

KRATOS DEFENSE & SECURITY SOLUTIONS, INC.  
Form 8-K  
July 29, 2011

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, DC 20549

FORM 8-K

CURRENT REPORT

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

July 26, 2011

Date of Report (Date of earliest event reported):

KRATOS DEFENSE & SECURITY SOLUTIONS, INC.  
(Exact name of registrant as specified in its charter)

Delaware  
(State or Other Jurisdiction of  
Incorporation)

0-27231  
(Commission  
File Number)

13-3818604  
(I.R.S. Employer  
Identification Number)

4820 Eastgate Mall  
San Diego, CA 92121  
(Address of Principal Executive Offices) (Zip Code)

(858) 812-7300  
(Registrant's telephone number, including area code)

(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

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



Item 1.01 Entry into a Material Definitive Agreement

Sixth Supplemental Indenture and Notes

On July 27, 2011, Kratos Defense & Security Solutions, Inc. (the “Company”), the guaranteeing subsidiaries party thereto (the “Guarantors”) and Wilmington Trust FSB, as trustee and collateral agent (“Wilmington Trust”), entered into a supplemental indenture (the “Sixth Supplemental Indenture”) to that certain Indenture, dated as of May 19, 2010, by and among the Company, the guarantors party thereto and Wilmington Trust, as trustee and collateral agent (as amended or supplemented, the “Indenture”), under which the Company previously issued \$225.0 million aggregate principal amount of its 10% Senior Secured Notes due 2017 on May 19, 2010 (the “Original Notes”) and \$285.0 million aggregate principal amount of its 10% Senior Secured Notes due 2017 on April 15, 2011 (the “Additional Notes” and, together with the Original Notes, the “Existing Notes”). Pursuant to the terms of the Sixth Supplemental Indenture, the Company (i) amended the definition in the Indenture related to the Registration Rights Agreement (as defined therein) and (ii) issued \$115.0 million aggregate principal amount of its 10% Senior Secured Notes due 2017 (the “Notes”).

The Company received approximately \$120.7 million in net cash proceeds from the issuance of the Notes, which includes an approximate \$5.7 million of issuance premiums, which proceeds will be used to finance, in part, the cash portion of the purchase price for the acquisition of Integral Systems, Inc. (described below), to refinance existing indebtedness of Integral Systems, to pay certain severance payments in connection with the acquisition of Integral Systems and to pay related fees and expenses.

The Notes are identical to, and are pari passu with, the Existing Notes, except that, similar to the Additional Notes, the Notes are subject to transfer restrictions under applicable securities laws and have different CUSIP and ISIN numbers until the date on which the exchange offer with respect to the Notes is consummated, at which time, the Company intends to cause such Notes to have the same CUSIP and ISIN numbers as the Original Notes. The Notes and the Existing Notes are treated as a single series of notes under the Indenture.

The foregoing summary of the Sixth Supplemental Indenture does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Sixth Supplemental Indenture, a copy of which is attached hereto as Exhibit 4.1 and the terms of which are incorporated herein by reference.

Registration Rights Agreement

On July 27, 2011, in connection with the issuance of the Notes, the Company and the Guarantors entered into a registration rights agreement with the initial purchasers of the Notes (the “Registration Rights Agreement”) pursuant to which the Company agreed to use commercially reasonable efforts to register with the Securities and Exchange Commission (the “SEC”) a new issue of notes having substantially identical terms as the Notes or as part of an offer to exchange freely tradable notes, which are referred to herein as exchange notes, for the Notes. Pursuant to the Registration Rights Agreement, the Company has agreed (i) to file an exchange offer registration statement with the SEC on or prior to 90 days after the closing of the offering of the Notes, (ii) to use commercially reasonable efforts to have the exchange offer registration statement declared effective within 180 days after the closing of the offering of the Notes, and (iii) unless the exchange offer would not be permitted by applicable law or SEC policy, to use commercially reasonable efforts to consummate the exchange offer within 30 business days, or longer if required by the U.S. federal securities laws, after the date on which the exchange offer registration statement is declared effective by the SEC. In certain circumstances, the Company may be required to file a shelf registration statement to cover resales of the Notes. If the Company fails to satisfy these obligations, it will pay additional interest to holders of the Notes under certain circumstances.

The foregoing summary of the Registration Rights Agreement does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Registration Rights Agreement, a copy of which is attached hereto as Exhibit 4.2 and the terms of which are incorporated herein by reference.

#### Credit and Security Agreement

On July 27, 2011, concurrent with the completion of the offering of the Notes, the Company entered into a credit and security agreement with East West Bank and Bank of the West, as the lenders, and KeyBank National Association, as lead arranger, sole book runner and administrative agent (the "2011 Credit Agreement"). The 2011 Credit Agreement amends and restates in its entirety the credit and security agreement, dated as of May 19, 2010, between the Company, KeyBank and the lenders named therein (as amended). The 2011 Credit Agreement establishes a five year senior secured revolving credit facility in the amount of \$65.0 million (the "Amended Revolver"). The Amended Revolver is secured by a lien on substantially all of the Company's assets and the assets of the guarantors thereunder, subject to certain exceptions and permitted liens. The Amended Revolver has a first priority lien on accounts receivable, inventory, deposit accounts, securities accounts, cash, securities and general intangibles (other than intellectual property). On all other assets, the Amended Revolver has a second priority lien junior to the lien securing the Company's currently outstanding 10% Senior Secured Notes due 2017, including the Notes (collectively, the "Kratos Notes").

The Amended Revolver may be increased to \$100.0 million. Any increase in the Amended Revolver is subject to the consent of the KeyBank, identification of one or more additional lenders willing to advance the increased amount of the Amended Revolver, and compliance with covenants in the Kratos Notes. The amounts of borrowings that may be made under the Amended Revolver are based on a borrowing base and are comprised of specified percentages of eligible receivables, eligible unbilled receivables and eligible inventory. If the amount of borrowings outstanding under the Amended Revolver exceeds the borrowing base then in effect, the Company is required to repay such borrowings in an amount sufficient to eliminate such excess. The Amended Revolver includes \$30.0 million of availability for letters of credit and \$5.0 million of availability for swing loans.

The Company may borrow funds under the Amended Revolver at a rate based either on LIBOR or a base rate established by KeyBank. Base rate borrowings bear interest at an applicable margin of 1.00% to 1.75% over the base rate (which will be the greater of the prime rate or 0.5% over the federal funds rate, with a floor of 1.0% over one month LIBOR). LIBOR rate borrowings will bear interest at an applicable margin of 3.00% to 3.75% over the LIBOR rate. The applicable margin for base rate borrowings and LIBOR borrowings will depend on the average monthly revolving credit availability. The Amended Revolver also has a commitment fee of 0.50% to 0.75%, depending on the average monthly revolving credit availability.

The foregoing summary of the 2011 Credit Agreement does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the 2011 Credit Agreement, a copy of which is attached hereto as Exhibit 10.1 and the terms of which are incorporated herein by reference.

Item 2.01. Completion of Acquisition or Disposition of Assets.

On July 27, 2011, the Company completed the previously announced merger (the “Merger”) of IRIS Merger Sub Inc., a Maryland corporation and a wholly owned subsidiary of the Company (“Merger Sub”), with and into Integral Systems, Inc., a Maryland corporation (“Integral Systems”), whereby Integral Systems became a wholly owned subsidiary of the Company. The Merger was effected pursuant to an Agreement and Plan of Merger, dated as of May 15, 2011, by and among the Company, Merger Sub, IRIS Acquisition Sub LLC, a single member Maryland limited liability company and a direct wholly owned subsidiary of the Company, and Integral Systems (the “Merger Agreement”).

Pursuant to the terms of the Merger Agreement, at the effective time of the Merger (the “Effective Time”), each outstanding share of Integral Systems common stock (other than shares of Integral Systems common stock owned by the Company, Merger Sub, any wholly owned subsidiary of the Company or Integral Systems stockholders, if any, who had perfected statutory dissenters’ rights under Maryland law) was cancelled and converted into the right to receive (i) \$5.00, in cash, without interest, and (ii) the issuance of 0.588 shares of the Company’s common stock. In addition, at the Effective Time (A) each outstanding Integral Systems stock option with an exercise price less than \$13.00 per share was, if the holder thereof had so elected in writing, cancelled in exchange for an amount in cash equal to the product of the total number of shares of Integral Systems common stock subject to such in-the-money option, multiplied by the aggregate value of the excess, if any, of \$13.00 over the exercise price per share subject to such option, less the amount of any tax withholding, (B) each outstanding Integral Systems stock option with an exercise price equal to or greater than \$13.00 per share and each Integral Systems in-the-money option the holder of which had not made the election described in (A) above, was converted into an option to purchase Company common stock, with (1) the number of shares subject to such option adjusted to equal the number of shares of Integral Systems common stock subject to such out-of-the-money option multiplied by 0.9559, rounded up to the nearest whole share, and (2) the per share exercise price under each such option adjusted by dividing the per share exercise price under such option by 0.9559, rounded up to the nearest whole cent, and (C) each outstanding share of restricted stock granted under an Integral Systems equity plan or otherwise, whether vested or unvested, was cancelled and converted into the right to receive \$13.00, less the amount of any tax withholding.

The foregoing description of the Merger Agreement and the Merger is not complete and is subject to, and qualified in its entirety by, the full text of the Merger Agreement, which is included as Exhibit 2.1 to this Current Report on Form 8-K, the terms of which are incorporated herein by reference.

#### Item 5.07. Submission of Matters to a Vote of Security Holders.

On July 26, 2011, the Company held a special meeting of its stockholders (the “Special Meeting”). As of the record date for the Special Meeting, there were 23,884,442 shares of the Company’s common stock outstanding. At the Special Meeting, the holders of 16,234,164 shares were represented in person or by proxy. Set forth below is a brief description of each matter acted upon by the stockholders of the Company at the Special Meeting and the final voting results for each such proposal. These proposals are set out in more detail in the definitive joint proxy statement/prospectus for the Special Meeting filed with the SEC on June 21, 2011.

1. The stockholders considered a proposal to approve the issuance of Company common stock, par value \$0.001 per share, in connection with the Merger contemplated by the Merger Agreement. This proposal was approved based upon the following votes:

Votes For	16,021,173
Votes Against	152,030
Abstentions	60,961
Broker Non-Votes	N/A

2. The stockholders considered a proposal to approve the adjournment of the Special Meeting, if necessary, to solicit additional proxies if there were not sufficient votes in favor of the proposal described above. This proposal was

approved based upon the following votes:

Votes For	15,540,019
Votes Against	634,942
Abstentions	59,203
Broker Non-Votes	N/A

Item 8.01. Other Events.

On July 28, 2011, the Company issued a press release announcing the completion of the previously announced Merger, pursuant to the Merger Agreement. On July 28, 2011, the Company also issued a press release announcing the closing of the previously announced issuance and sale of the Notes. A copy of the press releases are attached as Exhibits 99.1 and 99.2, respectively, to this Current Report on Form 8-K and incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(a) Financial Statements of Businesses Acquired

The financial statements required by this Item 9.01(a) will be filed by amendment to this Current Report on Form 8-K not later than 71 calendar days after the date on which this Current Report on Form 8-K is required to be filed.

(b) Pro Forma Financial Information

The pro forma financial statements required by this Item 9.01(b) will be filed by amendment to this Current Report on Form 8-K not later than 71 calendar days after the date on which this Current Report on Form 8-K is required to be filed.

(d) Exhibits

Exhibit

Number	Description
2.1*	Agreement and Plan of Merger, dated May 15, 2011, by and among Kratos Defense & Security Solutions, Inc., Integral Systems, Inc., IRIS Merger Sub Inc., and IRIS Acquisition Sub LLC (incorporated by reference to Exhibit 2.1 of the Current Report on Form 8-K filed with the SEC on May 18, 2011 (File No. 001-34460)).
<u>4.1</u>	Sixth Supplemental Indenture, dated July 27, 2011, by and among Kratos Defense & Security Solutions, Inc., the guaranteeing subsidiaries named therein and Wilmington Trust National Association (as successor by merger to Wilmington Trust FSB), as trustee and collateral agent, to the Indenture, dated as of May 19, 2010 (as amended or supplemented), among Kratos Defense & Security Solutions, Inc., the guarantors party thereto and Wilmington Trust FSB, as trustee and collateral agent.
<u>4.2</u>	Registration Rights Agreement, dated July 27, 2011, by and among Kratos Defense & Security Solutions, Inc., the guarantors named therein, Jefferies & Company, Inc., KeyBanc Capital Markets Inc., and B. Riley & Co., LLC.
<u>10.1</u>	Credit and Security Agreement, dated as of May 19, 2010, as amended and restated as of July 27, 2011, among Kratos Defense & Security Solutions, Inc., the

lenders named therein, and KeyBank National Association, as lead arranger, sole book runner and administrative agent.

