

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

FORM 8-K

CURRENT REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): June 23, 2020

Amerant Bancorp Inc.

(Exact name of registrant as specified in its charter)

Florida
(State or other jurisdiction
of incorporation)

001-38534
(Commission
file number)

65-0032379
(IRS Employer
Identification Number)

220 Alhambra Circle
Coral Gables, Florida 33134
(Address of principal executive offices)

(305) 460-8728
(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:

- 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))

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Class A Common Stock	AMTB	NASDAQ
Class B Common Stock	AMTBB	NASDAQ

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR Sec.230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR Sec.240.12b-2).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01. Entry into Material Definitive Agreement.

On June 23, 2020, Amerant Bancorp Inc. (the “Company”) completed its previously announced offering (the “Offering”) of \$60.0 million aggregate principal amount of its 5.75% senior notes due 2025 (the “Notes”). The offering of the Notes was consummated pursuant to the terms of that certain underwriting agreement, dated June 16, 2020 relating to \$46.0 million principal amount of the Notes and that certain underwriting agreement, dated June 19, 2020 relating to \$14.0 million principal amount of the Notes, by and among the Company, the Company’s wholly-owned subsidiary, Amerant Florida Bancorp Inc. (the “Guarantor”), and Raymond James & Associates, Inc.

The Notes were issued pursuant to the Indenture, dated as of June 23, 2020 (the “Base Indenture”), by and among the Company, the Guarantor and The Bank of New York Mellon, as trustee (the “Trustee”), as supplemented and amended by a First Supplemental Indenture dated as of June 23, 2020 (the “Supplemental Indenture” and, together with the Base Indenture, the “Indenture”), by and among the Company, the Guarantor and the Trustee.

The Notes were offered by the Company pursuant to a shelf registration statement on Form S-3 (File No. 333-238958) declared effective by the Securities and Exchange Commission on June 15, 2020. The Notes bear interest at 5.75% per annum, payable semi-annually in arrears on June 30 and December 30 of each year, commencing on December 30, 2020 and ending on the earlier of the optional redemption date (which is on or after three months prior to the maturity of the Notes) or the maturity date. The Notes are unsecured and unsubordinated, and rank equally with all of the Company’s existing and future unsecured and unsubordinated indebtedness. The Notes are fully and unconditionally guaranteed by the Guarantor (the “Notes Guarantee”). The Notes will mature on June 30, 2025.

The Company intends to use the net proceeds from this offering for general corporate purposes, which may include working capital, providing capital to support the organic growth of Amerant Bank, N.A., the Company’s wholly-owned bank subsidiary, funding the opportunistic acquisition of similar or complementary financial service organizations and repaying outstanding indebtedness.

The foregoing description of the Notes, the Notes Guarantee and the Indenture is qualified in its entirety by reference to the full text of the Base Indenture, the Supplemental Indenture, the Form of Note and the Form of Notes Guarantee. The Base Indenture, the Supplemental Indenture, the Form of Note and Form of Notes Guarantee are attached hereto as Exhibit 4.1, Exhibit 4.2, Exhibit 4.3 and Exhibit 4.4, respectively, and are incorporated herein by reference.

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

The information set forth under Item 1.01 is incorporated herein by reference.

Item 8.01. Other Events.

On June 23, 2020, the Company announced the closing of the Offering. A copy of the press release announcing the closing of the Offering is filed herewith as Exhibit 99.1.

The legal opinion relating to the legality of the Notes and the Notes Guarantee is filed as Exhibits 5.1 to this Current Report on Form 8-K.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

Exhibit Exhibit Description

No.

4.1	Indenture, dated as of June 23, 2020, among the Company, Amerant Florida Bancorp Inc., and The Bank of New York Mellon, as Trustee.
4.2	First Supplemental Indenture, dated as of June 23, 2020, among the Company, Amerant Florida Bancorp Inc., and The Bank of New York Mellon, as Trustee.
4.3	Form of Global Note (included in Exhibit 4.2)
4.4	Form of Notes Guarantee (included in Exhibit 4.2)
5.1	Opinion of Akerman LLP
23.1	Consent of Akerman LLP (Included in Exhibit 5.1)
99.1	Press release, dated June 23, 2020.

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.

Amerant Bancorp Inc.

Date: June 23, 2020

By: /s/ Ivan Trujillo
Ivan Trujillo
Chief Legal Officer and Corporate Secretary

INDENTURE

among

AMERANT BANCORP INC., *as Issuer*,

AMERANT FLORIDA BANCORP INC., *as the Initial Guarantor*,

and

THE BANK OF NEW YORK MELLON, *as Trustee*

dated as of June 23, 2020

Senior Debt Securities

(Issuable in Series)

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1	
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION	1
Section 1.1 <i>Definitions.</i>	1
Section 1.2 <i>Incorporation by Reference of Trust Indenture Act</i>	10
Section 1.3 <i>Compliance Certificates and Opinions.</i>	11
Section 1.4 <i>Form of Documents Delivered to Trustee</i>	11
Section 1.5 <i>Acts of Holders; Record Dates.</i>	12
Section 1.6 <i>Notices, etc., to Trustee, Corporation and the Guarantors.</i>	15
Section 1.7 <i>Notice to Holders; Waiver.</i>	15
Section 1.8 <i>Conflict with Trust Indenture Act.</i>	16
Section 1.9 <i>Effect of Headings and Table of Contents.</i>	16
Section 1.10 <i>Successors and Assigns.</i>	16
Section 1.11 <i>Separability Clause.</i>	16
Section 1.12 <i>Benefits of Indenture.</i>	16
Section 1.13 <i>Governing Law.</i>	16
Section 1.14 <i>Legal Holidays.</i>	17
Section 1.15 <i>Indenture, Securities and Guarantees Solely Corporate Obligations.</i>	17
Section 1.16 <i>Indenture May be Executed in Counterparts.</i>	18
ARTICLE 2	
SECURITY FORMS	18
Section 2.1 <i>Forms Generally.</i>	18
Section 2.2 <i>Form of Trustee's Certificate of Authentication.</i>	19
Section 2.3 <i>Global Securities.</i>	19
Section 2.4 <i>Form of Legend for Global Securities.</i>	21
Section 2.5 <i>Form of Face of Security.</i>	22
Section 2.6 <i>Form of Reverse of Security.</i>	24
ARTICLE 3	
THE SECURITIES	28
Section 3.1 <i>Amount Unlimited; Issuable in Series.</i>	28
Section 3.2 <i>Denominations.</i>	32
Section 3.3 <i>Execution, Authentication, Delivery and Dating.</i>	32
Section 3.4 <i>Temporary Securities.</i>	34
Section 3.5 <i>Registration; Registration of Transfer and Exchange.</i>	35
Section 3.6 <i>Mutilated, Destroyed, Lost and Stolen Securities.</i>	38
Section 3.7 <i>Payment of Interest; Interest Rights Preserved.</i>	38
Section 3.8 <i>Persons Deemed Owners.</i>	40

Section 3.9	<i>Cancellation.</i>	40
Section 3.10	<i>Computation of Interest.</i>	41
Section 3.11	<i>CUSIP Numbers.</i>	41
ARTICLE 4		
SATISFACTION AND DISCHARGE		41
Section 4.1	<i>Satisfaction and Discharge of Indenture.</i>	41
Section 4.2	<i>Application of Trust Money.</i>	43
Section 4.3	<i>Reinstatement.</i>	43
ARTICLE 5		
REMEDIES		43
Section 5.1	<i>Events of Default.</i>	43
Section 5.2	<i>Acceleration of Maturity; Rescission and Annulment.</i>	45
Section 5.3	<i>Collection of Indebtedness and Suits for Enforcement by Trustee</i>	46
Section 5.4	<i>Trustee May File Proofs of Claim.</i>	47
Section 5.5	<i>Trustee May Enforce Claims Without Possession of Securities</i>	48
Section 5.6	<i>Application of Money Collected.</i>	48
Section 5.7	<i>Limitation on Suits.</i>	49
Section 5.8	<i>Right of Holders to Receive Principal, Premium and Interest.</i>	50
Section 5.9	<i>Restoration of Rights and Remedies.</i>	50
Section 5.10	<i>Rights and Remedies Cumulative.</i>	50
Section 5.11	<i>Delay or Omission Not Waiver.</i>	50
Section 5.12	<i>Control by Holders.</i>	51
Section 5.13	<i>Waiver of Past Defaults.</i>	51
Section 5.14	<i>Undertaking for Costs.</i>	52
ARTICLE 6		
THE TRUSTEE		52
Section 6.1	<i>Certain Duties and Responsibilities.</i>	52
Section 6.2	<i>Notice of Defaults.</i>	53
Section 6.3	<i>Certain Rights of Trustee.</i>	54
Section 6.4	<i>Not Responsible for Recitals or Issuance of Securities.</i>	56
Section 6.5	<i>May Hold Securities and Act as Trustee under Other Indentures.</i>	56
Section 6.6	<i>Money Held in Trust.</i>	56
Section 6.7	<i>Compensation and Reimbursement.</i>	56
Section 6.8	<i>Conflicting Interests.</i>	57
Section 6.9	<i>Eligibility; Disqualification.</i>	58
Section 6.10	<i>Resignation and Removal; Appointment of Successor.</i>	58
Section 6.11	<i>Acceptance of Appointment by Successor.</i>	60
Section 6.12	<i>Merger, Conversion, Consolidation or Succession to Business.</i>	61

Section 6.13	<i>Preferential Collection of Claims Against Corporation.</i>	61
Section 6.14	<i>Appointment of Authenticating Agent.</i>	61
ARTICLE 7		
HOLDERS' LISTS AND REPORTS BY TRUSTEE AND CORPORATION		63
Section 7.1	<i>Corporation to Furnish Trustee Names and Addresses of Holders.</i>	63
Section 7.2	<i>Preservation of Information; Communications to Holders.</i>	63
Section 7.3	<i>Reports by Trustee.</i>	64
Section 7.4	<i>Reports by Corporation.</i>	64
ARTICLE 8		
CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE		65
Section 8.1	<i>Corporation May Consolidate, etc., Only on Certain Terms.</i>	65
Section 8.2	<i>Successor Substituted.</i>	65
ARTICLE 9		
SUPPLEMENTAL INDENTURES		65
Section 9.1	<i>Supplemental Indentures Without Consent of Holders.</i>	65
Section 9.2	<i>Supplemental Indentures with Consent of Holders.</i>	66
Section 9.3	<i>Execution of Supplemental Indentures.</i>	68
Section 9.4	<i>Effect of Supplemental Indentures.</i>	68
Section 9.5	<i>Conformity with Trust Indenture Act.</i>	68
Section 9.6	<i>Reference in Securities to Supplemental Indentures.</i>	68
ARTICLE 10		
COVENANTS		69
Section 10.1	<i>Payment of Principal, Premium and Interest.</i>	69
Section 10.2	<i>Maintenance of Office or Agency.</i>	69
Section 10.3	<i>Money for Securities Payments to be Held in Trust</i>	69
Section 10.4	<i>Statement by Officers as to Default.</i>	71
Section 10.5	<i>Existence.</i>	71
Section 10.6	<i>All Securities to be Equally and Ratably Secured.</i>	71
Section 10.7	<i>Maintenance of Properties.</i>	71
Section 10.8	<i>Payment of Taxes and Other Claims.</i>	72
Section 10.9	<i>Waiver of Certain Covenants.</i>	72
Section 10.10	<i>Additional Amounts.</i>	72
ARTICLE 11		
REDEMPTION OF SECURITIES		73

Section 11.1	<i>Applicability of Article.</i>	73
Section 11.2	<i>Election to Redeem; Notice to Trustee.</i>	73
Section 11.3	<i>Selection by Trustee of Securities to Be Redeemed</i>	74
Section 11.4	<i>Notice of Redemption.</i>	74
Section 11.5	<i>Deposit of Redemption Price.</i>	75
Section 11.6	<i>Securities Payable on Redemption Date.</i>	75
Section 11.7	<i>Securities Redeemed in Part.</i>	76

ARTICLE 12

SINKING FUNDS		76
---------------	--	----

Section 12.1	<i>Applicability of Article.</i>	76
Section 12.2	<i>Satisfaction of Sinking Fund Payments with Securities</i>	77
Section 12.3	<i>Redemption of Securities for Sinking Fund</i>	77

ARTICLE 13

GUARANTEE OF SECURITIES		78
-------------------------	--	----

Section 13.1	<i>Unconditional Guarantee.</i>	78
Section 13.2	<i>Execution and Delivery of Guarantee.</i>	79
Section 13.3	<i>Future Guarantors.</i>	79
Section 13.4	<i>Waiver of Subrogation.</i>	80
Section 13.5	<i>Reliance on Judicial Order or Certificate of Liquidating Agent Regarding Dissolution, Etc. of Guarantors.</i>	80
Section 13.6	<i>Limitation of Guarantor's Liability.</i>	80
Section 13.7	<i>Obligations Reinstated.</i>	81
Section 13.8	<i>No Obligation to Take Action Against the Corporation.</i>	81

ARTICLE 14

DEFEASANCE AND COVENANT DEFEASANCE		81
------------------------------------	--	----

Section 14.1	<i>Corporation's Option to Effect Defeasance or Covenant Defeasance.</i>	81
Section 14.2	<i>Defeasance and Discharge.</i>	81
Section 14.3	<i>Covenant Defeasance.</i>	82
Section 14.4	<i>Conditions to Defeasance or Covenant Defeasance.</i>	83
Section 14.5	<i>Deposited Money; U.S. Government Obligations and Foreign Government Obligations to be Held in Trust; Miscellaneous Provisions</i>	85
Section 14.6	<i>Reinstatement.</i>	86
Section 14.7	<i>U.S.A. Patriot Act.</i>	86

CROSS REFERENCE SHEET

This Cross Reference Sheet shows the location in the Indenture of the provisions inserted pursuant to Sections 3.10 through 3.18, inclusive, of the Trust Indenture Act of 1939:

Section 310	(a) (1)	6.9
	(a) (2)	6.9
	(a) (3)	6.9
	(a) (4)	Not Applicable
	(a) (5)	6.9
	(b)	6.8, 6.10
	(c)	Not Applicable
Section 311	(a)	6.13
	(b)	6.13
	(c)	Not Applicable
Section 312	(a)	7.1, 7.2
	(b)	7.2
	(c)	7.2
Section 313	(a)	7.3
	(b)	7.3
	(c)	7.3
	(d)	7.3
Section 314	(a) (1)	7.4
	(a) (2)	7.4
	(a) (3)	7.4
	(a) (4)	1.1, 10.4
	(b)	Not Applicable
	(c) (1)	1.3
	(c) (2)	1.3
	(c) (3)	Not Applicable
	(d)	Not Applicable
	(e)	1.3
Section 315	(a)	6.1
	(b)	6.2
	(c)	6.1
	(d)	6.1
	(e)	5.14
Section 316	(a)	1.1
	(a) (1) (A)	5.2, 5.12
	(a) (1) (B)	5.13
	(a) (2)	Not Applicable
	(b)	5.8
	(c)	1.5
Section 317	(a) (1)	5.3
	(a) (2)	5.4
	(b)	10.3
Section 318	(a)	1.8

NOTE: This Cross Reference Sheet is not part of the Indenture.

INDENTURE

INDENTURE, dated as of June 23, 2020, among Amerant Bancorp Inc., a Florida corporation (the “**Corporation**”), having its principal office at 220 Alhambra Circle Coral Gables, Florida 33134, Amerant Florida Bancorp Inc. (the “**Initial Guarantor**”) and The Bank of New York Mellon, a New York State banking corporation, as trustee (the “**Trustee**”).

RECITALS

The Corporation has duly authorized the execution and delivery of this Indenture to provide for the issuance from time to time of its debentures, notes or other evidences of indebtedness (the “**Securities**”), to be issued in one or more series as herein provided.

The Initial Guarantor has duly authorized the execution and delivery of this Indenture to provide for the issuance from time to time of guarantees of the Securities and the Corporation’s obligations under this Indenture.

This Indenture is subject to the provisions of the Trust Indenture Act and the rules and regulations of the Commission promulgated thereunder that are required to be part of this Indenture and, to the extent applicable, shall be governed by such provisions.

All things necessary to make this Indenture a valid agreement of the Corporation and the Initial Guarantor, in accordance with its terms, have been done.

NOW, THEREFORE, for and in consideration of the premises and the purchase of the Securities by the Holders thereof, each party agrees for the benefit of the other party and for the equal and ratable benefit of the Holders of the Securities, or of series thereof, issued under this Indenture, as follows:

ARTICLE 1

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.1 *Definitions.*

For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

- (1) The terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular;
 - (2) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles in the United States, and, except as otherwise herein expressly provided, the term “generally accepted accounting principles” with respect to any computation required or permitted hereunder shall mean such accounting principles in the United States as are generally accepted as of the time when and for the period as to which such accounting principles are to be applied;
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- (3) “Or” is not exclusive;
- (4) Any reference to an “Article” or a “Section” refers to an Article or a Section, as the case may be, of this Indenture;
- (5) The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision; and
- (6) Certain terms, used principally in Article 6, are defined in Section 1.2.

“Act,” when used with respect to any Holder, has the meaning specified in Section 1.5.

“**Additional Amounts**” means any additional amounts that are required by the express terms of a Security or by or pursuant to a Board Resolution, under circumstances specified therein or pursuant thereto, to be paid by the Corporation with respect to certain taxes, assessments or other governmental charges imposed on certain Holders and that are owing to such Holders.

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

“**Authenticating Agent**” means any Person, which may include the Corporation, authorized by the Trustee pursuant to Section 6.14 to act on behalf of the Trustee to authenticate Securities of one or more series.

“**Authorized Officer**” means any officer of the Corporation designated by or pursuant to a Board Resolution to take certain actions as specified in this Indenture.

“**Authorized Newspaper**” means a newspaper of general circulation in the New York, New York area, printed in the English language and customarily published on each Business Day, whether or not published on Saturdays, Sundays or holidays. Whenever successive weekly publications in an Authorized Newspaper are required hereunder they may be made (unless otherwise expressly provided herein) on the same or different days of the week and in the same or in different Authorized Newspapers.

“**Bankruptcy Law**” means Title 11, U.S. Code, or any similar federal or state law for the relief of debtors.

“**Board**” or “**Board of Directors**” means either the board of directors of the Corporation or any duly authorized committee thereof.

“**Board Resolution**” means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Corporation to have been duly adopted by the Board of Directors, or by action of an Authorized Officer designated as such pursuant to a resolution of the Board of Directors, and to be in full force and effect on the date of such certification, and delivered to the Trustee.

“**Business Day**,” when used with respect to any Place of Payment, means each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions or trust companies in that Place of Payment, or the city in which the Corporate Trust Office is located, are authorized or obligated by law or executive order to close.

“**Commission**” means the Securities and Exchange Commission, from time to time constituted, created under the Exchange Act, or, if at any time after the execution of this instrument such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties at such time.

“**Common Stock**” includes any shares of common stock of the Corporation, which has no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding-up of the Corporation and which is not subject to redemption by the Corporation.

“**Corporate Trust Office**” means the corporate trust office of the Trustee at 240 Greenwich Street, New York, NY 10286, or such other office, designated by the Trustee by written notice to the Corporation, at which at any particular time this Indenture shall be administered.

“**Corporation**” means the Person named as the “Corporation” in the first paragraph of this instrument until a successor Person shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Corporation” shall mean such successor Person.

“**Corporation Request**” or “**Corporation Order**” means, respectively, a written request or order signed in the name of the Corporation by its Chairman of the Board, its Chief Executive Officer, its principal financial officer, its President or a Vice President, and by its Controller, an Assistant Controller, its Treasurer, an Assistant Treasurer, its Secretary or an Assistant Secretary, and delivered to the Trustee.

“**Covenant Defeasance**” has the meaning specified in Section 14.3.

“**Custodian**” means any receiver, trustee, assignee, liquidator or similar official under any Bankruptcy Law.

“**Default**” means, with respect to the Securities of any series, any event, act or condition that is, or after notice or the passage of time or both would be, an Event of Default with respect to Securities of such series.

“**Defaulted Interest**” has the meaning specified in Section 3.7.

“**Defeasance**” has the meaning specified in Section 14.2.

“**Depository**” means, with respect to Securities of any series issuable in whole or in part in the form of one or more Global Securities, The Depository Trust Company, New York, New York, another clearing agency, or any successor, registered under the Exchange Act that is designated to act as Depository for such Securities as contemplated by Section 3.1.

“**Dollar**” or “**\$**” means a dollar or other equivalent unit in such coin or currency of the United States as at the time shall be legal tender for the payment of public and private debts.

“**Euro**” or “**euros**” means the currency adopted by those nations participating in the third stage of the economic and monetary union provisions of the Treaty on European Union, signed at Maastricht on February 7, 1992.

“**European Economic Area**” means the member nations of the European Economic Area pursuant to the Oporto Agreement on the European Economic Area dated May 2, 1992, as amended.

“**European Union**” means the member nations of the European Union established by the Treaty of European Union, signed at Maastricht on February 2, 1992, which amended the Treaty of Rome establishing the European Community.

“**Event of Default**” has the meaning specified in Section 5.1.

“**Exchange Act**” means the Securities Exchange Act of 1934 and any statute successor thereto, in each case as amended from time to time.

“**Exchange Rate**” has the meaning specified in Section 3.2.

“**Expiration Date**” has the meaning specified in Section 1.5.

“**Foreign Government Obligation**” means with respect to Securities of any series which are not denominated in the currency of the United States (x) any security which is (i) a direct obligation of the government which issued or caused to be issued the currency in which such security is denominated and for the payment of which obligations its full faith and credit is pledged or, with respect to Securities of any series which are denominated in euros, a direct obligation of any member nation of the European Union for the payment of which obligation the full faith and credit of the respective nation is pledged so long as such nation has a credit rating at least equal to that of the highest rated member nation of the European Economic Area, or (ii) an obligation of a Person controlled or supervised by and acting as an agency or instrumentality of a government specified in clause (i) above the payment of which is unconditionally guaranteed as a full faith and credit obligation by the such government, which, in either case (i) or (ii), is not callable or redeemable at the option of the issuer thereof, and (y) any depository receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act) as custodian with respect to any Foreign Government Obligation which is specified in clause (x) above and held by such bank for the account of the holder of such depository receipt, or with respect to any specific payment of principal of or interest on any Foreign Government Obligation which is so specified and held, provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the Foreign Government Obligation or the specific payment of principal or interest evidenced by such depository receipt.

