Person is or could have been a party and indemnity could have been sought hereunder by such Indemnified Person, unless such settlement includes an unconditional release of such Indemnified Person from all liability on claims that are the subject matter of such proceeding.

If the indemnification provided for in the first and second paragraphs of this SECTION 6 is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then each Indemnifying Person under such paragraph, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by the Indemnifying Person on the one hand and the Indemnified Person on the other hand pursuant to the Purchase Agreement or from the offering of the Registrable Securities pursuant to any Shelf Registration or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above

but also the relative fault of the Indemnifying Person on the one hand and the Indemnified Person on the other in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and any Indemnified Holder on the other shall be deemed to be in the same proportion as the total net proceeds from the initial offering and sale of Convertible Debentures (before deducting expenses) received by the Company bear to the total net proceeds received by such Indemnified Holder from sales of Registrable Securities giving rise to such obligations. The relative fault of the parties shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or such Indemnified Holder and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

Each of the Company and the Initial Purchasers agrees that it would not be just and equitable if contribution pursuant to this SECTION 6 were determined by PRO RATA allocation or by any other method of allocation that does not take account of the equitable considerations referred to in the immediately preceding paragraph. The amount paid or payable by an Indemnified Person as a result of the losses, claims, damages and liabilities referred to in the immediately preceding paragraph shall be deemed to include, subject to the limitations set forth above, any legal or other expenses incurred by such Indemnified Person in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this SECTION 6, in no event shall any Holder be required to contribute any amount in excess of the amount by which the net proceeds received by such Holder from the sale of the Registrable Securities pursuant to a Shelf Registration Statement exceeds the amount of damages which such Holder would have otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation.

The remedies provided for in this SECTION 6 are not exclusive and shall not limit any rights or remedies that may otherwise be available to any indemnified party at law or in equity.

The indemnity and contribution agreements contained in this SECTION 6 shall remain operative and in full force and effect regardless of (i) any termination of this Agreement, (ii) any investigation made by or on behalf of any Holder or any Person controlling any Holder or by or on behalf of the Company, its officers or directors or any other Person controlling any of the Company and (iii) acceptance of and payment for any of the Registrable Securities.

7. RULES 144 AND 144A

The Company covenants that it will file the reports required to be filed by it under the Securities Act and the Exchange Act and the rules and regulations adopted by the SEC thereunder in a timely manner in accordance with the requirements of the Securities Act and the Exchange Act and, for so long as any Registrable Securities remain outstanding, if at any time the Company is not required to file such reports, it will, upon the request of any Holder or beneficial owner of Registrable Securities, make available such information necessary to permit

sales pursuant to Rule 144A under the Securities Act. The Company further covenants that, for so long as any Registrable Securities remain outstanding, it will use its reasonable best efforts to take such further action as any Holder of Registrable Securities may reasonably request, all to the extent required from time to time to enable such holder to sell Registrable Securities without registration under the Securities Act within the limitation of the exemptions provided by (a) Rule 144(k) and Rule 144A under the Securities Act, as such rules may be amended from time to time, or (b) any similar rule or regulation hereafter adopted by the SEC. Notwithstanding the foregoing, nothing in this SECTION 7 shall be deemed to require the Company to register any of its securities pursuant to the Exchange Act.

8. UNDERWRITTEN REGISTRATIONS

If any of the Registrable Securities covered by any Shelf Registration are to be sold in an underwritten offering, the investment banker or investment bankers and manager or managers that will manage the offering will be selected by the Holders of the majority in Amount of Registrable Securities to be included in such offering and be reasonably acceptable to the Company.

No Holder of Registrable Securities may participate in any underwritten registration hereunder unless such Holder (a) agrees to sell such Holder's Registrable Securities on the basis provided in any underwriting arrangements approved by the Persons entitled hereunder to approve such arrangements and (b) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting arrangements.

9. MISCELLANEOUS

(a) **NO INCONSISTENT AGREEMENTS.** The Company has not, as of the date hereof, and the Company shall not, after the date of this Agreement, enter into any agreement with respect to any of its securities that is inconsistent with the rights granted to the Holders of Registrable Securities in this Agreement or otherwise conflicts with the provisions hereof. The Company has not entered and will not enter into any agreement with respect to any of its securities that will grant to any Person piggyback registration rights with respect to a Registration Statement, except to the extent any existing right has heretofore been waived.

(b) **ADJUSTMENTS AFFECTING REGISTRABLE SECURITIES.** The Company shall not, directly or indirectly, take any action with respect to the Registrable Securities as a class that would adversely affect the ability of the Holders of Registrable Securities to include such Registrable Securities in a registration undertaken pursuant to this Agreement.

(c) **AMENDMENTS AND WAIVERS.** The provisions of this Agreement may not be amended, modified or supplemented, and waivers or consents to departures from the provisions hereof may not be given, otherwise than with the prior written consent of the Company and the Holders of not less than the majority in Amount of Registrable Securities. Notwithstanding the foregoing, a waiver or consent to depart from the provisions hereof with respect to a matter that relates exclusively to the rights of Holders of Registrable Securities whose securities are being sold pursuant to a Registration Statement and that does not directly or indirectly affect, impair,

limit or compromise the rights of other Holders of Registrable Securities may be given by Holders of at least a majority in Amount of the Registrable Securities being sold by such Holders pursuant to such Registration Statement.

(d) NOTICES. All notices and other communications (including without limitation any notices or other communications to the Trustee) provided for or permitted hereunder shall be made in writing by hand-delivery, registered first-class mail, next-day air courier or facsimile:

(1) if to a Holder of the Registrable Securities, at the most current address of such Holder set forth on the records of the registrar under the Indenture, in the case of Holders of Convertible Notes, and the stock ledger of the Company, in the case of Holders of Underlying Shares.

(2) if to the Initial Purchasers:

[Intentionally Omitted]

with copies to:

[Intentionally Omitted]

(3) if to the Company, at the address as follows:

Devon Energy Corporation 20 North Broadway, Suite 1500 Oklahoma City, Oklahoma 73102-8260 Attention: Corporate Secretary Facsimile No.: (405) 552-4550

with copies to:

Skadden, Arps, Slate, Meagher & Flom LLP Four Times Square New York, New York 10036 Attention: Vincent T. Pisano Facsimile No.: (212) 735-2000

All such notices and communications shall be deemed to have been duly given: when delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; one Business Day after being timely delivered to a next-day air courier; and when the addressor receives facsimile confirmation, if sent by facsimile.

(e) **SUCCESSORS AND ASSIGNS.** This Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto, including the Holders; provided, however, that this Agreement shall not inure to the benefit of or be binding upon a successor or assign of a Holder unless and except to the extent such successor or assign holds Registrable Securities.

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

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

(h) **GOVERNING LAW.** THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, AS APPLIED TO CONTRACTS MADE AND PERFORMED WHOLLY WITHIN THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH OF THE PARTIES HERETO AGREES TO SUBMIT TO THE NON-EXCLUSIVE JURISDICTION OF THE FEDERAL AND NEW YORK STATE COURTS SITTING IN MANHATTAN, NEW YORK CITY, THE STATE OF NEW YORK, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT.

(i) **SEVERABILITY.** If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their best efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

(j) **SECURITIES HELD BY THE COMPANY OR ITS AFFILIATES.** Whenever the consent or approval of Holders of a specified percentage in Amount of Registrable Securities is required hereunder, Registrable Securities held by the Company or its affiliates (as such term is defined in Rule 405 under the Securities Act) shall not be counted in determining whether such consent or approval was given by the Holders of such required percentage.

(k) **THIRD PARTY BENEFICIARIES.** Holders of Registrable Securities are intended third party beneficiaries of this Agreement and this Agreement may be enforced by such Persons.

(l) **ENTIRE AGREEMENT.** This Agreement, together with the Purchase Agreement and the Indenture, is intended by the parties as a final and exclusive statement of the agreement and understanding of the parties hereto in respect of the subject matter contained herein and therein and any and all prior oral or written agreements, representations, or warranties, contracts, understandings, correspondence, conversations and memoranda between either Initial Purchaser on the one hand and the Company on the other, or between or among any agents, representatives, parents, subsidiaries, affiliates, predecessors in interest or successors in interest with respect to the subject matter hereof and thereof are merged herein and replaced hereby.

[REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK]

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

DEVON ENERGY CORPORATION

By: /s/ William T. Vaughn

Name: William T. Vaughn

Title: Senior Vice President

Confirmed and accepted as of
the date first above written:

[Intentionally Omitted]

[Intentionally Omitted]

By: [Intentionally Omitted]

By: /s/ [Intentionally Omitted]

Name:

Title:

DEVON ENERGY CORPORATION,
as Issuer,

**ZERO COUPON CONVERTIBLE
SENIOR DEBENTURES DUE 2020**

INDENTURE

Dated as of June 27, 2000

The Bank of New York,

as Trustee

CROSS REFERENCE TABLE*

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	(a) (2)	7.10
	(a) (3)	N.A. **
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	(b)	7.08; 7.10
	(c)	N.A.
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* Note: This Cross Reference Table shall not, for any purpose, be deemed to be part of the Indenture. ** Note: N.A. means Not Applicable.

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EXHIBIT A -- Form of Security

EXHIBIT B -- Form of Institutional Accredited Investor Letter

INDENTURE, dated as of June 27, 2000, between Devon Energy Corporation, a Delaware corporation (the "COMPANY"), and The Bank of New York, a New York banking corporation, as trustee (the "TRUSTEE").

Each party agrees as follows for the benefit of the other parties and for the equal and ratable benefit of the Holders of the Company's Zero Coupon Convertible Senior Debentures due 2020:

ARTICLE 1.
DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.01. DEFINITIONS.

"AFFILIATE" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control," when used with respect to any specified Person, means the power to direct or cause the direction of 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.

"AMEX" means the American Stock Exchange.

"BANKRUPTCY LAW" means Title 11, United States Code, or any similar Federal or state law for the relief of debtors.

"BOARD OF DIRECTORS" means either the board of directors of the Company or any duly authorized committee of such board.

"BUSINESS DAY" means each day of the year on which banking institutions are not required or authorized to close in The City of New York, Oklahoma City, Oklahoma or the city in which the Corporate Trust Office is located.

"COMMON STOCK" means any stock of any class of the Company which has 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 is not subject to redemption by the Company. Subject to the provisions of Section 11.14 hereof, however, shares issuable upon conversion of the Securities shall include only shares of Common Stock, par value of \$.10 per share, of the Company as such shares exist on the date of this Indenture or shares of any class or classes 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.

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

thereafter, shall mean such successor. The foregoing sentence shall likewise apply to any subsequent such successor or successors.

"COMPANY REQUEST" or "COMPANY ORDER" means a written request or order signed in the name of the Company by its Chairman of the Board, a Vice Chairman, its President or a Vice President, and by its Treasurer, an Assistant Treasurer, its Controller, an Assistant Controller, its Corporate Secretary or an Assistant Corporate Secretary, and delivered to the Trustee.

"CONVERSION PRICE" means, as of any date of determination, the quotient of (x) the Issue Price divided by (y) the Conversion Rate as in effect on such date rounded upwards or downwards to the nearest whole cent.

"CORPORATE TRUST OFFICE" means the principal office of the Trustee at which at any particular time its corporate trust business shall be principally administered, which office is, at the date as of which this Indenture is dated, located at 101 Barclay Street, 21W, New York, New York 10286, Attention: Corporate Trust Administration.

"CUSTODIAN" shall mean The Bank of New York, as custodian with respect to the Securities in global form, or any successor entity thereto.

"DEFAULT" means any event which is, or after notice or passage of time or both would be, an Event of Default.

"DEPOSITARY" means, with respect to the Securities issuable or issued in whole or in part in global form, the Person specified in Section 2.06 as the Depositary with respect to the Securities, until a successor shall have been appointed and become such pursuant to the applicable provisions of this Indenture, and thereafter, "Depositary" shall mean or include such successor.

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

"FUNDAMENTAL CHANGE" means the occurrence of any of the following transactions or events: (i) the Company consolidates with or merges with or into another Person (other than a Subsidiary), (ii) the Company conveys, transfers or leases its properties and assets substantially as an entirety to any Person (other than a Subsidiary), or (iii) any Person (other than a Subsidiary) consolidates with or merges with or into the Company, and in any case described in the preceding clause (i), (ii) or (iii) the Common Stock is reclassified into, exchanged for or converted into the right to receive any other property or security, PROVIDED that none of these circumstances shall be a Fundamental Change if at least 50% of the aggregate fair market value (as determined by the Board of Directors) of such other property and securities (other than cash payments for fractional shares) consists of shares of voting common stock of the successor Person formed by such consolidation or into which the Company is merged, or the successor Person to which such conveyance, transfer or lease is made, which shares of voting common stock are, or upon issuance will be, (x) traded on the London, Toronto or another internationally

recognized securities exchange or a United States national securities exchange or (y) approved for trading on an established automated over-the-counter trading market in the United States.

"HOLDER" means a Person in whose name a Security is registered on the Registrar's books.

"INDENTURE" means this Indenture, as amended or supplemented from time to time in accordance with the terms hereof.

"INITIAL PURCHASERS" means Morgan Stanley & Co. Incorporated and Salomon Smith Barney Inc.

"ISSUE DATE" of any Security means June 27, 2000.

"ISSUE PRICE" of any Security means, in connection with the original issuance of such Security, the initial issue price at which the Security is issued as set forth on the face of the Security.

"LEGAL HOLIDAY" is any day other than a Business Day. If any specified date (including a date for giving notice) is a Legal Holiday, the action shall be taken on the next succeeding date that is not a Legal Holiday, and to the extent applicable no Original Issue Discount or interest, if any, shall accrue for the intervening period.

"MARKET PRICE" means, as of any Repurchase Date or date of determination, the average of the Sale Prices of the Common Stock for the five Trading Day period ending on the third Business Day prior to the applicable Repurchase Date or date of determination (if the third Business Day prior to the applicable Repurchase Date or date of determination is a Trading Day or, if it is not a Trading Day, then on the last Trading Day prior to such third Business Day), appropriately adjusted to take into account the occurrence, during the period commencing on the first of such Trading Days during such five Trading Day period and ending on such Repurchase Date or date of determination, of any event described in Sections 11.06, 11.07 or 11.08 hereof; subject, however, to the conditions set forth in Sections 11.09 and 11.10 hereof.

"NASDAQ NATIONAL MARKET" means the electronic inter-dealer quotation system operated by NASDAQ Stock Market, Inc., a subsidiary of the National Association of Securities Dealers, Inc.

"NON-U.S. PERSON" means a Person that is not a U.S. Person.

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

"OFFICERS' CERTIFICATE" means a written certificate containing the information specified in Sections 13.04 and 13.05, signed in the name of the Company by its Chairman of the Board, a Vice Chairman, its President or a Vice President, and by its Treasurer, an Assistant

Treasurer, its Controller, an Assistant Controller, its Corporate Secretary or an Assistant Corporate Secretary, and delivered to the Trustee.

"OPINION OF COUNSEL" means a written opinion containing the information specified in Sections 13.04 and 13.05, from legal counsel. The counsel may be an employee of, or counsel to, the Company.

"ORIGINAL ISSUE DISCOUNT" of any Security means the difference between the Principal Amount and the Issue Price of the Security as set forth on the face of the Security. For purposes of this Indenture and the Securities, accrual of Original Issue Discount shall be calculated on the basis of a 360-day year of twelve 30-day months.

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

"PRINCIPAL" or "PRINCIPAL AMOUNT" of a Security means the principal amount at Stated Maturity as set forth on the face of such Security, or on Schedule A thereto in the case of a Security in global form.

"QIB" means "qualified institutional buyer" as that term is defined in Rule 144A.

"REDEMPTION DATE" means a date specified for redemption of the Securities in accordance with the terms of the Securities and Section 3.01 of this Indenture.

"REDEMPTION PRICE" shall have the meaning set forth in paragraph 5 of the Securities.

"REGISTRATION RIGHTS AGREEMENT" means the Registration Rights Agreement dated as of June 22, 2000 among the Company and the Initial Purchasers.

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

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

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

"SALE PRICE OF THE COMMON STOCK" means, on any date, the closing per share sale price, or if no closing sale price is reported, the average bid and ask prices or, if more than one, in either case, the average of the average bid and average ask prices, on such date as reported in the composite transactions for the principal United States securities exchange on which the Common Stock is traded or, if the common stock is not listed on a United States national or regional stock exchange, as reported by The NASDAQ National Market.

"SEC" or "COMMISSION" means the Securities and Exchange Commission or any successor entity.

"SECURITIES" means the Company's Zero Coupon Convertible Senior Debentures due 2020; PROVIDED, HOWEVER, that if the Company exercises the option provided for in Section 12.01 hereof, on and after the Option Exercise Date all references herein to Securities shall be deemed to mean the Semiannual Coupon Debentures, unless the context otherwise indicates.

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

"STATED MATURITY," when used with respect to any Security, means the date specified in such Security as the fixed date on which an amount equal to the Principal of such Security is due and payable.

"SUBSIDIARY" means, with respect to any Person, (i) any corporation, association or other business entity of which more than 50% of the total voting power of shares of capital stock or other equity interests entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other subsidiaries of that Person (or a combination thereof) and (ii) any partnership (a) the sole general partner or managing general partner of which is such Person or a subsidiary of such Person or (b) the only general partners of which are such Person or one or more subsidiaries of such Person (or any combination thereof).

"TAX EVENT" means that the Company has received an opinion from independent tax counsel experienced in such matters to the effect that, as a result of: (1) an amendment to, or change or announced prospective change in, the laws or regulations of the U.S. or any political subdivision or taxing authority thereof or therein; or (2) any amendment to, or change in, an interpretation or application of such laws or regulations by any legislative body, court, governmental agency or regulatory authority, in each case which amendment or change is enacted, promulgated, issued or announced or which interpretation is issued or announced or which action is taken, on or after June 22, 2000, there is more than an insubstantial risk that interest, including original issue discount, payable on the Securities either (a) would not be deductible on a current accrual basis or (b) would not be deductible under any other method, in either case in whole or in part, by the Company by reason of deferral, disallowance or otherwise for U.S. federal income tax purposes.

"TIA" means the Trust Indenture Act of 1939, as amended, as in effect on the date of this Indenture, except as provided in Section 9.03.

"TRADING DAY" means a day during which trading in securities generally occurs on the AMEX or, if the applicable security is not listed on the AMEX, on the NASDAQ National Market, or if the applicable security is not quoted on the NASDAQ National Market, on the principal other national or regional securities exchange on which the applicable security is then listed or, if the applicable security is not listed on a national or regional securities exchange, on the principal other market on which the applicable security is then traded.

"TRUST OFFICER" means any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

"TRUSTEE" means the party named as the "Trustee" in the first paragraph of this Indenture until a successor replaces it pursuant to the applicable provisions of this Indenture and, thereafter, shall mean such successor. The foregoing sentence shall likewise apply to any subsequent such successor or successors.

"U.S. PERSON" has the meaning specified in Regulation S.

"VOTING STOCK" means stock of any class or classes, however designated, having ordinary voting power for the election of a majority of the board of directors of a corporation, other than stock having such power only by reason of the occurrence of a contingency.

SECTION 1.02. OTHER DEFINITIONS.

TERM -----	DEFINED IN SECTION -----
"CASH"	3.08(b)
"CLEARSTREAM"	2.06(c)
"COMPANY NOTICE"	3.08(e)
"COMPANY NOTICE DATE"	3.08(c)
"CONVERSION AGENT"	2.03
"CONVERSION DATE"	11.02
"CONVERSION RATE"	11.01
"DEFAULTED INTEREST"	12.02(b)
"DISTRIBUTED SECURITIES"	11.08(a)
"EUROCLEAR"	2.06(c)
"EVENT OF DEFAULT"	6.01
"EXPIRATION TIME"	11.08(c)
"FUNDAMENTAL CHANGE PURCHASE PRICE"	3.09(a)
"FUNDAMENTAL CHANGE REPURCHASE DATE"	3.09(a)
"FUNDAMENTAL CHANGE REPURCHASE NOTICE"	3.09(b)
"INTEREST PAYMENT DATE"	12.01
"LIQUIDATED DAMAGES"	4.08(a)
"NOTICE OF DEFAULT"	6.01
"OPTION EXERCISE DATE"	12.01
"OVER-ALLOTMENT OPTION"	2.02
"PAYING AGENT"	2.03
"PURCHASE PRICE"	3.08(a)
"PURCHASED SHARES"	11.08(c)

"REGISTRAR"	2.03
"REGULAR RECORD DATE"	12.01
"REPURCHASE DATE"	3.08 (a)
"REPURCHASE NOTICE"	3.08 (a)
"RESTATED PRINCIPAL AMOUNT"	12.01
"RESTRICTED SECURITIES"	2.06 (c)
"RESTRICTED SECURITY LEGEND"	2.06 (c)
"SEMIANNUAL COUPON DEBENTURE"	12.01
"SHELF REGULATION STATEMENT"	4.08 (a)
"SPECIAL RECORD DATE"	12.02 (a)
"TAX EVENT DATE"	12.01
"TRIGGER EVENT"	11.19

SECTION 1.03. INCORPORATION BY REFERENCE OF TRUST INDENTURE ACT.

Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture. The following TIA terms used in this Indenture have the following meanings:

"Commission" means the SEC.

"Indenture Securities" means the Securities.

"Indenture Security Holder" means a Holder.

"Indenture to be Qualified" means this Indenture.

"Indenture Trustee" or "Institutional Trustee" means the Trustee.

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

SECTION 1.04. RULES OF CONSTRUCTION.

Unless the context otherwise requires:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with generally accepted accounting principles in the United States of America as in effect from time to time;

- (3) "or" is not exclusive;
- (4) "including" means including, without limitation;
- (5) the term "merger" includes a statutory compulsory share exchange and a conversion of a corporation into a limited liability company, a partnership or other entity and vice versa;
- (6) references to statutes, rules or regulations include any successor statute, rule or regulation, as the case may be;
- (7) the masculine gender includes the feminine and the neuter; and
- (8) words in the singular include the plural, and words in the plural include the singular.

**ARTICLE 2.
THE SECURITIES**

SECTION 2.01. FORM AND DATING.

Other than as provided in Section 2.06, the Securities and the Trustee's certificate of authentication for the Securities shall be substantially in the form of EXHIBIT A, which is a part of this Indenture. In addition to such legends as may be required by Section 2.06, the Securities may have notations, legends or endorsements required by law, stock exchange rule or usage, PROVIDED that any such notation, legend or endorsement required by usage is in a form acceptable to the Company. 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.

Any Security in global form shall represent such of the outstanding Securities as shall be specified therein and 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 increased or reduced to reflect transfers or exchanges permitted hereby. Any endorsement of a Security in global form to reflect the amount of any increase or decrease in the amount of outstanding Security represented thereby shall be made by the Trustee or the Custodian, at the direction of the Trustee, in such manner and upon instructions given by the Holder of such Security in accordance with this Indenture. Payment of Principal Amount, Issue Price, accrued Original Issue Discount, Redemption Price, Purchase Price, Fundamental Change Purchase Price, Liquidated Damages, if any, or interest, if any, on any Security in global form shall be made to the Holder of such Security.

SECTION 2.02. EXECUTION AND AUTHENTICATION.

The Securities shall be executed on behalf of the Company by its Chairman of the Board, one of its Vice Chairmen, its President or one of its Vice Presidents. The signature of any of these officers on the Securities may be manual or facsimile.

Securities bearing the manual or facsimile signatures of individuals who were at any time the proper Officers of the Company shall bind the Company, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Securities or did not hold such offices at the date of authentication of such Securities.

No Security shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein duly executed by the Trustee by manual signature of an authorized signatory, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder.

The Trustee shall authenticate and deliver Securities for original issue in an aggregate Principal Amount of \$760,000,000 upon a Company Order without any further action by the Company (or an aggregate Principal Amount not to exceed \$980,000,000 if the over-allotment option ("OVER-ALLOTMENT OPTION") set forth in Section 2 of the Purchase Agreement dated June 22, 2000 (as amended from time to time by the parties thereto) by and among the Company and the Initial Purchasers is exercised in full). The aggregate Principal Amount of Securities outstanding at any time may not exceed the amount set forth in the foregoing sentence, except as provided in Section 2.07 hereof.

SECTION 2.03. REGISTRAR, PAYING AGENT AND CONVERSION AGENT.

The Company shall maintain an office or agency where Securities may be presented for registration of transfer or for exchange ("REGISTRAR"), an office or agency where Securities may be presented for purchase or payment ("PAYING AGENT") and an office or agency where Securities may be presented for conversion into Common Stock ("CONVERSION AGENT"). The Registrar shall keep a register of the Securities and of their transfer and exchange. The Company may have one or more co-registrars, one or more additional paying agents and one or more additional conversion agents. The term Paying Agent includes any additional paying agent. The term Conversion Agent includes any additional conversion agent, including any named pursuant to Section 4.05 hereof.

The Company shall enter into an appropriate agency agreement with any Registrar, Paying Agent, Conversion Agent or co-registrar (if not the Trustee or an Affiliate of the Trustee). The agreement shall implement the provisions of this Indenture that relate to such agent and the relevant Security. The Company shall notify the Trustee of the name and address of any such agent. If the Company fails to maintain a Registrar, Paying Agent or Conversion Agent, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to

Section 7.07 hereof. The Company or an Affiliate of the Company may act as Paying Agent, Registrar, Conversion Agent or co-registrar.

The Company initially appoints the Trustee as Registrar, Conversion Agent and Paying Agent in connection with the Securities.

SECTION 2.04. PAYING AGENT TO HOLD CASH AND SECURITIES IN TRUST.

Except as otherwise provided herein, prior to or on each due date of payments in respect of any Security, the Company shall deposit with the Paying Agent cash or securities sufficient to make such payments when such payments are due. The Company shall require the Paying Agent (if not the Trustee) to agree in writing that the Paying Agent shall hold in trust for the benefit of Holders or the Trustee all cash and securities held by the Paying Agent for the making of payments in respect of the Securities and shall notify the Trustee of any default by the Company in making any such payment. At any time during the continuance of any such default, the Paying Agent shall, upon the written request of the Trustee, forthwith pay to the Trustee all cash and securities so held in trust. If the Company or an Affiliate of the Company acts as Paying Agent, it shall segregate the cash and securities held by it as Paying Agent and hold it as a separate trust fund. The Company at any time may require the Paying Agent to pay all cash and securities held by it to the Trustee and to account for any funds and securities disbursed by it. Upon doing so, the Paying Agent shall have no further liability for such cash or securities.

SECTION 2.05. HOLDER LISTS.

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders. If the Trustee is not the Registrar, the Company shall cause to be furnished to the Trustee at least semiannually on June 20 and December 20 a listing of Holders dated within ten days of the date on which the list is furnished and at such other times as the Trustee may request in writing a list, in such form and as of such date as the Trustee may reasonably require, of the names and addresses of Holders.

SECTION 2.06. EXCHANGE AND REGISTRATION OF TRANSFER OF SECURITIES; RESTRICTIONS ON TRANSFERS; DEPOSITARY.

(a) Upon surrender for registration of transfer of any Security at any office or agency of the Company designated as Registrar or co-registrar pursuant to Section 2.03 hereof and satisfaction of the requirements for such transfer set forth in this Section 2.06, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities of any authorized denominations and of a like aggregate Principal Amount and bearing such restrictive legends as may be required by this Indenture.

Securities may be exchanged for a like aggregate Principal Amount of Securities of other authorized denominations. Securities to be exchanged shall be surrendered at any office or agency to be maintained by the Company designated as Registrar or co-registrar pursuant to

Section 2.03 hereof and the Company shall execute and register, and the Trustee shall authenticate and deliver in exchange therefor, the Security or Securities which the Holder making the exchange shall be entitled to receive, bearing registration numbers not contemporaneously outstanding.

All Securities presented for registration of transfer or for exchange into like Securities, repurchase, redemption or conversion into Common Stock or payment shall (if so required by the Company, the Trustee, the Registrar or any co-registrar) be duly endorsed by, or be accompanied by a written instrument or instruments of transfer in form satisfactory to the Company and the Trustee, duly executed by the Holder or such Holder's attorney duly authorized in writing.

No service charge shall be charged to the Holder for any exchange for like Securities or registration of transfer of Securities, but the Company may require payment of a sum sufficient to cover any tax, assessments or other governmental charges that may be imposed in connection therewith.

None of the Company, the Trustee, the Registrar or any co-registrar shall be required to exchange for like Securities or register a transfer of (a) any Securities for a period of 15 days next preceding the mailing of notice of Securities to be redeemed, or (b) any Securities or portions thereof selected or called for redemption, or (c) any Securities or portion thereof surrendered for conversion into Common Stock, or (d) any Securities or portion thereof surrendered for repurchase or redemption (and not withdrawn) pursuant to Section 3.08 or 3.09 hereof, respectively.

All Securities issued upon any transfer or exchange for like 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 exchange or transfer.

(b) So long as the Securities are eligible for book-entry settlement with the Depositary, or unless otherwise required by law, all Securities that are so eligible may be represented by a Security in global form registered in the name of the Depositary or the nominee of the Depositary, except as otherwise specified below. The transfer and exchange of beneficial interests in such Security in global form shall be effected through the Depositary in accordance with this Indenture and the procedures of the Depositary therefor.

Any Security in global form may be endorsed with or have incorporated in the text thereof such legends or recitals or changes not inconsistent with the provisions of this Indenture as may be required by the Custodian, the Depositary or by the National Association of Securities Dealers, Inc. in order for the Securities to be tradeable on any market developed for trading of securities pursuant to Rule 144A or Regulation S or required to comply with any applicable law or any regulation thereunder or with the rules and regulations of any securities exchange or automated quotation system upon which the Securities may be listed or traded or to conform with any usage with respect thereto, or to indicate any special limitations or restrictions to which any particular Securities are subject.

(c) Every Security that bears or is required under this Section 2.06(c) to bear the Restricted Securities Legend (together with any Common Stock issued upon conversion of the Securities and required to bear the legend set forth in Section 2.06(d), collectively, the "RESTRICTED SECURITIES") shall be subject to the restrictions on transfer set forth in this Section 2.06(c) (including those set forth in the legend set forth below) unless such restrictions on transfer shall be waived by written consent of the Company, and the Holder of each such Transfer Restricted Security, by such Holder's acceptance thereof, agrees to be bound by all such restrictions on transfer. As used in Section 2.06(c) and 2.06(d), the term "transfer" encompasses any sale, pledge, transfer or other disposition whatsoever of any Restricted Security.

Until transferred under Rule 144(k) under the Securities Act (or any successor provision), any certificate evidencing such Security (and all securities issued in exchange therefor or substitution thereof, other than Common Stock issued upon conversion or repurchase thereof, which shall bear the legend set forth in Section 2.06(d) if applicable) shall bear a legend in substantially the form set forth on the face of the Security in EXHIBIT A (the "RESTRICTED SECURITY LEGEND"), unless such Security has been sold pursuant to a registration statement that has been declared effective under the Securities Act (and which continues to be effective at the time of such transfer), or unless otherwise agreed by the Company in writing, with written notice thereof to the Trustee.

Any Security (or security issued in exchange or substitution therefor) as to which the conditions for removal of the Restricted Security Legend have been satisfied may, upon surrender of such Security for exchange to the Registrar in accordance with the provisions of this Section 2.06, be exchanged for a new Security or Securities, of like tenor and aggregate Principal Amount, which shall not bear the Restricted Security Legend required by this Section 2.06(c).

Notwithstanding any other provisions of this Indenture (other than the provisions set forth in Section 2.06(b) and in this Section 2.06(c)), a Security in global form may not be transferred as a whole or in part except 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.

The Depositary shall be a clearing agency registered under the Exchange Act. The Company initially appoints The Depository Trust Company to act as Depositary. Initially, one or more Securities in global form shall be issued to the Depositary, registered in the name of Cede & Co., as the nominee of the Depositary, and deposited with the Custodian for Cede & Co. Each Security in global form, to the extent that it represents the interests of Non-U.S. Persons, will be held by Cede & Co. for the accounts of designated agents on behalf of the Euroclear System ("Euroclear") and Clearstream Banking, Societe Anonyme ("Clearstream"). During the 40-day distribution compliance period (as defined in Regulation S), Non-U.S. Persons holding beneficial interests in a Security in global form may do so only through Euroclear or Clearstream, and any resale or transfer of any such interest to a U.S. Person shall only be permitted if such Person is a QIB or is the Company or an Affiliate of the Company.

If at any time the Depositary for Security in global form notifies the Company that it is unwilling or unable to continue as Depositary for such Security, the Company may appoint a

successor Depositary with respect to such Security. If a successor Depositary is not appointed by the Company within ninety (90) days after the Company receives such notice, or if the Company so elects, the Company will execute, and the Trustee, upon receipt of an Officers' Certificate for the authentication and delivery of Securities, will authenticate and deliver, Securities in certificated or definitive form, in aggregate Principal Amount equal to the Principal Amount of the Security in global form, in exchange for such Security in global form.

Securities in certificated form issued in exchange for all or a part of a Security in global form pursuant to this Section 2.06 shall be registered in such names and in such authorized denominations as the Depositary, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee. Upon execution and authentication, the Trustee shall deliver such Securities in certificated form to the persons in whose names such Securities in certificated form are so registered.

At such time as all interests in a Security in global form have been redeemed, converted, canceled or repurchased or exchanged for Securities in certificated form, or transferred to a transferee who receives Securities in certificated form, such Security in global form shall, upon receipt thereof, be canceled by the Trustee in accordance with standing procedures and instructions existing between the Depositary and the Custodian. At any time prior to such cancellation, if any interest in a Security in global form is exchanged for Securities in certificated form, redeemed, converted, repurchased or canceled, the Principal Amount of the Security in global form shall, in accordance with the standing procedures and instructions existing between the Depositary and the Custodian, be appropriately reduced and an endorsement shall be made on such Security in global form, by the Trustee or the Custodian, at the direction of the Trustee, to reflect such reduction.

(d) Until transferred under Rule 144(k) under the Securities Act (or any successor provision), any stock certificate representing Common Stock issued upon conversion of any Security shall bear a legend in substantially the following form, unless such Common Stock has been sold pursuant to a registration statement that has been declared effective under the Securities Act (and which continues to be effective at the time of such transfer) or such Common Stock has been issued upon conversion of Securities that have been transferred pursuant to a registration statement that has been declared effective under the Securities Act, or unless otherwise agreed by the Company in writing with written notice thereof to the transfer agent for the Common Stock:

THE COMMON STOCK EVIDENCED HEREBY HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS, AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS EXCEPT AS SET FORTH IN THE FOLLOWING SENTENCE. THE HOLDER HEREOF AGREES THAT UNTIL THE EXPIRATION OF THE HOLDING PERIOD APPLICABLE TO SALES OF THE SECURITY EVIDENCED HEREBY UNDER RULE 144(k) UNDER THE SECURITIES ACT (OR ANY SUCCESSOR PROVISION), (1) IT WILL

NOT RESELL OR OTHERWISE TRANSFER THE COMMON STOCK EVIDENCED HEREBY WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OF, U.S. PERSONS EXCEPT (A) TO DEVON ENERGY CORPORATION OR ANY SUBSIDIARY THEREOF, (B) TO A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT), (C) TO AN INSTITUTIONAL "ACCREDITED INVESTOR" (AS DEFINED IN RULE 501(a)(1), (2), (3) OR (7) UNDER THE SECURITIES ACT) THAT PRIOR TO SUCH TRANSFER, FURNISHES TO EQUISERVE, AS TRANSFER AGENT (OR A SUCCESSOR TRANSFER AGENT, AS APPLICABLE), A SIGNED LETTER CONTAINING CERTAIN REPRESENTATIONS AND AGREEMENTS RELATING TO THE RESTRICTIONS ON TRANSFER OF THE COMMON STOCK EVIDENCED HEREBY (THE FORM OF WHICH LETTER CAN BE OBTAINED FROM SUCH TRANSFER AGENT OR A SUCCESSOR TRANSFER AGENT, AS APPLICABLE), (D) PURSUANT TO THE EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE) OR (E) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT (AND WHICH CONTINUES TO BE EFFECTIVE AT THE TIME OF SUCH TRANSFER); (2) PRIOR TO SUCH TRANSFER (OTHER THAN A TRANSFER PURSUANT TO CLAUSE 1(E) ABOVE), IT WILL FURNISH TO EQUISERVE, AS TRANSFER AGENT (OR A SUCCESSOR TRANSFER AGENT, AS APPLICABLE), SUCH CERTIFICATIONS, LEGAL OPINIONS OR OTHER INFORMATION AS THE TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT SUCH TRANSFER IS BEING MADE PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND (3) IT WILL DELIVER TO EACH PERSON TO WHOM THE COMMON STOCK EVIDENCED HEREBY IS TRANSFERRED (OTHER THAN A TRANSFER PURSUANT TO CLAUSE 1(E) ABOVE) A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND. THIS LEGEND WILL BE REMOVED UPON THE EARLIER OF THE TRANSFER OF THE COMMON STOCK EVIDENCED HEREBY PURSUANT TO CLAUSE 1(E) ABOVE OR UPON ANY TRANSFER OF THE COMMON STOCK EVIDENCED HEREBY AFTER THE EXPIRATION OF THE HOLDING PERIOD APPLICABLE TO SALES OF THE SECURITIES EVIDENCED HEREBY UNDER RULE 144(k) UNDER THE SECURITIES ACT (OR ANY SUCCESSOR PROVISION). AS USED HEREIN, THE TERMS "UNITED STATES" AND "U.S. PERSON" HAVE THE MEANING GIVEN TO THEM BY REGULATIONS UNDER THE SECURITIES ACT.

Any such Common Stock as to which such restrictions on transfer shall have expired in accordance with their terms or as to which the conditions for removal of the foregoing legend set forth therein have been satisfied may, upon surrender of the certificates representing such shares of Common Stock for exchange in accordance with the procedures of the transfer agent for the

Common Stock, be exchanged for a new certificate or certificates for a like number of shares of Common Stock, which shall not bear the restrictive legend required by this Section 2.06(d).

(e) Any Security that, prior to the expiration of the holding period applicable to sales thereof under Rule 144(k) under the Securities Act, is purchased or owned by the Company or any Affiliate thereof may not be resold by the Company or such Affiliate unless registered under the Securities Act or resold pursuant to an exemption from the registration requirements of the Securities Act in a transaction which results in such Security no longer being "restricted securities" (as defined under Rule 144).

(f) Each Holder of a Security 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 Depository participants or beneficial owners of interests in a Security in global form) 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 2.07. REPLACEMENT SECURITIES.

If (a) any mutilated Security is surrendered to the Trustee, or (b) the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Security, and there is delivered to the Company and the Trustee such security or indemnity as may be required by them to save each of them harmless, then, in the absence of notice to the Company 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 repurchased or redeemed by the Company pursuant to Article 3 hereof, the Company in its discretion may, instead of issuing a new Security, pay, repurchase or redeem such Security, as the case may be.

Upon the issuance of any new Securities under this Section 2.07, the Company may, as a condition to such issuance, 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 expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Security issued pursuant to this Section 2.07 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 2.07 are 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 2.08. OUTSTANDING SECURITIES; DETERMINATIONS OF HOLDERS' ACTION.

Securities outstanding at any time are all the Securities authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those paid pursuant to Section 4.01 hereof, those converted pursuant to Article 11 hereof, those replaced or paid pursuant to Section 2.07 hereof and those described in this Section 2.08 as not outstanding. A Security does not cease to be outstanding because the Company or an Affiliate thereof holds the Security; PROVIDED, HOWEVER, that in determining whether the Holders of the requisite Principal Amount of Securities have given or concurred in any request, demand, authorization, direction, notice, consent or waiver hereunder, Securities owned by the Company or any Affiliate of the Company shall be disregarded and deemed not to be outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Securities which the Trust Officer actually knows to be so owned shall be so disregarded unless written notice of such ownership is received by the Trustee at the Corporate Trust Office of the Trustee in accordance with Section 13.02 hereof and such notice references the Securities and this Indenture. Subject to the foregoing, only Securities outstanding at the time of such determination shall be considered in any such determination (including, without limitation, determinations pursuant to Articles 6 and 9 hereof).

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

If the Paying Agent holds, in accordance with this Indenture, on a Redemption Date, or on the Business Day following a Repurchase Date or a Fundamental Change Repurchase Date, or on Stated Maturity, cash or securities, if permitted hereunder, sufficient to pay Securities payable on that date, then on and after that date such Securities shall cease to be outstanding and Original Issue Discount, Liquidated Damages, if any, and interest, if any, on such Securities 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 therefor satisfactory to the Trustee has been made.

If a Security is converted in accordance with Article 11 hereof, then from and after such conversion such Security shall cease to be outstanding and Original Issue Discount and interest, if any, shall cease to accrue on such Security.

SECTION 2.09. TEMPORARY SECURITIES.

Pending the preparation of definitive Securities, the Company may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary Securities which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Securities in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Securities may determine, as conclusively evidenced by their execution of such Securities.

If temporary Securities are issued, the Company shall cause definitive Securities to be prepared without unreasonable delay. After the preparation of definitive Securities, the temporary Securities shall be exchangeable for definitive Securities upon surrender of the temporary Securities at the office or agency of the Company designated for such purpose pursuant to Section 2.03 hereof, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a like Principal Amount of definitive Securities of authorized denominations. Until so exchanged, the temporary Securities shall in all respects be entitled to the same benefits under this Indenture as definitive Securities.

SECTION 2.10. CANCELLATION.

All Securities surrendered for payment, purchase, conversion, redemption or registration of transfer or exchange for the Securities shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and shall be promptly canceled by it. The Company may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and all Securities so delivered shall be promptly canceled by the Trustee. The Company may not issue new Securities to replace Securities it has paid for or delivered to the Trustee for cancellation or that any Holder has converted pursuant to Article 11 hereof. No Securities shall be authenticated in lieu of or in exchange for any Securities canceled as provided in this Section 2.10, except as expressly permitted by this Indenture. All canceled Securities held by the Trustee shall be disposed of by the Trustee in accordance with its customary procedures.

SECTION 2.11. PERSONS DEEMED OWNERS.