99.1 Press Release issued by Kratos Defense & Security Solutions, Inc. on July 28, 2011, announcing completion of the Merger.

99.2 Press Release issued by Kratos Defense & Security Solutions, Inc. on July 28, 2011, announcing completion of the issuance and sale of the Notes.

\* Certain schedules and exhibits to this agreement have been omitted in accordance with Item 601(b)(2) of Regulation S-K. A copy of any omitted schedule and/or exhibit will be furnished supplementally to the SEC upon request.

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SIGNATURES

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

Date: July 29, 2011

Kratos Defense & Security Solutions, Inc.

By: /s/ Deborah S. Butera

Deborah S. Butera

Senior Vice President, General Counsel and Secretary/Registered In-House Counsel

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KRATOS DEFENSE & SECURITY SOLUTIONS, INC.,

as Issuer,

THE GUARANTORS HEREAFTER PARTIES HERETO,

as Guarantors

and

WILMINGTON TRUST, NATIONAL ASSOCIATION, (as successor by merger to WILMINGTON TRUST FSB),

as Trustee and Collateral Agent

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SIXTH SUPPLEMENTAL INDENTURE

Dated as of July 27, 2011

Supplementing the Indenture, Dated as of May 19, 2010 (as further amended or supplemented)

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Providing for the

Amendment to the Terms of 10% Senior Secured Notes due 2017



THIS SIXTH SUPPLEMENTAL INDENTURE, dated as of July 27, 2011 (the “Sixth Supplemental Indenture”), is by and among KRATOS DEFENSE & SECURITY SOLUTIONS, INC., a corporation duly incorporated and existing under the laws of the State of Delaware (the “Company”), the guarantors listed on Exhibit A hereto (the “Guarantors”) and WILMINGTON TRUST, NATIONAL ASSOCIATION, (as successor by merger to WILMINGTON TRUST FSB), as trustee (the “Trustee”) and collateral agent (the “Collateral Agent”).

Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to thereto in the Indenture (as defined below).

#### RECITALS

WHEREAS, the Company has heretofore executed and delivered to the Trustee an Indenture (the “Original Indenture”), dated as of May 19, 2010, providing for the initial issuance by the Company of its Initial Notes (as defined below);

WHEREAS, Section 2.02 of the Original Indenture provides that the Company may, subject to compliance with Section 4.08 of the Original Indenture, issue Additional Notes in an unlimited amount under the Original Indenture;

WHEREAS, the Company has heretofore executed and delivered to the Trustee and Collateral Agent the First Supplemental Indenture, dated as of February 7, 2011, among the Company, the guarantors party thereto and Wilmington Trust FSB, as Trustee and Collateral Agent (the “First Supplemental Indenture”), to the Original Indenture, for the purpose of amending the Original Indenture to amend Section 4.08(a) in the Original Indenture, to permit the issuance of Additional Notes in connection with the acquisition of Herley Industries, Inc., as permitted by Section 9.02 of the Original Indenture;

WHEREAS, certain subsidiaries of the Company have heretofore executed and delivered to the Trustee and Collateral Agent the Supplemental Indenture, dated as of April 1, 2011, among certain of the subsidiary guarantors of the Company party thereto and Wilmington Trust FSB, as Trustee and Collateral Agent (the “Second Supplemental Indenture”), to the Original Indenture, for the purpose of adding additional subsidiary guarantors of the Company as guarantors of the Indenture;

WHEREAS, the Company has heretofore executed and delivered to the Trustee and Collateral Agent the Third Supplemental Indenture, dated as of April 15, 2011, among the Company, the guarantors party thereto and Wilmington Trust FSB, as Trustee and Collateral Agent (the “Third Supplemental Indenture”), to the Original Indenture, for the purpose of issuing \$285.0 million aggregate principal amount of Additional Notes (the “April 2011 Additional Notes”) which constitute the same series of notes as the Initial Notes;

WHEREAS, certain subsidiaries of the Company have heretofore executed and delivered to the Trustee and Collateral Agent the Supplemental Indenture, dated as of April 18, 2011, among certain of the subsidiary guarantors of the Company party thereto and Wilmington Trust FSB, as Trustee and Collateral Agent (the “Fourth Supplemental Indenture”), to the Original Indenture, for the purpose of adding additional subsidiary guarantors of the Company as guarantors of the Indenture;

WHEREAS, certain subsidiaries of the Company have heretofore executed and delivered to the Trustee and Collateral Agent the Supplemental Indenture, dated as of July 27, 2011, among certain of the subsidiary guarantors of the Company party thereto and Wilmington Trust, National Association (as successor by merger to Wilmington Trust FSB), as Trustee and Collateral Agent (the “Fifth Supplemental Indenture” and, collectively with the Original Indenture, the First Supplemental Indenture, the Second Supplemental Indenture, the Third Supplemental Indenture and the Fourth Supplemental Indenture, the “Indenture”), to the Original Indenture, for the purpose of adding additional subsidiary guarantors of the Company as guarantors of the Indenture;

WHEREAS, in connection with the Company's acquisition of Integral Systems, Inc., a Maryland corporation, the Company intends to issue \$115.0 million aggregate principal amount of Additional Notes (the "New Notes") pursuant to this Sixth Supplemental Indenture to the Indenture which will constitute the same series of notes as the Initial Notes and the April 2011 Additional Notes;

WHEREAS, Section 9.01 of the Indenture provides that the Company and the Guarantors and the Trustee or Collateral Agent, as applicable, may amend, modify or supplement the Indenture, the Notes, the Guarantees and the Collateral Agreements without the consent of Holders (as defined in the Indenture) to cure any ambiguity, defect or inconsistency contained therein or to make any change that would provide any additional rights or benefits to the Holders or that does not adversely affect the legal rights of any such Holder under the Indenture, the Notes, the Guarantees or the Collateral Agreements, in accordance with the limitations set forth in the Indenture; and

WHEREAS, all things necessary to make the New Notes (as defined below), when executed by the Company and authenticated and delivered by the Trustee and issued upon the terms and subject to the conditions set forth herein and in the Indenture, the valid and binding and legal obligations of the Company and the Guarantors and to make this Sixth Supplemental Indenture a valid, binding and legal agreement of the Company and the Guarantors, have been done.

NOW, THEREFORE, in consideration of the above premises, each party hereby agrees, for the benefit of the others and for the equal and ratable benefit of the Holders of the Notes (as defined below), as follows:

## AGREEMENTS

### ARTICLE I

#### DEFINITIONS

Section 1.1 All capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture. The rules of interpretation set forth in the Indenture shall be applied here as if set forth in full herein.

"Initial Notes" means the \$225.0 million aggregate principal amount of Notes issued under the Indenture on May 19, 2010.

"April 2011 Additional Notes" means the \$285.0 million aggregate principal amount of Additional Notes (other than the Initial Notes) issued pursuant to the Third Supplemental Indenture to the Indenture, as part of the same series of the Initial Notes.

"New Notes" means the \$115.0 million aggregate principal amount of Additional Notes (other than the Initial Notes and the April 2011 Additional Notes) issued under this Sixth Supplemental Indenture, as part of the same series of the Initial Notes and the April 2011 Additional Notes.

"Notes" means the Company's 10% Senior Secured Notes due 2017. The Initial Notes, the April 2011 Additional Notes and the New Notes will form part of the same series for all purposes under the Indenture, and unless the context otherwise requires, all references to the Notes will include the Initial Notes, the April 2011 Additional Notes and the New Notes.

### ARTICLE II

## AUTHORIZATION AND ISSUANCE OF NEW NOTES

Section 2.1 The Company will be entitled, upon delivery of an Officers' Certificate and an Opinion of Counsel, and subject to their compliance with Section 4.08 of the Indenture, to issue the New Notes under this Sixth Supplemental Indenture which will have identical terms as, and be pari passu with, the Initial Notes and the April 2011 Additional Notes, except that, similar to the April 2011 Additional Notes, the New Notes will be subject to transfer restrictions under the applicable securities laws and will have different CUSIP and ISIN numbers from their issuance until the date on which the Exchange Offer with respect to the New Notes is consummated, at which time the Company will cause the New Notes to have the same CUSIP and ISIN numbers as the Initial Notes. The Initial Notes, the April 2011 Additional Notes and the New Notes issued will be treated as a single class for all purposes under the Indenture and this Sixth Supplemental Indenture.

Section 2.2 With respect to the New Notes, the Company has set forth in an authentication order in accordance with Section 2.02 of the Indenture, a copy of which will be delivered to the Trustee, (i) the aggregate principal amount of such New Notes to be authenticated and delivered pursuant to this Sixth Supplemental Indenture, (ii) the date the New Notes are to be authenticated and (iii) whether the New Notes are to be Initial Notes, Exchange Notes or Additional Notes.

## ARTICLE III

### EXECUTION AND AUTHENTICATION OF NEW NOTES

Section 3.1 The Trustee will, upon receipt of a written order of the Company in the form of an Officers' Certificate (which Officers' Certificate shall certify that the issuance of the New Notes is in compliance with Section 4.08 of the Indenture), authenticate New Notes for issue that may be validly issued under this Sixth Supplemental Indenture.

## ARTICLE IV

### AMENDMENTS TO INDENTURE; EFFECTIVENESS OF AMENDMENTS

Section 4.1 Amendments to the Indenture.

(a) The definition of "Registration Rights Agreement" under Section 1.01 of the Indenture is hereby deleted in its entirety and replaced with the following:

" "Registration Rights Agreement" means, with respect to the Initial Notes bearing CUSIP Nos. 5007BAA6, U50103AA5, 50077BAB4), the Registration Rights Agreement, dated as of the Issue Date, between the Company, the Guarantors and the Initial Purchasers, as the same may be amended from time to time in accordance with the terms thereof, with respect to the Additional Notes bearing CUSIP Nos. 50077BAD0, U50103AB3, 50077BAE8, the Registration Rights Agreement, dated as of March 25, 2011, among the Company, the guarantors party thereto, Jefferies & Company, Inc., KeyBanc Capital Markets Inc. and Oppenheimer & Co. Inc. and with respect to the Additional Notes bearing CUSIP Nos. 50077B AF5, U50103 AC1, 50077B AG3, the Registration Rights Agreement, dated as of July 27, 2011, among the Company, the guarantors party thereto, Jefferies & Company, Inc., KeyBanc Capital Markets Inc. and B. Riley & Co., LLC."

Section 4.2 Effectiveness of this Sixth Supplemental Indenture. This Sixth Supplemental Indenture is entered into pursuant to and consistent with Section 2.02 and Section 9.01 of the Indenture. Upon the execution of this Sixth Supplemental Indenture by the Company, the Guarantors, the Trustee and the Collateral Agent, the Indenture shall be amended and supplemented in accordance herewith, and this Sixth Supplemental Indenture shall

form a part of the Indenture for all purposes and each holder of Notes shall be bound thereby.

## ARTICLE V

### MISCELLANEOUS PROVISIONS

**Section 5.1** Confirmation of the Original Indenture. The Original Indenture, as heretofore supplemented and amended by the First Supplemental Indenture, the Second Supplemental Indenture, the Third Supplemental Indenture and this Sixth Supplemental Indenture, as well as the Notes, are in all respects ratified and confirmed and all the terms shall remain in full force and effect. This Sixth Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Notes, heretofore or hereafter authenticated and delivered under the Indenture shall be bound hereby and all terms and conditions of each shall be read together as though they constitute a single instrument, except that in the case of conflict the provisions of this Sixth Supplemental Indenture shall control.

**Section 5.2** Governing Law. This Sixth Supplemental Indenture shall be governed by and construed in accordance with the laws of the State of New York applicable to agreements made or instruments entered into and, in each case, performed in said state.

**Section 5.3** Successors. All agreements of the Company in this Sixth Supplemental Indenture shall bind their respective successors. All agreements of the Trustee and Collateral Agent in this Sixth Supplemental Indenture shall bind its successors.