“**Guarantee**” means the Guarantee made by any Guarantor as set forth in Article 13 hereof.

“**Guarantors**” means (i) Florida Amerant Bancorp Inc. and (ii) each Person who becomes a Guarantor hereunder upon the execution of an indenture supplemental hereto, pursuant to Section 13.3.

“**Global Security**” means a Security that evidences all or part of the Securities of any series and bears the legend set forth in Section 2.4 (or such legend as may be specified as contemplated by Section 3.1 for such Securities).

“**Holder**” means a Person in whose name a Security is registered in the Security Register.

“**Indenture**” means this instrument as originally executed and as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof, including, for all purposes of this instrument and any such supplemental indenture, the provisions of the Trust Indenture Act that are deemed to be a part of and govern this instrument and any such supplemental indenture, respectively. The term “Indenture” shall also include the terms of particular series of Securities established as contemplated by Section 3.1; provided, however, that if at any time more than one Person is acting as Trustee under this Indenture due to the appointment of one or more separate Trustees for any one or more separate series of Securities, “Indenture” shall mean, with respect to such series of Securities for which any such Person is Trustee, this instrument as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof and shall include the terms of particular series of Securities for which such Person is Trustee established as contemplated by Section 3.1, exclusive, however, of any provisions or terms that relate solely to other series of Securities for which such Person is not Trustee, regardless of when such terms or provisions were adopted, and exclusive of any provisions or terms adopted by means of one or more indentures supplemental hereto executed and delivered after such Person had become such Trustee, but to which such person, as such Trustee, was not a party; provided, further that in the event that this Indenture is supplemented or amended by one or more indentures supplemental hereto which are only applicable to certain series of Securities, the term “Indenture” for a particular series of Securities shall exclude provisions or terms which relate solely to other series of Securities.

“**Interest**,” when used with respect to an Original Issue Discount Security, which by its terms bears interest only after Maturity, means interest payable after Maturity.

“**Interest Payment Date**,” when used with respect to any Security, means the Stated Maturity of an installment of interest on such Security.

“**Investment Company Act**” means the Investment Company Act of 1940 and any statute successor thereto, in each case as amended from time to time.

“**Judgment Currency**” has the meaning specified in Section 5.6.

“**Maturity**,” when used with respect to any Security, means the date on which the principal of such Security or an installment of principal becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, repurchase at the option of the Holder, call for redemption or otherwise.

“**Mortgage**” means and includes any mortgage, pledge, lien, security interest, conditional sale or other title retention agreement or other similar encumbrance.

“**Notice of Default**” means a written notice of the kind specified in Section 5.1(4).

“**Officers’ Certificate**” means a certificate signed by the Chairman of the Board, the Chief Executive Officer, the President or a Vice President, and by the principal financial officer, the Treasurer, the Controller, an Assistant Treasurer, an Assistant Controller, the Secretary or an Assistant Secretary, of the Corporation, and delivered to the Trustee. One of the officers signing an Officers’ Certificate given pursuant to Section 10.4 shall be the principal executive, financial or accounting officer of the Corporation.

“**Opinion of Counsel**” means a written opinion of legal counsel (which counsel is reasonably acceptable to the Trustee), who may be, without limitation, (a) an employee of the Corporation, or (b) outside counsel designated by the Corporation, rendered, if applicable, in accordance with Section 314(c) of the Trust Indenture Act.

“**Original Issue Discount Security**” means any Security that provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.2.

“**Outstanding**” when used with respect to Securities, means, as of the date of determination, all Securities theretofore authenticated and delivered under this Indenture, except:

(1) Securities theretofore canceled by the Trustee or delivered to the Trustee for cancellation;

(2) Securities for whose payment or redemption money in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent (other than the Corporation) in trust or set aside and segregated in trust by the Corporation (if the Corporation shall act as its own Paying Agent) for the Holders of such Securities; provided that, if such Securities are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made;

(3) Securities that have been paid pursuant to Section 3.6 or in exchange for or in lieu of which other Securities have been authenticated and delivered pursuant to this Indenture, other than any such Securities in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Securities are held by a bona fide purchaser in whose hands such Securities are valid obligations of the Corporation;

(4) Securities which have been defeased pursuant to Section 14.2; and

(5) Securities not deemed outstanding pursuant to Section 11.3;

provided, however, that unless otherwise provided with respect to any Securities of any series pursuant to Section 3.1, in determining whether the Holders of the requisite principal amount of the Outstanding Securities have given, made or taken any request, demand, authorization, direction, notice, consent, waiver or other action hereunder as of any date, (A) the principal amount of an Original Issue Discount Security which shall be deemed to be Outstanding shall be the amount of the principal thereof which would be due and payable as of such date upon acceleration of the Maturity thereof to such date pursuant to Section 5.2, (B) if, as of such date, the principal amount payable at the Stated Maturity of a Security is not determinable, the principal amount of such Security which shall be deemed to be Outstanding shall be the amount as specified or determined as contemplated by Section 3.1, (C) the principal amount of a Security denominated in one or more non-U.S. dollar currencies or currency units which shall be deemed to be Outstanding shall be the U.S. dollar equivalent, determined as of such date in the manner provided as contemplated by Section 3.1, of the principal amount of such Security (or, in the case of a Security described in clause (A) or (B) above, of the amount determined as provided in such clause), and (D) Securities owned by the Corporation or any other obligor upon the Securities or any Subsidiary of the Corporation or of such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent, waiver or other action, only Securities which a Responsible Officer of the Trustee knows to be so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not the Corporation or any other obligor upon the Securities or any Subsidiary of the Corporation or of such other obligor.

“**Paying Agent**” means any Person, which may include the Corporation, authorized by the Corporation to pay the principal of or any premium or interest on, or any Additional Amounts with respect to, any one or more series of Securities on behalf of the Corporation.

“**Periodic Offering**” means an offering of Securities of a series from time to time the specific terms of which Securities, including, without limitation, the rate or rates of interest or formula for determining the rate or rates of interest thereon, if any, the Maturity thereof and the redemption provisions, if any, with respect thereto, are to be determined by the Corporation upon the issuance of such Securities.

“**Person**” means any individual, corporation, limited liability company, partnership, joint venture, incorporated or unincorporated association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof or other entity of any kind.

“**Place of Payment**,” when used with respect to the Securities of any series, means the place or places where the principal of and any premium and interest on, or any Additional Amounts with respect to, the Securities of that series are payable as specified as contemplated by Section 3.1 and 10.2.

“**Predecessor Security**” of any particular Security means every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security; and, for the purposes of this definition, any Security authenticated and delivered under Section 3.6 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Security shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Security.

“**Preferred Stock**” means shares of preferred stock of any class or classes, however designated, of the Corporation which is preferred as to the payment of dividends, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of the Corporation, over Common Stock of the Corporation.

“**Record Date**” means any Regular Record Date or Special Record Date.

“**Redemption Date**,” when used with respect to any Security to be redeemed, means the date fixed for such redemption by or pursuant to the terms of such Security and this Indenture.

“**Redemption Price**,” when used with respect to any Security to be redeemed, means the price at which it is to be redeemed pursuant to the terms of such Security and this Indenture.

“**Regular Record Date**” for the interest payable on any Interest Payment Date on the Securities of any series means any date specified for that purpose as contemplated by Section 3.1, or, if not so specified, the first day of the calendar month of the month of such Interest Payment Date if such Interest Payment Date is the fifteenth day of the calendar month, or the fifteenth day of the calendar month preceding such Interest Payment Date if such Interest Payment Date is the first day of a calendar month, whether or not such day shall be a Business Day.

“**Required Currency**” has the meaning specified in Section 5.6.

“**Responsible Officer**” means, when used with respect to the Trustee, an officer of the Trustee in the Corporate Trust Office assigned and duly authorized by the Trustee to administer this Indenture.

“**Securities**” has the meaning stated in the first recital of this Indenture and more particularly means any debentures, notes or other evidences of indebtedness of the Corporation authenticated and delivered under this Indenture.

“**Securities Act**” means the Securities Act of 1933 and any statute successor thereto, in each case as amended from time to time.

“**Security Custodian**” means, with respect to Securities of a series issued in global form, the Trustee for Securities of such series, acting in its capacity as custodian with respect to the Securities of such series, or any successor entity thereto.

“**Security Register**” and “**Security Registrar**” have the respective meanings specified in Section 3.5.

“**Special Record Date**” for the payment of any Defaulted Interest means a date fixed by the Corporation pursuant to Section 3.7.

“**Stated Maturity**,” when used with respect to any Security or any installment of principal thereof or interest thereon, means the date specified in such Security as the fixed date on which the principal of such Security or such installment of principal or interest is due and payable.

“**Subsidiary**” means any Person of which the Corporation at the time owns or controls, directly or indirectly, more than 50% of the shares of outstanding stock or other equity interests having general voting power under ordinary circumstances to elect a majority of the board of directors, managers or trustees, as the case may be, of such Person (irrespective of whether or not at the time stock of any other class or classes or other equity interests of such corporation shall have or might have voting power by reason of the happening of any contingency).

“**Trust Indenture Act**” means the Trust Indenture Act of 1939 as in force at the date as of which this instrument was executed; provided, however, that in the event the Trust Indenture Act of 1939 is amended after such date, “Trust Indenture Act” means, to the extent required by any such amendment, the Trust Indenture Act of 1939 as so amended.

“**Trustee**” means the Person named as the “Trustee” in the first paragraph of this instrument until a successor Trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Trustee” shall mean or include each Person who is then a Trustee hereunder, and if at any time there is more than one such Person, “Trustee” as used with respect to the Securities of any series shall mean the Trustee with respect to Securities of that series.

“**United States**” means the United States of America (including the states thereof and the District of Columbia) and its “possessions”, which include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

“**United States Alien**” means any Person who, for United States federal income tax purposes, is a foreign corporation, a nonresident alien individual, a nonresident alien or foreign fiduciary of an estate or trust, or a foreign partnership.

“**U.S. Government Obligation**” means (x) any security which is (i) a direct obligation of the United States for the payment of which the full faith and credit of the United States is pledged or (ii) an obligation of a Person controlled or supervised by and acting as an agency or instrumentality of the United States the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States, which, in either case (i) or (ii), is not callable or redeemable at the option of the issuer thereof, and (y) any depositary receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act) as custodian with respect to any U.S. Government Obligation which is specified in clause (x) above and held by such bank for the account of the holder of such depositary receipt, or with respect to any specific payment of principal of or interest on any U.S. Government Obligation which is so specified and held, provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depositary receipt from any amount received by the custodian in respect of the U.S. Government Obligation or the specific payment of principal or interest evidenced by such depositary receipt.

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

“**Yield to Maturity**” means, when used with respect to any Original Issue Discount Security, the yield to maturity, if any, set forth on the face thereof.

Section 1.2 *Incorporation by Reference of Trust Indenture Act*

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

“**Indenture securities**” means the Securities.

“**Indenture security holder**” means a Holder.

“**Indenture to be qualified**” means this Indenture.

“**Indenture trustee**” or “**institutional trustee**” means the Trustee.

“**Obligor**” on the indenture securities means the Corporation or any other obligor on the Securities.

All terms used in this Indenture that are defined by the Trust Indenture Act, defined by a Trust Indenture Act reference to another statute or defined by Commission rule under the Trust Indenture Act and not otherwise defined herein have the meanings assigned to them therein.

Section 1.3 *Compliance Certificates and Opinions.*

Except as otherwise expressly provided by this Indenture, upon any application or request by the Corporation to the Trustee to take any action under any provision of this Indenture, the Corporation shall furnish to the Trustee such certificates and opinions as may be required under the Trust Indenture Act. Each such certificate or opinion shall be given in the form of an Officers’ Certificate, if to be given by an officer of the Corporation, or an Opinion of Counsel, if to be given by counsel, and shall comply with the requirements of the Trust Indenture Act and any other requirements set forth in this Indenture.

Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than pursuant to Section 10.4) shall include:

- (1) A statement that each Person signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;
- (2) A brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;
- (3) A statement that, in the opinion of each such Person, such Person has made such examination or investigation as is necessary to enable such Person to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (4) A statement as to whether, in the opinion of each such Person, such condition or covenant has been complied with.

Section 1.4 *Form of Documents Delivered to Trustee.*

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an officer of the Corporation may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his or her certificate or opinion is based are erroneous. Any such certificate or opinion of counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Corporation stating that the information with respect to such factual matters is in the possession of the Corporation unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

Any certificate or opinion of an officer of the Corporation or of counsel may be based, insofar as it relates to accounting matters, upon a certificate or opinion of or representations by an accountant or firm of accountants employed or retained by the Corporation unless such officer or counsel, as the case may be, knows, or in the exercise of reasonable care should know, that the certificate or opinions or representations as to such accounting matters are erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

Section 1.5 *Acts of Holders; Record Dates.*

Any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Indenture to be given, made or taken by Holders of the Outstanding Securities of all series or one or more series, as the case may be, may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Corporation or the Guarantors. The Trustee shall promptly deliver to the Corporation copies of all such instrument or instruments delivered to the Trustee. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Section 6.1) conclusive in favor of the Trustee and the Corporation and the Guarantors, if made in the manner provided in this Section.

Without limiting the generality of the foregoing, a Holder, including a Depositary that is a Holder of a Global Security, may make, give, or take, by a proxy or proxies, duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver, or other action provided or permitted in this Indenture to be made, given, or taken by Holders, and a Depositary that is a Holder of a Global Security may provide its proxy or proxies to the beneficial owners of interest in any such Global Security.

The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him or her the execution thereof. Where such execution is by a signer acting in a capacity other than his or her individual capacity, such certificate or affidavit shall also constitute sufficient proof of his or her authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner that the Trustee deems sufficient.

The ownership, date of holding, principal amount and serial numbers of Securities shall be proved by the Security Register.

Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Security shall bind every future Holder of the same Security and the Holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee, the Corporation or any Guarantors in reliance thereon, whether or not notation of such action is made upon such Security. Any consent or waiver of the Holder of any Security shall be irrevocable for a period of six months after the date of execution thereof, but otherwise any such Holder or subsequent Holder may revoke the request, demand, authorization, direction, notice, consent or other Act as to his Security or portion of his Security; provided, however, that such revocation shall be effective only if the Trustee receives the notice of revocation before the date the Act becomes effective.

The Corporation may set any day as a record date for the purpose of determining the Holders of Outstanding Securities of any series entitled to give, make or take any request, demand, authorization, direction, vote, notice, consent, waiver or other action provided or permitted by this Indenture to be given, made or taken by Holders of Securities of such series, provided that the Corporation may not set a record date for, and the provisions of this paragraph shall not apply with respect to, the giving or making of any notice, declaration, request or direction referred to in the next paragraph. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities of the relevant series on such record date, and no other Holders, shall be entitled to take the relevant action, whether or not such Holders remain Holders after such record date; provided that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite principal amount of Outstanding Securities of such series on such record date. Nothing in this paragraph shall be construed to prevent the Corporation from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be canceled and of no effect), and nothing in this paragraph shall be construed to render ineffective any action taken by Holders of the requisite principal amount of Outstanding Securities of the relevant series on the date such action is taken. Promptly after any record date is set pursuant to this paragraph, the Corporation, at its own expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Trustee in writing and to each Holder of Securities of the relevant series in the manner set forth in Section 1.7.

The Trustee may set any day as a record date for the purpose of determining the Holders of Outstanding Securities of any series entitled to join in the giving or making of (i) any Notice of Default, (ii) any declaration of acceleration referred to in Section 5.2, (iii) any request to institute proceedings referred to in Section 5.7(2) or (iv) any direction referred to in Section 5.12, in each case with respect to Securities of such series. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities of such series on such record date, and no other Holders, shall be entitled to join in such notice, declaration, request or direction, whether or not such Holders remain Holders after such record date; provided that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite principal amount of Outstanding Securities of such series on such record date. Nothing in this paragraph shall be construed to prevent the Trustee from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be canceled and of no effect), and nothing in this paragraph shall be construed to render ineffective any action taken by Holders of the requisite principal amount of Outstanding Securities of the relevant series on the date such action is taken. Promptly after any record date is set pursuant to this paragraph, the Trustee, at the Corporation's expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Corporation in writing and to each Holder of Securities of the relevant series in the manner set forth in Section 1.7.

With respect to any record date set pursuant to this Section, the party hereto which sets such record dates may designate any day as the "Expiration Date" and from time to time may change the Expiration Date to any earlier or later day; provided that no such change shall be effective unless notice of the proposed new Expiration Date is given to the other party hereto in writing, and to each Holder of Securities of the relevant series in the manner set forth in Section 1.7, on or prior to the existing Expiration Date. If an Expiration Date is not designated with respect to any record date set pursuant to this Section 1.5, the party hereto which set such record date shall be deemed to have initially designated the 180th day after such record date as the Expiration Date with respect thereto, subject to its right to change the Expiration Date as provided in this paragraph. Notwithstanding the foregoing, no Expiration Date shall be later than the 180th day after the applicable record date.

Without limiting the foregoing, a Holder entitled hereunder to take any action hereunder with regard to any particular Security may do so with regard to all or any part of the principal amount of such Security or by one or more duly appointed agents each of which may do so pursuant to such appointment with regard to all or any part of such principal amount.

Section 1.6 *Notices, etc., to Trustee, Corporation and the Guarantors.*

Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other document provided or permitted by this Indenture to be made upon, given or furnished to, or filed with:

(1) The Trustee by any Holder or by the Corporation or a Guarantor shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing (or by facsimile transmissions, provided that oral confirmation of receipt shall have been received) to or with the Trustee at its Corporate Trust Office, Attention: Global Corporate Trust, or

(2) The Corporation or a Guarantor by the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and furnished by certified mail, return receipt requested, personally delivered or furnished via overnight courier to the Corporation addressed to it at the address of its principal office specified in the first paragraph of this instrument or at any other address previously furnished in writing to the Trustee by the Corporation, Attention: Chief Financial Officer.

Section 1.7 *Notice to Holders; Waiver.*

Where this Indenture provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, or delivered by hand or overnight courier to each Holder affected by such event, at its address as it appears in the Security Register, not later than the latest date (if any), and not earlier than the earliest date (if any), prescribed for the giving of such notice. Neither the failure to mail or deliver by hand or overnight courier any notice, nor any defect in any notice so mailed or delivered by hand or overnight courier, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give notice to Holders of Securities by mail, then such notification as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder. In any case in which notice to Holders of Securities is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder of a Security, shall affect the sufficiency of such notice with respect to other Holders of Securities.

Notwithstanding any other provision of this Indenture or any Security, where this Indenture or any Security provides for notice of any event (including any notice of redemption or purchase) to a Holder of a Global Security (whether by mail or otherwise), such notice shall be sufficiently given if given to the Depository (or its designee) for such Security pursuant to such Depository's applicable procedures.

Section 1.8 *Conflict with Trust Indenture Act.*

If any provision hereof limits, qualifies or conflicts with a provision of the Trust Indenture Act or another provision hereof required to be included in this Indenture by any of the provisions of the Trust Indenture Act, the latter provision shall control. If any provision of this Indenture modifies or excludes any provision of the Trust Indenture Act, which may be so modified or excluded, the latter provision shall be deemed to apply to this Indenture as so modified or to be excluded, as the case may be.

Section 1.9 *Effect of Headings and Table of Contents.*

The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 1.10 *Successors and Assigns.*

All covenants and agreements in this Indenture by the Corporation and the Guarantors shall bind their successors and assigns, whether or not so expressed. All agreements of the Trustee in this Indenture shall bind its successor.

Section 1.11 *Separability Clause.*

In case any provision in this Indenture or in the Securities shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. This Indenture sets forth the entire agreement and understanding of the parties related to this transaction and supersedes all prior agreements and understandings, oral or written.

Section 1.12 *Benefits of Indenture.*

Nothing in this Indenture or in the Securities, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any Authenticating Agent, Paying Agent or Security Registrar, and the Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 1.13 *Governing Law.*

THIS INDENTURE, INCLUDING THE GUARANTEES, AND THE SECURITIES SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, BUT WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY. EACH OF THE PARTIES HERETO, AND EACH HOLDER BY ITS ACCEPTANCE OF A SECURITY, IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING AMONG THE PARTIES HERETO ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTION CONTEMPLATED HEREBY OR THEREBY.

The parties hereby (i) irrevocably submit to the exclusive jurisdiction of any federal or state court sitting in the Borough of Manhattan, the city of New York, (ii) waive any objection to laying of venue in any such action or proceeding in such courts, and (iii) waive any objection that such courts are an inconvenient forum or do not have jurisdiction over any party

Section 1.14 *Legal Holidays.*

Unless otherwise provided with respect to any Security or Securities pursuant to Section 3.1, in any case where any Interest Payment Date, Redemption Date, sinking fund payment date, or Stated Maturity or Maturity or other payment date of any Security or the last date on which a Holder has the right to convert a Security at a particular conversion price shall not be a Business Day at any Place of Payment, then (notwithstanding any other provision of this Indenture or of the Securities (other than a provision of any Security which specifically states that such provision shall apply in lieu of this Section)) payment of interest or principal (and premium, if any) or, if applicable to a particular series of Securities, conversion need not be made at such Place of Payment on such date, but may be made on the next succeeding Business Day at such Place of Payment with the same force and effect as if made on the Interest Payment Date or Redemption Date, at the Stated Maturity or on such last day for conversion, as the case may be.