Prior to due presentment of a Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of Principal Amount, Issue Price, accrued Original Issue Discount, Redemption Price, Purchase Price, Fundamental Change Purchase Price, Liquidated Damages, if any, and interest, if any, in respect thereof, for the purpose of conversion and for all other purposes whatsoever, whether or

not such Security be overdue, and none of the Company, the Trustee or any agent of the Company or the Trustee shall be affected by notice to the contrary.

SECTION 2.12. CUSIP NUMBERS.

The Company in issuing the Securities may use "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in notices of redemption 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 redemption and that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption 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.

ARTICLE 3. REDEMPTION AND REPURCHASES

SECTION 3.01. RIGHT TO REDEEM; NOTICES TO TRUSTEE.

The Company, at its option, may redeem the Securities in accordance with the provisions of paragraphs 5 and 7 of the Securities. If the Company elects to redeem Securities pursuant to paragraph 5 of the Securities, it shall notify the Trustee in writing of the Redemption Date, the Principal Amount of Securities to be redeemed and the Redemption Price.

The Company shall give the notice to the Trustee provided for in this Section 3.01 in the case of any redemption of the Securities, at least 20 days before the Redemption Date unless a shorter notice shall be satisfactory to the Trustee.

SECTION 3.02. SELECTION OF SECURITIES TO BE REDEEMED.

If less than all the Securities held in definitive form are to be redeemed pursuant to Section 3.01, the Trustee shall select the definitive Securities to be redeemed pro rata or by lot or by another method the Trustee considers fair and appropriate (as long as such method is not prohibited by the rules of any securities exchange or quotation system on which the Securities are then listed or quoted). The Trustee shall make the selection at least 20 days, but not more than 60 days, before the Redemption Date from outstanding definitive Securities not previously called for redemption. The Trustee may select for redemption portions of the Principal Amount of Securities that have denominations larger than \$1,000. Securities and portions of them the Trustee selects shall be in Principal Amounts of \$1,000 or an integral multiple of \$1,000. Except as expressly stated otherwise, provisions of this Indenture that apply to definitive Securities called for redemption also apply to portions of definitive Securities called for redemption. The Trustee shall notify the Company promptly of the definitive Securities or portions of definitive Securities to be redeemed.

Any interest in a Security held in global form by and registered in the name of the Depository or its nominee to be redeemed in whole or in part will be redeemed in accordance with the procedures of the Depository.

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 (so far as may be) to be the portion selected for redemption. Securities which have been converted during a selection of Securities to be redeemed may be treated by the Trustee as outstanding for the purpose of such selection.

SECTION 3.03. NOTICE OF REDEMPTION.

At least 20 days but not more than 60 days before a Redemption Date, the Company shall mail a notice of redemption by first-class mail, postage prepaid, to each Holder of Securities to be redeemed.

The notice shall identify the Securities to be redeemed and shall state:

- (1) the Redemption Date;
- (2) the Redemption Price;
- (3) the Conversion Rate;
- (4) the name and address of the Paying Agent and Conversion Agent;
- (5) that Securities called for redemption may be converted at any time before the close of business on the last Trading Day prior to the Redemption Date;
- (6) that Holders who want to convert Securities must satisfy the requirements set forth in paragraph 9 of the Securities;
- (7) that Securities called for redemption must be surrendered to the Paying Agent to collect the Redemption Price;
- (8) if fewer than all the outstanding Securities are to be redeemed, the certificate numbers and Principal Amounts of the particular Securities to be redeemed;
- (9) that Original Issue Discount, Liquidated Damages, if any, and interest, if any, on Securities called for redemption will cease to accrue on and after the Redemption Date;
- (10) the CUSIP number or numbers for the Securities; and
- (11) the election of the Company (which, subject to the second proviso of Section 11.02 hereof, shall be irrevocable) to deliver shares of Common Stock or to pay cash in

lieu of delivery of such shares with respect to any Securities that may be converted after the mailing of such notice and prior to the Redemption Date.

The notice, if mailed in the manner herein provided, shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice. In any case, failure to give such notice by mail or any defect in the notice to the Holder of any Security designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Security.

At the Company's request, the Trustee shall give the notice of redemption in the Company's name and at the Company's expense.

SECTION 3.04. EFFECT OF NOTICE OF REDEMPTION.

Once notice of redemption is given, pursuant to Section 3.03 hereof, Securities called for redemption become due and payable on the Redemption Date and at the Redemption Price stated in the notice, together with Liquidated Damages, if any, except for Securities which are converted in accordance with the terms of this Indenture.

Upon the later of the Redemption Date or the date such Securities are surrendered to the Paying Agent, such Securities shall be paid at the Redemption Price stated in the notice.

SECTION 3.05. DEPOSIT OF REDEMPTION PRICE.

Prior to 10 a.m., New York City time, on the Redemption Date, the Company shall deposit with the Paying Agent (or if the Company or an Affiliate of the Company is the Paying Agent, shall segregate and hold in trust) cash sufficient to pay the Redemption Price of all Securities to be redeemed on that date other than Securities or portions of Securities called for redemption which prior thereto have been delivered by the Company to the Trustee for cancellation or have been converted into Common Stock, together with Liquidated Damages, if any, and on or after the Redemption Date (unless the Company shall default in the payment of the Securities at the Redemption Price), Original Issue Discount, Liquidated Damages, if any, and interest, if any, on the Securities or portion of Securities called for redemption shall cease to accrue and such Securities shall cease after the close of business on the Business Day immediately preceding the Redemption Date to be convertible into Common Stock and, except as provided in Section 8.02 hereof, to be entitled to any benefit or security under this Indenture, and the Holders thereof shall have no right in respect of such Securities except the right to receive the Redemption Price, Liquidated Damages, if any, thereof and unpaid interest to (but excluding) the Redemption Date. The Paying Agent shall as promptly as practicable return to the Company any money, with interest, if any, thereon, not required for that purpose because of conversion of Securities. If such money is then held by the Company in trust and is not required for such purpose, it shall be discharged from such trust.

SECTION 3.06. SECURITIES REDEEMED IN PART.

Upon 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 in an authorized denomination equal in Principal Amount to the unredeemed portion of the Security surrendered.

SECTION 3.07. CONVERSION ARRANGEMENT ON CALL FOR REDEMPTION.

In connection with any redemption of Securities, the Company may arrange for the purchase and conversion into Common Stock 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 the Paying Agent in trust for the Holders, on or before the close of business on the Redemption Date, an amount that, together with any amounts deposited with the Paying Agent by the Company for the redemption of the Securities, is not less than the Redemption Price to the Redemption Date, of such Securities. Notwithstanding anything to the contrary contained in this Article 3, the obligation of the Company to pay the Redemption Price of such Securities shall be deemed to be satisfied and discharged to the extent such amount is so paid by such purchasers. If such an agreement is entered into, any Securities not duly surrendered for conversion by the Holders thereof may, at the option of the Company, 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 11) surrendered by such purchasers for conversion, all immediately prior to the close of business on the Redemption Date, subject to payment of the above amount as aforesaid. The Paying Agent shall hold and pay to the Holders whose Securities are selected for redemption any such amount paid to it in the same manner as it would money deposited with it by the Company for the redemption of Securities. Without the Paying Agent's prior written consent, no arrangement between the Company and such purchasers for the purchase and conversion of any Securities shall increase or otherwise affect any of the powers, duties, responsibilities or obligations of the Paying Agent as set forth in this Indenture, and the Company agrees to indemnify the Paying Agent from, and hold it harmless against, any loss, liability or expense arising out of or in connection with any such arrangement for the purchase and conversion of any Securities between the Company and such purchasers, including the costs and expenses incurred by the Paying Agent in the defense of any claim or liability arising out of or in connection with the exercise or performance of any of its powers, duties, responsibilities or obligations under this Indenture.

SECTION 3.08. REPURCHASE OF SECURITIES AT OPTION OF THE HOLDER.

(a) GENERAL. Securities shall be repurchased by the Company pursuant to paragraph 6 of the Securities as of June 27, 2005, June 27, 2010 and June 27, 2015 (each, a "REPURCHASE DATE"), at the purchase price specified therein (each, a "PURCHASE PRICE"), together with Liquidated Damages, if any, at the option of the Holder thereof, upon:

(1) delivery to the Paying Agent by the Holder of a written notice of purchase (a "REPURCHASE NOTICE") at any time from the opening of business on the date that is 20 Business Days prior to a Repurchase Date until the close of business on such Repurchase Date, stating:

(A) the certificate number of any Security in certificated form which the Holder will deliver to be repurchased;

(B) the portion of the Principal Amount of the Security which the Holder will deliver to be repurchased, which portion must be \$1,000 in Principal Amount or a multiple thereof;

(C) that such Security shall be repurchased as of the Repurchase Date pursuant to the terms and conditions specified in paragraph 6 of the Securities and in this Indenture; and

(D) if the Company elects, pursuant to a Company Notice, to pay the Purchase Price to be paid as of such Repurchase Date, in whole or in part, in Common Stock but such portion of the Purchase Price shall ultimately be payable to such Holder in cash because any of the conditions to the payment of the Purchase Price in Common Stock are not satisfied prior to or on the Repurchase Date, as set forth in Section 3.08(d) hereof, whether such Holder elects (x) to withdraw such Repurchase Notice as to some or all of the Securities to which such Repurchase Notice relates (stating the Principal Amount and certificate numbers of any certificated Securities as to which such withdrawal shall relate), or (y) to receive cash in respect of the entire Purchase Price for all Securities (or portions thereof) to which such Repurchase Notice relates; and

(2) delivery of such Security to the Paying Agent prior to, on or after the Repurchase Date (together with all necessary endorsements) at the offices of the Paying Agent, such delivery being a condition to receipt by the Holder of the Purchase Price therefor; PROVIDED, HOWEVER, that such Purchase Price shall be so paid pursuant to this Section 3.08 only if the Security so delivered to the Paying Agent shall conform in all respects to the description thereof in the related Repurchase Notice.

If a Holder, in such Holder's Repurchase Notice (and, in any written notice of withdrawal of a portion of such Holder's Securities previously submitted for repurchase pursuant to a Repurchase Notice, the portion that remains subject to the Repurchase Notice), fails to indicate such Holder's choice with respect to the election set forth in clause (D) of Section 3.08(a)(1), such Holder shall be deemed to have elected to receive cash in respect of the entire Purchase Price for all Securities subject to such Repurchase Notice in the circumstances set forth in such clause (D).

The Company shall purchase from the Holder thereof, pursuant to this Section 3.08, a portion of a Security if the Principal Amount of such portion is \$1,000 or an integral multiple of \$1,000. Provisions of this Indenture that apply to the purchase of all of a Security also apply to the repurchase of such portion of such Security.

Any purchase by the Company contemplated pursuant to the provisions of this Section 3.08 shall be consummated by the delivery of the consideration to be received by the Holder promptly following the later of the Repurchase Date and the time of delivery of the Security.

Notwithstanding anything herein to the contrary, any Holder delivering to the Paying Agent the Repurchase Notice contemplated by this Section 3.08(a) shall have the right at any time prior to the close of business on the Repurchase Date to withdraw such Repurchase Notice by delivery of a written notice of withdrawal to the Paying Agent in accordance with Section 3.10 hereof.

The Paying Agent shall promptly notify the Company of the receipt by it of any Repurchase Notice or written notice of withdrawal thereof.

(b) **COMPANY'S RIGHT TO ELECT MANNER OF PAYMENT OF PURCHASE PRICE.** The Company may elect with respect to any Repurchase Date to pay the Purchase Price in respect of the Securities to be purchased pursuant to Section 3.08(a) as of such Repurchase Date, in U.S. legal tender ("cash") or Common Stock, or in any combination of cash and Common Stock, subject to the conditions set forth in Sections 3.08(c) and (d). The Company shall designate, in the Company Notice delivered pursuant to Section 3.08(e), whether the Company will repurchase the Securities for cash or Common Stock, or, if a combination thereof, the percentages of the Purchase Price of Securities in respect of which it will pay in cash and/or Common Stock; PROVIDED that the Company will pay cash for fractional interests in shares of Common Stock. For purposes of determining the existence of potential fractional interests, all Securities subject to repurchase by the Company held by a Holder shall be considered together (no matter how many separate certificates are to be presented). Each Holder whose Securities are repurchased pursuant to this Section 3.08 shall receive the same percentage of cash and/or Common Stock in payment of the Purchase Price for such Securities, except (i) as provided in Section 3.08(d) with regard to the payment of cash in lieu of fractional interests in shares of Common Stock and (ii) in the event that the Company is unable to repurchase the Securities of a Holder or Holders for Common Stock because any necessary qualifications or registrations of the Common Stock under applicable federal or state securities laws cannot be obtained, the Company may repurchase the Securities of such Holder or Holders for cash. The Company may not change its election with respect to the consideration (or components or percentages of components thereof) to be paid once the Company has given its Company Notice to Holders except pursuant to this Section 3.08(b) or Section 3.08(d).

At least one Business Day before the Company Notice Date (as defined in Section 3.08(c)), the Company shall deliver an Officers' Certificate to the Trustee specifying:

- (i) the manner of payment selected by the Company,
- (ii) the information required by Section 3.08(e),

(iii) if the Company elects to pay the Purchase Price, or a specified percentage thereof, in Common Stock, that the conditions to such manner of payment set forth in Section 3.08(d) have been or will be complied with, and

(iv) whether the Company desires the Trustee to give the Company Notice required by Section 3.08(e).

(c) **REPURCHASE WITH CASH.** At the option of the Company, the Purchase Price of Securities in respect of which a Repurchase Notice pursuant to Section 3.08(a) has been given, or a specified percentage thereof, may be paid by the Company with cash equal to the aggregate Purchase Price, or such specified percentage thereof, as the case may be, of such Securities. If the Company elects to repurchase Securities with cash, a Company Notice as provided in Section 3.08(e) shall be sent to Holders (and to beneficial owners as required by applicable law) not less than 20 Business Days prior to the Repurchase Date (the "COMPANY NOTICE DATE").

(d) **PAYMENT BY ISSUANCE OF COMMON STOCK.** At the option of the Company, the Purchase Price of Securities in respect of which a Repurchase Notice pursuant to Section 3.08(a) has been given, or a specified percentage thereof, may be paid by the Company by the issuance of a number of shares of Common Stock equal to the quotient obtained by dividing (i) the amount of cash to which the Holders would have been entitled had the Company elected to pay all or such specified percentage, as the case may be, of the Purchase Price of such Securities in cash by (ii) the Market Price of a share of Common Stock as of the applicable Repurchase Date, subject to the next succeeding paragraph.

The Company will not issue a fractional share of Common Stock in payment of the Purchase Price. Instead the Company will pay cash for the current market value of the fractional share. The current market value of a fraction of a share shall be determined by multiplying the Market Price by such fraction and rounding the product to the nearest whole cent. It is understood that if a Holder elects to have more than one Security repurchased, the number of shares of Common Stock shall be based on the aggregate amount of Securities to be repurchased.

If the Company elects to repurchase the Securities by the issuance of shares of Common Stock, a Company Notice as provided in Section 3.08 (e) shall be sent to the Holders (and to beneficial owners as required by applicable law) not later than the Company Notice Date.

The Company's right to exercise its election to repurchase the Securities pursuant to Section 3.08 through the issuance of shares of Common Stock shall be conditioned upon:

(i) the Company having given timely Company Notice of election to purchase all or a specified percentage of the Securities with Common Stock as provided herein;

(ii) the registration of the shares of Common Stock to be issued in respect of the payment of the specified percentage of the Purchase Price under the Securities Act, unless the shares of Common Stock so issued can be freely resold by the Holder (unless such Holder is the

Company or an Affiliate of the Company) receiving such shares without registration under the Securities Act;

(iii) any necessary qualification or registration under applicable state securities laws or the availability of an exemption from such qualification and registration; and

(iv) the receipt by the Trustee of an Officers' Certificate and an Opinion of Counsel each stating that (A) the terms of the issuance of the Common Stock are in conformity with this Indenture and (B) the shares of Common Stock to be issued by the Company in payment of the specified percentage of the Purchase Price in respect of Securities have been duly authorized and, when issued and delivered pursuant to the terms of this Indenture in payment of the specified percentage of the Purchase Price in respect of Securities, will be validly issued, fully paid and nonassessable, and, in the case of such Officers' Certificate, stating that conditions (i), (ii) and (iii) above have been satisfied and, in the case of such Opinion of Counsel, stating that conditions

(ii) and (iii) above have been satisfied.

Such Officers' Certificate shall also set forth the number of shares of Common Stock to be issued for each \$1,000 Principal Amount of Securities and the Sale Price of a share of Common Stock on each Trading Day during the period during which the Market Price is calculated and ending on the Repurchase Date, and the Company shall (i) disseminate such information as soon as practicable after determination thereof by news release in accordance with the Company's customary practices and (ii) concurrently notify each securities exchange on which the Common Stock is then listed of such information. The Company may elect to pay the Purchase Price (or any portion thereof) in Common Stock only if the information necessary to calculate the Market Price is reported in a daily newspaper of national circulation. If such conditions are not satisfied with respect to a Holder or Holders prior to or on the Repurchase Date and the Company elected to repurchase the Securities to be repurchased as of such Repurchase Date pursuant to this Section 3.08 through the issuance of shares of Common Stock, the Company shall pay the entire Purchase Price in respect of such Securities of such Holder or Holders in cash.

(e) NOTICE OF ELECTION. The Company's notices of election to repurchase with cash or Common Stock, or any combination thereof, shall be sent to the Holders (and to beneficial owners as required by applicable law) in the manner provided in Section 13.02 hereof at the time specified in

Section 3.08(c) or (d) hereof, as applicable (each, a "COMPANY NOTICE"). Such Company Notices shall state the manner of payment elected and shall contain the following information:

In the event the Company has elected to pay a Purchase Price (or a specified percentage thereof) with Common Stock, the Company Notice shall:

(1) state that each Holder will receive Common Stock with a Market Price determined as of a specified date prior to the Repurchase Date equal to such specified percentage of the Purchase Price of the Securities held by such Holder (except any cash amount to be paid in lieu of a fractional share); and

(2) set forth the method of calculating the Market Price and state that because the Market Price of Common Stock will be determined prior to the Repurchase Date, the Holders will bear the market risk with respect to the value of the Common Stock to be received from the date such Market Price is determined to the Repurchase Date.

In any case, each Company Notice shall include a form of Repurchase Notice to be completed by a Holder and shall state:

(i) the Purchase Price and Conversion Rate;

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

(iii) that Securities as to which a Repurchase Notice has been given may be converted only if the applicable Repurchase Notice has been withdrawn in accordance with the terms of this Indenture;

(iv) that Securities must be surrendered to the Paying Agent to collect payment;

(v) that the Purchase Price for any Security as to which a Repurchase Notice has been given and not withdrawn will be paid promptly following the later of the Repurchase Date and the time of surrender of such Security as described in clause (iv) above;

(vi) the procedures the Holder must follow under this Section 3.08;

(vii) briefly, the conversion rights of the Securities; and

(viii) the procedures for withdrawing a Repurchase Notice (including, without limitation, for a conditional withdrawal pursuant to the terms of Section 3.08(a)(1)(D) or Section 3.10 hereof).

At the Company's request, the Trustee shall give the Company Notice in the Company's name and at the Company's expense; PROVIDED, HOWEVER, that, in all cases, the text of the Company Notice shall be prepared by the Company.

(f) COVENANTS OF THE COMPANY. All shares of Common Stock delivered upon conversion or repurchase of the Securities shall be newly issued shares or treasury shares, shall be fully paid and nonassessable and shall be free from preemptive rights and free of any lien or adverse claim. Such shares shall bear any legend required by Section 2.06(d) hereof.

The Company shall use its best efforts to list or cause to have quoted all such shares of Common Stock on each United States national securities exchange or over-the-counter or other domestic market on which the Common Stock is then listed or quoted.

(g) **PROCEDURE UPON PURCHASE.** On the Business Day following the Repurchase Date, the Company shall deposit with the Paying Agent cash (in respect of a cash purchase under Section 3.08(c) hereof or for fractional interests, as applicable), or shares of Common Stock, or a combination thereof, as applicable, sufficient to pay the aggregate Purchase Price in respect of the Securities to be repurchased pursuant to this Section 3.08, plus Liquidated Damages, if any. As soon as practicable after the Repurchase Date, the Company shall deliver to each Holder entitled to receive Common Stock, through the Paying Agent, a certificate for the number of full shares of Common Stock, as applicable, issuable in payment of such Purchase Price and cash in lieu of any fractional interests. The Person in whose name the certificate for Common Stock is registered shall be treated as a holder of record following the Repurchase Date. Subject to Section 3.08(d) hereof, no payment or adjustment will be made for dividends on the Common Stock the record date for which occurred on or prior to the Repurchase Date.

(h) **TAXES.** If a Holder of a Security is paid in Common Stock, the Company shall pay any documentary, stamp or similar issue or transfer tax due on such issue of shares of Common Stock. However, the Holder shall pay any such tax which is due because the Holder requests the shares of Common Stock to be issued in a name other than the Holder's name. The Paying Agent may refuse to deliver the certificates representing the Common Stock being issued in a name other than the Holder's name until the Paying Agent receives a sum sufficient to pay any tax which will be due because the shares of Common Stock are to be issued in a name other than the Holder's name. Nothing herein shall preclude any income tax withholding required by law or regulations.