**Section 5.4** Duplicate Originals. All parties may sign any number of copies of this Sixth Supplemental Indenture. Each signed copy shall be an original, but all of them together shall represent the same agreement. The exchange of copies of this Sixth Supplemental Indenture and of signature pages by facsimile or pdf shall constitute effective execution and delivery of this Sixth Supplemental Indenture. Signatures of the parties hereto transmitted by facsimile or pdf shall be deemed to be their original signatures for all purposes.

**Section 5.5** Severability. In case any one or more of the provisions in this Sixth Supplemental Indenture or in the Notes shall be held invalid, illegal or unenforceable, in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions shall not in any way be affected or impaired thereby, it being intended that all of the provisions hereof shall be enforceable to the full extent permitted by law.

**Section 5.6** Trustee Not Responsible for Recitals. The recitals contained herein shall be taken as the statements of the Company, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Sixth Supplemental Indenture.

**Section 5.7** Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction thereof.

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

KRATOS DEFENSE & SECURITY SOLUTIONS, INC.

By: /s/ Deanna H. Lund  
Name: Deanna H. Lund  
Title: Executive Vice President and  
Chief Financial Officer

AI METRIX, INC.

By: /s/ Deanna H. Lund  
Name: Deanna H. Lund  
Title: Executive Vice President and  
Chief Financial Officer

AIRORLITE COMMUNICATIONS, INC.

By: /s/ Deanna H. Lund  
Name: Deanna H. Lund  
Title: Executive Vice President and  
Chief Financial Officer

AVTEC SYSTEMS, INC.

By: /s/ Deanna H. Lund  
Name: Deanna H. Lund  
Title: Executive Vice President and  
Chief Financial Officer

CHARLESTON MARINE CONTAINERS INC.

By: /s/ Deanna H. Lund  
Name: Deanna H. Lund



Title: Executive Vice President and  
Chief Financial Officer

CVG, INCORPORATED

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and  
Chief Financial Officer

DALLASTOWN REALTY I, LLC

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and  
Chief Financial Officer of

Gichner Holdings, Inc., sole

member of Dallastown Realty I, LLC

DALLASTOWN REALTY II, LLC

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and Chief Financial Officer of Dallastown Realty I, LLC, sole member of  
Dallastown Realty II, LLC

DEFENSE SYSTEMS, INCORPORATED

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and Chief Financial Officer

DEI SERVICES CORPORATION

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and Chief Financial Officer

DIGITAL FUSION SOLUTIONS, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and Chief Financial Officer

DIGITAL FUSION, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

DIVERSIFIED SECURITY SOLUTIONS, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

DTI ASSOCIATES, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

GENERAL MICROWAVE CORPORATION (DBA HERLEY NEW YORK)

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

GENERAL MICROWAVE ISRAEL CORPORATION

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

GICHNER HOLDINGS, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

GICHNER SYSTEMS INTERNATIONAL, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

GICHNER SYSTEMS GROUP, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

HAVERSTICK CONSULTING, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

HAVERSTICK GOVERNMENT SOLUTIONS, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

HENRY BROS. ELECTRONICS, INC.,

a Delaware corporation

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

HENRY BROS. ELECTRONICS, INC.,

a Colorado corporation

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

HENRY BROS. ELECTRONICS, INC.,

a Virginia corporation

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

HENRY BROS. ELECTRONICS, INC.,

a New Jersey corporation

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

HENRY BROS. ELECTRONICS, INC.,

a California corporation

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

HENRY BROS. ELECTRONICS, LLC,

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer of

Henry Bros. Electronics, Inc.,

sole member of Henry Bros.

Electronics, LLC

HERLEY INDUSTRIES, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

HERLEY-CTI, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

HERLEY-RSS, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

HGS HOLDINGS, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

INTEGRAL SYSTEMS, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

IRIS ACQUISITION SUB LLC

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer of

Kratos Defense & Security

Solutions, Inc., sole member of

Iris Acquisition Sub LLC

JMA ASSOCIATES, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and  
Chief Financial Officer

KRATOS DEFENSE ENGINEERING SOLUTIONS, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and  
Chief Financial Officer

KRATOS PUBLIC SAFETY & SECURITY SOLUTIONS, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and  
Chief Financial Officer

KRATOS MID-ATLANTIC, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and  
Chief Financial Officer

KRATOS SOUTHEAST, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and  
Chief Financial Officer

KRATOS SOUTHWEST L.P.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund  
Title: Executive Vice President and  
Chief Financial Officer of  
Kratos Texas, Inc., General  
Partner of Kratos Southwest L.P.

KRATOS TEXAS, INC.

By: /s/ Deanna H. Lund  
Name: Deanna H. Lund  
Title: Executive Vice President and  
Chief Financial Officer

LUMISTAR, INC.

By: /s/ Deanna H. Lund  
Name: Deanna H. Lund  
Title: Executive Vice President and  
Chief Financial Officer

LVDM, INC.

By: /s/ Deanna H. Lund  
Name: Deanna H. Lund  
Title: Executive Vice President and  
Chief Financial Officer

MADISON RESEARCH CORPORATION

By: /s/ Deanna H. Lund  
Name: Deanna H. Lund  
Title: Executive Vice President and  
Chief Financial Officer

MICRO SYSTEMS, INC.



By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

MSI ACQUISITION CORP.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

NATIONAL SAFE OF CALIFORNIA, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

NEWPOINT TECHNOLOGIES, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

POLEXIS, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

REAL TIME LOGIC, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

REALITY BASED IT SERVICES, LTD.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

ROCKET SUPPORT SERVICES, LLC

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer of HGS

Holdings, Inc., sole managing

member of Rocket Support

Services LLC

SAT CORPORATION

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

SHADOW I, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

SHADOW II, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

SHADOW III, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

SCT ACQUISITION, LLC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer of

Charlestown Marine Containers

Inc., sole member of SCT

Acquisition, LLC

SCT REAL ESTATE, LLC

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer of SCT

Acquisition, LLC, sole member

of SCT Real Estate, LLC

STAPOR RESEARCH, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

SUMMIT RESEARCH CORPORATION

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

KRATOS TECHNOLOGY & TRAINING SOLUTIONS, INC.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

WFI NMC CORP.

By: /s/ Deanna H. Lund

Name: Deanna H. Lund

Title: Executive Vice President and

Chief Financial Officer

WILMINGTON TRUST, NATIONAL ASSOCIATION, as successor by merger to WILMINGTON TRUST FSB), as Trustee and Collateral Agent

By: /s/ Jane Schweiger  
Name: Jane Schweiger  
Title: Vice President

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EXHIBIT A

Guarantors

COMPANY:	JURISDICTION OF FORMATION:
AI METRIX, INC.	DELAWARE
AIRORLITE COMMUNICATIONS, INC.	NEW JERSEY
AVTEC SYSTEMS, INC.	VIRGINIA
CHARLESTON MARINE CONTAINERS INC.	DELAWARE
CVG, INCORPORATED	VIRGINIA
DALLASTOWN REALTY II, LLC	DELAWARE
DALLASTOWN REALTY I, LLC	DELAWARE
DEFENSE SYSTEMS, INCORPORATED	VIRGINIA
DEI SERVICES CORPORATION	FLORIDA
DIGITAL FUSION SOLUTIONS, INC.	FLORIDA
DIGITAL FUSION, INC.	DELAWARE
DIVERSIFIED SECURITY SOLUTIONS, INC.	NEW YORK
DTI ASSOCIATES, INC.	VIRGINIA
GENERAL MICROWAVE CORPORATION	NEW YORK
GENERAL MICROWAVE ISRAEL CORPORATION	DELAWARE
GICHNER HOLDINGS, INC.	DELAWARE
GICHNER SYSTEMS INTERNATIONAL, INC.	DELAWARE
GICHNER SYSTEMS GROUP, INC.	DELAWARE
HAVERSTICK CONSULTING, INC.	INDIANA
HAVERSTICK GOVERNMENT SOLUTIONS, INC.	OHIO
HENRY BROS. ELECTRONICS, INC.	DELAWARE
HENRY BROS. ELECTRONICS, INC.	NEW JERSEY

HENRY BROS. ELECTRONICS, INC.	CALIFORNIA
HENRY BROS. ELECTRONICS, INC.	COLORADO
HENRY BROS. ELECTRONICS, INC.	VIRGINIA
HENRY BROS. ELECTRONICS, LLC	ARIZONA
HERLEY INDUSTRIES, INC.	DELAWARE
HERLEY-CTI, INC.	DELAWARE
HERLEY-RSS, INC.	DELAWARE
HGS HOLDINGS, INC.	INDIANA
INTEGRAL SYSTEMS, INC.	MARYLAND
IRIS ACQUISITION SUB LLC	MARYLAND
JMA ASSOCIATES, INC.	DELAWARE
KRATOS DEFENSE ENGINEERING SOLUTIONS, INC.	DELAWARE
KRATOS PUBLIC SAFETY & SECURITY SOLUTIONS, INC.	DELAWARE
KRATOS MID-ATLANTIC, INC.	DELAWARE
KRATOS SOUTHEAST, INC.	GEORGIA
KRATOS SOUTHWEST L.P.	TEXAS
KRATOS TEXAS, INC.	TEXAS
LUMISTAR, INC.	MARYLAND
LVDM, INC.	NEVADA
MADISON RESEARCH CORPORATION	ALABAMA
MSI ACQUISITION CORP.	DELAWARE
MICRO SYSTEMS, INC.	FLORIDA
NEWPOINT TECHNOLOGIES, INC.	DELAWARE
NATIONAL SAFE OF CALIFORNIA, INC.	CALIFORNIA
POLEXIS, INC.	CALIFORNIA

REAL TIME LOGIC, INC.	COLORADO	
REALTY BASED IT SERVICES, LTD.	MARYLAND	
ROCKET SUPPORT SERVICES LLC	INDIANA	
SAT CORPORATION	CALIFORNIA	
SCT ACQUISITION, LLC	DELAWARE	
SCT REAL ESTATE, LLC	DELAWARE	
SHADOW I, INC.	CALIFORNIA	
SHADOW II, INC.	CALIFORNIA	
SHADOW III, INC.	CALIFORNIA	
STAPOR RESEARCH, INC.	VIRGINIA	
SUMMIT RESEARCH CORPORATION	ALABAMA	
KRATOS TECHNOLOGY & TRAINING SOLUTIONS, INC.		CALIFORNIA
WFI NMC CORP.	DELAWARE	

---



Exhibit 4.2

\$115,000,000

KRATOS DEFENSE & SECURITY SOLUTIONS, INC.

10% Senior Secured Notes due 2017

REGISTRATION RIGHTS AGREEMENT

July 27, 2011

JEFFERIES & COMPANY, INC.

520 Madison Avenue  
New York, New York 10022

KEYBANC CAPITAL MARKETS INC.

127 Public Square  
Cleveland, Ohio 44114

B. RILEY & CO., LLC

11100 Santa Monica Blvd. Suite 800  
Los Angeles, California 90025

Ladies and Gentlemen:

Kratos Defense & Security Solutions, Inc, a Delaware corporation (the “Issuer”) is issuing and selling to Jefferies & Company, Inc. (“Jefferies”), KeyBanc Capital Markets Inc. (“KeyBanc”) and B. Riley & Co., LLC (“B. Riley” and, together with Jefferies and KeyBanc, the “Initial Purchasers”), upon the terms set forth in the Purchase Agreement, dated July 14, 2011, by and among the Issuer, the subsidiary guarantors named therein and the Initial Purchasers (the “Purchase Agreement”), \$115,000,000 aggregate principal amount of its 10% Senior Secured Notes due 2017 issued by the Issuer (each, a “Note” and collectively, the “Notes”). As an inducement to the Initial Purchasers to enter into the Purchase Agreement, the Issuer and the Subsidiary Guarantors listed in the signature pages hereto agree with the Initial Purchasers, for the benefit of the Holders (as defined below) of the Notes (including, without limitation, the Initial Purchasers), as set forth below. The execution and delivery of this Agreement is a condition to the obligations of the Initial Purchasers in the Purchase Agreement. The parties hereto hereby agree as follows:

1. Definitions

Capitalized terms that are used herein without definition and are defined in the Purchase Agreement shall have the respective meanings ascribed to them in the Purchase Agreement. As used in this Agreement, the following terms shall have the following meanings:

Additional Interest: See Section 4(a).

Advice: See Section 6(w).