Section 1.15 *Indenture, Securities and Guarantees Solely Corporate Obligations.*

No recourse for the payment of the principal of or premium, if any, or interest under or upon any obligation, covenant or agreement contained in this Indenture (or in any supplemental indenture), including the Guarantees, or in any Security, or for any claim based thereon or otherwise in respect thereof, or because of the creation of any indebtedness represented thereby, shall be had, directly or indirectly, against any incorporator, subscriber to the shares of beneficial interest (or capital stock or membership interests (as applicable)), shareholder, stockholder, member, employee, agent, manager, officer, trustee or director, as such, past, present or future, of the Corporation, the Guarantors or the Trustee or of any predecessor or successor corporation, either directly or through the Corporation, the Guarantors or the Trustee or any predecessor or successor corporation, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that this Indenture and the obligations issued hereunder are solely corporate obligations and that no such personal liability whatever shall attach to, or is or shall be incurred by, any incorporator, subscriber to the shares of beneficial interest (or capital stock or membership interests (as applicable)), shareholder, stockholder, member, employee, agent, manager, officer, trustee or director, as such, of the Corporation, the Guarantors or the Trustee or of any predecessor or successor corporation, because of the creation of the indebtedness hereby authorized, or under or by reason of the obligations, covenants or agreements contained in this Indenture, including the Guarantees, or in any of the Securities or implied therefrom; and that any and all such personal liability of every name and nature, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such incorporator, subscriber to the shares of beneficial interest (or capital stock or membership interests (as applicable)), shareholder, stockholder, member, employee, agent, manager, officer, trustee or director, as such, because of the creation of the indebtedness hereby authorized, or under or by reason of the obligations, covenants or agreements contained in this Indenture, including the Guarantees, any supplemental indenture hereto, any certificate or other writing delivered in connection herewith, or in any of the Securities or implied therefrom, are hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Indenture and the issuance of such Securities. By accepting a Security, each Holder agrees to the provisions of this Section 1.15 and waives and releases all such liability. Such waiver and release shall be part of the consideration for the issuance of the Securities.

Section 1.16 *Indenture May be Executed in Counterparts.*

This instrument may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

ARTICLE 2

SECURITY FORMS

Section 2.1 *Forms Generally.*

The Securities of each series (including the Trustee's certification of authentication and the notation thereon relating to the Guarantees) shall be in such form or forms as shall be established by or pursuant to one or more Board Resolutions and set forth in such Board Resolutions, or, to the extent established pursuant to, rather than set forth in, such Board Resolutions, an Officers' Certificate detailing such establishment, or in one or more indentures supplemental hereto, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with any applicable law or with any rules or regulations pursuant thereto, or any rules of any securities exchange or Depository therefor or as may, consistently herewith, be determined by the officers of the Corporation executing such Securities, as evidenced by their execution thereof. If the form of Securities of any series is established by action taken pursuant to a Board Resolution, or, to the extent established pursuant to, rather than set forth in, such Board Resolutions, an Officers' Certificate detailing such establishment, a copy of an appropriate record of such action shall be certified by the Secretary or an Assistant Secretary of the Corporation and delivered to the Trustee at or prior to the delivery of the Corporation Order contemplated by Section 3.3 for the authentication and delivery of such Securities. Any such Board Resolution, Officers' Certificate or record of such action shall have attached thereto a true and correct copy of the form of Security referred to therein approved by or pursuant to such Board Resolution or Officers' Certificate.

The definitive Securities shall be printed, lithographed or engraved on steel engraved borders or may be produced in any other manner, all as determined by the officers executing such Securities, as evidenced by their execution of such Securities.

Section 2.2 *Form of Trustee's Certificate of Authentication.*

The Trustee's certificates of authentication shall be in substantially the following form:

This is one of the Securities of the series designated herein referred to in the within-mentioned Indenture.

[Trustee], as Trustee

By:

Authorized Officer

Section 2.3 *Global Securities.*

If the Corporation shall establish pursuant to Section 3.1 that the Securities of a particular series are to be issued in whole or in part in the form of one or more Global Securities, then the Corporation shall execute and the Trustee shall, in accordance with Section 3.3 and the Corporation Order delivered to the Trustee thereunder, authenticate and deliver such Global Security or Securities, which (i) shall represent, and shall be denominated in an amount equal to the aggregate principal amount of the Outstanding Securities of such series to be represented by such Global Security or Securities, (ii) may provide that the aggregate amount of Outstanding Securities represented thereby may from time to time be increased or reduced to reflect exchanges, (iii) shall be registered in the name of the Depository for such Global Security or Securities or its nominee, (iv) shall be delivered by the Trustee to the Depository or pursuant to the Depository's instruction and (v) shall bear a legend in accordance with the requirements of the Depository.

Notwithstanding any other provision of this Section or of Section 3.5, except as contemplated by the provisions of this Section 2.3 below, unless the terms of a Global Security expressly permit such Global Security to be exchanged in whole or in part for individual Securities, a Global Security may be transferred, in whole but not in part and in the manner provided in Section 3.5, only to a nominee of the Depository for such Global Security, or to the Depository, or to a successor Depository for such Global Security selected or approved by the Corporation, or to a nominee of such successor Depository.

If at any time the Depositary for a Global Security notifies the Corporation that it is unwilling or unable to continue as the Depositary for such Global Security or if at any time the Depositary for the Securities for such series shall no longer be eligible or in good standing under the Exchange Act, or other applicable statute or regulation, the Corporation shall appoint a successor Depositary with respect to such Global Security. If a successor Depositary for such Global Security is not appointed by the Corporation within 90 days after the Corporation receives such notice or becomes aware of such ineligibility, the Corporation will execute, and the Trustee, upon receipt of a Corporation Order for the authentication and delivery of Securities of such series in the form of definitive certificates in exchange for such Global Security, will authenticate and deliver Securities of such series in the form of definitive certificates of like tenor and terms in an aggregate principal amount equal to the principal amount of the Global Security in exchange for such Global Security. Such Securities will be issued to and registered in the name of such Person or Persons as are specified by the Depositary.

The Corporation may at any time and in its sole discretion determine that the Securities of any series issued or issuable in the form of one or more Global Securities shall no longer be represented by such Global Security or Securities. In any such event the Corporation will execute, and the Trustee, upon receipt of a Corporation Request for the authentication and delivery of Securities in the form of definitive certificates in exchange in whole or in part for such Global Security, will authenticate and deliver without service charge to each Person specified by the Depositary Securities in the form of definitive certificates of like tenor and terms in an aggregate principal amount equal to the principal amount of such Global Security representing such series, or the aggregate principal amount of such Global Securities representing such series, in exchange for such Global Security or Securities.

If specified by the Corporation pursuant to Section 3.1 with respect to Securities issued or issuable in the form of a Global Security, the Depositary for such Global Security may surrender such Global Security in exchange in whole or in part for Securities in the form of definitive certificates of like tenor and terms on such terms as are acceptable to the Corporation and such Depositary. Thereupon the Corporation shall execute, and the Trustee shall authenticate and deliver, without service charge, (A) to each Person specified by such Depositary a new Security or Securities of the same series of like tenor and terms and any authorized denomination as requested by such Person in aggregate principal amount equal to and in exchange for such Person's beneficial interest in the Global Security and (B) to such Depositary a new Global Security of like tenor and terms and in an authorized denomination equal to the difference, if any, between the principal amount of the surrendered Global Security and the aggregate principal amount of Securities delivered to Holders thereof.

In any exchange provided for in any of the preceding three paragraphs, the Corporation shall execute and the Trustee shall authenticate and deliver Securities in the form of definitive certificates in authorized denominations. Upon the exchange of the entire principal amount of a Global Security for Securities in the form of definitive certificates, such Global Security shall be canceled by the Trustee. Except as provided in the immediately preceding subparagraph, Securities issued in exchange for a Global Security pursuant to this Section 2.3 shall be registered in such names and in such authorized denominations as the Depositary for such Global Security, acting pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee. Provided that the Corporation and the Trustee have so agreed, the Trustee shall deliver such Securities to the Persons in whose names the Securities are so to be registered.

Any endorsement of a Global Security to reflect the principal amount thereof, or any increase or decrease in such principal amount, or changes in the rights of Holders of Outstanding Securities represented thereby shall be made in such manner and by such Person or Persons as shall be specified in or pursuant to any applicable letter of representations or other arrangement entered into with, or procedures of, the Depositary with respect to such Global Security or in the Corporation Order delivered or to be delivered pursuant to Section 3.3 or Section 3.4 with respect thereto. Subject to the provisions of Section 3.3 and, if applicable, Section 3.4, the Trustee shall deliver and redeliver any such Global Security in the manner and upon instructions given by the Person or Persons specified in or pursuant to any applicable letter of representations or other arrangement entered into with, or procedures of, the Depositary with respect to such Global Security or in any applicable Corporation Order. If a Corporation Order pursuant to Section 3.3 or Section 3.4 is so delivered, any instructions by the Corporation with respect to such Global Security contained therein shall be in writing but need not be accompanied by or contained in an Officers' Certificate and need not be accompanied by an Opinion of Counsel.

The Depositary or, if there be one, its nominee, shall be the Holder of a Global Security for all purposes under this Indenture; and beneficial owners with respect to such Global Security shall hold their interests pursuant to applicable procedures of such Depositary. The Corporation, the Trustee, the Paying Agent and the Security Registrar shall be entitled to deal with such Depositary for all purposes of this Indenture relating to such Global Security (including the payment of principal, premium, if any, and interest and any Additional Amounts with respect to such Global Security and the giving of instructions or directions by or to the beneficial owners of such Global Security as the sole Holder of such Global Security and shall have no obligations to the beneficial owners thereof (including any direct or indirect participants in such Depositary). None of the Corporation, the Trustee, any Paying Agent or the Security Registrar shall have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Global Security in or pursuant to any applicable letter of representations or other arrangement entered into with, or procedures of, the Depositary with respect to such Global Security or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

Section 2.4 *Form of Legend for Global Securities.*

Unless otherwise specified as contemplated by Section 3.1 for the Securities evidenced thereby, every Global Security authenticated and delivered hereunder shall bear a legend in substantially the following form:

THIS SECURITY IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE THEREOF. THIS SECURITY MAY NOT BE EXCHANGED IN WHOLE OR IN PART FOR A SECURITY REGISTERED, AND NO TRANSFER OF THIS SECURITY IN WHOLE OR IN PART MAY BE REGISTERED, IN THE NAME OF ANY PERSON OTHER THAN SUCH DEPOSITARY OR A NOMINEE THEREOF, EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.

Section 2.5 *Form of Face of Security.*

[Insert any legend required by the Internal Revenue Code and the regulations thereunder.]

AMERANT BANCORP INC.

No.

S

Amerant Bancorp Inc., a corporation duly organized and existing under the laws of Florida (herein called the "**Corporation**", which term includes any successor Person under the Indenture hereinafter referred to), for value received, hereby promises to pay to , or registered assigns, the principal sum of Dollars on [if the Security is to bear interest prior to Maturity, insert —, and to pay interest thereon from or from the most recent Interest Payment Date to which interest has been paid or duly provided for, semi-annually on and in each year, commencing , at the rate of % per annum, until the principal hereof is paid or made available for payment [if applicable, insert — and at the rate of % per annum on any overdue principal and premium and on any overdue installment of interest]. The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in such Indenture, be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, which shall be the or (whether or not a Business Day), as the case may be, next preceding such Interest Payment Date. Any such interest not so punctually paid or duly provided for will forthwith cease to be payable to the Holder on such Regular Record Date and may either be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on a Special Record Date for the payment of such Defaulted Interest to be fixed by the Corporation, notice whereof shall be given to Holders of Securities of this series not less than 10 days prior to such Special Record Date, or be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities of this series may be listed, and upon such notice as may be required by such exchange, all as more fully provided in said Indenture].

[If the Security is not to bear interest prior to Maturity, insert — The principal of this Security shall not bear interest except in the case of a default in payment of principal upon acceleration, upon redemption or at Stated Maturity and in such case the overdue principal of this Security shall bear interest at the rate of % per annum, which shall accrue from the date of such default in payment to the date payment of such principal has been made or duly provided for. Interest on any overdue principal shall be payable on demand. Any such interest on any overdue principal that is not so paid on demand shall bear interest at the rate of % per annum, which shall accrue from the date of such demand for payment to the date payment of such interest has been made or duly provided for, and such interest shall also be payable on demand.]

Payment of the principal of (and premium, if any) and [if applicable, insert — any such] interest on this Security will be made at the office or agency of the Corporation maintained for that purpose in , in such coin or currency of the United States as at the time of payment is legal tender for payment of public and private debts [if applicable, insert —; provided, however, that at the option of the Corporation payment of interest may be made by check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register].

Reference is hereby made to the further provisions of this Security set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof by manual or electronic signature, this Security shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

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

Dated:

AMERANT BANCORP INC.

By:

Name:

Title:

Attest:

This Security is one of a duly authorized issue of securities of the Corporation (herein called the “**Securities**”), issued and to be issued in one or more series under an Indenture, dated as of , 20 (herein called the “**Indenture**”), between the Corporation and , as Trustee (herein called the “**Trustee**”, which term includes any successor trustee under the Indenture), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Corporation, the Trustee and the Holders of the Securities and of the terms upon which the Securities are, and are to be, authenticated and delivered. This Security is one of the series designated on the face hereof [if applicable insert —, limited in aggregate principal amount to \$].

[If applicable, insert — Subject to and upon compliance with the provisions of the Indenture, the Holder of this Security is entitled, at his option, at any time on or before the close of business on , or in case this Security or a portion hereof is called for redemption, then in respect of this Security or such portion hereof until and including, but (unless the Corporation defaults in making the payment due upon redemption) not after, the close of business on the 10th calendar day before the Redemption Date, to convert this Security (or any portion of the principal amount hereof which is \$1,000 or an integral multiple thereof), at the principal amount hereof, or of such portion, into fully paid and non-assessable shares (calculated as to each conversion to the nearest 1/100 of a share) of Common Stock of the Corporation at a conversion price per share of Common Stock equal to \$ per each share of Common Stock (or at the current adjusted conversion price if an adjustment has been made as provided in the Indenture) by surrender of this Security, duly endorsed or assigned to the Corporation or in blank, to the Corporation at its office or agency in , accompanied by written notice to the Corporation that the Holder hereof elects to convert this Security, or if less than the entire principal amount hereof is to be converted, the portion hereof to be converted, and, in case such surrender shall be made during the period from the close of business on any Regular Record Date next preceding any Interest Payment Date to the opening of business on such Interest Payment Date (unless this Security or the portion thereof being converted has been called for redemption on a Redemption Date within such period), also accompanied by payment in funds acceptable to the Corporation of an amount equal to the interest payable on such Interest Payment Date on the principal amount of this Security then being converted. Subject to the aforesaid requirement for payment and, in the case of a conversion after the Regular Record Date next preceding any Interest Payment Date and on or before such Interest Payment Date, to the right of the Holder of this Security (or any Predecessor Security) of record at such Regular Record Date to receive an installment of interest (with certain exceptions provided in the Indenture), no payment or adjustment is to be made on conversion for interest accrued hereon or for dividends on the Common Stock issued on conversion. No fractions of shares or scrip representing fractions of shares will be issued on conversion, but instead of any fractional interest the Corporation shall pay a cash adjustment as provided in the Indenture. The conversion price is subject to adjustment as provided in the Indenture. In addition, the Indenture provides that in case of certain consolidations or mergers to which the Corporation is a party or the transfer of substantially all of the assets of the Corporation, the Indenture shall be amended, without the consent of any Holders of Securities, so that this Security, if then outstanding, will be convertible thereafter, during the period this Security shall be convertible as specified above, only into the kind and amount of securities, cash and other property receivable upon the consolidation, merger or transfer by a holder of the number of shares of Common Stock into which this Security might have been converted immediately prior to such consolidation, merger or transfer (assuming such holder of Common Stock failed to exercise any rights of election and received per share the kind and amount received per share by a plurality of non-electing shares).]

[If applicable, insert — The Securities of this series are subject to redemption upon not less than 30 days' notice by mail, [if applicable, insert — (1) on in any year commencing with the year and ending with the year 20 through operation of the sinking fund for this series at a Redemption Price equal to 100% of the principal amount, and (2)] at any time [if applicable, insert — on or after , 20], as a whole or in part, at the election of the Corporation, at the following Redemption Prices (expressed as percentages of the principal amount): If redeemed [if applicable, insert — on or before , %, and if redeemed] during the 12-month period beginning of the years indicated,

Year	Redemption Price	Year	Redemption Price
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and thereafter at a Redemption Price equal to % of the principal amount, together in the case of any such redemption [if applicable, insert — (whether through operation of the sinking fund or otherwise)] with accrued interest to but excluding the Redemption Date, but interest installments whose Stated Maturity is on or prior to such Redemption Date will be payable to the Holders of such Securities, or one or more Predecessor Securities, of record at the close of business on the relevant Record Dates referred to on the face hereof, all as provided in the Indenture.]

[If applicable, insert — The Securities of this series are subject to redemption upon not less than 30 days' notice by mail, (1) on in any year commencing with the year and ending with the year through operation of the sinking fund for this series at the Redemption Prices for redemption through operation of the sinking fund (expressed as percentages of the principal amount) set forth in the table below, and (2) at any time [if applicable, insert — on or after], as a whole or in part, at the election of the Corporation, at the Redemption Prices for redemption otherwise than through operation of the sinking fund (expressed as percentages of the principal amount) set forth in the table below: If redeemed during the 12-month period beginning of the years indicated,

Year	Redemption Price For Redemption Through Operation of the Sinking Fund	Redemption Price For Redemption Otherwise Than Through Operation of the Sinking Fund
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and thereafter at a Redemption Price equal to % of the principal amount, together in the case of any such redemption (whether through operation of the sinking fund or otherwise) with accrued interest to but excluding the Redemption Date, but interest installments whose Stated Maturity is on or prior to such Redemption Date will be payable to the Holders of such Securities, or one or more Predecessor Securities, of record at the close of business on the relevant Record Dates referred to on the face hereof, all as provided in the Indenture.]

[If applicable, insert — The sinking fund for this series provides for the redemption on in each year beginning with the year and ending with the year of [if applicable, insert — not less than \$ (“mandatory sinking fund”) and not more than] \$ aggregate principal amount of Securities of this series. Securities of this series acquired or redeemed by the Corporation otherwise than through [if applicable, insert — mandatory] sinking fund payments [if applicable, insert and Securities surrendered for conversion] may be credited against subsequent [if applicable, insert — mandatory] sinking fund payments otherwise required to be made [if applicable, insert — in the inverse order in which they become due].]

[If the Security is subject to redemption of any kind, insert — In the event of redemption or conversion of this Security in part only, if such Security is not a Global Security, a new Security or Securities of this series and of like tenor for the unredeemed or unconverted portion hereof may be issued in the name of the Holder hereof upon the cancellation hereof.]

[If applicable, insert — The Indenture contains provisions for defeasance at any time of (1) the entire indebtedness of this Security or (2) certain restrictive covenants and Events of Default with respect to this Security, in each case upon compliance with certain conditions set forth in the Indenture.]

[If the Security is not an Original Issue Discount Security, insert — If an Event of Default with respect to Securities of this series shall occur and be continuing, the principal of the Securities of this series may be declared due and payable in the manner and with the effect provided in the Indenture.]

[If the Security is an Original Issue Discount Security, insert — If an Event of Default with respect to Securities of this series shall occur and be continuing, an amount of principal of the Securities of this series may be declared due and payable in the manner and with the effect provided in the Indenture. Such amount shall be equal to — insert formula for determining the amount. Upon payment (i) of the amount of principal so declared due and payable and (ii) of interest on any overdue principal and overdue interest all of the Corporation's obligations in respect of the payment of the principal of and interest, if any, on the Securities of this series shall terminate.]

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Corporation and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Corporation and the Trustee with the consent of the Holders of a majority in principal amount of the Securities at the time Outstanding of each series to be affected. The Indenture also contains provisions permitting the Holders of specified percentages in principal amount of the Securities of each series at the time Outstanding, on behalf of the Holders of all Securities of such series, to waive compliance by the Corporation with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange hereof or in lieu hereof, whether or not notation of such consent or waiver is made upon this Security.

As provided in and subject to the provisions of the Indenture, the Holder of this Security shall not have the right to institute any proceeding with respect to the Indenture or for the appointment of a receiver or trustee or for any other remedy thereunder, unless such Holder shall have previously given the Trustee written notice of a continuing Event of Default with respect to the Securities of this series, the Holders of not less than 25% in principal amount of the Securities of this series at the time Outstanding shall have made written request to the Trustee to institute proceedings in respect of such Event of Default as Trustee and offered the Trustee indemnity and the Trustee shall not have received from the Holders of a majority in principal amount of Securities of this series at the time Outstanding a direction inconsistent with such request, and shall have failed to institute any such proceeding, for 60 days after receipt of such notice, request and offer of indemnity. The foregoing shall not apply to any suit instituted by the Holder of this Security for the enforcement of any payment of principal hereof or any premium or interest hereon on or after the respective due dates expressed herein.

No reference herein to the Indenture and no provision of this Security or of the Indenture shall alter or impair the obligation of the Corporation, which is absolute and unconditional, to pay the principal of (and premium, if any) and interest on this Security at the times, place and rate, and in the coin or currency, herein prescribed or to convert this Security as provided in the Indenture.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Security is registerable in the Security Register, upon surrender of this Security for registration of transfer at the office or agency of the Corporation in any place where the principal of and any premium and interest on this Security are payable, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Corporation and the Security Registrar duly executed by, the Holder hereof or his attorney duly authorized in writing, and thereupon one or more new Securities of this series and of like tenor, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Securities of this series are issuable only in registered form without coupons in denominations of \$1,000 and any integral multiple thereof. As provided in the Indenture and subject to certain limitations therein set forth, Securities of this series are exchangeable for a like aggregate principal amount of Securities of this series and of like tenor of a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange, but the Corporation or the Security Registrar may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Security for registration of transfer, the Corporation, the Trustee and any agent of the Corporation or the Trustee may treat the Person in whose name this Security is registered as the owner hereof for all purposes, whether or not this Security be overdue, and neither the Corporation, the Trustee nor any such agent shall be affected by notice to the contrary.

All terms used in this Security which are defined in the Indenture shall have the meanings assigned to them in the Indenture.

ARTICLE 3

THE SECURITIES

Section 3.1 *Amount Unlimited; Issuable in Series.*

The aggregate principal amount of Securities that may be authenticated and delivered under this Indenture is unlimited.