SECTION 3.09. REPURCHASE AT OPTION OF THE HOLDER UPON A FUNDAMENTAL CHANGE.

(a) If a Fundamental Change shall occur at any time prior to June 27, 2020, each Holder of Securities shall have the right, at such Holder's option, to require the Company to repurchase any or all of such Holder's Securities on the date that is 60 days after the date of the Company's notice of such Fundamental Change (the "FUNDAMENTAL CHANGE REPURCHASE DATE") (or if such date is not a Business Day, the next succeeding Business Day). The Securities may be repurchased in integral multiples of \$1,000 of Principal Amount. The Company shall repurchase such Securities at a price (the "FUNDAMENTAL CHANGE PURCHASE PRICE") equal to the Issue Price plus accrued Original Issue Discount, Liquidated Damages, if any, and interest, if any, to the Fundamental Change Repurchase Date.

(b) The Company, or at its request (which must be received by the Trustee at least three Business Days prior to the date the Trustee is requested to give such notice as described below) the Trustee, in the name of and at the expense of the Company, shall mail to all Holders of record of the Securities a notice (a "FUNDAMENTAL CHANGE REPURCHASE NOTICE") of the occurrence of a Fundamental Change and of the repurchase right arising as a result thereof on or before the thirtieth day after the occurrence of such Fundamental Change. The Company shall promptly furnish the Trustee a copy of such notice.

(c) For a Security to be so repurchased at the option of the Holder, the Paying Agent must receive such Security with the form entitled "Option to Elect Repurchase Upon a

Fundamental Change" on the reverse thereof duly completed, together with such Security duly endorsed for transfer, on or before the 60th day after the date of such notice (or if such 60th day is not a Business Day, the immediately preceding Business Day). All questions as to the validity, eligibility (including time of receipt) and acceptance of any Security for repurchase shall be determined by the Company, whose determination shall be final and binding.

SECTION 3.10. EFFECT OF REPURCHASE NOTICE OR FUNDAMENTAL CHANGE REPURCHASE NOTICE.

Upon receipt by the Company of the Repurchase Notice or Fundamental Change Repurchase Notice specified in Section 3.08(a) hereof or Section 3.09(b) hereof, as applicable, the Holder of the Security in respect of which such Repurchase Notice or Fundamental Change Repurchase Notice, as the case may be, was given shall (unless such Repurchase Notice or Fundamental Change Repurchase Notice is withdrawn as specified in the following two paragraphs) thereafter be entitled to receive solely the Purchase Price or Fundamental Change Purchase Price, as the case may be, with respect to such Security, together with Liquidated Damages, if any. Such Purchase Price or Fundamental Change Purchase Price, together with Liquidated Damages, if any, shall be paid to such Holder promptly following the later of (x) the Repurchase Date or the Fundamental Change Repurchase Date, as the case may be, with respect to such Security (provided the conditions in Section 3.08(a) hereof or Section 3.09(c) hereof, as applicable, have been satisfied) and (y) the time of delivery of such Security to the Paying Agent by the Holder thereof in the manner required by Section 3.08(a) hereof or Section 3.09(c) hereof, as applicable. Securities in respect of which a Repurchase Notice or Fundamental Change Repurchase Notice, as the case may be, has been given by the Holder thereof may not be converted for shares of Common Stock on or after the date of the delivery of such Repurchase Notice (or Fundamental Change Repurchase Notice, as the case may be), unless such Repurchase Notice (or Fundamental Change Repurchase Notice, as the case may be) has first been validly withdrawn as specified in the following two paragraphs.

A Repurchase Notice or Fundamental Change Repurchase Notice, as the case may be, may be withdrawn by means of a written notice of withdrawal delivered to the office of the Paying Agent at any time prior to the close of business on the Repurchase Date or the Fundamental Change Repurchase Date, as the case may be, to which it relates specifying:

- (1) the certificate number of any certificated Security in respect of which such notice of withdrawal is being submitted,
- (2) the Principal Amount of the Security with respect to which such notice of withdrawal is being submitted, and
- (3) the Principal Amount, if any, of such Security which remains subject to the original Repurchase Notice or Fundamental Change Repurchase Notice, as the case may be, and which has been or will be delivered for purchase or redemption by the Company.

A written notice of withdrawal of a Repurchase Notice may be in the form of (i) a conditional withdrawal contained in a Repurchase Notice pursuant to the terms of

Section 3.08(a)(1)(D) hereof or (ii) a conditional withdrawal containing the information set forth in Section 3.08(a)(1)(D) hereof and the preceding paragraph and contained in a written notice of withdrawal delivered to the Paying Agent as set forth in the preceding paragraph.

There shall be no repurchase of any Securities pursuant to Section 3.08 hereof (other than through the issuance of Common Stock in payment of the Purchase Price, including cash in lieu of any fractional shares) or repurchase pursuant to Section 3.09 hereof if there has occurred (prior to, on or after, as the case may be, the giving, by the Holders of such Securities, of the required Repurchase Notice or Fundamental Change Repurchase Notice, as the case may be) and is continuing an Event of Default (other than a default in the payment of the Purchase Price or Fundamental Change Purchase Price, as the case may be, with respect to such Securities).

SECTION 3.11. DEPOSIT OF PURCHASE PRICE OR FUNDAMENTAL CHANGE PURCHASE PRICE.

At or before 10 a.m., New York City time, on the Business Day following a Repurchase Date or a Fundamental Change Repurchase Date, as the case may be, the Company shall deposit with the Trustee or with the Paying Agent (or, if the Company or an Affiliate of the Company is acting as the Paying Agent, shall segregate and hold in trust as provided in Section 2.04 hereof) an amount of cash and/or securities, if permitted hereunder, sufficient to pay the aggregate Purchase Price or Fundamental Change Purchase Price, as the case may be, of all the Securities or portions thereof which are to be purchased as of such Repurchase Date or Fundamental Change Repurchase Date, as the case may be, plus Liquidated Damages, if any.

SECTION 3.12. SECURITIES REPURCHASED IN PART.

Any Security that is to be repurchased only in part shall be surrendered at the office of the Paying Agent (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or such Holder's attorney duly authorized in writing) and the Company shall execute and the Trustee shall authenticate and deliver to the Holder of such Security, without service charge, a new Security or Securities, of any authorized denomination as requested by such Holder in aggregate Principal Amount equal to, and in exchange for, the portion of the Principal Amount of the Security so surrendered which is not repurchased.

SECTION 3.13. COVENANT TO COMPLY WITH SECURITIES LAWS UPON REPURCHASE OF SECURITIES.

In connection with any repurchase of Securities under Section 3.08 or 3.09 hereof, the Company shall (i) comply with Rule 13e-4 under the Exchange Act, if applicable, and (ii) otherwise comply with all Federal and state securities laws so as to permit the rights and obligations under Sections 3.08 and 3.09 to be exercised in the time and in the manner specified in Sections 3.08 and 3.09.

SECTION 3.14. REPAYMENT TO THE COMPANY.

Upon receipt of a written request therefor, the Trustee and the Paying Agent shall return to the Company any cash or shares of Common Stock that remain unclaimed as provided in paragraph 14 of the Securities, together with interest or dividends, if any, thereon, held by them for the payment of a Purchase Price or Fundamental Change Purchase Price, as the case may be, together with Liquidated Damages, if any; PROVIDED, HOWEVER, that to the extent that the aggregate amount of cash or shares of Common Stock deposited by the Company pursuant to Section 3.11 hereof exceeds the aggregate Purchase Price or Fundamental Change Purchase Price, as the case may be, of the Securities or portions thereof which the Company is obligated to repurchase as of the Repurchase Date or Fundamental Change Repurchase Date, as the case may be, together with Liquidated Damages, if any, then promptly after the Business Day following the Repurchase Date or Fundamental Change Repurchase Date, as the case may be, the Trustee and the Paying Agent shall return any such excess to the Company together with interest or dividends, if any, thereon.

ARTICLE 4. COVENANTS

SECTION 4.01. PAYMENT OF SECURITIES.

The Company shall promptly pay or cause to be paid all payments in respect of the Securities on the dates and in the manner provided in the Securities or pursuant to this Indenture. Principal Amount, Issue Price, accrued Original Issue Discount, Redemption Price, Purchase Price, Fundamental Change Purchase Price, Liquidated Damages, if any, and interest, if any, shall be considered paid on the applicable date due or, in the case of a Purchase Price or Fundamental Change Purchase Price, on the Business Day following the applicable Repurchase Date or Fundamental Change Repurchase Date, as the case may be, if on such date the Trustee or the Paying Agent holds, in accordance with this Indenture, cash or securities, if permitted hereunder, sufficient to pay all such amount then due.

The Company shall pay interest on overdue amounts at the rate set forth in paragraph 1 of the Securities and it shall pay interest on overdue interest at the same rate compounded semiannually (to the extent that the payment of such interest shall be legally enforceable), which interest on overdue interest shall accrue from the date such amounts became overdue and shall be in lieu of, and not in addition to, the continued accrual of Original Issue Discount.

SECTION 4.02. FINANCIAL INFORMATION; SEC REPORTS.

The Company will deliver to the Trustee (a) as soon as available and in any event within 120 days after the end of each fiscal year of the Company
(i) a consolidated balance sheet of the Company and its Subsidiaries as of the end of such fiscal year and the related consolidated statements of operations, stockholders' equity and cash flows for such fiscal year, all reported on by an independent public accountant of nationally recognized standing and (ii) a report containing a management's discussion and analysis of the financial condition and results of

operations and a description of the business and properties of the Company and (b) as soon as available and in any event within 60 days after the end of each of the first three quarters of each fiscal year of the Company (i) an unaudited consolidated financial report for such quarter and (ii) a report containing a management's discussion and analysis of the financial condition and results of operations of the Company; PROVIDED that the foregoing shall not be required for any fiscal year or quarter, as the case may be, with respect to which the Company files or expects to file with the Trustee an annual report or quarterly report, as the case may be, pursuant to the third paragraph of this Section 4.02.

At any time the Company is not subject to either Section 13 or 15(d) of the Exchange Act, the Company shall at the request of any Holder (or holders of Common Stock issued upon conversion of the Securities) provide to such Holder (or holders of such Common Stock) and any prospective purchaser designated by such Holders (or holders of such Common Stock), as the case may be, such information, if any, required by Rule 144A(d)(4) under the Securities Act.

The Company shall file with the Trustee, within 15 days after it files such annual and quarterly reports, information, documents and other reports with the SEC, copies of its annual report and of the information, documents and other reports (or copies of such portions of any of the foregoing as the SEC may by rules and regulations prescribe) which the Company is required to file with the SEC pursuant to Section 13 or 15 (d) of the Exchange Act.

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 the 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 4.03. COMPLIANCE CERTIFICATE.

The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year of the Company, an Officers' Certificate in which one of the two Officers signing such certificate is either the principal executive officer, principal financial officer or principal accounting officer of the Company, stating whether or not to the knowledge of the signers thereof the Company is in default in the performance and observance of any of the terms, provisions and conditions of this Indenture (without regard to any period of grace or requirement of notice provided hereunder) and, if the Company shall be in default, specifying all such defaults and the nature and status thereof of which the signers may have knowledge.

The Company will deliver to the Trustee, as soon as possible and in any event within five days, upon becoming aware of any default or any Event of Default, an Officers' Certificate specifying with particularity such Default or Event of Default and further stating what action the Company has taken, is taking or proposes to take with respect thereto.

Any notice required to be given under this Section 4.03 shall be delivered to the Trustee at its Corporate Trust Office.

SECTION 4.04. 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 4.05. MAINTENANCE OF OFFICE OR AGENCY.

The Company will appoint in the Borough of Manhattan, The City of New York, an office or agency where Securities may be presented or surrendered for payment, where Securities may be surrendered for registration of transfer, exchange, purchase, redemption or conversion and where notices and demands to or upon the Company in respect of the Securities and this Indenture may be served. The Corporate Trust Office shall be the office or agency for all of the aforesaid purposes unless the Company shall appoint some other office or agency for such purposes and shall give prompt written notice to the Trustee of the location, and any change in the location, of such other office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office.

The Company may also from time to time designate one or more other offices or agencies where the Securities may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; PROVIDED, HOWEVER, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in the Borough of Manhattan, The City of New York, for such purposes.

SECTION 4.06. EXISTENCE.

Subject to Article 5 hereof, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence under the laws of its jurisdiction of incorporation and rights (charter and statutory); PROVIDED, HOWEVER, that the Company shall not be required to preserve any such right if the Company shall determine that the maintenance thereof is no longer desirable in the conduct of the business of the Company and that the loss thereof is not disadvantageous in any material respect to the Holders.

SECTION 4.07. CALCULATION OF ORIGINAL ISSUE DISCOUNT.

The Company shall file with the Trustee promptly at the end of each calendar year (i) a written notice specifying the amount of Original Issue Discount (including daily rates and accrual periods) accrued on the outstanding Securities as of the end of such year and (ii) such other specific information relating to such Original Issue Discount as may then be relevant under the Internal Revenue Code of 1986, as amended from time to time.

SECTION 4.08. REGISTRATION RIGHTS.

(a) The Company agrees that the Holders (and any Person that has a beneficial interest in a Security) from time to time of Registrable Securities (as such term is defined in the Registration Rights Agreement) are entitled to the benefits of the Registration Rights Agreement. Pursuant to the Registration Rights Agreement, the Company has agreed for the benefit of the Holders from time to time of Registrable Securities, at the Company's expense, to use its reasonable best efforts (i) to file as soon as practicable after the Issue Date, a shelf registration statement (the "Shelf Registration Statement") with the Commission with respect to resales of the Restricted Securities, (ii) to cause such Shelf Registration Statement to be declared effective by the Commission not later than 180 days after the first date of original issuance of the Securities, and (iii) to maintain such Shelf Registration Statement continuously effective under the Securities Act subject to and in accordance with the terms of the Registration Rights Agreement. Liquidated damages ("LIQUIDATED DAMAGES") with respect to the Securities shall be assessed if a Registration Default (as defined in the Registration Rights Agreement) occurs.

(b) The Company shall pay Liquidated Damages due pursuant to clause (a) of this Section 4.08 to the Holders in cash in the amounts and on the dates specified in the Registration Rights Agreement and in this Indenture.

Whenever in this Indenture there is mentioned, in any context, any payment in respect of any Security, such mention shall be deemed to include mention of the payment of Liquidated Damages provided for in this Section to the extent that, in such context, Liquidated Damages are, were or would be payable in respect thereof pursuant to the provisions of this Section 4.08, and express mention of the payment of Liquidated Damages (if applicable) in any provisions hereof shall not be construed as excluding Liquidated Damages in those provisions hereof where such express mention is not made.

If Liquidated Damages become payable to the Holders pursuant to the Registration Rights Agreement, at least five Business Days prior to the date on which such Liquidated Damages are payable, the Company shall deliver to the Trustee a certificate to that effect stating (i) the amount of such Liquidated Damages that is payable and (ii) the date on which such amount is payable. Unless and until a Trust Officer receives at the Corporate Trust Office such a certificate, the Trustee may assume without inquiry that no such amount is payable.

ARTICLE 5. SUCCESSOR CORPORATION

SECTION 5.01. WHEN THE COMPANY MAY MERGE OR TRANSFER ASSETS.

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

(i) the Person (if other than the Company) formed by such consolidation or into which the Company is merged or the Person which acquires by conveyance, transfer or lease the properties and assets of the Company substantially as an entirety shall expressly assume by an indenture supplemental hereto, executed and delivered to the Trustee in form reasonably satisfactory to the Trustee, the due and punctual payment of the Principal Amount, Issue Price, accrued Original Issue Discount, Redemption Price, Purchase Price, Fundamental Change Purchase Price, Liquidated Damages, if any, or interest, if any, on the Securities, according to their tenor, and the due and punctual performance of all of the covenants and obligations of the Company under the Securities and this Indenture, and shall have provided for conversion rights in accordance with this Indenture;

(ii) immediately after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing; and

(iii) the Company shall have 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 5 and that all conditions precedent herein provided for relating to such transaction have been satisfied.

The successor Person formed by such consolidation or into which the Company is merged or the successor Person 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 had been named as the Company herein; and thereafter, except in the case of a lease, the Company shall be discharged from all obligations and covenants under this Indenture and the Securities.

ARTICLE 6. DEFAULTS AND REMEDIES

SECTION 6.01. EVENTS OF DEFAULT.

An "EVENT OF DEFAULT" occurs if:

(1) the Company defaults in the payment of the Principal Amount, Issue Price, accrued Original Issue Discount, Redemption Price, Purchase Price or a Fundamental Change Purchase Price on any Security when the same becomes due and payable at its Stated Maturity, upon redemption, upon declaration, when due for repurchase by the Company or otherwise;

(2) the Company defaults in the payment of Liquidated Damages and such default continues for 30 days, or, after exercise of the option provided for in Section 12.01 hereof following a Tax Event, the Company defaults in the payment of interest upon any Security when such interest becomes due and payable, and such default continues for a period of 30 days;

(3) failure of the Company to perform or comply with the provisions of Section 11.02 hereof, and such failure continues for a period of 20 days;

(4) the Company fails to comply with any of its agreements or covenants in the Securities or this Indenture (other than those referred to in clauses (1) through (3) above) and such failure continues for 90 days after receipt by the Company of a Notice of Default;

(5) a decree or order by a court having jurisdiction in the premises shall have been entered adjudging the Company a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization of the Company under any Bankruptcy Law, and such decree or order shall have continued undischarged and unstayed for a period of 90 consecutive days; or a decree or order of a court having jurisdiction in the premises of the appointment of a receiver or liquidator or trustee or assignee in bankruptcy or insolvency of the Company or of its property, or for the winding-up or liquidation of its affairs, shall have been entered, and such decree or order shall have remained in force undischarged and unstayed of a period of 90 consecutive days; or

(6) the Company shall institute proceedings to be adjudicated a voluntary bankrupt, or shall consent to the filing of a bankruptcy proceeding against it, or shall file a petition or answer or consent seeking reorganization under any Bankruptcy Law, or shall consent to the filing of any such petition, or shall consent to the appointment of a receiver or liquidator or trustee or assignee in bankruptcy or insolvency of it or of its property or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due.

A Default under clause (4) 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 at the time outstanding notify the Company and the Trustee, of the Default and the Company does not cure such Default

(and such Default is not waived) within the time specified in clause (4)

above after actual receipt of such notice (a "NOTICE OF DEFAULT"). Any such notice must specify the Default, demand that it be remedied and state that such notice is a Notice of Default.

SECTION 6.02. ACCELERATION.

If an Event of Default (other than an Event of Default specified in

Section 6.01(5) or (6) hereof) occurs and is continuing, the Trustee by notice to the Company, or the Holders of at least 25% in aggregate Principal Amount of the Securities at the time outstanding by notice to the Company and the Trustee, may declare the Issue Price and accrued Original Issue Discount and Liquidated Damages, if any (or, if the Securities have been converted to Semiannual Coupon Debentures, the Restated Principal Amount, plus accrued and unpaid interest) to the date of declaration on all the Securities to be immediately due and payable. Upon such a declaration, such Issue Price and accrued Original Issue Discount and Liquidated Damages, if any (or, if the Securities have been converted to Semiannual Coupon Debentures, the Restated Principal Amount, plus accrued and unpaid interest) shall become and be due and payable immediately. If

an Event of Default specified in Section 6.01(5) or (6) hereof occurs and is continuing, the Issue Price and accrued Original Issue Discount and Liquidated Damages, if any (or, if the Securities have been converted to Semiannual Coupon Debentures, the Restated Principal Amount, plus accrued and unpaid interest) on all the Securities shall become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holders. The Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding, by notice to the Company and the Trustee (and without notice to any other Holder), may rescind an acceleration and its consequences if the rescission would not conflict with any judgment or decree and if all existing Events of Default have been cured or waived except nonpayment of the Issue Price and accrued Original Issue Discount (or, if the Securities have been converted to Semiannual Coupon Debentures, the Restated Principal Amount, plus accrued and unpaid interest) that have become due solely as a result of acceleration and if all amounts due to the Trustee under Section 7.07 hereof have been paid. No such rescission shall affect any subsequent or other Default or Event of Default or impair any consequent right.

SECTION 6.03. OTHER REMEDIES.

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of the Issue Price and accrued Original Issue Discount (or, if the Securities have been converted to Semiannual Coupon Debentures, the Restated Principal Amount, plus accrued and unpaid 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 the Trustee does not possess any of the Securities or does not produce any of the Securities in the proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of, or acquiescence in, the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative.

SECTION 6.04. WAIVER OF PAST DEFAULTS.

The Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding, by notice to the Company and the Trustee (and without notice to any other Holder), may waive an existing Default or Event of Default and its consequences except (1) an Event of Default described in Section 6.01(1) or (2) hereof, (2) a Default in respect of a provision that under Section 9.02 hereof cannot be amended without the consent of each Holder affected or (3) a Default that constitutes a failure to convert any Security in accordance with the terms of Article 11 hereof. When a Default or Event of Default is waived, it is deemed cured, but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any consequent right.

SECTION 6.05. CONTROL BY MAJORITY.

The Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. However,

the Trustee may refuse to follow any direction that conflicts with any law or this Indenture or that the Trustee determines in good faith is unduly prejudicial to the rights of other Holders or would involve the Trustee in personal liability unless the Trustee is offered indemnity reasonably satisfactory to it.

SECTION 6.06. LIMITATION ON SUITS.

A Holder may not pursue any remedy with respect to this Indenture or the Securities unless:

- (1) the Holder gives to the Company and the Trustee written notice stating that an Event of Default is continuing;
- (2) the Holders of at least 25% in aggregate Principal Amount of the Securities at the time outstanding make a written request to the Trustee to pursue the remedy;
- (3) such Holder or Holders offer to the Trustee reasonable security or indemnity satisfactory to the Trustee against any loss, liability or expense satisfactory to the Trustee;
- (4) the Trustee does not comply with the request within 60 days after receipt of the notice, the request and the offer of security or indemnity; and
- (5) the Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding do not give the Trustee a direction inconsistent with the request during such 60 day period.

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

SECTION 6.07. RIGHTS OF HOLDERS TO RECEIVE PAYMENT.

Notwithstanding any other provision of this Indenture, the right of any Holder to receive payment of the Principal Amount, Issue Price, accrued Original Issue Discount, Redemption Price, Purchase Price, Fundamental Change Purchase Price, Liquidated Damages, if any, or interest, if any, in respect of the Securities held by such Holder, on or after the respective due dates expressed in the Securities or any date of redemption, or to bring suit for the enforcement of any such payment on or after such respective dates or the right to convert the Securities in accordance with Article 11, shall not be impaired or affected adversely without the consent of each such Holder.

SECTION 6.08. COLLECTION SUIT BY TRUSTEE.

If an Event of Default described in Section 6.01(1) or (2) hereof occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the

Company for the whole amount owing with respect to the Securities and the amounts provided for in Section 7.07 hereof.

SECTION 6.09. TRUSTEE MAY FILE PROOFS OF CLAIM.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company or any other obligor upon the Securities or the property of the Company or of such other obligor or their creditors, the Trustee (irrespective of whether the Principal Amount, Issue Price, accrued Original Issue Discount, Redemption Price, Purchase Price, Fundamental Change Purchase Price, Liquidated Damages, if any, or interest, if any, in respect of the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Company for the payment of any such amount) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the Principal Amount, Issue Price, accrued Original Issue Discount, Redemption Price, Purchase Price, Fundamental Change Purchase Price, Liquidated Damages, if any, or interest, if any, and to file such 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 of the Holders allowed in such judicial proceeding, and

(b) to collect and receive any money or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or similar official 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 the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof.

If the Trustee does not file a claim or proof of debt in the form required in such proceedings prior to 30 days before the expiration of the time to file such claims or proofs, then any holder or holders of Senior Indebtedness or their representative or representatives shall have the right to demand, sue for, collect, receive and receipt for the payments and distributions in respect of the Securities which are required to be paid or delivered to the holders of Senior Indebtedness as provided in this Article and to file and prove all claims therefor and to take all such other action in the name of the holders or otherwise as such holders of Senior Indebtedness or the Representative thereof may determine to be necessary or appropriate for the enforcement of the provisions of this Article.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claims of any Holder in any such proceeding.

SECTION 6.10. PRIORITIES.

If the Trustee collects any money pursuant to this Article 6, it shall pay out the money in the following order:

FIRST: to the Trustee for amounts due under Section 7.07 hereof;

SECOND: to Holders for amounts due and unpaid on the Securities for the Principal Amount, Issue Price, accrued Original Issue Discount, Redemption Price, Purchase Price, Fundamental Change Purchase Price or interest, if any, as the case may be, ratably, without preference or priority of any kind, according to such amounts due and payable on the Securities; and

THIRD: the balance, if any, to the Company.

The Trustee may fix a proposed record date and payment date for any payment to Holders pursuant to this Section 6.10 and shall notify the Company in writing with respect to such proposed record date and payment date. At least 15 days before such record date, the Company (or the Trustee at the request of the Company) shall mail to each Holder and the Trustee a notice that states the record date, the payment date and amount to be paid.

SECTION 6.11. UNDERTAKING FOR COSTS.

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant (other than the Trustee) 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 6.11 does not apply to a suit by the Trustee, any suit by a Holder for the enforcement of the payment of the Principal Amount, accrued Original Issue Discount, Redemption Price, Purchase Price, Fundamental Change Purchase Price, Liquidated Damages, if any, or interest, if any, on or after the due date expressed in such Security or to any suit for the enforcement of the right to convert the Security pursuant to Article 11, or a suit by Holders of more than 10% in aggregate Principal Amount of the Securities at the time outstanding.

SECTION 6.12. WAIVER OF STAY, EXTENSION OR USURY LAWS.

The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law or any usury or other law wherever enacted, now or at any time hereafter in force, which would prohibit or forgive the Company from paying all or any portion of the Principal Amount, Issue Price, accrued Original Issue Discount, Redemption Price, Purchase Price or Fundamental Change Purchase Price in respect of Securities, Liquidated Damages, if any, or any interest on any such amounts, as contemplated herein, or which may

affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such laws and covenants that it will not 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 7. TRUSTEE

SECTION 7.01. DUTIES OF TRUSTEE.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise 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 man would exercise or use under the circumstances in the conduct of his own affairs.

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

(1) the Trustee need perform only those duties that are specifically set forth in this Indenture and no others; 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. However, in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

This Section 7.01(b) shall be in lieu of Section 315(a) of the TIA and such Section 315(a) is hereby expressly excluded from this Indenture, as permitted by the TIA.

(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 (c) does not limit the effect of paragraph (b) of this Section 7.01;

(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 6.05 hereof.

Subparagraphs (c)(1),(2) and (3) shall be in lieu of Sections 315(d)(1), 315(d)(2) and 315(d)(3) of the TIA and such Sections 315(d)(1), 315(d)(2) and 315(d)(3) are hereby expressly excluded from this Indenture, as permitted by the TIA.

(d) Every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), (c) and (e) of this Section 7.01.

(e) The Trustee may refuse to perform any duty or exercise any right or power or extend or risk its own funds or otherwise incur any financial liability unless it receives indemnity reasonably satisfactory to it against any loss, liability or expense.

(f) Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law.

SECTION 7.02. RIGHTS OF TRUSTEE.

Subject to Section 7.01:

(a) The Trustee may conclusively rely on any document reasonably 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 a Company Order, an Officers' Certificate or an Opinion of Counsel. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on a Company Order, Officers' Certificate or Opinion of Counsel.

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

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

(e) The Trustee may consult with counsel selected by it and any advice or Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or suffered or omitted by it hereunder in good faith and in accordance with such advice or Opinion of Counsel.

(f) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture, unless the Holders shall have offered to the Trustee reasonable security or indemnity reasonably satisfactory to it against the costs, expenses and liabilities which may be incurred therein or thereby.

(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 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 during normal business hours at reasonable frequencies, 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 may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any negligent act on the part of any agent or attorney appointed with due care by it hereunder.

(i) 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 of the Trustee in accordance with Section 13.02 hereof, and such notice references the Securities and this Indenture.

(j) 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.

(k) The Trustee shall be under no obligation to expend or risk its own funds or to exercise, at the request or direction of any of the Holders, any of the rights or powers vested in it by this Indenture pursuant to this Indenture.

SECTION 7.03. 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 its Affiliates with the same rights it would have if it were not Trustee. Any Paying Agent, Registrar, Conversion Agent or co-registrar may do the same with the like rights. However, the Trustee must comply with Sections 7.10 and 7.11 hereof.

SECTION 7.04. TRUSTEE'S DISCLAIMER.

The Trustee makes no representation as to the validity 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 offering memorandum for the Securities or in this Indenture or the Securities (other than its certificate of authentication), the acts of a prior Trustee hereunder, or the determination as to which beneficial owners are entitled to receive any notices hereunder.

SECTION 7.05. NOTICE OF DEFAULTS.

If a Default occurs and is continuing and if it is actually known by a Trust Officer or if written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee in accordance with Section 13.02 hereof, and such notice references the Securities and this Indenture, the Trustee shall give to each Holder notice of the Default within 90 days after it is actually known to a Trust Officer. Except in the case of a Default described in Section 6.01(1) or (2) hereof, the Trustee may withhold the notice if and so long as a committee of its Trust Officers in good faith determines that withholding the notice is in the interests of Holders. The second sentence of this Section 7.05 shall be in lieu of the proviso to Section 315(b) of the TIA and such provision is hereby expressly excluded from this Indenture, as permitted by the TIA. The Trustee shall not give notice of a Default pursuant to Section 6.01(4) until at least 90 days have passed since its occurrence.

SECTION 7.06. REPORTS BY TRUSTEE TO HOLDERS.

Within 60 days after each May 1, beginning with the May 1 following the date of this Indenture, the Trustee shall mail to each Holder a brief report dated as of such May 1 that complies with TIA Section 313(a), if required by such Section 313(a). The Trustee also shall comply with TIA Section 313(b).

A copy of each report at the time of its mailing to Holders shall be filed with the SEC and each securities exchange on which the Securities are listed. The Company agrees to promptly notify the Trustee whenever the Securities become listed on any securities exchange and of any delisting thereof.

SECTION 7.07. COMPENSATION AND INDEMNITY.

The Company agrees:

- (a) to pay to the Trustee from time to time such compensation as the Company and the Trustee shall from time to time agree in writing for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);
- (b) to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the compensation and the expense, advances and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to its negligence or bad faith; and
- (c) to indemnify the Trustee for, and to hold it harmless against, any and all loss, damage, claims, liability or expense (including taxes other than taxes based upon, measured by, or determined by the income of the Trustee) incurred without negligence or willful misconduct on its part, arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending itself against any claim (whether

asserted by the Company, any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder.

To secure the Company's payment obligations in this Section 7.07, the Trustee shall have a lien prior to the Securities on all money or property held or collected by the Trustee, except that held in trust to pay the Principal Amount, Issue Price, accrued Original Issue Discount, Redemption Price, Purchase Price, Fundamental Change Purchase Price, Liquidated Damages, if any, or interest, if any, as the case may be, on particular Securities.

The Company's payment obligations pursuant to this Section 7.07 shall survive the discharge of this Indenture. When the Trustee incurs expenses after the occurrence of a Default specified in Section 6.01(5) or (6), the expenses are intended to constitute expenses of administration under any Bankruptcy Law.

SECTION 7.08. REPLACEMENT OF TRUSTEE.

The Trustee may resign by so notifying the Company; PROVIDED, HOWEVER, that no such resignation shall be effective until a successor Trustee has accepted its appointment pursuant to this Section 7.08. The Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding may remove the Trustee by so notifying the Trustee and may appoint a successor Trustee. The Company shall remove the Trustee if:

- (1) the Trustee fails to comply with, or ceases to be eligible under, Section 7.10 hereof;
- (2) the Trustee is adjudged bankrupt or insolvent;
- (3) a receiver or public officer takes charge or control of the Trustee or its property or affairs; or
- (4) the Trustee otherwise in the Company's reasonable judgment 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, by resolution of its Board of Directors, a successor Trustee.

Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on the request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder, subject to the lien provided for in

Section 7.07 hereof. Upon request of any such successor Trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts. No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be eligible under this Article.

If a successor Trustee does not take office within 30 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company or the Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding may petition, at the expense of the Company, any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee fails to comply with Section 7.10 hereof, any Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

SECTION 7.09. SUCCESSOR TRUSTEE BY MERGER.

If the Trustee consolidates with, merges or converts into, or transfers all or substantially all its corporate trust business (including the trust created by this Indenture) or assets to, another corporation, the resulting, surviving or transferee corporation without any further act shall be the successor Trustee hereunder, PROVIDED such corporation shall be otherwise eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto. As soon as practicable, the successor Trustee shall give written notice of its succession to the Company. In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Securities.

SECTION 7.10. ELIGIBILITY; DISQUALIFICATION.

The Trustee shall at all times satisfy the requirements of TIA Sections 310(a)(1) and 310(b). The Trustee shall have a combined capital and surplus of at least \$50,000,000 (or if the Trustee is a member of a bank holding company system, its bank holding company shall have a combined capital and surplus of at least \$50,000,000) as set forth in its most recent published annual report of conditions. Nothing herein contained shall prevent the Trustee from filing with the SEC the application referred to in the penultimate paragraph of TIA Section 310(b). If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 7.10, it shall correct such ineligibility or resign immediately in the manner and with the effect specified in this Article 7.

SECTION 7.11. 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.

**ARTICLE 8.
DISCHARGE OF INDENTURE**

SECTION 8.01. DISCHARGE OF LIABILITY ON SECURITIES.

When (i) the Company delivers to the Trustee all outstanding Securities (other than Securities replaced pursuant to Section 2.07 hereof) for cancellation or (ii) all outstanding Securities have become due and payable and the Company deposits with the Trustee cash and/or securities, as permitted by the terms hereof, sufficient to pay at Stated Maturity the Principal Amount of all outstanding Securities (other than Securities replaced pursuant to Section 2.07 hereof), and if in either case the Company pays all other sums payable hereunder by the Company, then this Indenture shall, subject to Section 7.07 hereof, cease to be of further effect. The Trustee shall join in the execution of a document prepared by the Company acknowledging satisfaction and discharge of this Indenture on demand of the Company accompanied by an Officers' Certificate and Opinion of Counsel and at the cost and expense of the Company.

SECTION 8.02. REPAYMENT TO THE COMPANY.

The Trustee and the Paying Agent shall return to the Company upon written request any money or securities held by them for the payment of any amount with respect to the Securities that remains unclaimed for two years; PROVIDED, HOWEVER, that the Trustee or such Paying Agent, before being required to make any such return, shall, in the event that the Securities are no longer held in global form, at the expense of the Company cause to be published once in a newspaper of general circulation in The City of New York or mail to each such Holder notice that such money or securities remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication or mailing, any unclaimed money or securities then remaining will be returned to the Company. After return to the Company, Holders entitled to the money or securities must look to the Company for payment as general creditors unless an applicable abandoned property law designates another Person.

**ARTICLE 9.
AMENDMENTS**

SECTION 9.01. WITHOUT CONSENT OF HOLDERS.

The Company and the Trustee may amend this Indenture and the Securities without the consent of any Holder:

- (1) to cure any ambiguity or to correct or supplement any provision contained herein or in any supplemental indenture which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture, or to make any change to any provision contained herein (including the form of Securities in Exhibit A) necessary or desirable to accommodate the Company's election under Section 12.01 hereof, PROVIDED that, in any case, such change shall not materially adversely affect the interests of the Holders;
- (2) to provide for the assumption of the Company's obligations to the Holders of the Debentures in case of a merger or consolidation or conveyance, transfer or lease of the Company's properties and assets substantially as an entirety;
- (3) to provide for uncertificated Securities in addition to or in place of certificated Securities so long as such uncertificated Securities are in registered form for purposes of the Internal Revenue Code of 1986, as amended;
- (4) to make any change that does not adversely affect the right of any Holder; or
- (5) to make any change to comply with the TIA, or any amendment thereto, or to comply with any requirement of the SEC in connection with the qualification, if any, of the Indenture under the TIA.

SECTION 9.02. WITH CONSENT OF HOLDERS.

The Company and the Trustee, with the written consent of the Holders of at least a majority in aggregate Principal Amount of the Securities at the time outstanding, may amend this Indenture or the Securities. However, without the consent of each Holder affected, an amendment or supplement to this Indenture or the Securities may not:

- (1) make any change to the Principal Amount of Securities whose Holders must consent to an amendment;
- (2) make any change to the manner or rate of accrual in connection with Original Issue Discount, Liquidated Damages, if any, or interest, if any, reduce the rate of interest referred to in paragraph 1 of the Securities or extend the time for payment of Original Issue Discount, Liquidated Damages, if any, or interest, if any, on any Security;

- (3) reduce the Principal Amount or the Issue Price of or extend the Stated Maturity of any Security;
- (4) reduce the Redemption Price, Purchase Price or Fundamental Change Purchase Price of any Security;
- (5) make any Security payable in money or securities other than that stated in the Security;
- (6) [intentionally omitted];
- (7) make any change in Section 6.04 or 6.07 hereof or this Section 9.02, except to increase the percentage of Holders referenced in Section 6.04 or 6.07 hereof or this Section 9.02, as applicable;
- (8) make any change that adversely affects the right of Holders to convert any Security; or
- (9) make any change that adversely affects the right of Holders to require the Company to repurchase the Securities, or the right to require the Company to repurchase the Securities upon a Fundamental Change, in accordance with the terms thereof and this Indenture.

It shall not be necessary for the consent of the Holders under this Section 9.02 to approve the particular form of any proposed amendment, but it shall be sufficient if such consent approves the substance thereof.

After an amendment under this Section 9.02 becomes effective, the Company shall mail to each Holder a notice briefly describing the amendment.

SECTION 9.03. COMPLIANCE WITH TRUST INDENTURE ACT.

Every supplemental indenture executed pursuant to this Article 9 shall comply with the TIA as then in effect, if then required to so comply.

SECTION 9.04. REVOCATION AND EFFECT OF CONSENTS, WAIVERS AND ACTIONS.

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

SECTION 9.05. NOTATION ON OR EXCHANGE OF SECURITIES.

Securities authenticated and delivered after the execution of any supplemental indenture pursuant to this Article 9 may, and shall if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Securities so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for outstanding Securities.

SECTION 9.06. TRUSTEE TO SIGN SUPPLEMENTAL INDENTURES.

The Trustee shall sign any supplemental indenture authorized pursuant to this Article 9 if the amendment does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee may, but need not, sign such supplemental indenture. In signing such amendment the Trustee shall be entitled to receive, and (subject to the provisions of Section 7.01 hereof) shall be fully protected in relying upon, an Officers' Certificate and an Opinion of Counsel stating that such amendment is authorized or permitted by this Indenture.

SECTION 9.07. EFFECT OF SUPPLEMENTAL INDENTURES.

Upon the execution of any supplemental indenture under this Article 9, 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 10.
[INTENTIONALLY OMITTED]**

**ARTICLE 11.
CONVERSION**

SECTION 11.01. CONVERSION PRIVILEGE.

A Holder of a Security may convert such Security for Common Stock at any time during the period stated in paragraph 9 of the Securities. The number of shares of Common Stock issuable upon conversion of a Security per \$1,000 of Principal Amount thereof (the "CONVERSION RATE") shall be that set forth in paragraph 9 in the Securities, subject to adjustment as herein set forth.

The Holders' right to convert Securities into shares of Common Stock is subject to the Company's right to elect to instead pay such Holder the amount of cash set forth in the next succeeding sentence, in lieu of delivering such shares of Common Stock; PROVIDED, HOWEVER, that if an Event of Default (other than a default in a cash payment upon conversion

of the Securities) shall have occurred and be continuing, the Company shall deliver shares of Common Stock (and cash in lieu of fractional shares of Common Stock) in accordance with this Article 11, whether or not the Company has delivered a notice pursuant to Section 3.03 or 11.02 hereof to the effect that the Securities would be paid in cash. The amount of cash to be paid pursuant to Section 11.02 hereof for each \$1,000 of Principal Amount of a Security upon conversion shall be equal to the Sale Price of the Common Stock on the Trading Day immediately prior to the related Conversion Date multiplied by the Conversion Rate in effect on such Trading Day. The Company shall not pay cash in lieu of delivering shares of Common Stock upon the conversion of any Security pursuant to the terms of this Article 11 (other than cash in lieu of fractional shares pursuant to Section 11.03 hereof) if there has occurred (prior to, on or after, as the case may be, the Conversion Date or the date on which the Company delivers its notice of whether such Security shall be converted into shares of Common Stock or cash pursuant to Section 11.02 hereof) and is continuing an Event of Default (other than a default in a cash payment upon conversion of such Securities), PROVIDED, HOWEVER, that this sentence shall not apply in the event that an Event of Default occurs after such cash is paid.

A Holder may convert a portion of the Principal Amount of a Security if the portion is \$1,000 or an integral multiple of \$1,000. Provisions of this Indenture that apply to conversion of all of a Security also apply to conversion of a portion of a Security.

SECTION 11.02. CONVERSION PROCEDURE.

To convert a Security a Holder must satisfy the requirements in paragraph 9 of the Securities. The date on which the Holder of Securities satisfies all those requirements is the conversion date (the "CONVERSION DATE"). Within two Business Days following the Conversion Date, the Company shall deliver to the Holder, through the Conversion Agent, written notice of whether such Security shall be converted into shares of Common Stock or paid in cash, unless the Company shall have delivered such notice previously pursuant to Section 3.03 hereof. If the Company shall have notified the Holder that all or a portion of such Security shall be converted into shares of Common Stock, the Company shall deliver to the Holder no later than the seventh Business Day following the Conversion Date a certificate for the number of full shares of Common Stock issuable upon the conversion and cash in lieu of any fractional share determined pursuant to Section 11.03 hereof. Except as provided in Section 11.01 hereof, if the Company shall have notified the Holder that all or a portion of such Security shall be paid in cash, the Company shall deliver to the Holder surrendering such Security the amount of cash payable with respect to such Security no later than the seventh Business Day following such Conversion Date. Except as provided in Section 11.01 hereof, the Company may not change its election with respect to the consideration to be delivered upon conversion of a Security once the Company has notified the Holder in accordance with this paragraph. The Person in whose name the certificate is registered shall be treated as the stockholder of record on and after 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; such conversion shall be at the Conversion Rate in effect on the date that such Security shall have been surrendered for conversion, 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 on the Securities or adjustment of the Conversion Rate will be made for dividends on or other distributions with respect to any Common Stock except as provided in this Article 11. On conversion of a Security, that portion of accrued Original Issue Discount (or interest, if the Company has exercised the option provided for in Section 12.01 hereof) attributable to the period from the Issue Date (or, if the Company has exercised the option provided for in Section 12.01 hereof, the later of (x) the date of such exercise and (y) the date on which interest was last paid) to the Conversion Date with respect to the converted Security shall not be canceled, extinguished or forfeited, but rather shall be deemed to be paid in full to the Holder thereof through delivery of the Common Stock (together with the cash payment, if any, in lieu of fractional shares) in exchange for the Security being converted pursuant to the provisions hereof.