Agreement: This Registration Rights Agreement, dated as of the Closing Date, among the Issuer, the Subsidiary Guarantors and the Initial Purchasers.

Applicable Period: See Section 2(e).

Business Day: A day that is not a Saturday, a Sunday or a day on which banking institutions in the City of New York are authorized or required by law or executive order to be closed.

Closing Date: July 27, 2011.

Collateral Agreements: Shall have the meaning set forth in the Indenture.

Day: Unless otherwise expressly provided, a calendar day.

Effectiveness Date: The 180th day after the Closing Date, or if such date is not a Business Day, the next succeeding Business Day.

Effectiveness Period: See Section 3(a).

Event Date: See Section 4(b).

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

Exchange Notes: Senior Secured Notes due 2017 of the Issuer, identical in all material respects to the Notes, including the related guarantees thereof, except for references to series and restrictive legends.

Exchange Offer: See Section 2(a).

Exchange Registration Statement: See Section 2(a).

Filing Date: The 90th day after the Closing Date, or if such date is not a Business Day, the next succeeding Business Day.

FINRA: Financial Industry Regulatory Authority.

Holder: Any beneficial holder of Registrable Notes.

Indemnified Party: See Section 8(c).

Indemnifying Party: See Section 8(c).

Indenture: The Indenture, dated as of May 19, 2010, among the Issuer, the Subsidiary Guarantors and Wilmington Trust FSB, as trustee and collateral agent, pursuant to which the Notes are being issued, as amended or supplemented from time to time in accordance with the terms thereof.

Initial Purchasers: See the introductory paragraph to this Agreement.

Initial Shelf Registration: See Section 3(a).

Inspectors: See Section 6(o).

Issuer: See the introductory paragraph to this Agreement.

Lien: Shall have the meaning set forth in the Indenture.

Losses: See Section 8(a).

Notes: See the introductory paragraph to this Agreement.

Participating Broker-Dealer: See Section 2(e).

Person: An individual, trustee, corporation, partnership, limited liability company, joint stock company, trust, unincorporated association, union, business association, firm, government or agency or political subdivision thereof, or other legal entity.

Private Exchange: See Section 2(f).

Private Exchange Notes: See Section 2(f).

Prospectus: The prospectus included in any Registration Statement (including, without limitation, a prospectus that discloses information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A promulgated under the Securities Act), as amended or supplemented by any prospectus supplement, with respect to the terms of the offering of any portion of the Registrable Notes covered by such Registration Statement, 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: See the introductory paragraph to this Agreement.

Records: See Section 6(o).

Registrable Notes: The Notes and Private Exchange Notes, in each case, that may not be sold without restriction under federal or state securities laws.

Registration Statement: Any registration statement of the Issuer and the Subsidiary Guarantors filed with the SEC under the Securities Act (including, but not limited to, the Exchange Registration Statement, the Shelf Registration and any subsequent Shelf Registration) that covers any of the Registrable Notes 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 or 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.

Rule 430A: Rule 430A 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: The Notes, the Exchange Notes and the Private Exchange Notes, if any.

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

Shelf Notice: See Section 2(j).

Shelf Registration: See Section 3(b).

Subsequent Shelf Registration: See Section 3(b).

Subsidiary Guarantor: Each subsidiary of the Issuer that guarantees the obligations of the Issuer under the Notes and Indenture.

TIA: The Trust Indenture Act of 1939, as amended.

Trustee: The trustee under the Indenture and, if existent, the trustee under any indenture governing the Exchange Notes and Private Exchange Notes (if any).

Underwritten Registration or Underwritten Offering: A registration in which securities of the Issuer are sold to an underwriter for reoffering to the public.

## 2. Exchange Offer

- (a) Unless the Exchange Offer would not be permitted by applicable laws or a policy of the SEC, the Issuer shall (and shall cause each Subsidiary Guarantor to) (i) prepare and file with the SEC promptly after the date hereof, but in no event later than the Filing Date, a registration statement (the “Exchange Registration Statement”) on an appropriate form under the Securities Act with respect to an offer (the “Exchange Offer”) to the Holders of Notes, to issue and deliver to such Holders, in exchange for the Notes, a like principal amount of Exchange Notes, (ii) use its commercially reasonable efforts to cause the Exchange Registration Statement to be declared effective as promptly as practicable after the filing thereof, but in no event later than the Effectiveness Date, (iii) use its commercially reasonable efforts to keep the Exchange Registration Statement effective until the consummation of the Exchange Offer in accordance with its terms, and (iv) commence the Exchange Offer and use its commercially reasonable efforts to issue on or prior to thirty (30) Business Days after the date on which the Exchange Registration Statement is declared effective, Exchange Notes in exchange for all Notes tendered prior thereto in the Exchange Offer. The Exchange Offer shall not be subject to any conditions, other than that the Exchange Offer does not violate applicable law or any applicable interpretation of the staff of the SEC.
- (b) The Exchange Notes shall be issued under, and entitled to the benefits of, (i) the Indenture or a trust indenture that is identical to the Indenture (other than such changes as are necessary to comply with any requirements of the SEC to effect or maintain the qualifications thereof under the TIA) and (ii) the Collateral Agreements.
- (c) Interest on the Exchange Notes and Private Exchange Notes will accrue from the last interest payment due date on which interest was paid on the Notes surrendered in exchange therefor or, if no interest has been paid on the Notes, from the date of original issue of the Notes. Each Exchange Note and Private Exchange Note shall bear

interest at the rate set forth thereon; provided, that interest with respect to the period prior to the issuance thereof shall accrue at the rate or rates borne by the Notes from time to time during such period.

- (d) The Issuer may require each Holder, as a condition to participation in the Exchange Offer, to represent (i) that any Exchange Notes received by it will be acquired in the ordinary course of its business, (ii) that at the time of the commencement and consummation of the Exchange Offer such Holder has not entered into any arrangement or understanding with any Person to participate in the distribution (within the meaning of the Securities Act) of the Exchange Notes in violation of the provisions of the Securities Act, (iii) that if such Holder is an “affiliate” of the Issuer within the meaning of Rule 405 of the Securities Act, it will comply with the registration and prospectus delivery requirements of the Securities Act to the extent applicable to it, (iv) if such Holder is not a broker-dealer, that it is not engaged in, and does not intend to engage in, the distribution of the Notes and (v) if such Holder is a Participating Broker-Dealer, that it will deliver a Prospectus in connection with any resale of the Exchange Notes.
- (e) The Issuer shall (and shall cause each Subsidiary Guarantor to) include within the Prospectus contained in the Exchange Registration Statement a section entitled “Plan of Distribution” reasonably acceptable to the Initial Purchasers which shall contain a summary statement of the positions taken or policies made by the staff of the SEC with respect to the potential “underwriter” status of any broker-dealer that is the beneficial owner (as defined in Rule 13d-3 under the Exchange Act) of Exchange Notes received by such broker-dealer in the Exchange Offer for its own account in exchange for the Notes that were acquired by it as a result of market-making or other trading activity (a “Participating Broker-Dealer”), whether such positions or policies have been publicly disseminated by the staff of the SEC or such positions or policies, in the judgment of the Initial Purchasers, represent the prevailing views of the staff of the SEC. Such “Plan of Distribution” section shall also allow, to the extent permitted by applicable policies and regulations of the SEC, the use of the Prospectus by all Persons subject to the prospectus delivery requirements of the Securities Act, including, to the extent so permitted, all Participating Broker-Dealers, and include a statement describing the manner in which Participating Broker-Dealers may resell the Exchange Notes. The Issuer shall use its commercially reasonable efforts to keep the Exchange Registration Statement effective and to amend and supplement the Prospectus contained therein, in order to permit such Prospectus to be lawfully delivered by all Persons subject to the prospectus delivery requirements of the Securities Act for such period of time as such Persons must comply with such requirements in order to resell the Exchange Notes (the “Applicable Period”).
- (f) If, upon consummation of the Exchange Offer, any Initial Purchaser holds any Notes acquired by such Initial Purchaser and having the status of an unsold allotment in the initial distribution, the Issuer (upon the written request from such Initial Purchaser) shall, simultaneously with the delivery of the Exchange Notes in the Exchange Offer, issue and deliver to such Initial Purchaser, in exchange (the “Private Exchange”) for the Notes held by such Initial Purchaser, a like principal amount of Senior Secured Notes that are identical to the Exchange Notes except for the existence of restrictions on transfer thereof under the Securities Act and securities laws of the several states of the United States (the “Private Exchange Notes”) (and which are issued pursuant to the same indenture as the Exchange Notes). The Private Exchange Notes shall bear the same CUSIP number as the Exchange Notes.
- (g) In connection with the Exchange Offer, the Issuer shall (and shall cause each Subsidiary Guarantor to):
  - (i) mail to each Holder a copy of the Prospectus forming part of the Exchange Registration Statement, together with an appropriate letter of transmittal that is an exhibit to the Exchange Offer Registration Statement, and any related documents;
  - (ii) keep the Exchange Offer open for not less than twenty (20) Business Days after the date notice thereof is mailed to the Holders (or longer if required by applicable law);
  - (iii)

utilize the services of a depository for the Exchange Offer with an address in the Borough of Manhattan, the City of New York, which may be the Trustee or an affiliate thereof;

- (iv) permit Holders to withdraw tendered Registrable Notes at any time prior to the close of business, New York time, on the last Business Day on which the Exchange Offer shall remain open; and
  - (v) otherwise comply in all material respects with all applicable laws.
- (h) As soon as practicable after the close of the Exchange Offer or the Private Exchange, as the case may be, the Issuer shall (and shall cause each Subsidiary Guarantor to):
  - (i) accept for exchange all Registrable Notes validly tendered pursuant to the Exchange Offer or the Private Exchange, as the case may be, and not validly withdrawn;
    - (ii) deliver to the Trustee for cancellation all Registrable Notes so accepted for exchange; and
  - (iii) cause the Trustee to authenticate and deliver promptly to each Holder tendering such Registrable Notes, Exchange Notes or Private Exchange Notes, as the case may be, equal in principal amount to the Notes of such Holder so accepted for exchange.
- (i) The Exchange Notes and the Private Exchange Notes may be issued under (i) the Indenture or (ii) an indenture identical to the Indenture (other than such changes as are necessary to comply with any requirements of the SEC to effect or maintain the qualification thereof under the TIA), which in either event will provide that the Exchange Notes will not be subject to the transfer restrictions set forth in the Indenture, that the Private Exchange Notes will be subject to the transfer restrictions set forth in the Indenture, and that the Exchange Notes, the Private Exchange Notes and the Notes, if any, will be deemed one class of security (subject to the provisions of the Indenture) and entitled to participate in all the security granted by the Issuer and the Subsidiary Guarantors pursuant to the Collateral Agreements and in any Subsidiary Guarantee (as such terms are defined in the Indenture) on an equal and ratable basis.
- (j) If: (i) prior to the consummation of the Exchange Offer, the Holders of a majority in aggregate principal amount of Registrable Notes determines in its or their reasonable judgment that (A) the Exchange Notes would not, upon receipt, be tradeable by the Holders thereof without restriction under the Securities Act and the Exchange Act and without material restrictions under applicable Blue Sky or state securities laws, or (B) the interests of the Holders under this Agreement, taken as a whole, would be materially adversely affected by the consummation of the Exchange Offer; (ii) applicable interpretations of the staff of the SEC would not permit the consummation of the Exchange Offer prior to the Effectiveness Date; (iii) subsequent to the consummation of the Private Exchange, any Holder of Private Exchange Notes so requests; (iv) the Exchange Offer is not consummated for any reason within the timeframe set forth in Section 2(a)(iv); or (v) in the case of (A) any Holder not permitted by applicable law or SEC policy to participate in the Exchange Offer, (B) any Holder participating in the Exchange Offer that receives Exchange Notes that may not be sold without restriction under state and federal securities laws (other than due solely to the status of such Holder as an affiliate of the Issuer within the meaning of the Securities Act) or (C) any broker-dealer that holds Notes acquired directly from the Issuer or any of its affiliates and, in each such case contemplated by this clause (v), such Holder notifies the Issuer within six months of consummation of the Exchange Offer, then the Issuer shall promptly (and in any event within five Business Days) deliver to the Holders (or in the case of an occurrence of any event described in clause (v) of this Section 2(j), to any such Holder) and the Trustee notice thereof (the "Shelf Notice") and shall as promptly as possible thereafter file an Initial Shelf Registration pursuant to Section 3.