The Securities may be issued in one or more series. There shall be established in or pursuant to a Board Resolution and, subject to Section 3.3, set forth, or determined in the manner provided, in an Officers' Certificate, or established in one or more indentures supplemental hereto, prior to the issuance of Securities of any series:

- (1) The title of the Securities of the series (which shall distinguish the Securities of the series from Securities of any other series);
- (2) Any limit upon the aggregate principal amount of the Securities of the series which may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of the series pursuant to Section 2.3, 3.4, 3.5, 3.6, 9.6 or 11.7 and except for any Securities which, pursuant to Section 3.3, are deemed never to have been authenticated and delivered hereunder);
- (3) The Person to whom any interest on a Security of the series shall be payable, if other than the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest;
- (4) The date or dates on which the principal of and premium, if any, on any Securities of the series is payable or the method of determination and/or extension of such date or dates; and the amount or amounts of such payments of principal and premium, if any, or the method of determination thereof;
- (5) The rate or rates (which may be fixed or variable), at which any Securities of the series shall bear interest, if any, whether and under what circumstances Additional Amounts with respect to such Securities shall be payable, the date or dates from which any such interest shall accrue, the Interest Payment Dates on which any such interest shall be payable and, if other than as set forth in Section 1.1, the Regular Record Date for any such interest payable on any Interest Payment Date (or the method for determining the dates and rates);
- (6) Whether any of such Securities will be subject to certain optional interest rate reset provisions;

(7) The place or places where the principal of and any premium and interest on, or any Additional Amounts with respect to, the Securities of the series shall be payable, where the Securities of such series may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Corporation in respect of the Securities of such series and this Indenture may be served, and the method of such payment, if by wire transfer, mail or other means;

(8) (a) The period or periods within which, the price or prices at which, the currency or currencies (including currency units) and the terms and conditions upon which any Securities of the series may be redeemed, in whole or in part, at the option of the Corporation, (b) if other than as provided in Section 11.3, the manner in which the particular Securities of such series (if less than all Securities of such series are to be redeemed) are to be selected for redemption and (c) if other than by a Board Resolution, the manner in which any election by the Corporation to redeem the Securities shall be evidenced;

(9) The obligation, if any, of the Corporation to redeem, purchase or repay any Securities of the series pursuant to any sinking fund, amortization or analogous provisions or upon the happening of a specified event or at the option of the Holder thereof and the period or periods within which, the price or prices at which and the terms and conditions upon which any Securities of the series shall be redeemed, purchased or repaid, in whole or in part, pursuant to such obligation and any provisions for the remarketing of such Securities;

(10) If other than denominations of \$1,000 and any integral multiple thereof, the denominations in which any Securities of the series shall be issuable;

(11) If other than the Trustee, the identity of the Securities Registrar and/or the Paying Agent;

(12) If the amount of principal of or any premium or interest on or other payments, if any, on any Securities of the series may be determined with reference to an index, formula or other method (which index, formula or method may be based, without limitation, on the price of one or more commodities, derivatives or securities; one or more securities, derivatives or commodities exchange indices or other indices; a currency or currencies (including currency unit or units) other than that in which the Securities of the series are denominated or designated to be payable; or any other variable or the relationship between any variables or combination of variables), the index, formula or other method by which such amounts shall be determined;

(13) If other than the currency of the United States, the currency, currencies or currency units (including composite currencies) in which the principal of or any premium or interest on, or any Additional Amounts with respect to, any Securities of the series shall be payable and the manner of determining the equivalent thereof in the currency of the United States for any purpose, including for purposes of the definition of "Outstanding" in Section 1.1;

(14) If the principal of or any premium or interest on, or any Additional Amounts with respect to, any Securities of the series is to be payable, at the election of the Corporation or the Holder thereof, in one or more currencies or currency units other than that or those in which such Securities are stated to be payable, the currency, currencies or currency units in which the principal of or any premium or interest on such Securities as to which such election is made shall be payable, the periods within which and the terms and conditions upon which such election is to be made and the amount so payable (or the manner in which such amount shall be determined);

(15) If other than the entire principal amount thereof, the portion of the principal amount of any Securities of the series which shall be payable upon declaration of acceleration of the Maturity thereof pursuant to Section 5.2;

(16) If the principal amount payable at the Stated Maturity of any Securities of the series will not be determinable as of any one or more dates prior to the Stated Maturity, the amount which shall be deemed to be the principal amount of such Securities as of any such date for any purpose thereunder or hereunder, including the principal amount thereof which shall be due and payable upon any Maturity other than the Stated Maturity or which shall be deemed to be Outstanding as of any date prior to the Stated Maturity (or, in any such case, the manner in which such amount deemed to be the principal amount shall be determined);

(17) If applicable, that the Securities of the series, in whole or any specified part, shall be defeasible pursuant to Section 14.2 or Section 14.3 or both such Sections, or any other defeasance provisions applicable to any Securities of the series, and, if other than by a Board Resolution, the manner in which any election by the Corporation to defease such Securities shall be evidenced;

(18) The terms, if any, upon which Securities of the series may be convertible into or exchanged for other Securities, Common Stock, Preferred Stock, other debt securities, warrants to purchase any of the foregoing, or other securities of any kind of the Corporation or any other obligor or any other property, and the terms and conditions upon which the conversion or exchange shall be effected, including the initial conversion or exchange price or rate, the conversion or exchange period, and any other additional provisions;

(19) If applicable, that any Securities of the series shall be issuable in whole or in part in the form of one or more Global Securities and, in such case, the respective Depositaries for such Global Securities, the form of any legend or legends which shall be borne by any such Global Security in addition to or in lieu of that set forth in Section 2.4;

(20) Any deletions, modifications of or additions to the definitions set forth in Section 1.1, the Events of Default which apply to any Securities of the series and any change in the right of the Trustee or the requisite Holders of such Securities to declare the principal amount thereof due and payable pursuant to Section 5.2;

(21) Any addition to, deletion of or change in the covenants set forth in Article 10 which applies to Securities of the series;

(22) Any Authenticating Agents, Paying Agents, Security Registrars or such other agents necessary in connection with the issuance of the Securities of such series, including, without limitation, exchange rate agents and calculation agents;

(23) If applicable, the terms of any Mortgage that will be provided for a series of Securities, including any provisions regarding the circumstances under which collateral may be released or substituted;

(24) Whether the Securities will benefit from a guarantee or guarantees and, if so, the identity of such guarantor or guarantors;

(25) If applicable, the terms of any guarantees for the Securities, including the terms of any subordination of such guarantees, and any circumstances under which there may be additional obligors on the Securities;

(26) If applicable, provisions, if any, with respect to the release of any guarantees for the Securities;

(27) Provisions, if any, granting special rights to the Holders of Securities of the series upon the occurrence of such events as may be specified;

(28) Whether Securities of the series shall be issuable in registered form or bearer form (registrable or not registrable as to principal, and with or without interest coupons), or both, and any restrictions applicable to the offering, sale or delivery of bearer securities and the terms upon which bearer Securities of a series may be exchanged for registered Securities of the same series and vice versa;

(29) The forms of the Securities of the series;

(30) Any terms which may be related to warrants, options or other rights to purchase and sell securities issued by the Corporation in connection with, or for the purchase of, Securities of such series, including whether and under what circumstances the Securities of any series may be used toward the exercise price of any such warrants, options or other rights;

(31) If the Securities of the series will be governed by, and the extent to which such Securities will be governed by, any law other than the laws of the state of New York;

(32) Any other terms of the series (which terms shall not be inconsistent with the provisions of this Indenture, except as permitted by Section 9.1(5)).

All Securities of any one series need not be identical but may vary as may be provided in or pursuant to the Board Resolution referred to above and (subject to Section 3.3) set forth, or determined in the manner provided, in the Officers' Certificate referred to above or in any such indenture supplemental hereto. All Securities of any one series need not be issued at the same time and, unless otherwise provided, a series may be reopened, without the consent of the Holders, for issuances of additional Securities of such series.

Section 3.2 *Denominations.*

Except as specified as contemplated by Section 3.1, the Securities of each series shall be issuable only in registered form without coupons. The Securities of such series shall be issuable only in such denominations as shall be specified as contemplated by Section 3.1. In the absence of any such specified denomination with respect to the Securities of any series, the Securities of such series shall be issuable in denominations of \$1,000 and any integral multiple thereof. Unless otherwise provided as contemplated by Section 3.1 with respect to any series of Securities, any Securities of a series denominated in a currency other than Dollars shall be issuable in denominations that are the equivalent, as determined by the Corporation by reference to the noon buying rate in The City of New York for cable transfers for such currency (“**Exchange Rate**”), as such rate is reported or otherwise made available by the Federal Reserve Bank of New York, on the applicable issue date for such Securities, of \$1,000 and any integral multiple thereof.

Section 3.3 *Execution, Authentication, Delivery and Dating.*

The Securities shall be executed on behalf of the Corporation by its Chairman of the Board, its Chief Executive Officer, its principal financial officer, its President or one of its Vice Presidents, and attested by its Treasurer, its Secretary or one of its Assistant Treasurers or Assistant Secretaries. The signature of any of these officers on the Securities may be manual, electronic or facsimile. Securities bearing the manual, electronic or facsimile signatures of individuals who were at any time the proper officers of the Corporation shall bind the Corporation, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Securities or did not hold such offices at the date of such Securities.

At any time and from time to time after the execution and delivery of this Indenture, the Corporation may deliver Securities of any series, together with the Guarantees of the Guarantors endorsed thereon, executed by the Corporation and the Guarantors to the Trustee for authentication, together with a Corporation Order for the authentication and delivery of such Securities with the Guarantees endorsed thereon, and the Trustee in accordance with the Corporation Order shall authenticate and deliver such Securities. Each Security shall be dated the date of its authentication unless otherwise provided by a Board Resolution, a supplemental indenture hereto or an Officers’ Certificate. If the form or terms of the Securities of the series have been established by or pursuant to one or more Board Resolutions or any other method permitted by Sections 2.1 and 3.1, in authenticating such Securities, and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall be entitled to receive, and (subject to Section 6.1) shall be fully protected in relying upon, a copy of such Board Resolution, the Officers’ Certificate setting forth the terms of the series and an Opinion of Counsel, with such Opinion of Counsel stating:

(1) If the form or terms of such Securities have been established by or pursuant to Board Resolution or any other method permitted by Sections 2.1 and 3.1, that such form or terms have been, or in the case of Securities of a series offered in a Periodic Offering will be, established in conformity with the provisions of this Indenture, subject in the case of Securities offered in a Periodic Offering, to any conditions specified in such Opinion of Counsel;

(2) That such Securities and the Guarantees of the Guarantors endorsed thereon, when such Securities have been authenticated and delivered by the Trustee and issued by the Corporation in the manner and subject to any conditions, exceptions and qualifications specified in such Opinion of Counsel, will constitute legal, valid and binding obligations of the Corporation and the Guarantors, respectively, enforceable against the Corporation and the Guarantors, respectively, in accordance with their terms, except as such enforcement is subject to the effect of (i) bankruptcy, insolvency, fraudulent conveyance, reorganization or other laws relating to or affecting creditors' rights and (ii) general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law); and

(3) That all conditions precedent set forth in this Indenture to the authentication and delivery of such Securities by the Trustee have been complied with.

Such Opinion of Counsel need express no opinion as to the enforceability of Section 6.7 or as to whether a court in the United States would render a money judgment in a currency other than that of the United States. Notwithstanding the provisions of Section 3.1 and of the preceding paragraph, if all Securities of a series are not to be originally issued at one time, it shall not be necessary to deliver the Officers' Certificate otherwise required pursuant to Section 3.1 or the Corporation Order and Opinion of Counsel otherwise required pursuant to such preceding paragraph at or prior to the authentication of each Security of such series if such documents are delivered at or prior to the authentication upon original issuance of the first Security of such series to be issued.

Notwithstanding that such form or terms have been so established, the Trustee shall have the right to decline to authenticate such Securities if, in the written opinion of counsel to the Trustee (which counsel may be an employee of the Trustee), such action may not lawfully be taken or if the Trustee in good faith shall determine that such action would expose the Trustee to personal liability to Holders of any Securities then outstanding.

With respect to Securities of a series offered in a Periodic Offering, the Trustee may rely, as to the authorization by the Corporation of any of such Securities, the form and terms thereof and the legality, validity, binding effect and enforceability thereof, upon the Opinion of Counsel and the other documents delivered pursuant to Sections 2.1 and 3.1 and this Section, as applicable, in connection with the first authentication of Securities of such series.

No Security shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein executed by the Trustee or an Authenticating Agent by manual or electronic signature, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder. Notwithstanding the foregoing, if any Security shall have been authenticated and delivered hereunder but never issued and sold by the Corporation, and the Corporation shall deliver such Security to the Trustee for cancellation as provided in Section 3.9, for all purposes of this Indenture such Security shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

The Corporation in issuing Securities may use "CUSIP" numbers (if then generally in use), and if so, the Trustee may use the CUSIP numbers in notices of redemption or exchange as a convenience to Holders; provided, however, that any such notice may state that no representation is made as to the correctness or accuracy of the CUSIP number printed in the notice or on the Securities, that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption or exchange shall not be affected by any defect or omission of such CUSIP numbers. The Corporation will promptly notify the Trustee of any change in CUSIP numbers known to an Officer of the Corporation. Neither the Corporation nor the Trustee shall have any responsibility for any defect in the CUSIP number that appears on any Security, check, advice of payment or redemption notice, and any such document may contain a statement to the effect that CUSIP numbers have been assigned by an independent service for convenience of reference and that neither the Corporation nor the Trustee shall be liable for any inaccuracy in such numbers.

Section 3.4 *Temporary Securities.*

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

If temporary Securities of any series are issued, the Corporation will cause definitive Securities of that series to be prepared without unreasonable delay. Except in the case of temporary Securities that are Global Securities, each of which shall be exchanged in accordance with the provisions thereof, after the preparation of definitive Securities of such series, the temporary Securities of such series shall be exchangeable for definitive Securities of such series upon surrender of the temporary Securities of such series at the office or agency of the Corporation in a Place of Payment for that series, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities of any series, the Corporation shall execute and the Trustee shall authenticate and deliver in exchange therefor one or more definitive Securities of the same series, of any authorized denominations and of like tenor and aggregate principal amount. Until so exchanged, the temporary Securities of any series shall in all respects be entitled to the same benefits under this Indenture as definitive Securities of such series and tenor, except as otherwise specified as contemplated by Section 3.1.

The Corporation shall cause to be kept at the Corporate Trust Office of the Trustee or in any office or agency to be maintained by the Corporation in accordance with Section 9.2 in a Place of Payment or in such other place or medium as may be specified pursuant to Section 3.1 a register for each series of Securities (each register maintained in such office and in any other office or agency of the Corporation in a Place of Payment being herein sometimes referred to as the “**Security Register**”) in which, subject to such reasonable regulations as it may prescribe, the Corporation shall provide for the registration of Securities of such series and of transfers of Securities of such series. Unless otherwise contemplated by Section 3.1, the Trustee is hereby appointed “Security Registrar” for the purpose of registering Securities and transfers of Securities, and for the purpose of maintaining the Security Register in respect thereof, as herein provided.

Except as set forth in Section 2.3 or as may be provided pursuant to Section 3.1, upon surrender for registration of transfer of any Security of a series at the office or agency of the Corporation in a Place of Payment for that series, the Corporation shall execute and deliver a Corporation Order requesting the Trustee to authenticate and deliver, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities of the same series, of any authorized denominations and of like tenor and aggregate principal amount.

Unless otherwise provided as contemplated by Section 3.1, at the option of the Holder, Securities of any series (other than Global Securities) may be exchanged for other Securities of the same series, of any authorized denominations and of like tenor and aggregate principal amount, upon surrender of the Securities to be exchanged at such office or agency, and upon payment, if the Corporation shall so require, of the charges hereinafter provided. Whenever any Securities are so surrendered for exchange, the Corporation shall execute, and the Trustee shall authenticate and deliver, the Securities, with the Guarantees endorsed thereon, which the Holder making the exchange is entitled to receive.

All Securities and Guarantees endorsed thereon issued upon any registration of transfer or exchange of Securities with Guarantees of the Guarantors endorsed thereon shall be the respective valid obligations of the Corporation and the Guarantors, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Securities and Guarantees endorsed thereon surrendered upon such registration of transfer or exchange.

Every Security presented or surrendered for registration of transfer or for exchange shall (if so required by the Corporation, Security Registrar or the Trustee) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Corporation, the Security Registrar or the Trustee, as the case may be, duly executed, by the Holder thereof or its attorney duly authorized in writing.

Unless otherwise provided as contemplated by Section 3.1, no service charge shall be made for any registration of transfer or exchange of Securities, but the Corporation may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Securities, other than exchanges pursuant to Section 3.4, 9.6 or 11.7 not involving any transfer.

Unless otherwise provided as contemplated by Section 3.1, if the Securities of any series (or of any series and specified tenor) are to be redeemed in whole or in part, the Corporation shall not be required (A) to issue, register the transfer of or exchange any Securities of that series (or of that series and specified tenor, as the case may be) during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of any such Securities selected for redemption under Section 11.3 and ending at the close of business on the day of such mailing, or (B) to register the transfer of or exchange any Security so selected for redemption in whole or in part, except the unredeemed portion of any Security being redeemed in part.

Unless otherwise provided as contemplated by Section 3.1, the Corporation shall not be required to register the transfer or exchange of Securities between a Record Date and the next succeeding Interest Payment Date.

Notwithstanding the foregoing and except as otherwise specified or contemplated by Section 3.1, if at any time the Depository for the Securities of a series represented by a Global Security or Global Securities notifies the Corporation that it is unwilling or unable to continue as a Depository for the Securities of such series or if at any time the Depository for Securities of a series shall no longer be registered or in good standing under the Exchange Act or other applicable statute or regulation, the Corporation shall appoint a successor Depository with respect to the Securities of such series. If a successor Depository for the Securities of such series is not appointed by the Corporation within 90 days after the Corporation receives such notice or becomes aware of such condition, the Corporation will execute, and the Trustee, upon Corporation Request, will authenticate and deliver, Securities of such series in definitive form in an aggregate principal amount equal to the principal amount of the Global Security or Global Securities representing Securities of such series in exchange for such Global Security or Global Securities.

In the event that (i) the Corporation at any time and in its sole discretion determines that the Securities of any series issued in the form of one or more Global Securities shall no longer be represented by such Global Security or Global Securities or (ii) there shall have occurred and be continuing an Event of Default or an event which, with the giving of notice or lapse of time or both, would constitute an Event of Default with respect to the Securities of any series and the Holders of such Securities have so requested, the Corporation will execute, and the Trustee, upon Corporation Request, will authenticate and deliver, Securities of such series in definitive form and in an aggregate principal amount equal to the principal amount of the Global Security or Global Securities representing such series in exchange for such Global Security or Global Securities.

Upon the occurrence in respect of any Global Security of any series of any one or more of the conditions specified in the preceding two paragraphs or such other conditions as may be specified as contemplated by Section 3.1 for such series, such Global Security may be exchanged for Securities registered in the names of, and the transfer of such Global Security may be registered to, such Persons (including Persons other than the Depositary with respect to such series and its nominees) as such Depositary shall direct. Notwithstanding any other provision of this Indenture, any Security authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, any Global Security shall also be a Global Security and shall bear the legend specified in Section 2.2 except for any Security authenticated and delivered in exchange for, or upon registration of transfer of, a Global Security pursuant to the preceding sentence.

None of the Trustee or agents shall have any responsibility or obligation to any beneficial owner of a Global Security, a member of, or a participant in, the Depositary or other Person with respect to the accuracy of the records of the Depositary or its nominee or of any participant or member thereof, with respect to any ownership interest in the Securities or with respect to the delivery to any participant, member, beneficial owner or other Person (other than the Depositary or its nominee) of any notice (including any notice of redemption) or the payment of any amount under or with respect to such Securities. All notices and communications to be given to the Holders and all payments to be made to Holders under the Securities shall be given or made only to or upon the order of the registered Holders (which shall be the Depositary or its nominee in the case of a Global Security). The rights of beneficial owners in any Global Security shall be exercised only through the Depositary subject to the applicable rules and procedures of the Depositary. The Trustee and the agents may rely and shall be fully protected in relying upon information furnished by the Depositary with respect to its members, participants and any beneficial owners. The Corporation, the Trustee and the agents shall be entitled to deal with the Depositary, and any nominee thereof, that is the registered Holder of any Global Security for all purposes of this Indenture relating to such Global Security (including the payment of principal, premium, if any, and interest and additional amounts, if any, and the giving of instructions or directions by or to the owner or Holder of a beneficial ownership interest in such Global Security) as the sole Holder of such Global Security and shall have no obligations to the beneficial owners thereof. None of the Corporation, the Trustee or any agent shall have any responsibility or liability for any acts or omissions of the Depositary with respect to such Global Security, for the records of any such Depositary, including records in respect of beneficial ownership interests in respect of any such Global Security, for any transactions between the Depositary and any participant or between or among the Depositary, any such participant and/or any Holder or owner of a beneficial interest in such Global Security, or for any transfers of beneficial interests in any such Global Security.

Section 3.6 *Mutilated, Destroyed, Lost and Stolen Securities.*

If any mutilated Security is surrendered to the Trustee, the Corporation shall execute and deliver a Corporation Order requesting the Trustee to authenticate and deliver, and the Trustee shall authenticate and deliver, in exchange therefor a new Security of the same series and of like tenor and principal amount and bearing a number not contemporaneously outstanding. If there shall be delivered to the Corporation and the Trustee (i) evidence to their satisfaction of the destruction, loss or theft of any Security and (ii) such security or indemnity as may be required by them to save each of them and any agent of either of them harmless, then, in the absence of notice to the Corporation or the Trustee that such Security has been acquired by a protected purchaser, the Corporation shall execute and upon the Corporation's request the Trustee shall authenticate and deliver, in lieu of any such destroyed, lost or stolen Security, a new Security of the same series with the Guarantees endorsed thereon containing identical terms and of like tenor and principal amount and bearing a number not contemporaneously outstanding.

Notwithstanding the preceding paragraph, in case any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, the Corporation in its discretion may, instead of issuing a new Security, pay such Security.

Upon the issuance of any new Security under this Section 3.6, the Corporation may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Security of any series and Guarantees issued pursuant to this Section 3.6 in lieu of any destroyed, lost or stolen Security shall constitute an original additional contractual obligation of the Corporation and the Guarantors, whether or not the destroyed, lost or stolen Security shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Securities of that series and Guarantees duly issued hereunder.

The provisions of this Section 3.6 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

Section 3.7 *Payment of Interest; Interest Rights Preserved.*

Except as otherwise provided as contemplated by Section 3.1 with respect to any series of Securities, interest on any Security which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest at the office or agency maintained for such purpose pursuant to Section 9.2; provided, however, that at the option of the Corporation, interest on any series of Registered Securities that bear interest may be paid (i) by check mailed to the address of the Person entitled thereto as it shall appear on the Security Register of such series (unless, with respect to a Global Security, the rules of the Depository require payment of such amount by wire transfer) or (ii) by wire transfer to an account maintained by the Person entitled thereto as specified in the Security Register of such series.