If a Holder converts more than one Security at the same time, the number of shares of Common Stock issuable or cash paid upon the conversion shall be based on the total Principal Amount of the 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 in an authorized denomination equal in Principal Amount to the unconverted portion of the Security surrendered.

If the last day on which a Security may be converted is a Legal Holiday in a place where a Conversion Agent is located, the Security may be surrendered to that Conversion Agent on the next succeeding day that it is not a Legal Holiday.

SECTION 11.03. FRACTIONAL SHARES.

The Company will not issue a fractional share of Common Stock upon conversion of a Security. Instead the Company will deliver cash for the current market value of the fractional share. The current market value of a fractional share shall be determined to the nearest 1/10,000th of a share by multiplying the last reported sale price (determined as set forth in the definition of Market Price) on the last Trading Day prior to the Conversion Date of a full share by the fractional amount and rounding the product to the nearest whole cent.

SECTION 11.04. 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 the 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 Conversion Agent may refuse to deliver the certificates representing the Common Stock being issued in a name other than the Holder's name until the Conversion 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 regulations.

SECTION 11.05. 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 the Securities. The shares of Common Stock or other securities issued upon conversion of the Securities shall bear any legend required by Section 2.06(d) hereof.

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

The Company covenants that if any shares of Common Stock to be provided for the purpose of conversion of Securities hereunder require registration with or approval of any governmental authority under any federal or state law before such shares may be validly issued upon conversion, the Company will in good faith and as expeditiously as possible endeavor to secure such registration or approval, as the case may be.

The Company further covenants that if at any time the Common Stock shall be quoted or listed on the NASDAQ National Market or the AMEX or any other automated quotation system or national securities exchange, the Company will, if permitted by the rules of such automated quotation system or exchange, list and keep listed, so long as the Common Stock shall be so listed on such automated quotation system or exchange, all shares of Common Stock issuable upon conversion of the Securities; PROVIDED, HOWEVER, that if the 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.

SECTION 11.06. ADJUSTMENT FOR CHANGE IN CAPITAL STOCK.

In case the Company shall (i) pay a dividend, or make a distribution, in shares of its Common Stock, on its Common Stock, (ii) subdivide its outstanding Common Stock into a greater number of shares, or (iii) combine its outstanding Common Stock into a smaller number of shares, the Conversion Rate in effect immediately prior thereto shall be adjusted so that the Holder of any Security thereafter surrendered for conversion shall be entitled to receive the number of shares of Common Stock which such Holder would have owned or have been entitled to receive after the occurrence of any of the events described above had such Security been converted immediately prior to the occurrence of such event. If any dividend or distribution of the type described in clause (i) above is not so paid or made, the Conversion Rate shall again be adjusted to the Conversion Rate which would then be in effect if such dividend as distribution had not been declared. An adjustment made pursuant to this Section 11.06 shall become

effective immediately after the record date in the case of a dividend and shall become effective immediately after the effective date in the case of a subdivision or combination.

SECTION 11.07. ADJUSTMENT FOR RIGHTS OR WARRANTS.

In case the Company shall issue rights or warrants to all holders of its Common Stock entitling them (for a period expiring within 45 days after the record date mentioned below) to subscribe for or purchase Common Stock at a price per share less than the Market Price per share of Common Stock at the record date for the determination of stockholders entitled to receive such rights or warrants, the Conversion Rate in effect immediately prior thereto shall be adjusted so that the same shall equal the Conversion Rate determined by multiplying the Conversion Rate in effect immediately prior to the date of issuance of such rights or warrants by a fraction of which the numerator shall be the number of shares of Common Stock outstanding on the date of issuance of such rights or warrants plus the number of additional shares of Common Stock offered to holders of Common Stock for subscription or purchase, and of which the denominator shall be the number of shares of Common Stock outstanding on the date of issuance of such rights or warrants plus the number of shares of Common Stock which the aggregate offering price of the total number of shares so offered would purchase at such Market Price. Such adjustment shall be made successively whenever any such rights or warrants are issued, and shall become effective immediately after the opening of business on the day following the record date for the determination of the stockholders entitled to receive such rights or warrants. To the extent that shares of Common Stock are not delivered after the expiration of such rights or warrants, the Conversion Rate shall be readjusted to the Conversion Rate which would then be in effect had the adjustments made upon the issuance of such rights or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights or warrants are not so issued, the Conversion Rate shall again be adjusted to be the Conversion Rate which would then be in effect if such record date for the determination of stockholders entitled to receive such rights or warrants had not been fixed. In determining whether any rights or warrants entitle the holders to subscribe for or purchase shares of Common Stock at less than such Market Price of such Common Stock, and in determining the aggregate offering price of such shares of Common Stock, there shall be taken into account any consideration received by the Company for such rights or warrants, the value of such consideration, if other than cash, to be determined by the Board of Directors.

SECTION 11.08. ADJUSTMENT FOR OTHER DISTRIBUTIONS.

(a) In case the Company shall distribute to all holders of its Common Stock (excluding any distribution in connection with the liquidation, dissolution or winding up of the Company, whether voluntary or involuntary) any shares of any class of capital stock of the Company (other than Common Stock), or evidences of indebtedness of the Company or of assets (other than cash and other than dividends, distributions or rights or warrants to subscribe for or purchase any of its securities referred to in Section 11.07 hereof) (any of the foregoing hereinafter in this Section 11.08(a) called the "DISTRIBUTED SECURITIES"), then, the Conversion Rate shall be adjusted so that the same shall equal the Conversion Rate determined by multiplying the Conversion Rate in effect immediately prior to the date of such distribution by a fraction of which the numerator shall be the Market Price per share of the Common Stock

on the record date mentioned below, and the denominator shall be the Market Price per share of the Common Stock on such record date less the fair market value on such record date (as determined by the Board of Directors of the Company, whose determination shall be conclusive, and described in a certificate filed with the Trustee) of the Distributed Securities so distributed applicable to one share of Common Stock. Such adjustment shall become effective immediately after the record date for the determination of stockholders entitled to receive such distribution. Notwithstanding the foregoing, in the event that the then fair market value (as so determined) of the portion of the Distributed Securities so distributed applicable to one share of Common Stock is equal to or greater than the Market Price of the Common Stock on the record date, in lieu of the foregoing adjustment, adequate provision shall be made so that each Holder shall have the right to receive upon conversion the amount of Distributed Securities such Holder would have received had such Holder converted each Security immediately prior to such record date. In the event that such distribution is not so paid or made, the Conversion Rate shall again be adjusted to the Conversion Rate which would then be in effect if such distribution had not been declared. If the Board of Directors determines the fair market value of any distribution for purposes of this Section 11.08(a) by reference to the actual or when issued trading market for any securities, it must in doing so consider the prices in such market over the same period used in computing the Market Price of the Common Stock.

Notwithstanding the foregoing provisions of this Section 11.08(a), no adjustment shall be made thereunder for any distribution of Distributed Securities if the Company makes proper provision so that each Holder of a Security who converts such Security (or any portion thereof) after the record date for such distribution shall be entitled to receive upon such conversion, in addition to the shares of Common Stock issuable upon such conversion, the amount and kind of Distributed Securities that such Holder would have been entitled to receive if such Holder had, immediately prior to such record date, converted such Security for Common Stock; PROVIDED that, with respect to any Distributed Securities that are convertible, exchangeable or exercisable, the foregoing provision shall only apply to the extent (and so long as) the Distributed Securities receivable upon conversion of such Security would be convertible, exchangeable or exercisable, as applicable, without any loss of rights or privileges for a period of at least 60 days following conversion of such Security.

(b) In case the Company shall, by dividend or otherwise, distribute to all holders of its Common Stock cash (excluding (x) any quarterly cash dividend on the Common Stock to the extent the aggregate cash dividend per share of Common Stock in any fiscal quarter does not exceed the greater of (A) the amount per share of Common Stock of the immediately preceding quarterly cash dividend on the Common Stock to the extent such preceding quarterly dividend did not require any adjustment of the Conversion Rate pursuant to this Section 11.08(b) (as adjusted to reflect subdivisions or combinations of the Common Stock), and (B) 3.75% of the average of the last reported sales price of the Common Stock (determined as provided in the definition of Market Price) during the ten Trading Days immediately prior to the date of declaration of such dividend and (y) any dividend or distribution in connection with the liquidation, dissolution or winding up of the Company, whether voluntary or involuntary), then, in such case, unless the Company elects to reserve such cash for distribution to the Holders of the Securities upon the conversion of the Securities so that any such Holder converting Securities will receive upon such conversion in addition to the shares of Common Stock to which such

Holder is entitled, the amount of cash which such Holder would have received if such Holder had, immediately prior to the record date for such distribution of cash, converted its Securities for Common Stock, the Conversion Rate shall be increased so that the same shall equal the Conversion Rate determined by multiplying the Conversion Rate in effect immediately prior to the record date by a fraction of which the numerator shall be such Market Price of the Common Stock and the denominator shall be the Market Price of the Common Stock on the record date less the amount of cash so distributed (and not excluded as provided above) applicable to one share of Common Stock, such increase to be effective immediately prior to the opening of business on the day following the record date; PROVIDED, HOWEVER, that in the event that the portion of the cash so distributed applicable to one share of Common Stock is equal to or greater than the Market Price of the Common Stock on the record date, in lieu of the foregoing adjustment, adequate provision shall be made so that each Holder shall have the right to receive upon conversion the amount of cash such Holder would have received had such Holder converted each Security on the record date. If such dividend or distribution is not so paid or made, the Conversion Rate shall again be adjusted to be the Conversion Rate which would then be in effect if such dividend or distribution had not been declared. If any adjustment is required to be made as set forth in this Section 11.08(b) as a result of a distribution that is a quarterly dividend, such adjustment shall be based upon the amount by which such distribution exceeds the amount of the quarterly cash dividend permitted to be excluded pursuant hereto. If an adjustment is required to be made as set forth in this Section 11.08(b) above as a result of a distribution that is not a quarterly dividend, such adjustment shall be based upon the full amount of the distribution.

(c) In case a tender or exchange offer made by the Company or any Subsidiary of the Company for all or any portion of the Common Stock shall expire and such tender or exchange offer shall involve the payment by the Company or such Subsidiary of consideration per share of Common Stock having a fair market value (as determined by the Board of Directors, whose determination shall be conclusive, and described in a resolution of such Board of Directors at the last time (the "EXPIRATION TIME") tenders or exchanges may be made pursuant to such tender or exchange offer (as it shall have been amended)) at the Expiration Time that exceeds 110% of the Market Price of the Common Stock on the Trading Day next succeeding the Expiration Time, the Conversion Rate shall be increased so that the same shall equal the Conversion Rate determined by multiplying the Conversion Rate in effect immediately prior to the Expiration Time by a fraction of which (i) the numerator shall be the sum of (x) the fair market value (determined as aforesaid) of the aggregate consideration payable to holders of Common Stock based on the acceptance (up to any maximum specified in the terms of the tender or exchange offer) of all shares of Common Stock validly tendered or exchanged and not withdrawn as of the Expiration Time, (the shares deemed so accepted up to any such maximum, being referred to as the "PURCHASED SHARES") and (y) the product of the number of shares of Common Stock outstanding (less any Purchased Shares) on the Expiration Time and the Market Price of the Common Stock on the Trading Day next succeeding the Expiration Time, and (ii) the denominator shall be the number of shares of Common Stock outstanding (including any tendered or exchanged shares) on the Expiration Time multiplied by the Market Price of the Common Stock on the Trading Day next succeeding the Expiration Time, such increase to become effective immediately prior to the opening of business on the day following the Expiration Time. In the event that the Company is obligated to purchase shares pursuant to any

such tender or exchange offer, but the Company is permanently prevented by applicable law from effecting any such purchases or all such purchases are rescinded, the Conversion Rate shall again be adjusted to be the Conversion Rate which would then be effect if such tender or exchange offer had not been made.

SECTION 11.09. WHEN ADJUSTMENT MAY BE DEFERRED.

No adjustment in the Conversion Rate need be made unless the adjustment would require an increase or decrease of at least 1% in the Conversion Rate. Any adjustments that are made shall be carried forward and taken into account any subsequent adjustment.

All calculations under this Article 11 shall be made to the nearest cent or to the nearest 1/10,000th of a share, as the case may be.

SECTION 11.10. WHEN NO ADJUSTMENT REQUIRED.

No adjustment need be made for rights to purchase Common Stock pursuant to a Company plan for reinvestment of dividends or interest.

No adjustment need be made for a change in the par value or no par value of the Common Stock.

To the extent the Securities become convertible into cash, assets, property or securities (other than capital stock of the Company), no adjustment need be made thereafter as to the cash, assets, property or such securities. Interest will not accrue on the cash.

SECTION 11.11. NOTICE OF ADJUSTMENT.

Whenever the Conversion Rate is adjusted, the Company shall promptly mail to Holders a notice of the adjustment. The Company shall file with the Trustee and the Conversion Agent such notice. The certificate shall, absent manifest error, be conclusive evidence that the adjustment is correct. Neither the Trustee nor any Conversion Agent shall be under any duty or responsibility with respect to any such certificate except to exhibit the same to any Holder desiring inspection thereof.

SECTION 11.12. VOLUNTARY CHANGE.

The Company may make such increases, in one or more increments, in the Conversion Rate, in addition to those required by Sections 11.06, 11.07 and 11.08 hereof, as the Board of Directors considers to be 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 stock (or rights to acquire stock) or from any event treated as such for income tax purposes. To the extent permitted by applicable law, the Company may from time to time increase the Conversion Rate by any amount for any period of time if the period is at least 20 Business Days, the increase is irrevocable during the period and the Board of Directors shall have made a determination that such increase would be in the best interests of the Company, which determination shall be

conclusive. Subsequent to any such increase, the Company may from time to time lower the Conversion Rate to any rate that is not lower than the Conversion Rate that would have been applicable had any such increase not occurred, if the Board of Directors has determined that the decrease would be in the Company's best interests. Whenever the Conversion Rate is changed pursuant to this Section 11.12, the Company shall mail to Holders and file with the Trustee and the Conversion Agent a notice of such increase. The Company shall mail such notice at least seven days before the date the increased or decreased Conversion Rate takes effect. The notice shall state the increased or decreased Conversion Rate and the period it will be in effect.

SECTION 11.13. NOTICE OF CERTAIN TRANSACTIONS.

If:

- (1) the Company makes any distribution or dividend that would require an adjustment in the Conversion Rate pursuant to Section 11.06, 11.07 or 11.08 hereof; or
- (2) the Company takes any action that would require a supplemental indenture pursuant to Section 11.14 hereof; or
- (3) there is a liquidation, dissolution or winding-up of the Company;

then the Company shall mail to Holders and file with the Trustee and the Conversion Agent a notice stating the proposed record date for a dividend or distribution or the proposed effective date of a subdivision, combination, reclassification, consolidation, merger, conveyance, transfer, lease, dissolution, liquidation or winding-up. The Company shall file and mail the notice at least 10 days before such date. Failure to file or mail the notice or any defect in it shall not affect the validity of the transaction.

SECTION 11.14. EFFECT OF RECLASSIFICATION, CONSOLIDATION, MERGER OR TRANSFER.

If any of the following events occur, namely (i) any reclassification or change of outstanding shares of Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination), (ii) any consolidation, merger or combination of the Company with one or more other Persons as a result of which holders of Common Stock shall be entitled to receive stock, securities or other property or assets (including cash) with respect to or in exchange for such Common Stock, or (iii) any conveyance, transfer or lease of the properties and assets of the Company substantially as an entirety to any other Person as a result of which holders of Common Stock shall be entitled to receive stock, securities or other property or assets (including cash) with respect to or in exchange for such Common Stock, then the Company or the successor or purchasing Person, as the case may be, shall execute with the Trustee a supplemental indenture, providing that each Security shall be convertible into the kind and amount of shares of stock and other securities or property or assets (including cash) receivable upon such reclassification, change, consolidation, merger, combination, conveyance, transfer or lease by a holder of a number of shares of

Common Stock issuable upon conversion of such Securities immediately prior to such reclassification, change, consolidation, merger, combination, conveyance, transfer or lease. Such supplemental indenture shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Article.

The Company shall cause notice of the execution of such supplemental indenture to be mailed to each Holder of Securities, at such Holder's address appearing on the Security register provided for in Section 2.03 hereof.

The above provisions of this Section shall similarly apply to successive reclassifications, changes, consolidations, mergers, combinations, conveyances, transfers or leases.

If this Section applies, none of Sections 11.06, 11.07 nor 11.08 hereof apply.

SECTION 11.15. COMPANY DETERMINATION FINAL.

Any determination that the Company or the Board of Directors must make pursuant to Section 11.03, 11.06, 11.07, 11.08, 11.09, 11.10, 11.12, 11.14 or 11.17 hereof shall be conclusive in the absence of manifest error.

SECTION 11.16. TRUSTEE'S ADJUSTMENT DISCLAIMER.

The Trustee has no duty to determine when an adjustment under this Article 11 should be made, how it should be made or what it should be. The Trustee has no duty to determine whether a supplemental indenture under Section 11.14 hereof need be entered into or whether any provisions of any supplemental indenture are correct. The Trustee shall not be accountable for and makes no representation as to the validity or value of any securities or assets issued upon conversion of Securities. The Trustee shall not be responsible for the Company's failure to comply with this Article 11, and shall not be deemed to have knowledge of any adjustment unless and until it shall have received a notice of adjustment pursuant to Section 11.11 hereof. Each Conversion Agent (other than the Company or one of its Affiliates) shall have the same protection under this Section 11.16 as the Trustee.

SECTION 11.17. SIMULTANEOUS ADJUSTMENTS.

In the event that this Article 11 requires adjustments to the Conversion Rate under more than one of Section 11.06, 11.07, 11.08(a) or 11.08(b) hereof, and the record dates for the distributions giving rise to such adjustments shall occur on the same date, then such adjustments shall be made by applying, first, the provisions of Section 11.08(a) hereof, second, the provisions of Section 11.08(b) hereof, third, the provisions of Section 11.06 hereof and, fourth, the provisions of Section 11.07 hereof, PROVIDED that no adjustment shall be made more than once pursuant to any such individual Section.

SECTION 11.18. SUCCESSIVE ADJUSTMENTS.

After an adjustment to the Conversion Rate under this Article 11, any subsequent event requiring an adjustment under this Article 11 shall cause an adjustment to the Conversion Rate as so adjusted.

SECTION 11.19. RIGHTS ISSUED IN RESPECT OF COMMON STOCK UNDER SHAREHOLDER RIGHTS PLANS.

Rights or warrants distributed by the Company to all holders of Common Stock entitling the holders thereof to subscribe for or purchase shares of the Company's capital stock (either initially or under certain circumstances), which rights or warrants, until the occurrence of a specified event or events ("TRIGGER EVENT"):

- (i) are deemed to be transferred with such shares of Common Stock,
- (ii) are not exercisable, and
- (iii) are also issued in respect of future issuances of Common Stock,

shall not be deemed distributed for purposes of Section 11.08(a) hereof until the occurrence of the earliest Trigger Event. In addition, in the event of any distribution of rights or warrants, or any Trigger Event with respect thereto, that shall have resulted in an adjustment to the Conversion Rate under Section 11.08(a) hereof, (1) in the case of any such rights or warrants which shall all have been redeemed or repurchased without exercise by any holders thereof, the Conversion Rate shall be readjusted upon such final redemption or repurchase to give effect to such distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per share redemption or repurchase price received by a holder of Common Stock with respect to such rights or warrants (assuming such holder had retained such rights or warrants), made to all holders of Common Stock as of the date of such redemption or repurchase, and (2) in the case of any such rights or warrants all of which shall have expired without exercise by any holder thereof, the Conversion Rate shall be readjusted as if such issuance had not occurred.

SECTION 11.20. GENERAL CONSIDERATIONS.

Whenever successive adjustments to the Conversion Rate are called for pursuant to this Article 11, such adjustments shall be made to the Market Price as may be necessary or appropriate to effectuate the intent of this Article 11 and to avoid unjust or inequitable results as determined in good faith by the Board of Directors.

ARTICLE 12.
SPECIAL TAX EVENT

SECTION 12.01. OPTIONAL CONVERSION TO SEMIANNUAL COUPON DEBENTURE UPON TAX EVENT.