### 3. Shelf Registration

If a Shelf Notice is delivered pursuant to Section 2(j), then this Section 3 shall apply to all Registrable Notes. Otherwise, upon consummation of the Exchange Offer in accordance with Section 2, the provisions of Section 3 shall apply solely with respect to (i) Notes held by any Holder thereof not permitted to participate in the Exchange Offer, (ii) Notes held by any broker-dealer that acquired such Notes directly from the Issuer or any of its affiliates and (iii) Exchange Notes that are not freely tradeable as contemplated by Section 2(j)(v) hereof, provided in each case that the relevant Holder has duly notified the Issuer within six months of the Exchange Offer as required by Section 2(j)(v).

- (a) **Initial Shelf Registration.** The Issuer shall (and shall cause each Subsidiary Guarantor to), as promptly as practicable, 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 Notes (the “Initial Shelf Registration”). If the Issuer (and any Subsidiary Guarantor) has not yet filed an Exchange Registration Statement, the Issuer shall (and shall cause each Subsidiary Guarantor to) file with the SEC the Initial Shelf Registration on or prior to the Filing Date and shall use its commercially reasonable efforts to cause such Initial Shelf Registration to be declared effective under the Securities Act on or prior to the Effectiveness Date. Otherwise, the Issuer shall (and shall cause each Subsidiary Guarantor to) use its commercially reasonable efforts to file with the SEC the Initial Shelf Registration within thirty (30) days of the delivery of the Shelf Notice and shall use its commercially reasonable efforts to cause such Shelf Registration to be declared effective under the Securities Act as promptly as practicable thereafter (but in no event more than ninety (90) days after delivery of the Shelf Notice). The Initial Shelf Registration shall be on Form S-1 or another appropriate form permitting registration of such Registrable Notes for resale by Holders in the manner or manners reasonably designated by them (including, without limitation, one or more underwritten offerings). The Issuer and Subsidiary Guarantors shall not permit any securities other than the Registrable Notes to be included in any Shelf Registration. The Issuer shall (and shall cause each Subsidiary Guarantor to) use its commercially reasonable efforts to keep the Initial Shelf Registration continuously effective under the Securities Act until the date which is two years from the Closing Date (subject to extension pursuant to the last paragraph of Section 6(w) (the “Effectiveness Period”), or such shorter period ending when (i) all Registrable Notes covered by the Initial Shelf Registration have been sold in the manner set forth and as contemplated in the Initial Shelf Registration (ii) a Subsequent Shelf Registration covering all of the Registrable Notes covered by and not sold under the Initial Shelf Registration or an earlier Subsequent Shelf Registration has been declared effective under the Securities Act or (iii) there cease to be any outstanding Registrable Notes.
- (b) **Subsequent Shelf Registrations.** If the Initial Shelf Registration or any Subsequent Shelf Registration (as defined below) 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 Issuer shall (and shall cause each Subsidiary Guarantor to) use its commercially reasonable efforts to obtain the prompt withdrawal of any order suspending the effectiveness thereof, and in any event shall within thirty (30) days of such cessation of effectiveness amend such Shelf Registration in a manner to obtain the withdrawal of the order suspending the effectiveness thereof, or file (and cause each Subsidiary Guarantor to file) an additional “shelf” Registration Statement pursuant to Rule 415 covering all of the Registrable Notes (a “Subsequent Shelf Registration”). If a Subsequent Shelf Registration is filed, the Issuer shall (and shall cause each Subsidiary Guarantor to) use its commercially reasonable efforts to cause the Subsequent Shelf Registration to be declared effective as soon as practicable after such filing and to keep such Subsequent Shelf Registration 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 Registrations.
- (c) **Supplements and Amendments.** The Issuer shall promptly supplement and amend any 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 in writing by the Holders of a majority in aggregate principal amount of the Registrable Notes covered by such Shelf Registration or by any underwriter of such Registrable Notes.

- (d) Provision of Information. No Holder of Registrable Notes shall be entitled to include any of its Registrable Notes in any Shelf Registration pursuant to this Agreement unless such Holder furnishes to the Issuer and the Trustee in writing, within twenty (20) days after receipt of a written request therefor, such information as the Issuer and the Trustee after conferring with counsel with regard to information relating to Holders that would be required by the SEC to be included in such Shelf Registration or Prospectus included therein, may reasonably request for inclusion in any Shelf Registration or Prospectus included therein, and no such Holder shall be entitled to Additional Interest pursuant to Section 4 hereof unless and until such Holder shall have provided such information.

#### 4. Additional Interest

- (a) The Issuer and each Subsidiary Guarantor acknowledges and agrees that the Holders of Registrable Notes will suffer damages if the Issuer or any Subsidiary Guarantor fails to fulfill its material obligations under Section 2 or Section 3 hereof and that it would not be feasible to ascertain the extent of such damages with precision. Accordingly, the Issuer and the Subsidiary Guarantors agree to pay additional cash interest on the Notes (“Additional Interest”) under the circumstances and to the extent set forth below (each of which shall be given independent effect):
- (i) if neither the Exchange Registration Statement nor the Initial Shelf Registration has been filed on or prior to the applicable Filing Date, Additional Interest shall accrue on the Notes over and above any stated interest at a rate of 0.25% per annum of the principal amount of such Notes for the first ninety (90) days immediately following the applicable Filing Date, such Additional Interest rate increasing by an additional 0.25% per annum at the beginning of each subsequent ninety (90) day period;
- (ii) if neither the Exchange Registration Statement nor the Initial Shelf Registration is declared effective on or prior to the applicable Effectiveness Date, Additional Interest shall accrue on the Notes over and above any stated interest at a rate of ---0.25% per annum of the principal amount of such Notes for the first ninety (90) days immediately following the applicable Effectiveness Date, such Additional Interest rate increasing by an additional 0.25% per annum at the beginning of each subsequent ninety (90) day period;
- (iii) if (A) the Issuer (and any Subsidiary Guarantor) has not exchanged Exchange Notes for all of the Notes validly tendered in accordance with the terms of the Exchange Offer on or prior to thirty (30) Business Days after the Effectiveness Date, (B) the Exchange Registration Statement ceases to be effective at any time prior to the time that the Exchange Offer is consummated, (C) if applicable, a Shelf Registration has been declared effective and such Shelf Registration ceases to be effective at any time prior to the second anniversary of its effective date (other than such time as all Notes have been disposed of thereunder) and is not declared effective again within thirty (30) days, or (D) pending the announcement of a material corporate transaction, event, occurrence or other item the Issuer issues a written notice pursuant to Section 6(e)(v) or (vi) that a Shelf Registration Statement or Exchange Registration Statement is unusable and the aggregate number of days in any 365-day period for which all such notices issued or required to be issued, have been, or were required to be, in effect exceeds ninety (90) days in the aggregate or thirty (30) days consecutively, in the case of a Shelf Registration statement, or fifteen (15) days in the aggregate in the case of an Exchange Registration Statement, then Additional Interest shall accrue on the Notes, over and above any stated interest, at a rate of 0.25% per annum of the principal amount of the Notes commencing on (w) the 31st Business Day after the Effectiveness Date, in the case of (A) above, or (x) the date the Exchange Registration Statement ceases to be effective without being declared effective again within thirty (30) days, in the case of clause (B) above, or (y) the day such Shelf Registration ceases to be effective in the case of (C) above, or (z) the day the Exchange Registration Statement or Shelf Registration ceases to be usable in case of clause (D) above, such Additional Interest rate increasing by an additional 0.25% per annum at the beginning of each such subsequent 90-day period;



provided, however, that the maximum Additional Interest rate on the Notes may not exceed at any one time in the aggregate 1.00% per annum; and provided further, that (1) upon the filing of the Exchange Registration Statement or Initial Shelf Registration (in the case of (i) above), (2) upon the effectiveness of the Exchange Registration Statement or Initial Shelf Registration (in the case of (ii) above), or (3) upon the exchange of Exchange Notes for all Notes tendered (in the case of (iii)(A) above), or upon the effectiveness of the Exchange Registration Statement that had ceased to remain effective (in the case of clause (iii)(B) above), or upon the effectiveness of a Shelf Registration which had ceased to remain effective (in the case of (iii)(C) above), Additional Interest on the Notes as a result of such clause (or the relevant subclause thereof) or upon the usability of such Registration Statement or Exchange Registration Statement (in the case of clause (iii)(D) above), as the case may be, shall cease to accrue.

- (b) The Issuer shall notify the Trustee within three Business Days after each and every date on which an event occurs in respect of which Additional Interest is required to be paid (an “Event Date”). Any amounts of Additional Interest due pursuant to clause (a)(i), (a)(ii) or (a)(iii) of this Section 4 will be payable in cash, on the dates and in the manner provided in the Indenture and whether or not any cash interest would then be payable on such date, commencing with the first such semi-annual date occurring after any such Additional Interest commences to accrue. The amount of Additional Interest will be determined by multiplying the applicable Additional Interest rate by the principal amount of the Notes, multiplied by a fraction, the numerator of which is the number of days such Additional Interest rate was applicable during such period (determined on the basis of a 360-day year comprised of twelve 30-day months and, in the case of a partial month, the actual number of days elapsed), and the denominator of which is 360.

#### 5. Hold-Back Agreements

The Issuer agrees that it will not effect any public or private sale or distribution (including a sale pursuant to Regulation D under the Securities Act) of any securities the same as or similar to those covered by a Registration Statement filed pursuant to Section 2 or 3 hereof (other than Additional Notes (as defined in the Indenture) issued under the Indenture), or any securities convertible into or exchangeable or exercisable for such securities, during the ten (10) days prior to, and during the ninety (90) day period beginning on, the effective date of any Registration Statement filed pursuant to Sections 2 and 3 hereof unless the Holders of a majority in the aggregate principal amount of the Registrable Notes to be included in such Registration Statement consent, if the managing underwriter thereof so requests in writing.

#### 6. Registration Procedures

In connection with the filing of any Registration Statement pursuant to Sections 2 or 3 hereof, the Issuer shall (and shall cause each Subsidiary Guarantor to) effect such registrations to permit the sale of such 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 Issuer hereunder, the Issuer shall (and shall cause each Subsidiary Guarantor to):

- (a) prepare and file with the SEC as soon as practicable after the date hereof but in any event on or prior to the Filing Date, the Exchange Registration Statement or if the Exchange Registration Statement is not filed because of the circumstances contemplated by Section 2(j), a Shelf Registration as prescribed by Section 3, and use its commercially reasonable efforts to cause each such Registration Statement to be declared effective and remain effective as provided herein; provided that, if (1) a Shelf Registration is filed pursuant to Section 3 or (2) a Prospectus contained in an Exchange Registration Statement filed pursuant to Section 2 is required to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Notes during the Applicable Period relating thereto, before filing any Registration Statement or Prospectus or any amendments or supplements thereto the Issuer shall (and shall cause each Subsidiary Guarantor to), if requested, furnish to and afford the Holders of the Registrable Notes to be registered pursuant to such Shelf Registration Statement, each Participating

Broker-Dealer, the managing underwriters, if any, and each of their respective counsel, a reasonable opportunity to review copies of all such documents (including copies of any documents to be incorporated by reference therein and all exhibits thereto) proposed to be filed (in each case at least three Business Days prior to such filing); provided that if the provision of such documents to such Holders would cause the Issuer or any Subsidiary Guarantor to be in violation of Regulation FD of the Exchange Act, neither the Issuer nor any Subsidiary Guarantor shall be required to furnish such documents to such Holders unless such Holders enter into a confidentiality agreement with the Issuer with respect thereto in form and substance reasonably satisfactory to the Issuer. The Issuer and each Subsidiary Guarantor shall not file any such Registration Statement or Prospectus or any amendments or supplements thereto in respect of which the Holders must provide information for the inclusion therein without the Holders being afforded an opportunity to review such documentation if the holders of a majority in aggregate principal amount of the Registrable Notes covered by such Registration Statement, or any such Participating Broker-Dealer, as the case may be, the managing underwriters, if any, or any of their respective counsel shall reasonably object in writing on a timely basis. A Holder shall be deemed to have reasonably objected to such filing if such Registration Statement, amendment, Prospectus or supplement, as applicable, as proposed to be filed, contains an untrue statement of a material fact or omits to state any material fact necessary to make the statements therein not misleading or fails to comply with the applicable requirements of the Securities Act.