Unless otherwise provided as contemplated by Section 3.1, any interest on any Security of any series which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called "**Defaulted Interest**") shall forthwith cease to be payable to the Holder on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Interest may be paid by the Corporation, at its election in each case, as provided in clause (1) or (2) below:

(1) The Corporation may elect to make payment of any Defaulted Interest to the Persons in whose names the Securities of such series (or their respective Predecessor Securities) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Corporation shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Security of such series and the date of the proposed payment, and at the same time the Corporation shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause provided. Thereupon the Corporation shall fix a Special Record Date for the payment of such Defaulted Interest, which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Corporation shall promptly notify the Trustee of such Special Record Date and, in the name and at the expense of the Corporation, the Trustee shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be given to each Holder of Securities of such series in the manner set forth in Section 1.7, not less than 10 days prior to such Special Record Date. The Trustee may, at the direction of the Corporation and in the name and at the expense of the Corporation, cause a similar notice to be published at least once in an Authorized Newspaper, but such publication shall not be a condition precedent to the establishment of such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been so mailed, such Defaulted Interest shall be paid to the Persons in whose names the Securities of such series (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following clause (2).

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

Subject to the foregoing provisions of this Section 3.7, each Security delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security.

Section 3.8 *Persons Deemed Owners.*

Prior to due presentment of a Security for registration of transfer, the Corporation, the Guarantors and the Trustee and any agent of the Corporation, a Guarantor or the Trustee may treat the Person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of principal of and any premium and (subject to Section 3.7) any interest and any Additional Amounts or other payments on such Security and for all other purposes whatsoever, whether or not such Security shall be overdue, and none of the Corporation, the Guarantors or the Trustee or any agent of the Corporation, a Guarantor or the Trustee shall be affected by notice to the contrary.

Except as otherwise specified as contemplated by Section 3.1, none of the Corporation, the Guarantors or the Trustee or any agent of the Corporation, a Guarantor or the Trustee shall have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Global Security, or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests. Notwithstanding the foregoing, with respect to any Global Security, nothing herein shall prevent the Corporation, the Guarantors or the Trustee, or any agent of the Corporation, a Guarantor or the Trustee, from giving effect to any written certification, proxy or other authorization furnished by any Depository (or its nominee), as a Holder, with respect to such Global Security or impair, as between such Depository and owners of beneficial interests in such Global Security, the operation of customary practices governing the exercise of the rights of such Depository (or its nominee) as Holder of such Global Security.

Section 3.9 *Cancellation.*

The Corporation may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder which the Corporation may have acquired in any manner whatsoever, and may deliver to the Trustee (or to any other Person for delivery to the Trustee) for cancellation any Securities previously authenticated hereunder which the Corporation has not issued and sold, and all Securities so delivered shall be promptly canceled by the Trustee. The Security Registrar and the Paying Agent shall forward to the Trustee any Securities surrendered to them for registration of transfer, exchange or payment, and all Securities so delivered shall be promptly canceled by the Trustee. No Securities shall be authenticated in lieu of or in exchange for any Securities canceled as provided in this Section, except as expressly permitted by this Indenture or as otherwise specified as contemplated by Section 3.1. On request of the Corporation at the time of surrender, the Trustee shall deliver to the Corporation canceled Securities held by the Trustee. In the absence of such request, all canceled Securities held by the Trustee shall be disposed of in accordance with the Trustee's customary procedures.

Section 3.10 *Computation of Interest.*

Except as otherwise specified as contemplated by Section 3.1 for Securities of any series, interest on the Securities of each series shall be computed on the basis of a 360-day year of twelve 30-day months.

Section 3.11 *CUSIP Numbers.*

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

ARTICLE 4

SATISFACTION AND DISCHARGE

Section 4.1 *Satisfaction and Discharge of Indenture.*

This Indenture shall upon Corporation Request cease to be of further effect with respect to Securities of or within any series (except as to any surviving rights of registration of transfer or exchange of such Securities and replacement of such Securities which may have been lost, stolen or mutilated as herein expressly provided for), and the Trustee, at the expense of the Corporation, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture with respect to such Securities, when:

(1) Either:

(A) All such Securities theretofore authenticated and delivered (other than (i) Securities which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 3.6 and (ii) Securities for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Trustee or the Corporation and thereafter repaid to the Corporation or discharged from such trust, as provided in Section 10.3) have been delivered to the Trustee for cancellation; or

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

(i) have become due and payable, or

(ii) will become due and payable at their Stated Maturity within one year, or

(iii) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Corporation, and the Corporation, in the case of clause (i), (ii) or (iii) above, has deposited or caused to be deposited with the Trustee as trust funds in trust for the purpose money in an amount sufficient to pay and discharge the entire indebtedness on such Securities not theretofore delivered to the Trustee for cancellation, for principal and any premium and interest and any Additional Amounts to the date of such deposit (in the case of Securities which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be;

- (2) The Corporation has paid or caused to be paid all other sums payable hereunder by the Corporation with respect to the Outstanding Securities of such series;
- (3) The Corporation has complied with any other conditions specified pursuant to Section 3.1 to be applicable to the Outstanding Securities of such series; and
- (4) The Corporation has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture as to such Securities have been complied with.

If any Outstanding Securities of such series are to be redeemed prior to their Stated Maturity, whether pursuant to any optional redemption provisions or in accordance with any mandatory sinking fund requirement, the trust agreement evidencing the trust referred to in subclause (B) of clause (1) of this Section 4.1 shall provide therefore and the Corporation shall make such arrangements as are satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Corporation.

Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Corporation to the Trustee under Section 6.7, the obligations of the Trustee to any Authenticating Agent under Section 6.14 and, if money shall have been deposited with the Trustee pursuant to subclause (B) of clause (1) of this Section 4.1, the obligations of the Trustee under Section 4.2 and the last paragraph of Section 10.3 shall survive.

Section 4.2 *Application of Trust Money.*

Subject to the provisions of the last paragraph of Section 10.3, all money deposited with the Trustee pursuant to Section 4.1 shall be held in trust and applied by it, in accordance with the provisions of the Securities and this Indenture, to the payment, either directly or through any Paying Agent (including the Corporation acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal and any premium and interest or Additional Amounts for whose payment such money has been deposited with the Trustee.

Section 4.3 *Reinstatement.*

If the Trustee or Paying Agent is unable to apply any money or U.S. Government Obligations deposited with respect to Securities of any series in accordance with Section 4.1 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Corporation's obligations under this Indenture with respect to the Securities of such series and the Securities of such series shall be revived and reinstated as though no deposit had occurred pursuant to Section 4.1 until such time as the Trustee or Paying Agent is permitted to apply all such money or U.S. Government Obligations in accordance with Section 4.1; provided, however, that if the Corporation has made any payment of principal of, premium (if any) or interest on, or any Additional Amounts with respect to, any Securities because of the reinstatement of its obligations, the Corporation shall be subrogated to the rights of the Holders of such Securities to receive such payment from the money or U.S. Government Obligations held by the Trustee or Paying Agent.

ARTICLE 5

REMEDIES

Section 5.1 *Events of Default.*

“**Event of Default**,” wherever used herein with respect to Securities of any series, means any one of the following events (whatever the reason for such Event of Default and whether it shall be occasioned by the subordination provisions applicable to any Securities or be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body), unless it is either inapplicable to a particular series or it is specifically deleted or modified in the Board Resolution, supplemental indenture, Officers' Certificate establishing such series, or form of Security for such series:

- (1) Default in the payment of any interest on, or any Additional Amounts with respect to, any Security of that series when it becomes due and payable, and continuance of such default for a period of 30 days (unless the entire amount of such payment is deposited by the Corporation with the Trustee or with a Paying Agent prior to the expiration of such period of 30 days); or
- (2) Default in the payment of the principal of or any premium on any Security of that series at its Maturity; or
- (3) Default in the deposit of any sinking fund payment, when and as due by the terms of a Security of that series, and continuance of such default for a period of 30 days; or

(4) Default in the performance, or breach, of any covenant or warranty of the Corporation or any Guarantor in this Indenture (other than a covenant or warranty a default in whose performance or whose breach is elsewhere in this Section 5.1 specifically dealt with or which has expressly been included in this Indenture solely for the benefit of series of Securities other than that series), and continuance of such default or breach for a period of 60 days after there has been given, by registered or certified mail, to the Corporation and such Guarantor by the Trustee or to the Corporation, such Guarantor and the Trustee by the Holders of at least 25% in principal amount of the Outstanding Securities of that series a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" hereunder; or

(5) The entry by a court having jurisdiction in the premises of (A) a decree or order for relief in respect of the Corporation in an involuntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or (B) a decree or order adjudging the Corporation bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Corporation under any applicable federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Corporation or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 60 consecutive days; or

(6) The commencement by the Corporation of a voluntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, or the consent by it to the entry of a decree or order for relief in respect of the Corporation in an involuntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by it, of a petition or answer or consent seeking reorganization or relief under any applicable federal or state law, or the consent by it to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or similar official of the Corporation or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Corporation in furtherance of any such action; or

(7) Any other Event of Default provided with respect to Securities of that series in the Board Resolution, supplemental indenture or Officers' Certificate establishing that series.

Notwithstanding the foregoing provisions of this Section 5.1, if the principal of, premium (if any) or any interest on, or any Additional Amounts with respect to, any Security is payable in a currency or currencies (including a composite currency) other than Dollars and such currency or currencies are not available to the Corporation for making payment thereof due to the imposition of exchange controls or other circumstances beyond the control of the Corporation (a “**Conversion Event**”), the Corporation will be entitled to satisfy its obligations to Holders of the Securities by making such payment in Dollars in an amount equal to the Dollar equivalent of the amount payable in such other currency, as determined by the Corporation by reference to the Exchange Rate, as such Exchange Rate is certified for customs purposes by the Federal Reserve Bank of New York on the date of such payment, or, if such rate is not then available, on the basis of the most recently available Exchange Rate. Notwithstanding the foregoing provisions of this Section 5.1, any payment made under such circumstances in Dollars where the required payment is in a currency other than Dollars will not constitute an Event of Default under this Indenture.

Promptly after the occurrence of a Conversion Event with respect to the Securities of any series, the Corporation shall give written notice thereof to the Trustee; and the Trustee, promptly after receipt of such notice, shall give notice thereof in the manner provided in Section 1.7 to the Holders of such series. Promptly after the making of any payment in Dollars as a result of a Conversion Event with respect to the Securities of any series, the Corporation shall give notice in the manner provided in Section 1.7 to the Holders of such series, setting forth the applicable Exchange Rate and describing the calculation of such payments.

Section 5.2 *Acceleration of Maturity; Rescission and Annulment.*

Unless the Board Resolution, supplemental indenture or Officers’ Certificate establishing such series provides otherwise, if an Event of Default (other than an Event of Default specified in Section 5.1(5) or 5.1(6)) with respect to Securities of any series at the time Outstanding occurs and is continuing, then in every such case the Trustee or the Holders of not less than 25% in principal amount of the Outstanding Securities of that series may declare the principal amount of all the Securities of that series (or, if any Securities of that series are Original Issue Discount Securities, such portion of the principal amount of such Securities as may be specified by the terms thereof) and premium, if any, together with accrued and unpaid interest, if any, thereon, and Additional Amounts, if any, with respect thereto, to be due and payable immediately, by a notice in writing to the Corporation (and to the Trustee if given by the Holders), and upon any such declaration such principal amount (or specified amount) and premium, if any, together with accrued and unpaid interest, if any, thereon, and Additional Amounts, if any, with respect thereto, shall become immediately due and payable. Unless the Board Resolution, supplemental indenture or Officers’ Certificate establishing such series provides otherwise, if an Event of Default specified in Section 5.1(5) or 5.1(6) with respect to Securities of any series at the time Outstanding occurs, the principal amount of all the Securities of that series (or, if any Securities of that series are Original Issue Discount Securities, such portion of the principal amount of such Securities as may be specified by the terms thereof) and premium, if any, together with accrued and unpaid interest, if any, thereon, and Additional Amounts, if any, with respect thereto, shall automatically, and without any declaration or other action on the part of the Trustee or any Holder, become immediately due and payable.

At any time after such a declaration of acceleration with respect to Securities of any series has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter in this Article 5 provided, the Holders of a majority in principal amount of the Outstanding Securities of that series, by written notice to the Corporation and the Trustee, may rescind and annul such declaration and its consequences if:

(1) The Corporation has paid or deposited with the Trustee a sum sufficient to pay:

(A) All overdue interest on, and any Additional Amounts with respect to, all Securities of that series (or of all series, as the case may be),

(B) The principal of or premium (if any) on any Securities of that series (or of all series, as the case may be) which have become due otherwise than by such declaration of acceleration and interest thereon at the rate or rates prescribed therefor in such Securities (in the case of Original Issue Discount Securities, the Securities' Yield to Maturity),

(C) To the extent that payment of such interest is lawful, interest upon overdue interest and any Additional Amounts at the rate or rates prescribed therefor in such Securities (in the case of Original Issue Discount Securities, the Securities' Yield to Maturity), and

(D) all sums paid or advanced by the Trustee hereunder, the compensation, expenses, disbursements and advances due to Trustee under Section 6.7, and all other amounts due under Section 6.7;

(2) All Events of Default with respect to Securities of that series (or of all series, as the case may be), other than the nonpayment of the principal of Securities of that series (or of all series, as the case may be) which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 5.13; and

(3) The rescission would not conflict with any final judgment or decree of a court of competent jurisdiction.

No such rescission shall affect any subsequent default or impair any right consequent thereon.

Section 5.3 *Collection of Indebtedness and Suits for Enforcement by Trustee*

The Corporation covenants that if:

(1) Default is made in the payment of any interest on, or any Additional Amounts with respect to, any Security of any series when such interest or Additional Amounts shall become due and payable and such default continues for a period of 30 days, or

(2) Default is made in the payment of the principal of (or premium, if any, on) any Security at the Maturity thereof, the Corporation will, upon demand of the Trustee, pay to it, for the benefit of the Holders of such Securities, the whole amount then due and payable on such Securities for principal and any premium and interest on, and Additional Amounts with respect to, and, to the extent that payment of such interest shall be legally enforceable, interest on any overdue principal and premium and on any overdue interest or Additional Amounts, at the rate or rates prescribed therefor in such Securities (or in the case of Original Issue Discount Securities, the Securities' Yield to Maturity), and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and all other amounts due the Trustee under Section 6.7.

If the Corporation fails to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Corporation or any other obligor upon such Securities and collect the moneys adjudged or deemed to be payable in the manner provided by law out of the property of the Corporation or any other obligor upon such Securities, wherever situated.

In addition, if any other Event of Default with respect to Securities of any series occurs and is continuing, the Trustee may in its discretion proceed, in its own name and as trustee of an express trust, to protect and enforce its rights and the rights of the Holders of Securities of such series by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

Section 5.4 *Trustee May File Proofs of Claim.*

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Corporation or any other obligor upon the Securities or the property of the Corporation or of such other obligor or their creditors, the Trustee (irrespective of whether the principal (or lesser amount in the case of Original Issue Discount Securities) of the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Corporation for the payment of overdue principal of, premium (if any), interest on, or any Additional Amounts with respect to, such Securities) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(1) To file and prove a claim for the whole amount of principal (or lesser amount in the case of Original Issue Discount Securities) (and premium, if any) and interest and any Additional Amounts owing and unpaid in respect of the Securities and to file such other papers or documents as may be necessary or advisable to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Holders allowed in such judicial proceeding, and

(2) To collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 6.7.

No provision of this Indenture shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of any Holder thereof or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding; provided, however, that the Trustee may, on behalf of the Holders, vote for the election of a trustee in bankruptcy or similar official and be a member of a creditors' or other similar committee.

Section 5.5 *Trustee May Enforce Claims Without Possession of Securities*

All rights of action and claims under this Indenture or the Securities may be prosecuted and enforced by the Trustee without the possession of any of the Securities or the production thereof in any proceeding relating thereto, and any such proceeding may be instituted by the Trustee in its own name as trustee of an express trust.

Section 5.6 *Application of Money Collected.*

Subject to the subordination provisions applicable to any series of Securities, any money collected by the Trustee pursuant to this Article shall be applied and paid in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal or any premium or interest on, or any Additional Amounts with respect to, the Securities, upon presentation of the Securities and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

FIRST: To the payment of all amounts due the Trustee under Section 6.7 in connection with such series of Securities in respect of which money or other property is collected;

SECOND: Subject to the terms of any subordination entered into as contemplated by Section 3.1, to the payment of the amounts then due and unpaid for principal of and any premium, if any, and interest on, and any Additional Amounts with respect to, the Securities in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for principal and any premium, if any, interest on and Additional Amounts, respectively; and

THIRD: The balance, if any, to the Corporation or any other Person or Persons entitled thereto.

To the fullest extent allowed under applicable law, if for the purpose of obtaining judgment against the Corporation in any court it is necessary to convert the sum due in respect of the principal of, premium (if any) or interest on, or any Additional Amounts with respect to, the Securities of any series (the "**Required Currency**") into a currency in which a judgment will be rendered (the "**Judgment Currency**"), the rate of exchange used shall be the rate at which in accordance with normal banking procedures the Trustee could purchase in The City of New York the Required Currency with the Judgment Currency on the Business Day in The City of New York next preceding that on which final judgment is given. Neither the Corporation nor the Trustee shall be liable for any shortfall nor shall any of them benefit from any windfall in payments to Holders of Securities under this Section 5.6 caused by a change in exchange rates between the time the amount of a judgment against it is calculated as above and the time the Trustee converts the Judgment Currency into the Required Currency to make payments under this Section 5.6 to Holders of Securities, but payment of such judgment shall discharge all amounts owed by the Corporation on the claim or claims underlying such judgment.

Section 5.7 *Limitation on Suits.*

Subject to Section 5.8, no Holder of any Security of any series shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless:

- (1) An Event of Default with respect to such series of Securities shall have occurred and be continuing and such Holder has previously given written notice to the Trustee of such continuing Event of Default;
- (2) The Holders of not less than 25% in principal amount of the Outstanding Securities of that series shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;
- (3) Such Holder or Holders have offered and, if requested, provided to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request;
- (4) The Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and
- (5) No direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority in principal amount of the Outstanding Securities of that series (or of all series, as the case may be).

No one or more of such Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other of such Holders, or to obtain or to seek to obtain priority or preference over any other of such Holders or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all of such Holders.

Section 5.8 *Right of Holders to Receive Principal, Premium and Interest.*

Notwithstanding any other provision in this Indenture, the right of any Holder of any Security to receive payment of the principal of and any premium and (subject to Section 3.7) interest on, or any Additional Amounts with respect to, such Security on the Stated Maturity or Stated Maturities expressed in such Security (or, in the case of redemption, on the Redemption Date) and to institute suit for the enforcement of any such payment after the respective due dates, shall not be impaired without the consent of such Holder.

Section 5.9 *Restoration of Rights and Remedies.*

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Corporation, the Guarantors, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 5.10 *Rights and Remedies Cumulative.*

Except as otherwise provided in Section 5.7 or with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in the last paragraph of Section 3.6, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 5.11 *Delay or Omission Not Waiver.*

No delay or omission of the Trustee or of any Holder of any Securities to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article 5 or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

Section 5.12 *Control by Holders.*

With respect to Securities of any series, the Holders of a majority in principal amount of the Outstanding Securities of such series shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee, with respect to such Series, provided that the Holders of a majority in principal amount of all Outstanding Securities shall have the right to direct the time, method and place of conducting any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee, relating to or arising under an Event of Default described in clause (5) or (6) of Section 5.1, provided that in each such case:

(1) the Trustee shall have the right to decline to follow any such direction if the Trustee, being advised by counsel, determines that the action so directed may not lawfully be taken or would conflict with this Indenture or if the Trustee in good faith shall, by a Responsible Officer, determine that the proceedings so directed would involve it in personal liability or be unjustly prejudicial to the Holders not taking part in such direction, and

(2) the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction or this Indenture.

Section 5.13 *Waiver of Past Defaults.*

Subject to Section 5.8 and Section 9.2, the Holders of not less than a majority in aggregate principal amount of the Outstanding Securities of any series may on behalf of the Holders of all the Securities of such series waive any past default or Event of Default described in clause (1), (2), (3), (4) or (7) of Section 5.1 hereunder with respect to such series and its consequences, and the Holders of a majority in principal amount of all Outstanding Securities may on behalf of the Holders of all Securities waive any Event of Default described in clause (5) or (6) of Section 5.1 hereunder and its consequences, except a default:

(1) In the payment of the principal of or any premium or interest on, or any Additional Amounts with respect to, any Security as and when the same shall become due and payable by the terms thereof, otherwise than by acceleration (unless such default has been cured as provided herein), or

(2) In respect of a covenant or provision hereof which under Article 9 cannot be modified or amended without the consent of the Holder of each Outstanding Security affected.

Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

All parties to this Indenture agree, and each Holder of any Security by his acceptance thereof shall be deemed to have agreed, that in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, a court may require any party litigant in such suit to file an undertaking to pay the costs of such suit, and may assess costs against any such party litigant, in the manner and to the extent provided in the Trust Indenture Act; provided that the provisions of this Section 5.14 shall not apply to any suit instituted by the Corporation, to any suit instituted by the Trustee, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% in principal amount of the outstanding Securities of any series, or to any suit instituted by any Holder for the enforcement of the payment of the principal of or interest on any Security on or after the Stated Maturity or Stated Maturities expressed in such Security (or, in the case of redemption, on the redemption date).

ARTICLE 6

THE TRUSTEE

Section 6.1 *Certain Duties and Responsibilities.*

- (1) If an Event of Default has occurred and is continuing, the Trustee shall exercise the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent individual would exercise or use under the circumstances in the conduct of his or her own affairs.
- (2) Except during the continuance of an Event of Default:
 - (A) The Trustee need perform only those duties that are specifically and expressly set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee.
 - (B) The Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon Officers' Certificates or Opinions of Counsel furnished to the Trustee and conforming to the requirements of this Indenture; however, in the case of any such Officers' Certificates or Opinions of Counsel which by any provisions hereof are specifically required to be furnished to the Trustee, the Trustee shall examine such Officers' Certificates and Opinions of Counsel to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of any mathematical calculations or other facts stated therein).
- (3) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(A) This paragraph does not limit the effect of clause (2) of this Section 6.1.

(B) The Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts.