From and after the date (the "TAX EVENT DATE") of the occurrence of a Tax Event, at the option of the Company, interest in lieu of future Original Issue Discount shall accrue at 3.875% per annum on a principal amount per Security (the "RESTATED PRINCIPAL AMOUNT") equal to the Issue Price plus Original Issue Discount accrued to the date immediately prior to the Tax Event Date or the date on which the Company exercises the option described herein (to convert the Security into a Semiannual Coupon Debenture), whichever is later (such date, the "OPTION EXERCISE DATE"). Such interest shall accrue from the Option Exercise Date and shall be payable semiannually on June 27 and December 27 of each year (each an "INTEREST PAYMENT DATE") to Holders of record at the close of business on June 15 or December 15 (each a "REGULAR RECORD DATE") immediately preceding such Interest Payment Date. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months and will accrue from the most recent date on which interest has been paid or, if no interest has been paid, from the Option Exercise Date. Within 15 days of the occurrence of a Tax Event, the Company shall mail a written notice of such Tax Event by first-class mail to the Trustee, and the Trustee or the Custodian, at the direction of the Trustee, shall make any necessary endorsement of each Security in global form then outstanding so that it reflects the Restated Principal Amount.

SECTION 12.02. PAYMENT OF INTEREST; INTEREST RIGHTS PRESERVED.

(a) Interest on any Security that is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Security is registered at the close of business on the Regular Record Date for such interest at the office or agency of the Company maintained for such purpose. Each installment of interest on any Security shall be paid in same-day funds by transfer to an account maintained by the payee located inside the United States. In the case of a permanent global Security, interest payable on any Interest Payment Date will be paid to the Depositary, Euroclear and/or Clearstream, as the case may be, with respect to that portion of such permanent global Security held for its account by Cede & Co. or the London office of a depositary, as the case may be, for the purpose of permitting such party to credit the interest received by it in respect of such permanent global Security to the accounts of the beneficial owners thereof.

(b) Except as otherwise specified with respect to the Securities, any interest on any Security that is payable, but is not punctually paid or duly provided for, within 30 days following any Interest Payment Date (herein called "DEFAULTED INTEREST") shall forthwith cease to be payable to the registered Holder thereof on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Interest may be paid by the Company, as its election in each case, as provided in clause (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Interest to the persons in whose names the Securities are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Security and the date of the proposed payment (which shall not be less than 20 days after such notice is received by the Trustee), and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit on or prior to the date of proposed payment, such money when deposited to be held in trust for the benefit of the persons entitled to such Defaulted Interest as in this clause provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to each Holder of Securities at his address as it appears on the list of Holders maintained pursuant to Section 2.05 hereof not less than 10 days prior to such Special Record Date. The Trustee may, in its discretion, in the name and at the expense of the Company, cause a similar notice to be published at least once in an Authorized Newspaper in each place of payment, but such publications shall not be a condition precedent to the establishment of such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the persons in whose names the Securities are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following clause (2).

(2) The Company may make payment of any Defaulted Interest on the Securities in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Securities may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

Subject to the foregoing provisions of this Section and Section 2.06 hereof, each Security delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security.

**ARTICLE 13.
MISCELLANEOUS**

SECTION 13.01. TRUST INDENTURE ACT.

This Indenture is hereby made subject to, and shall be governed by, the provisions of the TIA required to be part of and to govern indentures qualified under the TIA; PROVIDED, HOWEVER that this Section 13.01 shall not require this Indenture or the Trustee to be qualified under the TIA prior to the time such qualification is in fact required under the terms of the TIA, nor shall it constitute any admission or acknowledgment by either party that any such qualification is required prior to the time such qualification is in fact required under the terms of the TIA. If any provision hereof limits, qualifies or conflicts with another provision hereof which is required to be included in an indenture qualified under the TIA, such required provision shall control.

SECTION 13.02. NOTICES.

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

if to the Company:

Devon Energy Corporation
20 North Broadway, Suite 1500
Oklahoma City, Oklahoma 73102-8326

Attn: Corporate Secretary Facsimile Number: (405) 552-4550

if to the Trustee:

The Bank of New York
101 Barclay Street, 21W
New York, New York 10286

Attn: Corporate Trust Administration Facsimile Number: (212) 815-5915

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 given to a Holder shall be mailed to the Holder, by first class mail, postage prepaid, at the Holder's address as it appears on the registration books of the Registrar and shall be sufficiently given if so mailed within the time prescribed.

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

If the Company mails a notice or communication to the Holders, it shall mail a copy to the Trustee and each Registrar, Paying Agent, Conversion Agent or co-registrar.

SECTION 13.03. COMMUNICATION BY HOLDERS WITH OTHER HOLDERS.

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

SECTION 13.04. CERTIFICATE AND OPINION AS TO CONDITIONS PRECEDENT.

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

- (1) an Officers' Certificate stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and
- (2) an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

SECTION 13.05. STATEMENTS REQUIRED IN CERTIFICATE OR OPINION.

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

- (1) a statement that each individual making such Officers' Certificate or Opinion of Counsel 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 Officers' Certificate or Opinion of Counsel are based;
- (3) a statement that, in the opinion of each such individual, 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 that, in the opinion of such individual, such covenant or condition has been complied with.

SECTION 13.06. SEPARABILITY CLAUSE.

In case any provision 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 13.07. RULES BY TRUSTEE, PAYING AGENT, CONVERSION AGENT AND REGISTRAR.

The Trustee may make reasonable rules for action by or a meeting of Holders. The Registrar, Conversion Agent and the Paying Agent may make reasonable rules for their functions.

SECTION 13.08. GOVERNING LAW.

THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN THIS INDENTURE AND THE SECURITIES.

SECTION 13.09. 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 this Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Security, each Holder shall waive and release all such liability. The waiver and release shall be part of the consideration for the issue of the Securities.

SECTION 13.10. RECORD DATE FOR VOTE OR CONSENT OF SECURITYHOLDERS.

The Company may set a record date for purposes of determining the identity of Securityholders entitled to vote or consent to any action by vote or consent authorized or permitted under this Indenture, which record date shall be the later of 10 days prior to the first solicitation of such vote or consent or the date of the most recent list of Securityholders furnished to the Trustee pursuant to Section 2.05 prior to such solicitation. If a record date is fixed, those Persons who were Holders of Securities at 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 13.11. RULES BY TRUSTEE, PAYING AGENT, REGISTRAR.

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or the Paying Agent may make reasonable rules for its functions.

SECTION 13.12. 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 13.13. MULTIPLE ORIGINALS.

The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. One signed copy is enough to prove this Indenture.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, the undersigned, being duly authorized, have executed this Indenture on behalf of the respective parties hereto as of the date first written above.

DEVON ENERGY CORPORATION

By: /s/ William T. Vaughn

William T. Vaughn
Senior Vice President

THE BANK OF NEW YORK, as Trustee

By: /s/ Van K. Brown

Name: Van K. Brown
Title: Assistant Vice President

EXHIBIT A

[FORM OF FACE OF SECURITY]

FOR UNITED STATES FEDERAL INCOME TAX PURPOSES, THIS SECURITY BEARS ORIGINAL ISSUE DISCOUNT. INFORMATION INCLUDING THE ISSUE PRICE, AMOUNT OF ORIGINAL ISSUE DISCOUNT, THE ISSUE DATE, AND THE YIELD TO MATURITY WILL BE MADE AVAILABLE TO HOLDERS UPON REQUEST TO THE CHIEF FINANCIAL OFFICER OF THE COMPANY, AT (405) 235-3611.

[FORM OF LEGEND FOR GLOBAL SECURITY]

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

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

[RESTRICTED SECURITY LEGEND]

THE DEBENTURE EVIDENCED HEREBY HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS, AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS EXCEPT AS SET FORTH IN THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF, THE HOLDER (1) REPRESENTS THAT (A) IT IS A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) OR (B) NOT A U.S. PERSON AND IS OUTSIDE THE UNITED STATES WITHIN THE MEANING OF (OR AN ACCOUNT SATISFYING THE REQUIREMENTS OF PARAGRAPH (k)(2) OF RULE 902 UNDER) REGULATION S UNDER THE SECURITIES ACT, OR (C) IT IS AN INSTITUTIONAL "ACCREDITED INVESTOR" (AS DEFINED IN RULE 501(a)(1), (2), (3) OR (7) UNDER THE SECURITIES ACT) ("INSTITUTIONAL ACCREDITED INVESTOR"); (2) AGREES THAT IT WILL NOT, PRIOR TO EXPIRATION OF THE HOLDING PERIOD APPLICABLE TO SALES OF THE

DEBENTURE EVIDENCED HEREBY UNDER RULE 144(k) UNDER THE SECURITIES ACT (OR ANY SUCCESSOR PROVISION), RESELL OR OTHERWISE TRANSFER THE DEBENTURE EVIDENCED HEREBY OR THE COMMON STOCK ISSUABLE UPON CONVERSION OF SUCH DEBENTURE WITHIN THE UNITED STATES OR TO OR FOR THE ACCOUNT OF U.S. PERSON EXCEPT (A) TO DEVON ENERGY CORPORATION OR ANY SUBSIDIARY THEREOF, (B) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, (C) TO AN INSTITUTIONAL ACCREDITED INVESTOR THAT PRIOR TO SUCH TRANSFER FURNISHES TO THE BANK OF NEW YORK, AS TRUSTEE (OR A SUCCESSOR TRUSTEE, AS APPLICABLE), A SIGNED LETTER CONTAINING CERTAIN REPRESENTATIONS AND AGREEMENTS RELATING TO THE RESTRICTIONS ON TRANSFER OF THE DEBENTURE EVIDENCED HEREBY (THE FORM OF WHICH LETTER CAN BE OBTAINED FROM SUCH TRUSTEE OR A SUCCESSOR TRUSTEE, AS APPLICABLE), (D) PURSUANT TO THE EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), OR (E) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT (AND WHICH CONTINUES TO BE EFFECTIVE AT THE TIME OF SUCH TRANSFER), (3) PRIOR TO SUCH TRANSFER (OTHER THAN A TRANSFER PURSUANT TO CLAUSE 2(E) ABOVE), IT WILL FURNISH TO THE BANK OF NEW YORK, AS TRUSTEE (OR A SUCCESSOR TRUSTEE, AS APPLICABLE), SUCH CERTIFICATIONS, LEGAL OPINIONS OR OTHER INFORMATION AS THE TRUSTEE MAY REASONABLY REQUIRE TO CONFIRM THAT SUCH TRANSFER IS BEING MADE PURSUANT TO AN EXEMPTION FROM OR IN A TRANSACTION NOT SUBJECT TO THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND (4) AGREES THAT IT WILL DELIVER TO EACH PERSON TO WHOM THE DEBENTURE EVIDENCED HEREBY IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND IN CONNECTION WITH ANY TRANSFER OF THE DEBENTURE EVIDENCED HEREBY PRIOR TO THE EXPIRATION OF THE HOLDING PERIOD APPLICABLE TO SALES OF THE DEBENTURE EVIDENCED HEREBY UNDER RULE 144(k) UNDER THE SECURITIES ACT (OR ANY SUCCESSOR PROVISION), THE HOLDER MUST CHECK THE APPROPRIATE BOX SET FORTH ON THE REVERSE HEREOF RELATING TO THE MANNER OF SUCH TRANSFER AND SUBMIT THIS CERTIFICATE TO THE BANK OF NEW YORK, AS TRUSTEE (OR A SUCCESSOR TRUSTEE, AS APPLICABLE). IF THE PROPOSED TRANSFEREE IS AN INSTITUTIONAL ACCREDITED INVESTOR OR IS A PURCHASER WHO IS NOT A U.S. PERSON, THE HOLDER MUST PRIOR TO SUCH TRANSFER FURNISH TO THE BANK OF NEW YORK, AS TRUSTEE (OR A SUCCESSOR TRUSTEE, AS APPLICABLE), SUCH CERTIFICATIONS, LEGAL OPINIONS OR OTHER INFORMATION AS IT MAY REASONABLY REQUIRE TO CONFIRM THAT SUCH TRANSFER IS BEING MADE PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT. THIS LEGEND WILL BE REMOVED UPON THE EARLIER OF THE TRANSFER OF THE DEBENTURE EVIDENCED HEREBY PURSUANT TO CLAUSE 2(E) ABOVE OR UPON ANY TRANSFER OF THE DEBENTURE EVIDENCED HEREBY UNDER RULE 144(k) UNDER THE SECURITIES ACT (OR ANY SUCCESSOR PROVISION). AS USED HEREIN, THE TERMS "UNITED STATES" AND "U.S. PERSON" HAVE THE MEANINGS GIVEN TO THEM BY REGULATIONS UNDER THE SECURITIES ACT.

DEVON ENERGY CORPORATION

ZERO COUPON CONVERTIBLE SENIOR DEBENTURE DUE 2020

No.

Issue Date: June 27, 2000

Issue Price: \$464.13

(for each \$1,000 Principal Amount)

Original Issue Discount: \$535.87
(for each \$1,000 Principal Amount)

CUSIP: 25179 MAC 7

Devon Energy Corporation, a Delaware corporation, promises to pay to _____ or registered assigns, on June 27, 2020 the Principal Amount of _____ Dollars (\$ _____) [or such greater or lesser Principal Amount as may be shown on Schedule A hereto].(1)

This Security shall not bear interest except as specified on the other side of this Security. Original Issue Discount will accrue as specified on the other side of this Security. This Security is convertible as specified on the other side of this Security.

Additional provisions of this Security are set forth on the other side of this Security.

IN WITNESS WHEREOF, Devon Energy Corporation has caused this instrument to be duly executed.

DEVON ENERGY CORPORATION

By:

Name:

Title:

Dated:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

THE BANK OF NEW YORK, as Trustee, certifies that this is one of the Securities referred to in the within-mentioned Indenture.

By

Authorized Signatory

(1) For inclusion in the global Security only.

[FORM OF REVERSE SIDE OF SECURITY]

DEVON ENERGY CORPORATION

ZERO COUPON CONVERTIBLE SENIOR DEBENTURE DUE 2020

1. INTEREST

This Security shall not bear interest except as specified in this paragraph or in paragraph 10 hereof. If the Principal Amount hereof or any portion of such Principal Amount is not paid when due (whether upon acceleration pursuant to Section 6.02 of the Indenture, upon the date set for payment of the Redemption Price pursuant to paragraph 5 hereof, upon the date set for payment of a Purchase Price or Fundamental Change Purchase Price pursuant to paragraph 6 hereof or upon the Stated Maturity of this Security), then in each such case the overdue amount shall bear interest at the rate of 3.875% per annum, compounded semiannually (to the extent that the payment of such interest shall be legally enforceable), which interest shall accrue from the date such overdue amount was due to the date payment of such amount, including interest thereon, has been made or duly provided for. All such interest shall be payable on demand. The accrual of such interest on overdue amounts shall be in lieu of, and not in addition to, the continued accrual of Original Issue Discount.

The Original Issue Discount (the difference between the Issue Price and the Principal Amount of the Security) in the period during which a Security remains outstanding, shall accrue at 3.875% per annum, on a semiannual bond equivalent basis using a 360-day year composed of twelve 30-day months, commencing on the Issue Date of this Security. Original Issue Discount shall cease to accrue on the earlier of (a) the date on which the Principal Amount hereof or any portion of such Principal Amount becomes due and payable and (b) any Redemption Date, Conversion Date, Fundamental Change Repurchase Date, Repurchase Date or other date on which such Original Issue Discount (or, if such Securities have been converted to Semiannual Coupon Debentures following the occurrence of a Tax Event, interest on such debentures) shall cease to accrue in accordance with Section 2.08 of the Indenture.

2. METHOD OF PAYMENT

Holders must surrender Securities to the Paying Agent to collect all payments in respect of the Securities, except for Liquidated Damages. The Company will pay cash amounts in money of the United States that at the time of payment is legal tender for payment of public and private debts. However, the Company may make such cash payments by check payable in such money.

3. PAYING AGENT, CONVERSION AGENT AND REGISTRAR

Initially, The Bank of New York, a New York banking corporation (the "TRUSTEE"), will act as Paying Agent, Conversion Agent and Registrar. The Company may appoint and change any Paying Agent, Conversion Agent, Registrar or co-registrar without notice, other than notice to the Trustee. The company or any of its Subsidiaries or any of their Affiliates may act as Paying Agent, Conversion Agent, Registrar or co-registrar.

4. INDENTURE

The Company issued the Securities under an Indenture (the "INDENTURE"), dated as of June 27, 2000, between the Company and the Trustee. Capitalized terms used herein and not defined herein have the meanings ascribed thereto in the Indenture. The Securities are subject to all such terms, and Holders are referred to the Indenture for a statement of those terms.

The Securities are general unsecured obligations of the Company limited to \$980,000,000 aggregate Principal Amount (subject to Sections 2.02 and 2.07 of the Indenture). The Indenture does not limit other indebtedness of the Company, whether secured or unsecured.

5. REDEMPTION AT THE OPTION OF THE COMPANY

No sinking fund is provided for the Securities. The Securities are redeemable as a whole, or from time to time in part, at any time at the option of the Company at the Redemption Prices set forth below, plus Liquidated Damages, if any, provided that the Securities are not redeemable prior to June 27, 2005.

The table below shows Redemption Prices of a Security per \$1,000 Principal Amount on the dates shown below and at Stated Maturity, which prices reflect accrued Original Issue Discount calculated to each such date. The Redemption Price of a Security redeemed between such dates would include an additional amount reflecting the additional Original Issue Discount accrued since the next preceding date in the table to the actual Redemption Date.

	(1) SECURITY ISSUE PRICE	(2) ACCRUED ORIGINAL ISSUE DISCOUNT AT 3.875%	(3) REDEMPTION PRICE (1) + (2)
June 27, 2005.....	\$ 464.13	\$ 98.19	\$ 562.32
June 27, 2006.....	464.13	120.19	584.32
June 27, 2007.....	464.13	143.05	607.18
June 27, 2008.....	464.13	166.81	630.94
June 27, 2009.....	464.13	191.49	655.62
June 27, 2010.....	464.13	217.14	681.27

	(1) SECURITY ISSUE PRICE	(2) ACCRUED ORIGINAL ISSUE DISCOUNT AT 3.875%	(3) REDEMPTION PRICE (1) + (2)
	-----	-----	-----
June 27, 2011.....	464.13	243.80	707.93
June 27, 2012.....	464.13	271.49	735.62
June 27, 2013.....	464.13	300.27	764.40
June 27, 2014.....	464.13	330.18	794.31
June 27, 2015.....	464.13	361.26	825.39
June 27, 2016.....	464.13	393.56	857.69
June 27, 2017.....	464.13	427.11	891.24
June 27, 2018.....	464.13	461.98	926.11
June 27, 2019.....	464.13	498.22	962.35
June 27, 2020.....	464.13	535.87	1,000.00

If converted to a Semiannual Coupon Debenture following the occurrence of a Tax Event, this Security will be redeemable at the Restated Principal Amount plus interest accrued and unpaid from, and including, the date of such conversion to, but excluding, the Redemption Date.

6. REPURCHASE BY THE COMPANY AT THE OPTION OF THE HOLDER; REPURCHASE AT THE OPTION OF THE HOLDER UPON A FUNDAMENTAL CHANGE

(a) Subject to the terms and conditions of the Indenture, the Company shall become obligated to repurchase, at the option of the Holder, the Securities held by such Holder on the following Repurchase Dates and at the following Purchase Prices per \$1,000 Principal Amount, together with Liquidated Damages, if any, upon delivery of a Repurchase Notice containing the information set forth in the Indenture, at any time during the period from the opening of business on the date that is 20 Business Days prior to such Repurchase Date until the close of business on such Repurchase Date and upon delivery of the Securities to the Paying Agent by the Holder as set forth in the Indenture. Such Purchase Prices may be paid, at the option of the Company, in cash or by the issuance and delivery of shares of Common Stock of the Company, or in any combination thereof.

REPURCHASE DATE -----	PURCHASE PRICE -----
June 27, 2005	\$ 562.32
June 27, 2010	\$ 681.27
June 27, 2015	\$ 825.39

Securities in denominations larger than \$1,000 of Principal Amount may be repurchased in part, but only in integral multiples of \$1,000 of Principal Amount.

(b) If prior to a Repurchase Date this Security has been converted to a Semiannual Coupon Debenture following the occurrence of a Tax Event, the Purchase Price will be equal to the Restated Principal Amount plus accrued and unpaid interest from, and including, the date of conversion to, but excluding, the Repurchase Date.

(c) At the option of the Holder and subject to the terms and conditions of the Indenture, the Company shall become obligated to repurchase the Securities held by such Holder and delivered to the Company or its designated agent on or before 60 days after the date of the Company's notice of a Fundamental Change occurring on or prior to June 27, 2020 for a Fundamental Change Purchase Price equal to the Issue Price plus accrued Original Issue Discount, Liquidated Damages, if any, and interest, if any, to the Fundamental Change Repurchase Date which Fundamental Change Purchase Price shall be paid in cash. Securities in denominations larger than \$1,000 of Principal Amount may be repurchased in part in connection with a Fundamental Change, but only in integral multiples of \$1,000 of Principal Amount. If, prior to a Fundamental Change Repurchase Date, this Security has been converted to a Semiannual Coupon Debenture following the occurrence of a Tax Event, the Purchase Price will be equal to the Restated Principal Amount plus accrued and unpaid interest from, and including, the date of conversion to, but excluding, the Fundamental Change Repurchase Date.