- (b) provide an indenture trustee for the Registrable Notes, the Exchange Notes or the Private Exchange Notes, as the case may be, and cause the Indenture (or other indenture relating to the Registrable Notes) to be qualified under the TIA not later than the effective date of the first Registration Statement; and in connection therewith, to effect such changes to such indenture as may be required for such indenture to be so qualified in accordance with the terms of the TIA; and execute, and use its commercially reasonable efforts to cause such 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 such indenture to be so qualified in a timely manner.
- (c) prepare and file with the SEC such pre-effective amendments and post-effective amendments to each Shelf Registration or Exchange Registration Statement, as the case may be, as may be necessary to keep such Registration Statement continuously effective for the Effectiveness Period or the Applicable Period, as the case may be; 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 them with respect to the disposition of all securities covered by such Registration Statement as so amended or in such Prospectus as so supplemented and with respect to the subsequent resale of any securities being sold by a Participating Broker-Dealer covered by any such Prospectus. The Issuer and each Subsidiary Guarantor shall not, during the Applicable Period, voluntarily take any action that would result in selling Holders of the Registrable Notes covered by a Registration Statement or Participating Broker-Dealers seeking to sell Exchange Notes not being able to sell such Registrable Notes or such Exchange Notes during that period, unless such action is required by applicable law, rule or regulation or permitted by this Agreement.
- (d) furnish to such selling Holders and Participating Broker-Dealers who so request in writing (i) upon the Issuer's receipt, a copy of the order of the SEC declaring such Registration Statement and any post effective amendment thereto effective, (ii) such reasonable number of copies of such Registration Statement and of each amendment and supplement thereto (in each case including any documents incorporated therein by reference and all exhibits), (iii) such reasonable number of copies of the Prospectus included in such Registration Statement (including each preliminary Prospectus) and each amendment and supplement thereto, and such reasonable number of copies of the final Prospectus as filed by the Issuer and each Subsidiary Guarantor pursuant to Rule 424(b) under the Securities Act, in conformity with the requirements of the Securities Act and each amendment and supplement thereto, and (iv) such other documents (including any amendments required to be filed pursuant to clause (c) of this Section), as any such Person may reasonably request in writing. The Issuer and the Subsidiary Guarantors

hereby consent to the use of the Prospectus by each of the selling Holders of Registrable Notes or each such Participating Broker-Dealer, as the case may be, and the underwriters or agents, if any, and dealers, if any, in connection with the offering and sale of the Registrable Notes covered by, or the sale by Participating Broker-Dealers of the Exchange Notes pursuant to, such Prospectus and any amendment or supplement thereto.

- (e) if (1) a Shelf Registration is filed pursuant to Section 3, or (2) a Prospectus contained in an Exchange Registration Statement filed pursuant to Section 2 is required to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Notes during the Applicable Period relating thereto, the Issuer shall notify in writing the selling Holders of Registrable Notes, or each such Participating Broker-Dealer, as the case may be, the managing underwriters, if any, and each of their respective counsel promptly (but in any event within two Business Days) (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 (including in such notice a written statement that any Holder may, upon request, obtain, without charge, 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 Prospectus or the initiation of any proceedings for that purpose, (iii) if at any time when a Prospectus is required by the Securities Act to be delivered in connection with sales of the Registrable Notes the representations and warranties of the Issuer and any Subsidiary Guarantor contained in any agreement (including any underwriting agreement) contemplated by Section 6(n) hereof cease to be true and correct, (iv) of the receipt by the Issuer or any Subsidiary Guarantor of any notification with respect to the suspension of the qualification or exemption from qualification of a Registration Statement or any of the Registrable Notes or the Exchange Notes to be sold by any Participating Broker-Dealer for offer or sale in any jurisdiction, or the initiation or threatening of any proceeding for such purpose, (v) of the happening of any event, the existence of any condition of 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 and 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 light of the circumstances under which they were made, not misleading, (vi) of any reasonable determination by the Issuer or any Subsidiary Guarantor that a post-effective amendment to a Registration Statement would be appropriate and (vii) of any request by the SEC for amendments to the Registration Statement or supplements to the Prospectus or for additional information relating thereto.
- (f) use its commercially reasonable 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 or suspending the qualification (or exemption from qualification) of any of the Registrable Notes or the Exchange Notes to be sold by any Participating Broker-Dealer, for sale in any jurisdiction, and, if any such order is issued, to use its commercially reasonable efforts to obtain the withdrawal of any such order at the earliest possible date.
- (g) if (A) a Shelf Registration is filed pursuant to Section 3, (B) a Prospectus contained in an Exchange Registration Statement filed pursuant to Section 2 is required to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Notes during the Applicable Period or (C) reasonably requested in writing by the managing underwriters, if any, or the Holders of a majority in aggregate principal amount of the Registrable Notes being sold in connection with an underwritten offering, (i) promptly incorporate in a Prospectus supplement or post-effective amendment such information or revisions to information therein relating to such underwriters or selling Holders as the managing underwriters, if any, or such Holders or any of their respective counsel reasonably request in writing to be included or made therein and (ii) make all required filings of such Prospectus supplement or such post-effective amendment as soon as practicable after the Issuer has received notification of the matters to be incorporated in such Prospectus supplements or post-effective amendment.

- (h) prior to any public offering of Registrable Notes or any delivery of a Prospectus contained in the Exchange Registration Statement by any Participating Broker-Dealer who seeks to sell Exchange Notes during the Applicable Period, use its commercially reasonable efforts to register or qualify, and to cooperate with the selling Holders of Registrable Notes or each such Participating Broker-Dealer, as the case may be, the underwriters, if any, and their respective counsel in connection with the registration or qualification (or exemption from such registration or qualification) of such Registrable Notes or Exchange Notes, as the case may be, for offer and sale under the securities or Blue Sky laws of such jurisdictions within the United States as any selling Holder, Participating Broker-Dealer or any managing underwriter or underwriters, if any, reasonably request in writing; provided that where Exchange Notes held by Participating Broker-Dealers or Registrable Notes are offered other than through an underwritten offering, the Issuer and each Subsidiary Guarantor agree to cause its counsel to perform Blue Sky investigations and file any registrations and qualifications required to be filed pursuant to this Section 6(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 Exchange Notes held by Participating Broker-Dealers or the Registrable Notes covered by the applicable Registration Statement; provided that neither the Issuer nor any Subsidiary Guarantor shall 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 any such jurisdiction where it is not then so subject.
- (i) if (A) a Shelf Registration is filed pursuant to Section 3 or (B) a Prospectus contained in an Exchange Registration Statement filed pursuant to Section 2 is requested to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Notes during the Applicable Period, cooperate with the selling Holders of Registrable Notes and the managing underwriter or underwriters, if any, to facilitate the timely preparation and delivery of certificates representing Registrable Notes 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 Notes to be in such denominations and registered in such names as the managing underwriter or underwriters, if any, or Holders may reasonably request.
- (j) use its commercially reasonable efforts to cause the Registrable Notes covered by any Registration Statement to be registered with or approved by such governmental agencies or authorities as may be necessary to enable the seller or sellers thereof or the underwriter, if any, to consummate the disposition of such Registrable Notes, except as may be required solely as a consequence of the nature of such selling Holder's business, in which case the Issuer shall (and shall cause each Subsidiary Guarantor to) cooperate in all reasonable respects with the filing of such Registration Statement and the granting of such approvals; provided that neither the Issuer nor any existing Subsidiary Guarantor shall 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 jurisdiction where it is not then so subject or (C) subject itself to taxation in any such jurisdiction where it is not then so subject.
- (k) if (1) a Shelf Registration is filed pursuant to Section 3, or (2) a Prospectus contained in an Exchange Registration Statement filed pursuant to Section 2 is required to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Notes during the Applicable Period, upon the occurrence of any event contemplated by paragraph 6(e)(v) or 6(e)(vi) hereof, as promptly as practicable, prepare and file with the SEC, at the expense of the Issuer and the Subsidiary Guarantors, 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 Notes being sold thereunder or to the purchasers of the Exchange Notes to whom such Prospectus will be delivered by a Participating Broker-Dealer, 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 light of the circumstances under which they were made, not misleading, and, if SEC review

is required, use its commercially reasonable efforts to cause such post-effective amendment to be declared effective as soon as possible.

- (l) use its commercially reasonable efforts to cause the Registrable Notes covered by a Registration Statement to be rated with such appropriate rating agencies, if so requested in writing by the Holders of a majority in aggregate principal amount of the Registrable Notes covered by such Registration Statement or the managing underwriter or underwriters, if any.
- (m) prior to the initial issuance of the Exchange Notes, (i) provide the Trustee with one or more certificates for the Registrable Notes in a form eligible for deposit with The Depository Trust Company and (ii) provide a CUSIP number for the Exchange Notes.
- (n) if a Shelf Registration is filed pursuant to Section 3, enter into such agreements (including an underwriting agreement in form, scope and substance as is customary in underwritten offerings of debt securities similar to the Notes, as may be appropriate in the circumstances) and take all such other actions in connection therewith (including those reasonably requested in writing by the managing underwriters, if any, or the Holders of a majority in aggregate principal amount of the Registrable Notes being sold) in order to expedite or facilitate the registration or the disposition of such Registrable Notes, and in such connection, whether or not an underwriting agreement is entered into and whether or not the registration is an Underwritten Registration, (i) make such representations and warranties to the Holders and the underwriters, if any, with respect to the business of the Issuer and its subsidiaries as then conducted, and the Registration Statement, Prospectus and documents, if any, incorporated or deemed to be incorporated by reference therein, in each case, in form, substance and scope as are customarily made by issuers to underwriters in underwritten offerings of debt securities similar to the Notes, as may be appropriate in the circumstances, and confirm the same if and when reasonably required; (ii) obtain an opinion of counsel to the Issuer and the Subsidiary Guarantors and updates thereof (which counsel and opinions (in form, scope and substance) shall be reasonably satisfactory to the managing underwriters, if any, and the Holders of a majority in aggregate principal amount of the Registrable Notes being sold), addressed to each selling Holder and each of the underwriters, if any, covering the matters customarily covered in opinions of counsel to the Issuer and the Subsidiary Guarantors requested in underwritten offerings of debt securities similar to the Notes, as may be appropriate in the circumstances; (iii) obtain “cold comfort” letters and updates thereof (which letters and updates (in form, scope and substance) shall be reasonably satisfactory to the managing underwriters) from the independent certified public accountants of the Issuer and the Subsidiary Guarantors (and, if necessary, any other independent certified public accountants of any subsidiary of the Issuer or of any business acquired by the Issuer for which financial statements and financial data are, or are required to be, included 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 debt securities similar to the Notes, as may be appropriate in the circumstances, and such other matters as reasonably requested in writing by the underwriters; and (iv) deliver such documents and certificates as may be reasonably requested in writing by the Holders of a majority in aggregate principal amount of the Registrable Notes being sold and the managing underwriters, if any, to evidence the continued validity of the representations and warranties of the Issuer and its subsidiaries made pursuant to clause (i) above and to evidence compliance with any conditions contained in the underwriting agreement or other similar agreement entered into by the Issuer or any Subsidiary Guarantor.
- (o) if (1) a Shelf Registration is filed pursuant to Section 3, or (2) a Prospectus contained in an Exchange Registration Statement filed pursuant to Section 2 is required to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Notes during the Applicable Period, make available for inspection by any selling Holder of such Registrable Notes being sold, or each such Participating Broker-Dealer, as the case may be, any underwriter participating in any such disposition of Registrable Notes, if any, and any attorney, accountant or other agent retained by any such selling Holder or each such Participating Broker-Dealer, as the case may be, or underwriter (collectively, the “Inspectors”), at the offices where normally kept, during reasonable

business hours, all financial and other records and pertinent corporate documents of the Issuer 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 Issuer and its subsidiaries to supply all information reasonably requested in writing by any such Inspector in connection with such Registration Statement. Each Inspector shall agree in writing that it will keep the Records confidential and not disclose any of the Records unless (i) the disclosure of such Records is necessary to avoid or correct a misstatement or 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) the information in such Records is public or has been made generally available to the public other than as a result of a disclosure or failure to safeguard by such Inspector or (iv) disclosure of such information is, in the reasonable written opinion of counsel for any Inspector, necessary or advisable in connection with any action, claim, suit or proceeding, directly or indirectly, involving or potentially involving such Inspector and arising out of, based upon, related to, or involving this Agreement, or any transaction contemplated hereby or arising hereunder. Each selling Holder of such Registrable Notes and each such Participating Broker-Dealer will be required to agree that information obtained by it as a result of such inspections shall be deemed confidential and shall not be used by it as the basis for any market transactions in the securities of the Issuer unless and until such is made generally available to the public. Each Inspector, each selling Holder of such Registrable Notes and each such Participating Broker-Dealer will be required to further agree that it will, upon learning that disclosure of such Records is sought in a court of competent jurisdiction, give notice to the Issuer and, to the extent practicable, use its commercially reasonable efforts to allow the Issuer, at its expense, to undertake appropriate action to prevent disclosure of the Records deemed confidential at its expense.