(C) The Trustee shall not be liable with respect to any action taken, suffered or omitted to be taken by it with respect to Securities of any series in good faith in accordance with the direction of the Holders of a majority in principal amount of the Outstanding Securities of such series relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture with respect to the Securities of such series.

(4) Every provision of this Indenture that in any way relates to the Trustee is subject to clauses (1), (2) and (3) of this Section 6.1.

(5) The Trustee may refuse to perform any duty or to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of Holder or Holders pursuant to this Indenture, unless such Holder or Holders shall have offered and, if requested, provided to the Trustee security or indemnity satisfactory to the Trustee in its sole and absolute discretion against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction.

(6) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk is not reasonably assured to it.

(7) The permissive rights of the Trustee to do things enumerated in this Indenture shall not be construed as a duty.

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

(9) The Paying Agent, the Security Registrar and any Authenticating Agent shall be entitled to the protections, rights and immunities as the Trustee is entitled to under this Article 6.

Section 6.2 *Notice of Defaults.*

If a default occurs hereunder and is continuing with respect to Securities of any series and it is known to a Responsible Officer of the Trustee in accordance with Section 6.3(7), the Trustee shall give the Holders of Securities of such series prompt notice of such default; provided, however, that except in the case of a default in the payment of principal of (or premium, if any) or interest on, or any Additional Amounts with respect to, any Securities of such series or in the payment of any sinking fund installment, the Trustee shall be protected in withholding such notice if and so long as the Trustee in good faith determines that the withholding of such notice is in the interests of the holders of Securities of such series.

Subject to the provisions of Section 6.1:

(1) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, judgment, bond, debenture, note, coupon, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties, not only as to due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein. The Trustee need not investigate any fact or matter stated in the document;

(2) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Corporation, personally or by agent or attorney;

(3) Any request or direction of the Corporation mentioned herein shall be sufficiently evidenced by a Corporation Request or Corporation Order (unless other evidence is specifically required herein), and any resolution of the Board of Directors shall be sufficiently evidenced by a Board Resolution. Prior to an Event of Default, the Trustee shall be entitled to request and receive written instructions from the Corporation and shall have no responsibility or liability for any losses or damages of any nature that may arise from any action taken or not taken by the Trustee in accordance with the written direction of the Corporation;

(4) Whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed), in the absence of bad faith on its part, is entitled to and may rely upon an Officers' Certificate;

(5) The Trustee may consult with counsel and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon. Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or Opinion of Counsel

(6) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.;

(7) The Trustee shall not be charged with knowledge of any default, Event of Default or other information with respect to the Securities of any series for which it is acting as Trustee unless either (1) a Responsible Officer shall have actual knowledge of such default or Event of Default or (2) written notice of such default or Event of Default shall have been given to the Trustee by the Corporation or any other obligor on such Securities or by any Holder of such Securities;

(8) The Trustee shall not be liable for any action taken, suffered or omitted by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture;

(9) The Trustee shall have no duty to know or inquire as to the performance or nonperformance of any provision of any other agreement, instrument or document, and shall neither be responsible for, nor chargeable with, knowledge of the terms and conditions of any other agreement, instruction or document, other than this Indenture, whether or not an original or a copy of such agreement has been provided to the Trustee.

(10) The Trustee shall not be required to give any bond or surety in respect of the execution of the trusts and powers under this Indenture;

(11) Notwithstanding anything to the contrary herein, the Trustee shall have no duty to prepare or file any Federal or state tax report or return with respect to any funds held pursuant to this Indenture or any income earned thereon, except for the delivery and filing of tax information reporting forms required to be delivered and filed with the Internal Revenue Service.

(12) Each Holder of the Notes in certificated form shall provide the Trustee with appropriate forms W-9 or W-8 or such other forms and documents that the Trustee may reasonably request. Each Holder understands that if such tax reporting documentation is not provided to the Trustee, the Trustee may be required by the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, to withhold a portion of certain payments made pursuant hereto; and

(13) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused, directly or indirectly, by circumstances beyond its control, including without limitation, any act or provision of any present or future law or regulation or governmental authority; acts of God; earthquakes; fires; floods; wars; terrorism; civil or military disturbances; sabotage; epidemics; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications service; accidents; labor disputes; acts of civil or military authority or governmental actions; or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility.

Section 6.4 *Not Responsible for Recitals or Issuance of Securities.*

The recitals contained herein and in the Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Corporation, and neither the Trustee nor any Security Registrar, Paying Agent or Authenticating Agent assumes any responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Securities or the Guarantees. Neither the Trustee nor any Security Registrar, Paying Agent or Authenticating Agent shall be accountable for the use or application by the Corporation of Securities or the proceeds thereof.

Section 6.5 *May Hold Securities and Act as Trustee under Other Indentures.*

The Trustee, any Authenticating Agent, any Paying Agent, any Security Registrar or any other agent of the Corporation, in its individual or any other capacity, may become the owner or pledgee of Securities and, subject to Sections 6.8 and 6.13, may otherwise deal with the Corporation with the same rights it would have if it were not Trustee, Authenticating Agent, Paying Agent, Security Registrar or such other agent.

Subject to the limitations imposed by the Trust Indenture Act, nothing in this Indenture shall prohibit the Trustee from becoming and acting as trustee under other indentures under which other securities, or certificates of interest of participation in other securities, of the Corporation are outstanding in the same manner as if it were not Trustee hereunder.

Section 6.6 *Money Held in Trust.*

Subject to the provisions of Sections 10.3 and 14.5, all moneys received by the Trustee shall, until used or applied, as provided herein, be held in trust for the purposes for which they were received. Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed in writing with the Corporation. So long as no Event of Default shall have occurred and be continuing, all interest allowed on any such moneys, if any, shall be paid to the Corporation from time to time upon a Corporation Order.

Section 6.7 *Compensation and Reimbursement.*

The Corporation shall pay to the Trustee from time to time such compensation for its services hereunder as the Corporation and the Trustee may agree in writing from time to time. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Corporation shall reimburse the Trustee upon request for all reasonable out-of-pocket expenses, disbursements and advances incurred by it in connection with the performance of its duties under this Indenture, except any such expense, disbursement or advance as may be attributable to its negligence or willful misconduct. Such expenses shall include the reasonable compensation and expenses of the Trustee's agents and counsel.

The Corporation shall indemnify the Trustee for, and hold it harmless against, any and all loss, liability, damage, claim or expense (including attorneys' fees and expenses, and including taxes other than taxes based upon, measured by or determined by the income of the Trustee), including without limitation the costs and expenses of defending itself against any third-party claim (whether asserted by any Holder or any other Person), incurred by it without negligence or willful misconduct arising out of or in connection with its acceptance or administration of the trust or trusts hereunder, including the performance of its duties or the exercise of its powers hereunder and including the enforcement of this Agreement (including, without limitation, this Section 6.7). With respect to any such claim other than a claim brought by the Corporation, (i) the Trustee shall notify the Corporation promptly of any claim for which it may seek indemnity, (ii) the Corporation may at its option defend the claim, in which event the Trustee shall cooperate in the defense and the Trustee may have one separate counsel and the Corporation shall pay the reasonable fees and expenses of such counsel and (iii) the Corporation need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld. This indemnification shall apply to officers, directors, employees, shareholders and agents of the Trustee.

To secure the Corporation's payment obligations in this Section 6.7, the Trustee shall have a lien prior to the Securities of any series on all money or property held or collected by the Trustee, except that held in trust to pay principal of and interest on, or any Additional Amounts with respect to, particular Securities of that series.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 5.1(5) or (6) occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under any Bankruptcy Law.

The provisions of this Section 6.7 and any lien arising hereunder shall survive the resignation or removal of the Trustee or the discharge of the Corporation's obligations under this Indenture and the termination of this Indenture.

Section 6.8 *Conflicting Interests.*

If the Trustee has or shall acquire a conflicting interest within the meaning of the Trust Indenture Act, the Trustee shall either eliminate such conflicting interest or resign, to the extent and in the manner and with the effect provided by, and subject to the provisions of, the Trust Indenture Act and this Indenture. To the extent permitted by the Trust Indenture Act, the Trustee shall not be deemed to have a conflicting interest by virtue of being a trustee under this Indenture with respect to Securities of more than one series or any other indenture.

Section 6.9 *Eligibility; Disqualification.*

There shall at all times be one (and only one) Trustee hereunder with respect to the Securities of each series (which need not be the same Trustee for all series). A Trustee may be Trustee hereunder for Securities of one or more series. Each Trustee shall be a Person that is eligible pursuant to the Trust Indenture Act to act as such and has (or if the Trustee is a member of a bank holding company system, its bank holding company has) a combined capital and surplus of at least \$50,000,000 and subject to supervision or examination by federal or state (or the District of Columbia) authority. If any such Person or bank holding company publishes reports of condition at least annually, pursuant to law or to the requirements of its supervising or examining authority, then for the purposes of this Section 6.9 and to the extent permitted by the Trust Indenture Act, the combined capital and surplus of such Person or bank holding company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee with respect to the Securities of any series shall cease to be eligible in accordance with the provisions of this Section 6.9, it shall resign immediately in the manner and with the effect hereinafter specified in this Article 6.

The Indenture shall always have a Trustee who satisfies the requirements of Sections 310(a)(1), 310(a)(2) and 310(a)(5) of the Trust Indenture Act.

Section 6.10 *Resignation and Removal; Appointment of Successor.*

No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee in accordance with the applicable requirements of Section 6.11.

The Trustee may resign at any time with respect to the Securities of one or more series by giving written notice thereof to the Corporation. If the instrument of acceptance by a successor Trustee required by Section 6.11 shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition at the expense of the Corporation any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.

The Trustee may be removed at any time with respect to the Securities of any series upon 30 days prior written notice by Act of the Holders of a majority in principal amount of the Outstanding Securities of such series, delivered to the Trustee and to the Corporation. If the instrument of acceptance by a successor Trustee required by Section 6.11 shall not have been delivered to the removed Trustee within 30 days after the receipt of such notice of removal, the removed Trustee may petition at the expense of the Corporation any court of competent jurisdiction for the appointment of a successor Trustee (and reasonable attorneys fees and expenses incurred in connection with such petition) with respect to the Securities of such series.

If at any time:

(1) The Trustee shall fail to comply with Section 6.8 after written request therefor by the Corporation or by any Holder who has been a bona fide Holder of a Security for at least six months, or

(2) The Trustee shall cease to be eligible under Section 6.9 and shall fail to resign after written request therefor by the Corporation or by any such Holder, or

(3) The Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, then, in any such case, (A) the Corporation by a Board Resolution may remove the Trustee with respect to all Securities, or (B) subject to Section 5.14, any Holder who has been a bona fide Holder of a Security for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee with respect to all Securities and the appointment of a successor Trustee or Trustees.

If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, with respect to the Securities of one or more series, the Corporation by a Board Resolution shall promptly appoint a successor Trustee or Trustees with respect to the Securities of that or those series (it being understood that any such successor Trustee may be appointed with respect to the Securities of one or more or all of such series and that at any time there shall be only one Trustee with respect to the Securities of any particular series) and such successor Trustee or Trustees shall comply with the applicable requirements of Section 6.11. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee with respect to the Securities of any series shall be appointed by Act of the Holders of a majority in principal amount of the Outstanding Securities of such series delivered to the Corporation and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment in accordance with the applicable requirements of Section 6.11, become the successor Trustee with respect to the Securities of such series and to that extent supersede the successor Trustee appointed by the Corporation. If no successor Trustee with respect to the Securities of any series shall have been so appointed by the Corporation or the Holders and accepted appointment in the manner required by Section 6.11, the retiring Trustee may petition, or any Holder who has been a bona fide Holder of a Security of such series for at least six months may petition, on behalf of himself and all others similarly situated, any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.

The Corporation shall give notice of each resignation and each removal of the Trustee with respect to the Securities of any series and each appointment of a successor Trustee with respect to the Securities of any series to all Holders of Securities of such series in the manner provided in Section 1.7. Each notice shall include the name of the successor Trustee with respect to the Securities of such series and the address of its Corporate Trust Office.

In case of the appointment hereunder of a successor Trustee with respect to all Securities, every such successor Trustee so appointed shall execute, acknowledge and deliver to the Corporation and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on the request of the Corporation or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder.

In case of the appointment hereunder of a successor Trustee with respect to the Securities of one or more (but not all) series, the Corporation, the retiring Trustee and each successor Trustee with respect to the Securities of one or more series shall execute and deliver an indenture supplemental hereto wherein each successor Trustee shall accept such appointment and which (1) shall contain such provisions as shall be necessary or desirable to transfer and confirm to, and to vest in, each successor Trustee all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates, (2) if the retiring Trustee is not retiring with respect to all Securities, shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee, and (3) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust and that each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee; and upon the execution and delivery of such supplemental indenture the resignation or removal of the retiring Trustee shall become effective to the extent provided therein and each such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates; but, on request of the Corporation or any successor Trustee, such retiring Trustee shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder with respect to the Securities of that or those series to which the appointment of such successor Trustee relates.

Upon request of any such successor Trustee, the Corporation shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts referred to in the first or second preceding paragraph, as the case may be.

No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article 6.

Section 6.12 *Merger, Conversion, Consolidation or Succession to Business.*

Any corporation or other entity into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to or acquiring all or substantially all the corporate trust business of the Trustee (including the administration of the trust created by this Indenture), shall be the successor of the Trustee hereunder, provided such corporation shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to, or by succession to or acquisition of all or substantially all of the corporate trust business of, such successor Trustee may adopt such authentication and deliver the Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Securities.

Section 6.13 *Preferential Collection of Claims Against Corporation.*

If and when the Trustee shall be or become a creditor of the Corporation (or any other obligor upon the Securities) as provided in the Trust Indenture Act, the Trustee shall be subject to the provisions of the Trust Indenture Act regarding the collection of claims against the Corporation (or any such other obligor).

Section 6.14 *Appointment of Authenticating Agent.*

The Trustee may appoint an Authenticating Agent or Agents with respect to one or more series of Securities which shall be authorized to act on behalf of the Trustee to authenticate Securities of such series issued upon original issue and upon exchange, registration of transfer or partial redemption thereof or pursuant to Section 3.6, and Securities so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. Wherever reference is made in this Indenture to the authentication and delivery of Securities by the Trustee or the Trustee's certificate of authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an Authenticating Agent and a certificate of authentication executed on behalf of the Trustee by an Authenticating Agent. Each Authenticating Agent shall be acceptable to the Corporation and, except as otherwise specified as contemplated by Section 3.1, shall at all times be a bank or trust company or corporation organized and doing business under the laws of the United States, any State thereof or the District of Columbia, authorized under such laws to act as Authenticating Agent, having (or if the Authenticating Agent is a member of a bank holding company system, its bank holding company has) a combined capital and surplus of not less than \$50,000,000 and subject to supervision or examination by Federal or State (or the District of Columbia) authority. If such Authenticating Agent publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section 6.14, the combined capital and surplus of such Authenticating Agent shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section 6.14, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section 6.14.

Any corporation into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any corporation succeeding to or acquiring the corporate agency or corporate trust business of an Authenticating Agent, shall continue to be an Authenticating Agent, provided such corporation shall be otherwise eligible under this Section 6.14, without the execution or filing of any paper or any further act on the part of the Trustee or the Authenticating Agent.

An Authenticating Agent for any series of Securities may resign at any time by giving written notice thereof to the Trustee for such series and to the Corporation. The Trustee for any series of Securities may at any time terminate the agency of an Authenticating Agent by giving written notice thereof to such Authenticating Agent and to the Corporation. Upon receiving such a notice of resignation or upon such a termination, or in case at any time such Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, the Trustee for such series may appoint a successor Authenticating Agent which shall be acceptable to the Corporation and shall give notice of such appointment in the manner provided in Section 1.7 to all Holders of Securities of the series with respect to which such Authenticating Agent will serve. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section 6.14.

The Trustee agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services under this Section 6.14, and the Trustee shall be entitled to be reimbursed for such payments, subject to the provisions of Section 6.7.

If an appointment with respect to one or more series is made pursuant to this Section 6.14, the Securities of such series may have endorsed thereon, in lieu of the Trustee's certificate of authentication, an alternative certificate of authentication in the following form:

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

[TRUSTEE], as Trustee

By: _____
As Authenticating Agent

By: _____
Authorized Officer

Notwithstanding any provision of this Section 6.14 to the contrary, if at any time any Authenticating Agent appointed hereunder with respect to any series of Securities shall not also be acting as the Security Registrar hereunder with respect to any series of Securities, then, in addition to all other duties of an Authenticating Agent hereunder, such Authenticating Agent shall also be obligated: (i) to furnish to the Security Registrar promptly all information necessary to enable the Security Registrar to maintain at all times an accurate and current Security Register; and (ii) prior to authenticating any Security denominated in a foreign currency, to ascertain from the Corporation the units of such foreign currency that are required to be determined by the Corporation pursuant to Section 3.2.

ARTICLE 7

HOLDERS' LISTS AND REPORTS BY TRUSTEE AND CORPORATION

Section 7.1 *Corporation to Furnish Trustee Names and Addresses of Holders.*

The Corporation will furnish or cause to be furnished to the Trustee:

(1) Not later than 15 days after the Regular Record Date for each respective series of Securities, or if there is no Regular Record Date for such series of Securities, semi-annually on January 1 and July 1, a list, in such form as the Trustee may reasonably require, of the names and addresses of the Holders of Securities of each series as of such date, as the case may be, and

(2) At such other times as the Trustee may request in writing, within 30 days after the receipt by the Corporation of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished; provided that no such list need be furnished by the Corporation to the Trustee so long as the Trustee is acting as Security Registrar.

Section 7.2 *Preservation of Information; Communications to Holders.*

The Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders contained in the most recent list furnished to the Trustee as provided in Section 7.1 and the names and addresses of Holders received by the Trustee in its capacity as Security Registrar. The Trustee may destroy any list furnished to it as provided in Section 7.1 upon receipt of a new list so furnished.

The rights of Holders to communicate with other Holders with respect to their rights under this Indenture or under the Securities, and the corresponding rights and privileges of the Trustee, shall be as provided by the Trust Indenture Act.

Every Holder of Securities, by receiving and holding the same, agrees with the Corporation and the Trustee that neither the Corporation nor the Trustee nor any agent of either of them shall be held accountable by reason of any disclosure of information as to names and addresses of Holders made pursuant to the Trust Indenture Act.

Section 7.3 *Reports by Trustee.*

The Trustee shall transmit to Holders and any other required Persons such reports concerning the Trustee and its actions under this Indenture as may be required pursuant to the Trust Indenture Act at the times and in the manner provided pursuant thereto.

As promptly as practicable after each January 1 beginning with the January 1 following the date of this Indenture, and in any event prior to March 1 in each year, the Trustee shall mail to each Holder a brief report dated as of December 31 of the prior year if and to the extent required by Section 313(a) of the Trust Indenture Act. The Trustee shall also comply with Section 313(b) of the Trust Indenture Act.

A copy of each such report shall, at the time of such transmission to Holders, be filed by the Trustee with each stock exchange upon which any Securities are listed, with the Commission and with the Corporation. The Corporation will notify the Trustee when any Securities are listed on any stock exchange.

Section 7.4 *Reports by Corporation.*

The Corporation shall file with the Trustee and the Commission, and transmit to Holders and any other required Persons within 30 days after the filing with the Trustee, such information, documents and other reports, and such summaries thereof, as may be required pursuant to the Trust Indenture Act at the times and in the manner provided pursuant to the Trust Indenture Act; provided that any such information, documents or reports required to be filed with the Commission pursuant to Section 13 or 15(d) of the Exchange Act shall be filed with the Trustee within 30 days after the same is so required to be filed with the Commission.

ARTICLE 8

CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE

Section 8.1 *Corporation May Consolidate, etc., Only on Certain Terms.*

The Corporation may not merge or consolidate with or into any other Person, in a transaction in which it is not the surviving Person, or sell, convey, transfer, lease or otherwise dispose of all or substantially all of its assets to any Person, unless (i) the surviving or transferee Person is organized and existing under the laws of the United States or a State thereof or the District of Columbia and such Person expressly assumes by supplemental indenture all the obligations of the Corporation under the Securities and under this Indenture, (ii) immediately thereafter, giving effect to such merger or consolidation, or such sale, conveyance, transfer or other disposition, no default or Event of Default shall have occurred and be continuing and (iii) the Corporation shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel each stating that such merger, consolidation, sale, conveyance, transfer, lease or other disposition complies with this Article 8 and the other provisions of this Indenture and that all conditions precedent herein provided for relating to such transaction have been complied with.

Section 8.2 *Successor Substituted.*

Upon any consolidation of the Corporation with, or merger of the Corporation into, any other Person or any conveyance, transfer or lease of all or substantially all of the properties and assets of the Corporation in accordance with Section 8.1, the successor Person formed by such consolidation or into which the Corporation is merged or to which such sale, conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Corporation under this Indenture with the same effect as if such successor Person had been named as the Corporation herein, and thereafter, except in the case of a lease, the predecessor Person shall be relieved of all obligations and covenants under this Indenture and the Securities.

ARTICLE 9

SUPPLEMENTAL INDENTURES

Section 9.1 *Supplemental Indentures Without Consent of Holders.*

Without the consent of any Holders, the Corporation, the Guarantors, each when authorized by Board Resolutions, and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental hereto for any of the following purposes:

- (1) To evidence the succession of another Person to the Corporation or any Guarantor, or successive successions, and the assumption by any such successor of the covenants and obligations of the Corporation or such Guarantor herein and in the Securities or the Guarantees, as the case may be, in compliance with Articles 8 and 13; or
- (2) To add to the covenants of the Corporation or any Guarantor for the benefit of the Holders of any one or more series of Securities (and if such covenants are to be for the benefit of less than all series of Securities, stating that such covenants are expressly being included solely for the benefit of such series) or to surrender any right or power herein conferred upon the Corporation or any Guarantor; or
- (3) To add any additional Events of Default for the benefit of the Holders of any one or more series of Securities (and if such additional Events of Default are to be for the benefit of less than all series of Securities, stating that such additional Events of Default are expressly being included solely for the benefit of such series); or

(4) To add to or change any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the issuance of Securities, registrable or not registrable as to principal, and with or without interest coupons, or to permit or facilitate the issuance of Securities in global form or uncertificated form;

(5) To add to, change or eliminate any of the provisions of this Indenture in respect of one or more series of Securities, provided that any such addition, change or elimination (A) shall neither (i) apply to any Outstanding Security of any series created prior to the execution of such supplemental indenture and entitled to the benefit of such provision, or (ii) modify the rights of any Holder of any Outstanding Security with respect to such provision, or (B) shall become effective only when there is no Security then Outstanding; or

(6) to secure the Securities; or

(7) To establish the form or terms of Securities of any series as permitted by Sections 2.1 and 3.1; or

(8) To evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the Securities of one or more series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Section 6.1; or

(9) to comply with any requirements of the Commission in connection with qualifying this Indenture under the Trust Indenture Act;

(10) to cure any ambiguity, to correct or supplement any provision in this Indenture which may be defective or inconsistent with any other provision in this Indenture, or to make any other provisions with respect to matters or questions arising under this Indenture, provided that such action pursuant to this clause (10) shall not adversely affect the interests of the Holders of Securities of any series in any material respect; or

(11) to add Guarantees with respect to Outstanding Securities of a series pursuant to Section 13.3.