(d) Holders have the right to withdraw any Repurchase Notice or Fundamental Change Repurchase Notice, as the case may be, by delivering to the Paying Agent a written notice of withdrawal in accordance with the provisions of the Indenture.

(e) If cash (and/or securities if permitted under the Indenture) sufficient to pay a Purchase Price or Fundamental Change Purchase Price, as the case may be, of all Securities or portions thereof to be repurchased as of the Repurchase Date or the Fundamental Change Repurchase Date, as the case may be, is deposited with the Paying Agent on the Business Day following the Repurchase Date or the Fundamental Change Repurchase Date, as the case may be, Original Issue Discount (or interest upon conversion to a Semiannual Coupon Debenture following the occurrence of a Tax Event) ceases to accrue on such Securities (or portions thereof) on and after such date, and the Holder thereof shall have no other rights as such (other than the right to receive the Purchase Price or Fundamental Change Purchase Price, as the case may be, upon surrender of such Security).

7. NOTICE OF REDEMPTION AT THE OPTION OF THE COMPANY

Notice of redemption at the option of the Company will be mailed at least 20 days but not more than 60 days before the Redemption Date to each Holder of Securities to be redeemed at the Holder's registered address. If money sufficient to pay the Redemption Price of all Securities (or portions thereof) to be redeemed on the Redemption Date is deposited with the Paying Agent prior to or on the Redemption Date, on and after such date original Issue Discount (or interest upon conversion to a Semiannual Coupon Debenture following the occurrence of a Tax Event) ceases to accrue on such Securities or portions thereof. Securities in denominations larger than \$1,000 of Principal Amount may be redeemed in part but only in multiples of \$1,000 of Principal Amount.

8. RANKING

The Securities rank equally in contractual right of payment with all of the other existing and future unsubordinated indebtedness of the Company.

9. CONVERSION

Subject to the next two succeeding sentences, a Holder of a Security may convert this Security for Common Stock of the Company at any time prior to maturity. If this Security is called for redemption, the Holder may convert it at any time before the close of the last Trading Day prior to the Redemption Date. A Security in respect of which a Holder has delivered a notice of exercise of the option to require the Company to repurchase such Security or to repurchase such Security in the event of a Fundamental Change may be converted only if the notice of exercise is withdrawn in accordance with the terms of the Indenture.

The initial Conversion Rate is 5.7593 shares of Common Stock per \$1,000 Principal Amount, subject to adjustment in certain events described in the Indenture. The Company will deliver cash or a check in lieu of any fractional share of Common Stock.

The Holders' right to convert Securities into shares of Common Stock is subject to the Company's right to elect to instead pay such Holder the amount of cash set forth in the next succeeding sentence in lieu of delivering all or part of such shares of Common Stock; PROVIDED, HOWEVER, that if such payment of cash is not permitted pursuant to the provisions of the Indenture or the provisions of any other agreement or instrument to which the Company is a party or by which it is bound or otherwise, the Company shall deliver shares of Common Stock (and cash in lieu of fractional shares of Common Stock) in accordance with Article 11 of the Indenture, whether or not the Company has delivered a notice pursuant to Section 11.02 to the effect that the Securities will be paid in cash. The amount of cash to be paid for each \$1,000 Principal Amount of a Security shall be equal to the Sale Price of a share of Common Stock on the Trading Day immediately prior to the related Conversion Date multiplied by the Conversion Rate in effect on such Trading Day.

The Company shall not pay cash in lieu of delivering all or part of such shares of Common Stock upon the conversion of any Security pursuant to the terms of Article 11 of the

Indenture (other than cash in lieu of fractional shares) if there has occurred (prior to, on or after, as the case may be, the Conversion Date or the date on which the Company delivers its notice of whether each Security shall be converted into shares of Common Stock or cash) and is continuing an Event of Default (other than a default in such payment on such Securities); PROVIDED, HOWEVER, that this sentence shall not apply in the event that an Event of Default occurs after such cash is paid.

In the event the Company exercises its option pursuant to Section 12.01 of the Indenture to have interest in lieu of Original Issue Discount accrue on the Security following a Tax Event, the Holder will be entitled on conversion to receive the same number of shares of Common Stock such Holder would have received if the Company had not exercised such option. If the Company exercises such option, Securities surrendered for conversion during the period from the close of business on any Regular Record Date next preceding any Interest Payment Date to the opening of business of such Interest Payment Date (except Securities to be redeemed on the next Interest Payment Date) must be accompanied by payment of an amount equal to the interest thereon that the Holder is to receive. Except where Securities surrendered for conversion must be accompanied by payment as described above, no interest on converted Securities will be payable by the Company on any Interest Payment Date subsequent to the date of conversion.

To convert this Security a Holder must (1) complete and manually sign the conversion notice on the back of this Security (or complete and manually sign a facsimile of such notice) and deliver such notice to the Conversion Agent, (2) surrender this Security to the Conversion Agent, (3) furnish appropriate endorsements and transfer documents if required by the Conversion Agent, the Company or the Trustee and (4) pay any transfer or similar tax, if required.

A Holder may convert a portion of this Security if the Principal Amount of such portion is \$1,000 or an integral multiple of \$1,000. No payment or adjustment will be made for dividends on the Common Stock except as provided in the Indenture. On conversion of this Security, that portion of accrued Original Issue Discount attributable to the period from the Issue Date to the Conversion Date with respect to the converted portion of this Security shall not be canceled, extinguished or forfeited, but rather shall be deemed to be paid in full to the Holder thereof through the delivery of the Common Stock (together with any cash payment in lieu of fractional shares) in exchange for the portion of this Security being converted pursuant to the terms hereof.

10. TAX EVENT

(a) From and after the date (the "TAX EVENT DATE") of the occurrence of a Tax Event, at the option of the Company, interest in lieu of future Original Issue Discount shall accrue at 3.875% per annum on a principal amount per Security (the "RESTATED PRINCIPAL AMOUNT") equal to the Issue Price plus Original Issue Discount accrued to the date immediately prior to the later of the Tax Event Date or the date the Company makes its election and shall be payable semiannually on June 27 and December 27 of each year (each an "INTEREST PAYMENT DATE") to Holders of record at the close of business on June 15 or December 15 (each a "REGULAR RECORD DATE") immediately preceding such Interest

Payment Date. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months and will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the Tax Event Date.

(b) Interest on any Security that is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Security is registered at the close of business on the Regular Record Date for such interest at the office or agency of the Company maintained for such purpose. Each installment of interest on any Security shall be paid in same-day funds by transfer to an account maintained by the payee located inside the United States. In the case of a permanent global Security, interest payable on any Interest Payment Date will be paid to the Depository, Euroclear and/or Clearstream, as the case may be, with respect to that portion of such permanent global Security held for its account by Cede & Co. or the London office of a depository, as the case may be, for the purpose of permitting such party to credit the interest received by it in respect of such permanent global Security to the accounts of the beneficial owners thereof.

(c) Except as otherwise specified with respect to the Securities, any interest on any Security that is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called "DEFAULTED INTEREST") shall forthwith cease to be payable to the Holder thereof on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Interest may be paid by the Company as provided for in Section 12.02(b) of the Indenture.

11. CONVERSION ARRANGEMENT ON CALL FOR REDEMPTION

Any Securities called for redemption, unless surrendered for conversion before the close of business on the last Trading Day prior to the Redemption Date, may be deemed to be purchased from the Holders of such Securities at an amount not less than the Redemption Price, 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 for Common Stock and to make payment for such Securities to the Trustee in trust for such Holders.

12. DENOMINATIONS; TRANSFER; EXCHANGE

The Securities are in registered form, without coupons, in denominations of \$1,000 of Principal Amount and integral multiples of \$1,000. A Holder may transfer or convert 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 and fees required by law or permitted by the Indenture. The Registrar need not transfer or exchange any Securities selected for redemption (except, in the case of a Security to be redeemed in part, the portion of the Security not to be redeemed) or any Securities in respect of which a Repurchase Notice or Fundamental Change Repurchase Notice has been given and not withdrawn (except, in the case of a Security to be purchased in part, the portion of the Security not to be purchased) or any Securities for a period of 15 days before the mailing of notice of Securities to be redeemed.

13. PERSONS DEEMED OWNERS

The registered holder of this Security may be treated as the owner of this Security for all purposes.

14. UNCLAIMED MONEY OR SECURITIES

The Trustee and the Paying Agent shall return to the Company upon written request any money or securities held by them for the payment of any amount with respect to the Securities that remains unclaimed for two years, PROVIDED, HOWEVER, that the Trustee or such Paying Agent, before being required to make any such return, shall in the event that the Securities are no longer held in global form, at the expense of the Company cause to be published once in a newspaper of general circulation in The City of New York or mail to each such Holder notice that such money or securities remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication or mailing, any unclaimed money or securities then remaining will be returned to the Company. After return to the Company, Holders entitled to the money or securities must look to the Company for payment as general creditors unless an applicable abandoned property law designates another Person.

15. AMENDMENT; WAIVER

Subject to certain exceptions set forth in the Indenture, (i) the Indenture or the Securities may be amended with the written consent of the Holders of at least a majority in aggregate Principal Amount of the Securities at the time outstanding and (ii) certain Defaults and Events of Defaults may be waived with the written consent of the Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding. Subject to certain exceptions set forth in the Indenture, without the consent of any Holder, the Company and the Trustee may amend the Indenture or the Securities to cure any ambiguity, defect or inconsistency, or to provide for the assumption of the Company's obligations to the Holders of the Securities in case of a merger or consolidation or sale of all or substantially all of the Company's assets; to provide for uncertificated Securities in addition to or in place of certificated Securities or to make any change that does not adversely affect the rights of any Holder or to comply with any requirement of the SEC in connection with the qualification of the Indenture under the TIA.

16. DEFAULTS AND REMEDIES

Under the Indenture, Events of Default include (i) the Company defaults in the payment of the Principal Amount, Issue Price, accrued Original Issue Discount Redemption Price, Purchase Price or a Fundamental Change Purchase Price on any Security when the same becomes due and payable at its Stated Maturity, upon redemption, upon declaration, when due for repurchase by the Company or otherwise; (ii) the Company defaults in the payment of Liquidated Damages, and such default continues for 30 days, or, after exercise of its option pursuant to Section 12.01 of the Indenture following a Tax Event, the Company defaults in the payment of interest upon any security when such interest becomes due and payable, and such default continues for a period of 30 days; (iii) failure of the Company to perform or comply with the provisions of Section 11.02 of the Indenture, and such failure continues for a period of 20

days; (iv) the Company fails to comply with any of its agreements or covenants in this Security or the Indenture (other than those referred to in clauses (i) through (iii) above) and such failure continues for 90 days after receipt by the Company of a Notice of Default; and (v) certain events of bankruptcy or insolvency as set forth in the Indenture. If an Event of Default occurs and is continuing, the Trustee, or the Holders of at least 25% in aggregate Principal Amount of the Securities at the time outstanding, may declare all the Securities to be due and payable immediately. Certain events of bankruptcy or insolvency are Events of Default which will result in the Securities being declared due and payable immediately upon the occurrence of such Events of Default.

Holders may not enforce the Indenture or the Securities except as provided in the Indenture. The Trustee may refuse to enforce the Indenture or the Securities unless it receives reasonable indemnity or security. Subject to certain limitations, Holders of a majority in aggregate Principal Amount of the Securities at the time 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 amounts specified in clause (i) and (ii) above) if it determines that withholding notice is in their interests.

17. TRUSTEE DEALINGS WITH THE COMPANY

The Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Securities and may otherwise deal with and collect obligations owed to it by the Company or its Affiliates and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not 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 or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Security, each Holder waives and releases all such liability. The waiver and release are part of the consideration for the issue of the Securities.

19. AUTHENTICATION

This Security shall not be valid until an authorized signatory of the Trustee manually signs the Trustee's Certificate of Authentication on the other side of this Security.

20. ABBREVIATIONS

Customary abbreviations may be used in the name of a Holder or an assignee, such as TEN COM (=tenants in common), TENANT (=tenants by the entireties), JT TEN (=joint tenants with right of survivorship and not as tenants in common), CUST (=custodian), and U/G/M/A (=Uniform Gift to Minors Act).

21. REGISTRATION RIGHTS AGREEMENT

The Holders of Restricted Securities are entitled to the benefits of the Registration Rights Agreement dated as of June 22, 2000 among the Company and the Initial Purchasers.

22. GOVERNING LAW

THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN THE INDENTURE AND THIS

SECURITY.

23. INDENTURE TO CONTROL

In case of any conflict between the provisions of this Security and the Indenture, the provisions of the Indenture shall control.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture and the Registration Rights Agreement. Requests may be made to:

Devon Energy Corporation 20 North Broadway, Suite 1500 Oklahoma City, Oklahoma 73102-8260 Attention: Corporate Secretary

CONVERSION NOTICE

To: Devon Energy Corporation

The undersigned registered holder of this Security hereby irrevocably exercises the option to convert this Security, or portion hereof (which is \$1,000 Principal Amount (as defined in the Indenture to which this Security is subject) or an integral multiple thereof) below designated, for shares of Common Stock of Devon Energy Corporation in accordance with the terms of the Indenture referred to in this Security, and directs that the shares issuable and deliverable upon such conversion, together with any check in payment for fractional shares and any Securities representing any unconverted Principal Amount hereof, be issued and delivered to the registered holder hereof unless a different name has been indicated below. If shares or any portion of this Security not converted are to be issued in the name of a Person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto.

Dated:

Signature(s)

Fill in for registration of shares
if to be delivered, and Securities
if to be issued other than to and in
the name of the registered holder:

(Name)

(Street Address)

(City, state and zip code)

Please print name and address

Principal Amount to be converted (if less than all):

\$_____,000
Social Security or Other Taxpayer
Identification Number: _____

OPTION TO ELECT REPURCHASE UPON A FUNDAMENTAL CHANGE

To: Devon Energy Corporation

The undersigned registered holder of this Security hereby acknowledges receipt of a notice from Devon Energy Corporation (the "COMPANY") as to the occurrence of a Fundamental Change with respect to the Company and requests and instructs the Company to repurchase this Security, or the portion hereof (which is \$1,000 Principal Amount (as defined in the Indenture to which this Security is subject) or an integral multiple thereof) below designated, in accordance with the terms of the Indenture referred to in this Security.

Dated -----

Signature(s)

Principal Amount to be repurchased
(if less than all):
\$_____,000
Social Security or Other Taxpayer
Identification Number: _____

TRANSFER NOTICE

This Transfer Notice relates to \$_____ Principal Amount (as defined in the Indenture to which the referenced Securities are subject) of the Zero Convertible Senior Debentures due 2020 of Devon Energy Corporation, a Delaware corporation, held by _____ (the "Transferor").

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

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

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

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

Your Signature:

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

Date:

Signature Guarantee:(2)

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

CHECK ONE BOX BELOW

- (1) // to Devon Energy Corporation; or
- (2) // pursuant to and in compliance with Rule 144A under the Securities Act of 1933; or
- (3) // pursuant to and in compliance with Regulation S under the Securities Act of 1933; or
- (4) // pursuant to another available exemption from the registration requirements of the Securities Act of 1933; or

(2) Signature must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar which requirements include membership or participation in the Security Transfer Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

- (5) // pursuant to an effective registration statement under the Securities Act of 1933.

Unless one of the boxes is checked, the Trustee will refuse to register any of the Securities evidenced by this certificate in the name of any person other than the registered holder thereof; PROVIDED, HOWEVER, that if box

(3) or (4) is checked, the Trustee may require, prior to registering any such transfer of the Securities such legal opinions, certifications and other information as it has reasonably requested (including, if the transferee is an institutional accredited investor as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act of 1933, a letter signed by such transferee in the form of Exhibit B to the Indenture)to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act of 1933.

Unless the box below is checked, the undersigned confirms that such Security is not being transferred to an "affiliate" of the Company as defined in Rule 144 under the Securities Act of 1933 (an "Affiliate"):

- (6) // The transferee is an Affiliate of the Company.

Signature

Date

Signature Guarantee(3)

(3) Signature must be guaranteed by a commercial bank, trust company or member firm of the New York Stock Exchange.

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

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

Dated: _____

[Signature of executive officer of purchaser]

Name: _____

Title: _____

SCHEDULE A

Changes to Principal Amount of Global Security

DATE	PRINCIPAL AMOUNT OF SECURITIES BY WHICH THIS GLOBAL SECURITY IS TO BE REDUCED OR INCREASED, AND REASON FOR REDUCTION OR INCREASE	REMAINING PRINCIPAL AMOUNT OF THIS GLOBAL SECURITY	NOTATION MADE BY
<hr/>			

EXHIBIT B

**[FORM OF CERTIFICATE FROM
ACQUIRING INSTITUTIONAL ACCREDITED INVESTOR]**

Devon Energy Corporation
20 North Broadway, Suite 1500
Oklahoma City, Oklahoma 73102-8260

The Bank of New York
101 Barclay Street, 21W
New York, New York 10286

Re: Zero Coupon Convertible Senior Debentures due 2020 of Devon Energy Corporation, a Delaware corporation

(CUSIP: _____)

Reference is hereby made to the Indenture, dated as of June 27, 2000 (the "Indenture"), between Devon Energy Corporation, as issuer (the "Company") and The Bank of New York, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

In connection with our proposed purchase of \$ _____ aggregate principal amount of:

- (a) // a beneficial interest in a Security in global form, or
- (b) // a definitive Security,

we confirm that:

1. We understand that any subsequent transfer of the Securities or any beneficial interest therein is subject to certain restrictions and conditions set forth in the Indenture and the undersigned agrees to be bound by, and not to resell, pledge or otherwise transfer the Securities or any beneficial interest therein except in compliance with, such restrictions and conditions and the United States Securities Act of 1933, as amended (the "Securities Act").
2. We understand that the offer and sale of the Securities have not been registered under the Securities Act, and that the Securities and any beneficial interest therein may not be offered or sold except as permitted in the following sentence. We agree, on our own behalf and on behalf of any accounts for which we are acting as hereinafter stated, that if we should sell the Securities or any beneficial interest therein, we will do so only (A) to the Company or any subsidiary thereof, (B) in accordance with Rule 144A under the Securities Act to a "qualified institutional buyer" (as defined therein), (C) to an institutional "accredited investor" (as defined below) that, prior to such transfer, furnishes (or has furnished on its behalf by a U.S. broker-

dealer) to you a signed letter substantially in the form of this letter and an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such transfer is in compliance with the Securities Act, (D) outside the United States in accordance with Regulation S under the Securities Act, (E) pursuant to the provisions of Rule 144 under the Securities Act or (F) pursuant to an effective registration statement under the Securities Act, and we further agree to provide to any person purchasing the Securities or a beneficial interest therein from us in a transaction meeting the requirements of clauses (A) through (E) of this paragraph a notice advising such purchaser that resales thereof are restricted as stated herein.

3. We understand that, on any proposed resale of the Securities or a beneficial interest therein, we and our transferee will be required to furnish to you such certifications, legal opinions and other information as you may reasonably require to confirm that the proposed sale complies with the foregoing restrictions. We further understand that the Securities purchased by us will bear a legend to the foregoing effect.

4. We are an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act) and have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Securities, and we and any accounts for which we are acting are each able to bear the economic risk of our or its investment.

5. We are acquiring the Securities or a beneficial interest therein purchased by us for our own account or for one or more accounts (each of which is an institutional "accredited investor") as to each of which we exercise sole investment discretion.

You are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

[Insert Name of Institutional Accredited Investor]

By:
Name:

Title:

Dated:
-----, ----

EXHIBIT 99.1

CONSENT OF DIRECTOR NOMINEE

I hereby consent to the reference to me in the Joint Proxy Statement/Prospectus constituting a part of the Registration Statement on Form S-4 with which this consent is filed as a person who has been nominated to serve as a director of Devon Energy Corporation upon consummation of the merger of Devon Energy Corporation and Santa Fe Snyder Corporation.

Name: /s/ William E. Greehey

EXHIBIT 99.2

CONSENT OF DIRECTOR NOMINEE

I hereby consent to the reference to me in the Joint Proxy Statement/Prospectus constituting a part of the Registration Statement on Form S-4 with which this consent is filed as a person who has been nominated to serve as a director of Devon Energy Corporation upon consummation of the merger of Devon Energy Corporation and Santa Fe Snyder Corporation.

Name: /s/ John A. Hill

EXHIBIT 99.3

CONSENT OF DIRECTOR NOMINEE

I hereby consent to the reference to me in the Joint Proxy Statement/Prospectus constituting a part of the Registration Statement on Form S-4 with which this consent is filed as a person who has been nominated to serve as a director of Devon Energy Corporation upon consummation of the merger of Devon Energy Corporation and Santa Fe Snyder Corporation.

Name: /s/ Melvyn N. Klein

EXHIBIT 99.4

CONSENT OF DIRECTOR NOMINEE

I hereby consent to the reference to me in the Joint Proxy Statement/Prospectus constituting a part of the Registration Statement on Form S-4 with which this consent is filed as a person who has been nominated to serve as a director of Devon Energy Corporation upon consummation of the merger of Devon Energy Corporation and Santa Fe Snyder Corporation.

Name: /s/ James L. Payne

End of Filing

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