- (p) comply with all applicable rules and regulations of the SEC and make generally available to the security holders of the Issuer with regard to any Applicable Registration Statement earning statements satisfying the provisions of section 11(a) of the Securities Act and Rule 158 thereunder (or any similar rule promulgated under the Securities Act) no later than forty-five (45) days after the end of any twelve (12) month period (or ninety (90) days after the end of any twelve (12) month period if such period is a fiscal year) (i) commencing at the end of any fiscal quarter in which Registrable Notes are sold to underwriters in a firm commitment or best efforts underwritten offering and (ii) if not sold to underwriters in such an offering, commencing on the first day of the first fiscal quarter of the Issuer after the effective date of a Registration Statement, which statements shall cover said twelve (12) month periods.
- (q) upon consummation of a Private Exchange, obtain an opinion of counsel to the Issuer and the Subsidiary Guarantors (in form, scope and substance reasonably satisfactory to Jefferies), addressed to the Trustee for the benefit of all Holders participating in the Private Exchange to the effect that (i) the Issuer and the Subsidiary Guarantors have duly authorized, executed and delivered the Private Exchange Notes and the Indenture, (ii) the Private Exchange Notes and the Indenture constitute legal, valid and binding obligations of the Issuer and the Subsidiary Guarantors, enforceable against the Issuer and the Subsidiary Guarantors in accordance with their respective terms, except as such enforcement may be subject to customary United States and foreign exceptions and (iii) all obligations of the Issuer and the Subsidiary Guarantors under the Private Exchange Notes and the Indenture are secured by Liens (as defined in the Indenture) on the assets securing the obligations of the Issuer and the Subsidiary Guarantors under the Notes, Indenture and Collateral Agreements to the extent and as discussed in the Registration Statement.
- (r) if the Exchange Offer or a Private Exchange is to be consummated, upon delivery of the Registrable Notes by the Holders to the Issuer and the Subsidiary Guarantors (or to such other Person as directed by the Issuer and the Subsidiary Guarantors) in exchange for the Exchange Notes or the Private Exchange Notes, as the case may be, the Issuer and the Subsidiary Guarantors shall mark, or caused to be marked, on such Registrable Notes that the Exchange Notes or the Private Exchange Notes, as the case may be, are being issued as substitute evidence of the indebtedness originally evidenced by the Registrable Notes; provided that in no event shall such Registrable Notes be marked as paid or otherwise satisfied.

- (s) cooperate with each seller of Registrable Notes covered by any Registration Statement and each underwriter, if any, participating in the disposition of such Registrable Notes and their respective counsel in connection with any filings required to be made with FINRA.
- (t) use its commercially reasonable efforts to cause all Securities covered by a Registration Statement to be listed on each securities exchange, if any, on which similar debt securities issued by the Issuer are then listed.
- (u) use its commercially reasonable efforts to take all other steps reasonably necessary to effect the registration of the Registrable Notes covered by a Registration Statement contemplated hereby.
- (v) the Issuer may require each seller of Registrable Notes or Participating Broker-Dealer as to which any registration is being effected to furnish to the Issuer such information regarding such seller or Participating Broker-Dealer and the distribution of such Registrable Notes as the Issuer may, from time to time, reasonably request in writing. The Issuer may exclude from such registration the Registrable Notes of any seller who fails to furnish such information within a reasonable time (which time in no event shall exceed thirty (30) days, subject to Section 3(d) hereof) after receiving such request. Each seller of Registrable Notes or Participating Broker-Dealer as to which any registration is being effected agrees to furnish promptly to the Issuer all information required to be disclosed in order to make the information previously furnished by such seller not materially misleading.
- (w) each Holder of Registrable Notes and each Participating Broker-Dealer agrees by acquisition of such Registrable Notes or Exchange Notes to be sold by such Participating Broker-Dealer, as the case may be, that, upon receipt of any notice from the Issuer of the happening of any event of the kind described in Section 6(e)(ii), 6(e)(iv), 6(e)(v), or 6(e)(vi), such Holder will forthwith discontinue disposition of such Registrable Notes covered by a Registration Statement and such Participating Broker-Dealer will forthwith discontinue disposition of such Exchange Notes pursuant to any Prospectus and, in each case, forthwith discontinue dissemination of such Prospectus until such Holder's or Participating Broker-Dealer's receipt of the copies of the supplemented or amended Prospectus contemplated by Section 6(k), or until it is advised in writing (the "Advice") by the Issuer and the Subsidiary Guarantors that the use of the applicable Prospectus may be resumed, and has received copies of any amendments or supplements thereto and, if so directed by the Issuer and the Subsidiary Guarantors, such Holder or Participating Broker-Dealer, as the case may be, will deliver to the Issuer all copies, other than permanent file copies, then in such Holder's or Participating Broker-Dealer's possession, of the Prospectus covering such Registrable Notes current at the time of the receipt of such notice. In the event the Issuer and the Subsidiary Guarantors shall give any such notice, the Applicable Period shall be extended by the number of days during such periods from and including the date of the giving of such notice to and including the date when each Participating Broker-Dealer shall have received (x) the copies of the supplemented or amended Prospectus contemplated by Section 6(k) or (y) the Advice.

## 7. Registration Expenses

- (a) All fees and expenses incident to the performance of or compliance with this Agreement by the Issuer and the Subsidiary Guarantors shall be borne by the Issuer and the Subsidiary Guarantors, whether or not the Exchange Offer or a Shelf Registration is filed or becomes effective, including, without limitation, (i) all registration and filing fees, including, without limitation, (A) fees with respect to filings required to be made with FINRA in connection with any underwritten offering and (B) fees and expenses of compliance with state securities or Blue Sky laws as provided in Section 6(h) hereof (including, without limitation, reasonable fees and disbursements of counsel in connection with Blue Sky qualifications of the Registrable Notes or Exchange Notes and determination of the eligibility of the Registrable Notes or Exchange Notes for investment under the laws of such jurisdictions (x) where the Holders are located, in the case of the Exchange Notes, or (y) as provided in Section 6(h), in the case of Registrable Notes or Exchange Notes to be sold by a Participating Broker-Dealer during the Applicable Period)), (ii) printing expenses, including, without limitation, expenses of printing Prospectuses if the printing of Prospectuses is requested by the managing underwriter or underwriters, if any, or by the Holders of a majority in

aggregate principal amount of the Registrable Notes included in any Registration Statement or by any Participating Broker-Dealer during the Applicable Period, as the case may be, (iii) messenger, telephone and delivery expenses incurred in connection with the performance of their obligations hereunder, (iv) fees and disbursements of counsel for the Issuer, the Subsidiary Guarantors and, subject to 7(b), the Holders, (v) fees and disbursements of all independent certified public accountants referred to in Section 6 (including, without limitation, the expenses of any special audit and “cold comfort” letters required by or incident to such performance), (vi) rating agency fees and the fees and expenses incurred in connection with the listing of the Securities to be registered on any securities exchange, (vii) Securities Act liability insurance, if the Issuer and the Subsidiary Guarantors desire such insurance, (viii) fees and expenses of all other Persons retained by the Issuer and the Subsidiary Guarantors, (ix) fees and expenses of any “qualified independent underwriter” or other independent appraiser participating in an offering pursuant to Section 3 of Schedule E to the By-laws of FINRA, but only where the need for such a “qualified independent underwriter” arises due to a relationship with the Issuer and the Subsidiary Guarantors, (x) internal expenses of the Issuer and the Subsidiary Guarantors (including, without limitation, all salaries and expenses of officers and employees of the Issuer or the Subsidiary Guarantors performing legal or accounting duties), (xi) the expense of any annual audit, (xii) the fees and expenses of the Trustee and the Exchange Agent and (xiii) the expenses relating to printing, word processing and distributing all Registration Statements, underwriting agreements, securities sales agreements, indentures and any other documents necessary in order to comply with this Agreement.

- (b) The Issuer and the Subsidiary Guarantors shall reimburse the Holders for the reasonable fees and disbursements of not more than one counsel chosen by the Holders of a majority in aggregate principal amount of the Registrable Notes to be included in any Registration Statement. The Issuer and the Subsidiary Guarantors shall pay all documentary, stamp, transfer or other transactional taxes attributable to the issuance or delivery of the Exchange Notes or Private Exchange Notes in exchange for the Notes; provided that the Issuer shall not be required to pay taxes payable in respect of any transfer involved in the issuance or delivery of any Exchange Note or Private Exchange Note in a name other than that of the Holder of the Note in respect of which such Exchange Note or Private Exchange Note is being issued. The Issuer and the Subsidiary Guarantors shall reimburse the Holders for fees and expenses (including reasonable fees and expenses of counsel to the Holders) relating to any enforcement of any rights of the Holders under this Agreement.

## 8. Indemnification

- (a) Indemnification by the Issuer and the Subsidiary Guarantors. Each of the Issuer and the Subsidiary Guarantors jointly and severally agrees to indemnify and hold harmless each Holder of Registrable Notes, Exchange Notes or Private Exchange Notes and each Participating Broker-Dealer selling Exchange Notes during the Applicable Period, each Person, if any, who controls each such Holder (within the meaning of Section 15 of the Securities Act or Section 20(a) of the Exchange Act) and the officers, directors and partners of each such Holder, Participating Broker-Dealer and controlling person, to the fullest extent lawful, from and against any and all losses, claims, damages, liabilities, costs (including, without limitation, reasonable costs of preparation and reasonable attorneys' fees as provided in this Section 8) and expenses (including, without limitation, reasonable costs and expenses incurred in connection with investigating, preparing, pursuing or defending against any of the foregoing) (collectively, “Losses”), as incurred, directly or indirectly caused by, related to, based upon, arising out of or in connection with any untrue or alleged untrue statement of a material fact contained in any Registration Statement, Prospectus or form of prospectus, or in any amendment or supplement thereto, or in any preliminary prospectus, or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, except insofar as such Losses are solely based upon information relating to such Holder or Participating Broker-Dealer and furnished in writing to the Issuer and the Subsidiary Guarantors (or reviewed and approved in writing) by such Holder or Participating Broker-Dealer or their counsel expressly for use therein; provided, however, that the Issuer and the Subsidiary Guarantors will not be liable to any Indemnified Party (as defined below) under this Section 8 to the extent Losses were solely caused by an untrue statement or omission or



alleged untrue statement or omission that was contained or made in any preliminary prospectus and corrected in the Prospectus or any amendment or supplement thereto if (i) the Prospectus does not contain any other untrue statement or omission or alleged untrue statement or omission of a material fact that was the subject matter of the related proceeding, (ii) any such Losses resulted from an action, claim or suit by any Person who purchased Registrable Notes or Exchange Notes which are the subject thereof from such Indemnified Party and (iii) it is established in the related proceeding that such Indemnified Party failed to deliver or provide a copy of the Prospectus (as amended or supplemented) to such Person with or prior to the confirmation of the sale of such Registrable Notes or Exchange Notes sold to such Person if required by applicable law, unless such failure to deliver or provide a copy of the Prospectus (as amended or supplemented) was a result of noncompliance by the Issuer with Section 6 of this Agreement. Each of the Issuer and the Subsidiary Guarantors also agrees to indemnify underwriters, selling brokers, dealer managers and similar securities industry professionals participating in the distribution, their officers, directors, agents and employees and each Person who controls such Persons (within the meaning of Section 5 of the Securities Act or Section 20(a) of the Exchange Act) to the same extent as provided above with respect to the indemnification of the Holders or the Participating Broker-Dealer.