Section 9.2 *Supplemental Indentures with Consent of Holders.*

With the consent of the Holders of a majority in principal amount of the Outstanding Securities of each series affected by such supplemental indenture (acting as one class), by Act of said Holders delivered to the Corporation, the Guarantors and the Trustee, the Corporation, the Guarantors, each when authorized by Board Resolutions, and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or any indenture supplemental hereto or of modifying in any manner the rights of the Holders of Securities of such series under this Indenture; provided, however, that no such supplemental indenture shall, without the consent of the Holder of each Outstanding Security affected thereby:

(1) Change the Stated Maturity of the principal of or any installment of principal of, or the date fixed for payment of interest on or any sinking fund payment with respect to, any Security, or reduce the principal amount thereof or the rate of interest thereon, any Additional Amounts with respect thereto or any premium payable upon the redemption thereof, or change any obligation of the Corporation to pay Additional Amounts (except as contemplated by Section 8.1 and permitted by clause (1) of Section 9.1), or reduce the amount of the principal of an Original Issue Discount Security or any other Security which would be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.2, or change any Place of Payment where, or the coin or currency or currencies (including composite currencies) in which any Security or any premium or interest thereon or Additional Amounts with respect thereto is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date), or modify the provisions of this Indenture with respect to the subordination of a Security in a manner adverse to the holder thereof, or

(2) Reduce the percentage in principal amount of the Outstanding Securities of any series, the consent of whose Holders is required for any such supplemental indenture, or the consent of whose Holders is required for any waiver (of compliance with certain provisions of this Indenture or certain defaults hereunder and their consequences) provided for in this Indenture,

(3) Modify the applicable Guarantees in any manner materially adverse to the Holders of the Outstanding Securities of any series, except for modifications to any provision of the Guarantee pursuant to Section 13.6.

(4) Modify any of the provisions of this Section 9.2, Section 5.13 or Section 10.8, except to increase any such percentage or to provide with respect to any particular series the right to condition the effectiveness of any supplemental indenture as to that series on the consent of the Holders of a specified percentage of the aggregate principal amount of Outstanding Securities of such series (which provision may be made pursuant to Section 3.1 without the consent of any Holder) or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Security affected thereby; provided, however, that this clause shall not be deemed to require the consent of any Holder with respect to changes in the references to “the Trustee” and concomitant changes in this Section 9.2 and Section 10.8, or the deletion of this proviso, in accordance with the requirements of Sections 6.11 and 9.1(8).

A supplemental indenture which changes or eliminates any covenant or other provision of this Indenture which has expressly been included solely for the benefit of one or more particular series of Securities, or which modifies the rights of the Holders of Securities of such series with respect to such covenant or other provision, shall be deemed not to affect the rights under this Indenture of the Holders of Securities of any other series.

It shall not be necessary for any Act of Holders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

Section 9.3 *Execution of Supplemental Indentures.*

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modifications thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and (subject to Sections 6.1 and 6.3) shall be fully protected in relying upon, an Officers' Certificate and an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture. The Trustee may, but shall not be obligated to, enter into any such supplemental indenture which affects the Trustee's own rights, duties, immunities or liabilities under this Indenture or otherwise.

Section 9.4 *Effect of Supplemental Indentures.*

Upon the execution of any supplemental indenture under this Article 9, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby; provided that if such supplemental indenture makes any of the changes described in clauses (1) through (3) of the first proviso to Section 9.2, such supplemental indenture shall bind each Holder of a Security who has consented to it and every subsequent Holder of such Security or any part thereof.

Section 9.5 *Conformity with Trust Indenture Act.*

Every supplemental indenture executed pursuant to this Article 9 shall conform to the requirements of the Trust Indenture Act.

Section 9.6 *Reference in Securities to Supplemental Indentures.*

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

ARTICLE 10

COVENANTS

Section 10.1 *Payment of Principal, Premium and Interest.*

The Corporation covenants and agrees for the benefit of the Holders of each series of Securities that it will duly and punctually pay the principal of and any premium and interest on, and any Additional Amounts with respect to, the Securities of that series in accordance with the terms of the Securities and this Indenture.

Section 10.2 *Maintenance of Office or Agency.*

The Corporation will maintain in each Place of Payment for any series of Securities an office or agency where Securities of that series may be presented or surrendered for payment, where Securities of that series may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Corporation in respect of the Securities of that series and this Indenture may be served. The Corporation will give prompt written notice to the Trustee of the location, and any change in the location, of any such office or agency. If at any time the Corporation shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and the Corporation hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands; provided, however, no service of legal process may be made upon the Corporation at any office of the Trustee. Unless otherwise provided in a supplemental indenture or pursuant to Section 3.1 hereof, the Place of Payment for any series of Securities shall be the Corporate Trust Office of the Trustee.

The Corporation may also from time to time designate one or more other offices or agencies where the Securities of one or more series may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; provided, however, that no such designation or rescission shall in any manner relieve the Corporation of its obligation to maintain an office or agency in each Place of Payment for Securities of any series for such purposes. The Corporation will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

Section 10.3 *Money for Securities Payments to be Held in Trust*

If the Corporation, any Subsidiary or any of their respective Affiliates shall at any time act as Paying Agent with respect to any series of Securities, such Paying Agent will, on or before each due date of the principal of or any premium or interest on, or any Additional Amounts with respect to, any of the Securities of that series, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal and any premium and interest, or any Additional Amounts, so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee of its action or failure so to act.

Whenever the Corporation shall have one or more Paying Agents for any series of Securities, it will, on or prior to each due date of the principal of or any premium or interest on, or Additional Amounts with respect to, any Securities of that series, deposit with a Paying Agent a sum sufficient to pay such amount, such sum to be held as provided by the Trust Indenture Act, and (unless such Paying Agent is the Trustee) the Corporation will promptly notify the Trustee of its action or failure so to act.

The Corporation will cause each Paying Agent for any series of Securities other than the Trustee to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section 10.3, that such Paying Agent will (1) comply with the provisions of the Trust Indenture Act applicable to it as a Paying Agent and (2) during the continuance of any default by the Corporation (or any other obligor upon the Securities of that series) in the making of any payment in respect of the Securities of that series, upon the written request of the Trustee, forthwith pay to the Trustee all sums held in trust by such Paying Agent for payment in respect of the Securities of that series.

The Corporation may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture, or with respect to one or more series of Securities, or for any other purpose, pay, or by Corporation Order direct any Paying Agent to pay, to the Trustee all sums held in trust by the Corporation or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Corporation or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such money.

Any money deposited with the Trustee or any Paying Agent, or then held by the Corporation, in trust for the payment of the principal of or any premium or interest on, or any Additional Amounts with respect to, any Security of any series and remaining unclaimed for a period ending on the earlier of the date that is ten Business Days prior to the date such money would escheat to the State or two years after such principal, premium or interest or Additional Amount has become due and payable shall be paid to the Corporation on Corporation Request, or (if then held by the Corporation) shall be discharged from such trust; and the Holder of such Security shall thereafter, as an unsecured general creditor, look only to the Corporation for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Corporation as trustee thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Corporation cause to be published once, in an Authorized Newspaper in The Borough of Manhattan, The City of New York and in such other Authorized Newspapers as the Trustee shall deem appropriate, notice that such money remains unclaimed and that, after a date specified herein, which shall not be less than 30 days from the date of such publication, any unclaimed balance of such money then remaining will, unless otherwise required by mandatory provisions of applicable escheat, or abandoned or unclaimed property law, be repaid to the Corporation.

Section 10.4 *Statement by Officers as to Default.*

At any time at which there are Outstanding Securities of any series issued under this Indenture, the Corporation will deliver to the Trustee, within 120 days after the end of each fiscal year of the Corporation ending after the date hereof, an Officers' Certificate complying with Section 314(a)(4) of the Trust Indenture Act and stating that a review of the activities of the Corporation during such year and of performance under this Indenture has been made under the supervision of the signers thereof and stating whether or not to the best knowledge of the signers thereof, based upon such review, the Corporation is in default in the performance and observance of any of the terms, provisions and conditions of this Indenture (without regard to any period of grace or requirement of notice provided hereunder) and, if the Corporation shall be in default, specifying all such defaults and the nature and status thereof of which they may have knowledge. One of the officers signing the Officers' Certificate delivered pursuant to this Section 10.4 shall be the principal executive, financial or accounting officer of the Corporation.

Section 10.5 *Existence.*

Subject to Article 8, the Corporation will do or cause to be done all things necessary to preserve and keep in full force and effect its existence.

Section 10.6 *All Securities to be Equally and Ratably Secured.*

Unless specified otherwise by the Corporation pursuant to Section 3.1 with respect to any series, the Corporation will not itself secure Securities of any one or more series with any Mortgage, without effectively providing that the Securities of every other series shall be secured equally and ratably by such Mortgage.

Section 10.7 *Maintenance of Properties.*

The Corporation will cause all properties used or useful in the conduct of its business to be maintained and kept in good condition, repair and working order and supplied with all necessary equipment and will cause to be made all necessary repairs, renewals, replacements, betterments and improvements thereof, all as, and to the extent, in the judgment of the Corporation may be necessary or appropriate in connection with its business; provided, however, that nothing in this Section shall prevent the Corporation from discontinuing the operation or maintenance of any of such properties if such discontinuance is, in the judgment of the Corporation, desirable in the conduct of its business and not disadvantageous in any material respect to the Holders.

Section 10.8 *Payment of Taxes and Other Claims.*

The Corporation will pay or discharge or cause to be paid or discharged, before the same shall become delinquent, (1) all taxes, assessments and governmental charges levied or imposed upon the Corporation or upon the income, profits or property of the Corporation, and (2) all lawful claims for labor, materials and supplies which, if unpaid, might by law become a lien upon the property of the Corporation; provided, however, that the Corporation shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim (i) whose amount, applicability or validity is being contested in good faith by appropriate proceedings or (ii) if the failure to pay or discharge would not have a material adverse effect on the assets, business, operations, properties or financial condition of the Corporation and its Subsidiaries, taken as a whole.

Section 10.9 *Waiver of Certain Covenants.*

Except as otherwise specified as contemplated by Section 3.1 for Securities of such series, the Corporation may, with respect to the Securities of any series, omit in any particular instance to comply with any term, provision or condition set forth in any covenant provided pursuant to Sections 3.1(22), 9.1(2), 8.1, 10.4, 10.5, 10.6, 10.7 or 10.8 for the benefit of the Holders of such series if before or after the time for such compliance the Holders of at least a majority in principal amount of the Outstanding Securities of such series shall, by Act of such Holders, either waive such compliance in such instance or generally waive compliance with such term, provision or condition, but no such waiver shall extend to or affect such term, provision or condition except to the extent so expressly waived, and, until such waiver shall become effective, the obligations of the Corporation and the duties of the Trustee in respect of any such term, provision or condition shall remain in full force and effect.

Section 10.10 *Additional Amounts.*

If the Securities of a series expressly provide for the payment of Additional Amounts, the Corporation will pay to the Holder of any Security of such series Additional Amounts as expressly provided therein. Whenever in this Indenture there is mentioned, in any context, the payment of the principal of, or premium (if any) or interest on any Security of any series or the net proceeds received from the sale or exchange of any Security of any series, such mention shall be deemed to include mention of the payment of Additional Amounts provided for in this Section 10.10 to the extent that, in such context, Additional Amounts are, were or would be payable in respect thereof pursuant to the provisions of this Section 10.10 and express mention of the payment of Additional Amounts (if applicable) in any provisions hereof shall not be construed as excluding Additional Amounts in those provisions hereof where such express mention is not made.

If the Securities of a series provide for the payment of Additional Amounts, at least 10 days prior to the first Interest Payment Date with respect to that series of Securities (or if the Securities of that series will not bear interest prior to Maturity, the first day on which a payment of principal and any premium is made), and at least 10 days prior to each date of payment of principal and any premium or interest if there has been any change with respect to the matters set forth in the below-mentioned Officers' Certificate, the Corporation shall furnish the Trustee and the Corporation's principal Paying Agent or Paying Agents, if other than the Trustee, with an Officers' Certificate instructing the Trustee and such Paying Agent or Paying Agents whether such payment of principal of and any premium or interest on the Securities of that series shall be made to Holders of Securities of that series who are United States Aliens without withholding for or on account of any tax, assessment or other governmental charge described in the Securities of that series. If any such withholding shall be required, then such Officers' Certificate shall specify by country the amount, if any, required to be withheld on such payments to such Holders of Securities and the Corporation will pay to such Paying Agent the Additional Amounts required by this Section 10.10. The Corporation covenants to indemnify the Trustee and any Paying Agent for, and to hold them harmless against any loss, liability or expense reasonably incurred without negligence or willful misconduct on their part arising out of or in connection with actions taken or omitted by any of them in reliance on any Officers' Certificate furnished pursuant to this Section 10.10.

ARTICLE 11

REDEMPTION OF SECURITIES

Section 11.1 *Applicability of Article.*

Securities of any series that are redeemable in whole or in part before their Stated Maturity shall be redeemable in accordance with their terms and (except as otherwise specified as contemplated by Section 3.1 for such Securities) in accordance with this Article 11.

Section 11.2 *Election to Redeem; Notice to Trustee*

The election of the Corporation to redeem any Securities shall be evidenced by a Board Resolution or in another manner specified as contemplated by Section 3.1 for such Securities. In case of any redemption at the election of the Corporation of less than all the Securities of any series (including any such redemption affecting only a single Security), the Corporation shall, at least 45 days prior to the Redemption Date fixed by the Corporation (unless a shorter notice shall be satisfactory to the Trustee), notify the Trustee of such Redemption Date, of the principal amount of Securities of such series to be redeemed and, if applicable, of the tenor of the Securities to be redeemed. In the case of any redemption of Securities (i) prior to the expiration of any restriction on such redemption provided in the terms of such Securities or elsewhere in this Indenture or (ii) pursuant to an election of the Corporation which is subject to a condition specified in the terms of such Securities, the Corporation shall furnish the Trustee with an Officers' Certificate evidencing compliance with such restriction or condition.

Section 11.3 *Selection by Trustee of Securities to Be Redeemed*

If less than all the Securities of any series are to be redeemed (unless all the Securities of such series and of a specified tenor are to be redeemed or unless such redemption affects only a single Security), the particular Securities to be redeemed shall be selected not more than 45 days prior to the Redemption Date by the Trustee, from the Outstanding Securities of such series not previously called for redemption, on a pro-rata basis, by lot, or by such other method as the Trustee shall deem fair and appropriate or, in the case of any Global Security, in accordance with the applicable rules and procedures of the Depositary, provided that the unredeemed portion of the principal amount of any Security shall be in an authorized denomination (which shall not be less than the minimum authorized denomination) for such Security.

If any Security selected for partial redemption is converted in part before termination of the conversion right with respect to the portion of the Security so selected, the converted portion of such Security shall be deemed (so far as may be) to be the portion selected for redemption.

The Trustee shall promptly notify the Corporation and the Security Registrar in writing of the Securities selected for redemption as aforesaid and, in case of any Securities selected for partial redemption as aforesaid, the principal amount thereof to be redeemed.

For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Securities shall relate, in the case of any Securities redeemed or to be redeemed only in part, to the portion of the principal amount of such Securities which has been or is to be redeemed.

Section 11.4 *Notice of Redemption.*

Notice of redemption shall be given by first-class mail, postage prepaid, mailed not fewer than 30 nor more than 90 days prior to the Redemption Date, unless a shorter period is specified in the Securities to be redeemed, to each Holder of Securities to be redeemed, at its address appearing in the Security Register.

All notices of redemption shall state:

- (1) The Redemption Date,
- (2) The Redemption Price (including accrued interest, if any, to be paid),
- (3) If less than all the Outstanding Securities of any series consisting of more than a single Security are to be redeemed, the identification (and, in the case of partial redemption of any such Securities, the principal amounts) of the particular Securities to be redeemed and, if less than all the Outstanding Securities of any series consisting of a single Security are to be redeemed, the principal amount of the particular Security to be redeemed,
- (4) In case any Security is to be redeemed in part only, that on and after the Redemption Date, upon surrender of such Security, the Holder of such Security will receive, without charge, a new Security or Securities of authorized denominations for the principal amount thereof remaining unredeemed;

(5) That on the Redemption Date the Redemption Price will become due and payable upon each such Security to be redeemed and, if applicable, that interest thereon will cease to accrue on and after said date,

(6) The place or places where each such Security is to be surrendered for payment of the Redemption Price,

(7) If applicable, the conversion price, the date on which the right to convert the principal of the Securities or the portions thereof to be redeemed will terminate, and the place or places where such Securities may be surrendered for conversion,

(8) That the redemption is for a sinking fund, if such is the case, and

(9) The CUSIP number or numbers and/or common codes of the Security being redeemed.

Notice of redemption of Securities to be redeemed at the election of the Corporation shall be given by the Corporation or, at the Corporation's request, by the Trustee in the name and at the expense of the Corporation, provided that the Corporation shall have prepared and provided to the Trustee the form of such notice, or, if acceptable to the Trustee, provided sufficient information to enable the Trustee to prepare such notice, in each case on a timely basis.

Section 11.5 *Deposit of Redemption Price.*

On or prior to any Redemption Date, the Corporation shall deposit with the Trustee or with a Paying Agent (or, if the Corporation is acting as its own Paying Agent, segregate and hold in trust as provided in Section 10.3) an amount of money sufficient to pay the Redemption Price of, and (except if the Redemption Date shall be an Interest Payment Date) accrued interest on, all the Securities which are to be redeemed on that date.

If any Security called for redemption is converted, any money deposited with the Trustee or with a Paying Agent or so segregated and held in trust for the redemption of such Security shall (subject to any right of any Holder of such Security to receive interest thereon) be paid to the Corporation on Corporation Request, or if then held by the Corporation, shall be discharged from such trust.

Section 11.6 *Securities Payable on Redemption Date.*

Notice of redemption having been given as aforesaid, the Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the Corporation shall default in the payment of the Redemption Price and accrued interest) such Securities shall cease to bear interest. Upon surrender of any such Security for redemption in accordance with said notice, such Security shall be paid by the Corporation at the Redemption Price, together with accrued interest (and any Additional Amounts) to but excluding the Redemption Date; provided, however, that, unless otherwise specified as contemplated by Section 3.1, installments of interest whose Stated Maturity is on or prior to the Redemption Date will be payable to the Holders of such Securities, or one or more Predecessor Securities, registered as such at the close of business on the relevant Record Dates according to their terms and the provisions of Section 3.7.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal and any premium shall, until paid, bear interest from the Redemption Date at the rate prescribed therefor in the Security or, in the case of Original Issue Discount Securities, the Securities' Yield to Maturity.

Section 11.7 *Securities Redeemed in Part.*

Except in the case of any Global Security, any Security which is to be redeemed only in part shall be surrendered at a Place of Payment therefor (with, if the Corporation or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Corporation and the Trustee duly executed by, the Holder thereof or its attorney duly authorized in writing), and the Corporation shall execute, and the Trustee shall authenticate and deliver to the Holder of such Security without service charge, a new Security or Securities of the same series and Stated Maturity and of like tenor, of any authorized denomination as requested by such Holder, in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Security so surrendered.

Unless otherwise specified as contemplated by Section 3.1, the Corporation and any Affiliate of the Corporation may at any time purchase or otherwise acquire Securities in the open market or by private agreement. Such acquisition shall not operate as or be deemed for any purpose to be a redemption of the indebtedness represented by such Securities. Any Securities purchased or acquired by the Corporation may be delivered to the Trustee and, upon such delivery, the indebtedness represented thereby shall be deemed to be satisfied. Section 3.9 shall apply to all Securities so delivered.

ARTICLE 12

SINKING FUNDS

Section 12.1 *Applicability of Article.*

The provisions of this Article 12 shall be applicable to any sinking fund for the retirement of Securities of any series except as otherwise specified as contemplated by Section 3.1 for such Securities.

The minimum amount of any sinking fund payment provided for by the terms of any Securities is herein referred to as a "mandatory sinking fund payment," and any payment in excess of such minimum amount provided for by the terms of such Securities is herein referred to as an "optional sinking fund payment." Unless otherwise provided for by the terms of any Securities, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 12.2. Each sinking fund payment shall be applied to the redemption of Securities as provided for by the terms of such Securities.

Section 12.2 *Satisfaction of Sinking Fund Payments with Securities*

The Corporation (1) may deliver Outstanding Securities of a series (other than any previously called for redemption) and (2) may apply as a credit Securities of a series which have been redeemed either at the election of the Corporation pursuant to the terms of such Securities or through the application of permitted optional sinking fund payments pursuant to the terms of such Securities, in each case in satisfaction of all or any part of any sinking fund payment with respect to any Securities of such series required to be made pursuant to the terms of such Securities as and to the extent provided for by the terms of such Securities; provided that the Securities to be so credited have not been previously so credited. The Securities to be so credited shall be received and credited for such purpose by the Trustee at the Redemption Price, as specified in the Securities so to be redeemed, for redemption through operation of the sinking fund and the amount of such sinking fund payment shall be reduced accordingly.