- (b) Indemnification by Holder. In connection with any Registration Statement, Prospectus or form of prospectus, any amendment or supplement thereto, or any preliminary prospectus in which a Holder is participating, such Holder shall furnish to the Issuer and the Subsidiary Guarantors in writing such information as the Issuer and the Subsidiary Guarantors reasonably request for use in connection with any Registration Statement, Prospectus or form of prospectus, any amendment or supplement thereto, or any preliminary prospectus and shall indemnify and hold harmless the Issuer, the Subsidiary Guarantors, their respective directors and each Person, if any, who controls the Issuer and the Subsidiary Guarantors (within the meaning of Section 15 of the Securities Act and Section 20(a) of the Exchange Act), and the directors, officers and partners of such controlling persons, to the fullest extent lawful, from and against all Losses arising out of or based upon any untrue or alleged untrue statement of a material fact contained in any Registration Statement, Prospectus or form of prospectus or in any amendment or supplement thereto or in any preliminary prospectus, or any omission or alleged omission to state therein 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 to the extent, but only to the extent, that such losses are finally judicially determined by a court of competent jurisdiction in a final, unappealable order to have resulted solely from an untrue statement or alleged untrue statement of a material fact or omission or alleged omission of a material fact contained in or omitted from any information so furnished in writing by such Holder to the Issuer and the Subsidiary Guarantors expressly for use therein. Notwithstanding the foregoing, in no event shall the liability of any selling Holder be greater in amount than such Holder's Maximum Contribution Amount (as defined below).
- (c) Conduct of Indemnification Proceedings. If any proceeding shall be brought or asserted against any Person entitled to indemnity hereunder (an "Indemnified Party"), such Indemnified Party shall promptly notify the party or parties from which such indemnity is sought (the "Indemnifying Party" or "Indemnifying Parties", as applicable) in writing; provided, that the failure to so notify the Indemnifying Parties shall not (i) relieve such Indemnifying Party from any obligation or liability unless and only to the extent it is materially prejudiced as a result thereof and (ii) will not, in any event, relieve the Indemnifying Party from any obligations to any Indemnified Party.

The Indemnifying Party shall have the right, exercisable by giving written notice to an Indemnified Party, within twenty (20) Business Days after receipt of written notice from such Indemnified Party of such proceeding, to assume, at its expense, the defense of any such proceeding, provided, that an Indemnified Party shall have the right to employ separate counsel in any such proceeding and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party or parties unless: (1) the Indemnifying Party has agreed to pay such fees and expenses; or (2) the Indemnifying Party shall have failed promptly to assume the defense of such proceeding or shall have failed to employ counsel reasonably satisfactory to such Indemnified Party; or (3) the named parties to any such proceeding (including any impleaded parties) include both such Indemnified Party and the Indemnifying Party or any of its affiliates or controlling persons, and such Indemnified Party shall have been advised

by counsel that there may be one or more defenses available to such Indemnified Party that are in addition to, or in conflict with, those defenses available to the Indemnifying Party or such affiliate or controlling person (in which case, if such Indemnified Party notifies the Indemnifying Parties in writing that it elects to employ separate counsel at the expense of the Indemnifying Parties, the Indemnifying Parties shall not have the right to assume the defense and the reasonable fees and expenses of such counsel shall be at the expense of the Indemnifying Party; it being understood, however, that, the Indemnifying Party shall not, in connection with any one such proceeding or separate but substantially similar or related proceedings in the same jurisdiction, arising out of the same general allegations or circumstances, be liable for the fees and expenses of more than one separate firm of attorneys (together with appropriate local counsel) at any time for such Indemnified Party).

No Indemnifying Party shall be liable for any settlement of any such proceeding effected without its written consent, which shall not be unreasonably withheld, but if settled with its written consent, or if there be a final judgment for the plaintiff in any such proceeding, each Indemnifying Party jointly and severally agrees, subject to the exceptions and limitations set forth above, to indemnify and hold harmless each Indemnified Party from and against any and all Losses by reason of such settlement or judgment. The Indemnifying Party shall not consent to the entry of any judgment or enter into any settlement unless such judgment or settlement (i) includes as an unconditional term thereof the giving by the claimant or plaintiff to each Indemnified Party of a release, in form and substance reasonably satisfactory to the Indemnified Party, from all liability in respect of such proceeding for which such Indemnified Party would be entitled to indemnification hereunder (whether or not any Indemnified Party is a party thereto) and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any Indemnified Party.

(d) Contribution. If the indemnification provided for in this Section 8 is unavailable to an Indemnified Party or is insufficient to hold such Indemnified Party harmless for any Losses in respect of which this Section 8 would otherwise apply by its terms (other than by reason of exceptions provided in this Section 8), then each applicable Indemnifying Party, in lieu of indemnifying such Indemnified Party, shall have a joint and several obligation to contribute to the amount paid or payable by such Indemnified Party as a result of such Losses, in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party, on the one hand, and such Indemnified Party, on the other hand, in connection with the actions, statements or omissions that resulted in such Losses as well as any other relevant equitable considerations. The relative fault of such Indemnifying Party, on the one hand, and Indemnified Party, on the other hand, shall be determined by reference to, among other things, whether any untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by such Indemnifying Party or Indemnified Party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent any such statement or omission. The amount paid or payable by an Indemnified Party as a result of any Losses shall be deemed to include any legal or other fees or expenses incurred by such party in connection with any proceeding, to the extent such party would have been indemnified for such fees or expenses if the indemnification provided for in Section 8(a) or 8(b) was available to such party.

The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 8(d) were determined by pro rata allocation or by other method of allocation that does not take account of the equitable considerations referred to in the immediately preceding paragraph. Notwithstanding the provisions of this Section 8(d), a selling Holder shall not be required to contribute, in the aggregate, any amount in excess of such Holder's Maximum Contribution Amount. A selling Holder's "Maximum Contribution Amount" shall equal the excess of (i) the aggregate proceeds received by such Holder pursuant to the sale of such Registrable Notes or Exchange Notes over (ii) the aggregate amount of damages that such Holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. The Holders' obligations to contribute pursuant to this Section 8(d) are several in proportion to the respective principal amount of the Registrable Securities held by each Holder hereunder and not joint. The Issuer's and Subsidiary Guarantors' obligations to contribute pursuant to this Section 8(d) are joint

and several.

The indemnity and contribution agreements contained in this Section 8 are in addition to any liability that the Indemnifying Parties may have to the Indemnified Parties.

#### 9. Rules 144 and 144A

The Issuer covenants that it shall (a) file the reports required to be filed by it (if so required) under the Securities Act and the Exchange Act in a timely manner and, if at any time the Issuer is not required to file such reports, it will, upon the written request of any Holder of Registrable Notes, make publicly available other information necessary to permit sales pursuant to Rule 144 and 144A and (b) take such further action as any Holder may reasonably request in writing, all to the extent required from time to time to enable such Holder to sell Registrable Notes without registration under the Securities Act pursuant to the exemptions provided by Rule 144 and Rule 144A. Upon the request of any Holder, the Issuer shall deliver to such Holder a written statement as to whether it has complied with such information and requirements.

#### 10. Underwritten Registrations of Registrable Notes

If any of the Registrable Notes covered by any Shelf Registration is 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 a majority in aggregate principal amount of such Registrable Notes included in such offering; provided, however, that such investment banker or investment bankers and manager or managers must be reasonably acceptable to the Issuer.

No Holder of Registrable Notes may participate in any underwritten registration hereunder unless such Holder (a) agrees to sell such Holder's Registrable Notes 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 required under the terms of such underwriting arrangements.

#### 11. Miscellaneous

- (a) Remedies. In the event of a breach by either the Issuer or any of the Subsidiary Guarantors of any of their respective obligations under this Agreement, each Holder, in addition to being entitled to exercise all rights provided herein, in the Indenture or, in the case of the Initial Purchasers, in the Purchase Agreement, or granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Agreement. The Issuer and the Subsidiary Guarantors agree that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by either the Issuer or any of the Subsidiary Guarantors of any of the provisions of this Agreement and hereby further agree that, in the event of any action for specific performance in respect of such breach, the Issuer shall (and shall cause each Subsidiary Guarantor to) waive the defense that a remedy at law would be adequate.
- (b) No Inconsistent Agreements. The Issuer and each of the Subsidiary Guarantors have not entered, as of the date hereof, and the Issuer and each of the Subsidiary Guarantors shall not enter, after the date of this Agreement, into any agreement with respect to any of its securities that is inconsistent with the rights granted to the Holders of Securities in this Agreement or otherwise conflicts with the provisions hereof. The Issuer and each of the Subsidiary Guarantors have not entered and will not enter into any agreement with respect to any of its securities that will grant to any Person piggy-back rights with respect to a Registration Statement.
- (c) Adjustments Affecting Registrable Notes. The Issuer shall not, directly or indirectly, take any action with respect to the Registrable Notes as a class that would adversely affect the ability of the Holders to include such

Registrable Notes in a registration undertaken pursuant to this Agreement.

- (d) 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 Holders of not less than a majority in aggregate principal amount of the then outstanding Registrable Notes in circumstances that would adversely affect any Holders of Registrable Notes; provided, however, that Section 8 and this Section 11(d) may not be amended, modified or supplemented without the prior written consent of each Holder. 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 Notes whose securities are being tendered pursuant to the Exchange Offer or sold pursuant to a Notes Registration Statement and that does not directly or indirectly affect, impair, limit or compromise the rights of other Holders of Registrable Notes may be given by Holders of at least a majority in aggregate principal amount of the Registrable Notes being tendered or being sold by such Holders pursuant to such Notes Registration Statement.
- (e) Notices. All notices and other communications provided for or permitted hereunder shall be made in writing by hand delivery, registered first-class mail, next-day air courier or telecopier:
- (i) if to a Holder of Securities or to any Participating Broker-Dealer, at the most current address of such Holder or Participating Broker-Dealer, as the case may be, set forth on the records of the registrar of the Notes, with a copy in like manner to Jefferies as follows:

Jefferies & Company, Inc.  
520 Madison Avenue  
New York, New York 10022  
Attention: General Counsel

(ii) if to the Initial Purchasers, at the address specified in Section 11(e)(1);

(iii) if to the Issuer or any Subsidiary Guarantor, as follows:

Kratos Defense & Security Solutions, Inc.  
4820 Eastgate Mall  
San Diego, California 92121  
Attention: Eric Demarco

with a copy to:

Paul, Hastings, Janofsky & Walker LLP  
4747 Executive Drive, 12th Floor  
San Diego, California 92121  
Attention: Deyan Spiridonov

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 United States mail, postage prepaid, if mailed, one business day after being deposited in the United States mail, postage prepaid, if mailed; one business day after being timely delivered to a next-day air courier guaranteeing overnight delivery; and when receipt is acknowledged by the addressee, if telecopied.

Copies of all such notices, demands or other communications shall be concurrently delivered by the Person giving the same to the Trustee under the Indenture at the address specified in such Indenture.

- (f) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto, including, without limitation and without the need for an express assignment, subsequent Holders of Securities.
- (g) 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.
- (h) Headings. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.
- (i) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAW. THE ISSUER AND THE SUBSIDIARY GUARANTORS HEREBY IRREVOCABLY SUBMIT TO THE JURISDICTION OF ANY NEW YORK STATE COURT SITTING IN THE BOROUGH OF MANHATTAN IN THE CITY OF NEW YORK OR ANY FEDERAL COURT SITTING IN THE BOROUGH OF MANHATTAN IN THE CITY OF NEW YORK IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, AND IRREVOCABLY ACCEPTS FOR THEIR AND IN RESPECT OF THEIR PROPERTY, GENERALLY AND UNCONDITIONALLY, JURISDICTION OF THE AFORESAID COURTS. THE ISSUER AND THE SUBSIDIARY GUARANTORS IRREVOCABLY WAIVE, TO THE FULLEST EXTENT THEY MAY EFFECTIVELY DO SO UNDER APPLICABLE LAW, TRIAL BY JURY AND ANY OBJECTION THAT THEY MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT AND ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. THE ISSUER AND THE SUBSIDIARY GUARANTORS IRREVOCABLY CONSENT, TO THE FULLEST EXTENT THEY MAY EFFECTIVELY DO SO UNDER APPLICABLE LAW, TO THE SERVICE OF PROCESS OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO THE ISSUER AT ITS SAID ADDRESS, SUCH SERVICE TO BECOME EFFECTIVE THIRTY (30) DAYS AFTER SUCH MAILING. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY HOLDER TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST THE ISSUER AND THE SUBSIDIARY GUARANTORS IN ANY OTHER JURISDICTION.
- (j) 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 herea