Section 12.3 *Redemption of Securities for Sinking Fund*

Not fewer than 45 days prior (unless a shorter period shall be satisfactory to the Trustee) to each sinking fund payment date for any Securities, the Corporation will deliver to the Trustee an Officers' Certificate specifying the amount of the next ensuing sinking fund payment for such Securities pursuant to the terms of such Securities, the portion thereof, if any, which is to be satisfied by payment of cash and the portion thereof, if any, which is to be satisfied by delivering and crediting Securities pursuant to Section 12.2 and will also deliver to the Trustee any Securities to be so delivered. Not fewer than 30 days prior to each such sinking fund payment date, the Trustee shall select the Securities to be redeemed upon such sinking fund payment date in the manner specified in Section 11.3 and cause notice of the redemption thereof to be given in the name of and at the expense of the Corporation in the manner provided in Section 11.4. Such notice having been duly given, the redemption of such Securities shall be made upon the terms and in the manner stated in Sections 11.6 and 11.7.

GUARANTEE OF SECURITIES

Section 13.1 *Unconditional Guarantee.*

Each of the Guarantors hereby fully and unconditionally guarantees to each Holder of a Security authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Securities or the obligations of the Corporation to the Holders or the Trustee hereunder or thereunder, that: (a) the principal of and any premium or interest on the Securities will be duly and punctually paid in full when due, whether at maturity, upon redemption, by acceleration or otherwise, and (to the extent permitted by law) interest on the overdue principal, premium and interest, if any, on the Securities and all other obligations of the Corporation or the Guarantors to the Holders or the Trustee hereunder or thereunder (including fees, expenses or other) and all other obligations under this Indenture or the Securities will be duly and punctually paid in full or performed, all in accordance with the terms hereof and thereof; and (b) in case of any extension of time of payment or renewal of any Securities or any of such other obligations under this Indenture or the Securities or any change in the time, manner or place of payment of, or in any other term in respect thereof, or waiver of or consent to any departure from any other agreement relating to any obligations under this Indenture or the Securities, the same will be duly and punctually paid in full when due or performed in accordance with the terms of the extension or renewal, whether at Stated Maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed, or failing performance of any other obligation of the Corporation to the Holders, for whatever reason, the Guarantors shall be obligated to pay, or to perform or cause the performance of, the same immediately. An Event of Default under this Indenture or the Securities shall constitute an event of default under this Guarantee and shall entitle the Holders of Securities to accelerate the obligations of the Guarantors hereunder in the same manner and to the same extent as the obligations of the Corporation.

Each Guarantor hereby agrees that its obligations hereunder shall be absolute and unconditional, not subject to any reduction, limitation, impairment, termination, defense, offset, counterclaim or recoupment whatsoever (all of which are expressly hereby waived by the Guarantor) whether by reason of any claim of any character whatsoever, including any claim of waiver, release, surrender, alteration or compromise, or by reason of any liability at any time to any Guarantor or otherwise, whether based upon any obligations or any other agreement or otherwise, and howsoever arising, whether out of action or inaction or otherwise and whether resulting from default, willful misconduct, negligence or otherwise, and without limiting the foregoing, irrespective of the validity, regularity or enforceability of the Securities or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Securities with respect to any provisions hereof or thereof, the recovery of any judgment against the Corporation, any action to enforce the same, any release or amendment or waiver of or consent to any departure from or failure to enforce any other guarantee, for all or any of the Securities or other obligations under this Indenture, whether or not a Guarantee is affixed to any particular Security, any insolvency, bankruptcy, reorganization or dissolution, or any other proceeding of the Corporation, or any Guarantor, including rejection of any Guarantee in such bankruptcy or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor.

Each Guarantor hereby waives the benefit of diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Corporation, any right to require a proceeding first against the Corporation, protest, notice and all demands whatsoever and covenants that its Guarantee shall not be discharged except by complete performance of the obligations contained in the Securities, this Indenture and this Guarantee. This Guarantee is a guarantee of payment and not of collection. If any Holder or the Trustee is required by any court or otherwise to return to the Corporation or to the Guarantors, or any custodian, trustee, liquidator or other similar official acting in relation to the Corporation or any Guarantor, any amount paid by the Corporation or any Guarantor to the Trustee or such Holder, this Guarantee to the extent theretofore discharged, shall be reinstated in full force and effect. Each Guarantor further agrees that, as between it, on the one hand, and the Holders of Securities and the Trustee, on the other hand (a) subject to this Article 13, the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 5 hereof for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (b) in the event of any acceleration of such obligations as provided in Article 5 hereof, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purpose of this Guarantee.

Section 13.2 *Execution and Delivery of Guarantee.*

To further evidence the Guarantee set forth in Section 13.1, each Guarantor hereby agrees that it shall execute a Guarantee substantially in the form attached hereto as Exhibit A and that a notation of the Guarantee shall be endorsed on each Security authenticated and delivered by the Trustee and executed by either manual, electronic or facsimile signature of an officer of such Guarantor.

Each Guarantor hereby agrees that its Guarantee set forth in Section 13.1 shall remain in full force and effect notwithstanding any failure to endorse on each Security a notation of such Guarantee.

If an officer of a Guarantor whose signature is on this Indenture or a Guarantee no longer holds that office at the time the Trustee authenticates such Security or at any time thereafter, such Guarantor's Guarantee of such Security shall be valid nevertheless.

The delivery of any Security by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Guarantee set forth in this Indenture on behalf of the Guarantor.

Section 13.3 *Future Guarantors.*

The Corporation covenants and agrees that it shall cause each Person that becomes a Guarantor hereunder after the date hereof to execute and deliver to the Trustee an indenture supplemental hereto evidencing the same.

Section 13.4 *Waiver of Subrogation.*

Until this Indenture is discharged and all of the Securities are discharged and paid in full, each Guarantor hereby irrevocably waives and agrees not to exercise any claim or other rights which it may now or hereafter acquire against the Corporation that arise from the existence, payment, performance or enforcement of the Corporation's obligations under the Securities or this Indenture and such Guarantor's obligations under this Guarantee and this Indenture, in any such instance including any right of subrogation, reimbursement, exoneration, contribution, indemnification, and any right to participate in any claim or remedy against the Corporation, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law, including the right to take or receive from the Corporation, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security on account of such claim or other rights. If any amount shall be paid to any Guarantor in violation of the preceding sentence and any amounts owing to the Trustee or the Holders of Securities under the Securities, this Indenture, or any other document or instrument delivered under or in connection with such agreements or instruments, shall not have been paid in full, such amount shall have been deemed to have been paid to such Guarantor for the benefit of, and held in the trust for the benefit of, the Holders of the Securities, and shall forthwith be paid to the Trustee for the benefit of such Holders to be credited and applied to the Securities, whether matured or unmatured, in accordance with the terms of this Indenture. Each Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by this Indenture and that the waiver set forth in this Section 13.4 is knowingly made in contemplation of such benefits.

Section 13.5 *Reliance on Judicial Order or Certificate of Liquidating Agent Regarding Dissolution, Etc. of Guarantors.*

Upon any payment or distribution of assets of any Guarantor referred to in this Article 13, the Trustee, subject to the provisions of Section 6.1, and the Holders, shall be entitled to rely upon any order or decree entered by any court of competent jurisdiction in which such insolvency, bankruptcy, receivership, liquidation, reorganization, dissolution, winding-up or similar case or proceeding is pending, or a certificate of the trustee in bankruptcy, receiver, liquidating trustee, custodian, assignee for the benefit of creditors, agent or other Person making such payment or distribution, delivered to the Trustee or to the Holders, for the purpose of ascertaining the Persons entitled to participate in such payment or distribution, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article 13.

Section 13.6 *Limitation of Guarantor's Liability.*

Notwithstanding any other provision hereof, each Guarantor, and by its acceptance hereof each Holder, hereby confirms that it is the intention of all such parties that the Guarantee by such Guarantor pursuant to its Guarantee does not constitute a fraudulent transfer or conveyance for purposes of Title 11 of the United States Code, as amended, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal, state or foreign law. To effectuate the foregoing intention, each Holder and each Guarantor hereby irrevocably agree that the obligations of such Guarantor under this Guarantee shall be limited to the maximum amount which, after giving effect to all other contingent and fixed liabilities of such Guarantor, will result in the obligations of such Guarantor under its Guarantee not constituting such fraudulent transfer or conveyance.

Section 13.7 *Obligations Reinstated.*

The obligations of each Guarantor hereunder shall continue to be effective or shall be reinstated, as the case may be, if at any time any payment which would otherwise have reduced the obligations of such Guarantor hereunder (whether such payment shall have been made by or on behalf of the Corporation) is rescinded or reclaimed from any of the Holders upon the insolvency, bankruptcy, liquidation or reorganization of the Corporation or such Guarantor or otherwise, all as though such payment had not been made. If demand for, or acceleration of the time for, payment by the Corporation is stayed upon the insolvency, bankruptcy, liquidation or reorganization of the Corporation, all such Indebtedness otherwise subject to demand for payment or acceleration shall nonetheless be payable by each Guarantor as provided herein.

Section 13.8 *No Obligation to Take Action Against the Corporation.*

Neither the Trustee nor any other Person shall have any obligation to enforce or exhaust any rights or remedies or to take any other steps under any security for the obligations under this Indenture or against the Corporation or any other Person or any property of the Corporation or any other Person before the Trustee is entitled to demand payment and performance by any Guarantor of its liabilities and obligations under its Guarantee or under this Indenture.

ARTICLE 14

DEFEASANCE AND COVENANT DEFEASANCE

Section 14.1 *Corporation's Option to Effect Defeasance or Covenant Defeasance.*

The Corporation may elect, at its option at any time, to have Section 14.2 or Section 14.3 applied to any Securities or any series of Securities, as the case may be, designated pursuant to Section 3.1 as being defeasible pursuant to such Section 14.2 or 14.3, in accordance with any applicable requirements provided pursuant to Section 3.1 and upon compliance with the conditions set forth below in this Article 14. Any such election shall be evidenced by a Board Resolution or in another manner specified as contemplated by Section 3.1 for such Securities.

Section 14.2 *Defeasance and Discharge.*

Upon the Corporation's exercise of its option (if any) to have this Section applied to any Securities or any series of Securities, as the case may be, the Corporation and the Guarantors shall be deemed to have been discharged from their respective obligations with respect to such Securities as provided in this Section on and after the date the conditions set forth in Section 14.4 are satisfied (hereinafter called "**Defeasance**"). For this purpose, such Defeasance means that the Corporation shall be deemed to have paid and discharged the entire indebtedness represented by such Securities and to have satisfied all its other obligations under such Securities and this Indenture insofar as such Securities are concerned (and the Trustee, at the expense of the Corporation, shall execute proper instruments acknowledging the same), subject to the following which shall survive until otherwise terminated or discharged hereunder:

- (1) The rights of Holders of such Securities to receive, solely from the trust fund described in Section 14.4 and as more fully set forth in such Section, payments in respect of the principal of and any premium and interest on, or any Additional Amounts with respect to, such Securities when payments are due,
- (2) The Corporation's obligations with respect to such Securities under Sections 3.4, 3.5, 3.6, 10.2 and 10.3,
- (3) The rights, powers, trusts, duties and immunities of the Trustee hereunder and the Corporation's obligations with respect thereto, and
- (4) This Article 14.

Subject to compliance with this Article 14, the Corporation may exercise its option (if any) to have this Section applied to any Securities notwithstanding the prior exercise of its option (if any) to have Section 14.3 applied to such Securities.

Section 14.3 *Covenant Defeasance.*

Upon the Corporation's exercise of its option (if any) to have this Section 14.3 applied to any Securities or any series of Securities, as the case may be:

- (1) The Corporation and the Guarantor shall be released from their respective obligations under Sections 8.1, 10.4, 10.5, 10.6, 10.7, 10.8 or 13.4 and any covenants provided pursuant to Sections 3.1(22) or 9.1(2) for the benefit of the Holders of such Securities and
- (2) The occurrence of any event specified in Section 5.1(4) (with respect to any of Sections 8.1, 10.4, 10.5, 10.6, 10.7 or 10.8 and any such covenants provided pursuant to Sections 3.1(22) or 9.1(2)) and the occurrence of any other Event of Default specified pursuant to Section 3.1 or Section 9.1(3) shall be deemed not to be or result in an Event of Default, in each case with respect to such Securities or any series of Securities as provided in this Section 14.3 on and after the date the conditions set forth in Section 14.4 are satisfied (hereinafter called "**Covenant Defeasance**"). For this purpose, such Covenant Defeasance means that, with respect to such Securities, the Corporation and the Guarantors may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such specified Section or such other covenant (to the extent so specified in the case of Section 5.1(4) and the occurrence of any Event of Default specified pursuant to Section 3.1 or Section 9.1(3)), whether directly or indirectly by reason of any reference elsewhere herein to any such Section or such other covenant or by reason of any reference in any such Section or such other covenant to any other provision herein or in any other document, but the remainder of this Indenture and such Securities shall be unaffected thereby.

The following shall be the conditions to the application of Section 14.2 or Section 14.3 to any Securities or any series of Securities, as the case may be:

(1) The Corporation shall have deposited or caused to be deposited irrevocably with the Trustee (or another trustee which satisfies the requirements contemplated by Section 6.9 and agrees to comply with the provisions of this Article 14 applicable to it) as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefits of the Holders of such Securities:

- (A) In the case of Securities of a series denominated in currency of the United States,
 - (i) cash in currency of the United States in an amount, or
 - (ii) U.S. Government Obligations which through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment, an amount in cash, or
 - (iii) a combination thereof, or
- (B) In the case of Securities of a series denominated in currency other than that of the United States,
 - (i) cash in the currency in which such series of Securities is denominated in an amount, or
 - (ii) Foreign Government Obligations which through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment, an amount in cash, or
 - (iii) a combination thereof,

in each case sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge, and which shall be applied by the Trustee (or any such other qualifying trustee) to pay and discharge, the principal of and any premium and interest on such Securities on the respective Stated Maturities, in accordance with the terms of this Indenture and such Securities.

(2) For Securities denominated in United States dollars, in the event of an election to have Section 14.2 apply to any Securities or any series of Securities, as the case may be, the Corporation shall have delivered to the Trustee an Opinion of Counsel stating that:

(A) The Corporation has received from, or there has been published by, the Internal Revenue Service a ruling or

(B) Since the date of this instrument, there has been a change in the applicable Federal income tax law, in either case clause (A) or (B) to the effect that, and based thereon such opinion shall confirm that, the Holders of such Securities will not recognize gain or loss for Federal income tax purposes as a result of the deposit, Defeasance and discharge to be effected with respect to such Securities and will be subject to Federal income tax on the same amount, in the same manner and at the same times as would be the case if such deposit, Defeasance and discharge were not to occur.

(3) For Securities denominated in United States dollars, in the event of an election to have Section 14.3 apply to any Securities or any series of Securities, as the case may be, the Corporation shall have delivered to the Trustee an Opinion of Counsel to the effect that the Holders of such Securities will not recognize gain or loss for Federal income tax purposes as a result of the deposit and Covenant Defeasance to be effected with respect to such Securities and will be subject to Federal income tax on the same amount, in the same manner and at the same times as would be the case if such deposit and Covenant Defeasance were not to occur.

(4) The Corporation shall have delivered to the Trustee an Officers' Certificate to the effect that neither such Securities nor any other Securities of the same series, if then listed on any securities exchange, will be delisted as a result of such deposit.

(5) No event which is, or after notice or lapse of time or both would become, an Event of Default with respect to such Securities or any other Securities shall have occurred and be continuing at the time of such deposit or, with regard to any such event specified in Sections 5.1(5) and (6), at any time on or prior to the 120th day after the date of such deposit (it being understood that this condition shall not be deemed satisfied until after such 120th day).

(6) The Corporation shall have delivered to the Trustee an Opinion of Counsel to the effect that (subject to customary qualifications and assumptions) after the period described in Section 14.4(5), the trust funds will not be subject to the effect of any applicable bankruptcy, insolvency, reorganization, or similar laws affecting creditors' rights generally.

(7) Such Defeasance or Covenant Defeasance shall not cause the Trustee to have a conflicting interest within the meaning of the Trust Indenture Act (assuming all Securities are in default within the meaning of such Act).

(8) Such Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under, this Indenture or any other agreement or instrument to which the Corporation is a party or by which it is bound.

(9) Such Defeasance or Covenant Defeasance shall not result in the trust arising from such deposit constituting an investment company within the meaning of the Investment Company Act unless such trust shall be registered under such Act or exempt from registration thereunder.

(10) Such Defeasance or Covenant Defeasance shall be effected in compliance with any additional terms, conditions, or limitations which may be imposed on the Corporation in connection with such Defeasance or Covenant Defeasance pursuant to Section 3.1.

(11) The Corporation shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent with respect to such Defeasance or Covenant Defeasance have been complied with.

Section 14.5 *Deposited Money; U.S. Government Obligations and Foreign Government Obligations to be Held in Trust; Miscellaneous Provisions.*

Subject to the provisions of the last paragraph of Section 10.3, all money, U.S. Government Obligations and Foreign Government Obligations (including the proceeds thereof) deposited with the Trustee or other qualifying trustee (solely for purposes of this Section 14.5 and Section 14.6, the Trustee and any such other trustee are referred to collectively as the "**Trustee**") pursuant to Section 14.4 in respect of any Securities shall be held in trust and applied by the Trustee, in accordance with the provisions of such Securities and this Indenture, to the payment, either directly or through any such Paying Agent (including the Corporation acting as its own Paying Agent) as the Trustee may determine, to the Holders of such Securities, of all sums due and to become due thereon in respect of principal and any premium and interest, but money so held in trust need not be segregated from other funds except to the extent required by law. The Corporation shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. Government Obligations or Foreign Government Obligations deposited pursuant to Section 14.4 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of Outstanding Securities. Anything in this Article 14 to the contrary notwithstanding, the Trustee shall deliver or pay to the Corporation from time to time upon Corporation Request any money, U.S. Government Obligations or Foreign Government Obligations held by it as provided in Section 14.4 with respect to any Securities which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, are in excess of the amount thereof which would then be required to be deposited to effect the Defeasance or Covenant Defeasance, as the case may be, with respect to such Securities.

Section 14.6 *Reinstatement.*

If the Trustee or the Paying Agent is unable to apply any money in accordance with this Section 14 with respect to any Securities by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the obligations under this Indenture and such Securities from which the Corporation and the Guarantors have been discharged or released pursuant to Section 14.2 or 14.3 shall be revived and reinstated as though no deposit had occurred pursuant to this Article 14 with respect to such Securities, until such time as the Trustee or Paying Agent is permitted to apply all money held in trust pursuant to Section 14.5 with respect to such Securities in accordance with this Article 14; provided, however, that if the Corporation makes any payment of principal of or any premium or interest on any such Security following such reinstatement of its obligations, the Corporation shall be subrogated to the rights (if any) of the Holders of such Securities to receive such payment from the money so held in trust.

Section 14.7 *U.S.A. Patriot Act.*

In order to comply with the laws, rules, regulations and executive orders in effect from time to time applicable to banking institutions, including, without limitation, those relating to the funding of terrorist activities and money laundering, including Section 326 of the USA PATRIOT Act of the United States (“**Applicable AML Law**”), the Trustee is required to obtain, verify, record and update certain information relating to individuals and entities which maintain a business relationship with the Trustee. Accordingly, the Corporation agrees to provide to the Trustee, upon the Trustee’s request from time to time, such identifying information and documentation as may be available for the Corporation in order to enable the Trustee to comply with Applicable AML Law.

[signature pages follows]

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

AMERANT BANCORP INC.

By: /s/ Millar Wilson
Name: Millar Wilson
Title: Vice Chairman and CEO

AMERANT FLORIDA BANCORP INC., as Guarantor

By: /s/ Carlos Iafigliola
Name: Carlos Iafigliola
Title: Treasurer

[Amerant Bancorp Inc. —Signature Page to Indenture]

THE BANK OF NEW YORK MELLON, as Trustee

By: /s/ Francine Kincaid
Name: Francine Kincaid
Title: Vice President

[Amerant Bancorp Inc. —Signature Page to Indenture]

Form of Supplemental Indenture to Add Additional Guarantor

AMERANT BANCORP INC., as Issuer
THE ADDITIONAL GUARANTOR NAMED HEREIN
AND
THE BANK OF NEW YORK MELLON. as Trustee

Supplemental Indenture
No. ____
Dated as of _____, _____
____ Notes due _____, _____

SUPPLEMENTAL INDENTURE NO. ____, dated as of _____, _____ between Amerant Bancorp Inc., a Florida corporation (the "Company"), _____ (the "Additional Guarantor") and The Bank of New York Mellon, a New York State banking corporation (the "Trustee").

RECITALS

WHEREAS, the Company, the Guarantors party thereto and the Trustee have executed and delivered an Indenture dated as of June 23, 2020 (as amended and supplemented, the "Indenture"), to provide for the issuance from time to time of the Company's Securities;

WHEREAS, Section 13.3 of the Indenture provides that each Person who becomes a Guarantor shall execute a supplemental indenture evidencing the same;

WHEREAS, the Additional Guarantor desires to become a Guarantor under the Indenture; and

WHEREAS, all acts and proceedings required by the Indenture and the organizational documents of the Company and the Additional Guarantor necessary to constitute this Supplemental Indenture No. __ a valid and binding agreement for the uses and purposes set forth herein have been done and performed, and the execution and delivery of this Supplemental Indenture No. __ have in all respects been duly authorized.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

For and in consideration of the premises and good and valuable consideration, the receipt of which is hereby acknowledged, it is mutually covenanted and agreed, for the equal and proportionate benefit of the Holders of the Securities of each series, as follows:

ARTICLE 1
Relation to the Indenture; Definitions and
Other Provisions of General Application

Section 1.1. *Relation to the Indenture.* This Supplemental Indenture No. ___ constitutes an integral part of the Indenture.

Section 1.2. *Definitions and Other Provisions of General Application.* For all purposes of this Supplemental Indenture No. ___ unless otherwise specified herein:

(a) all terms defined in this Indenture which are used and not otherwise defined herein shall have the meanings they are given in the Indenture; and

(b) the provisions of general application stated in Section 1.1 of the Indenture shall apply to this Supplemental Indenture No. ___, except that the words “**herein**,” “**hereof**,” “**hereto**” and “**hereunder**” and other words of similar import refer to this Supplemental Indenture as a whole and not to the Indenture or any particular Article, Section or other subdivision of the Indenture or this Supplemental Indenture No. ___.

ARTICLE 2
Addition of Guarantor

Section 2.1. *Addition of Guarantor.* The Additional Guarantor is hereby made a party to the Indenture as a Guarantor thereunder.

ARTICLE 3
Miscellaneous Provisions

Section 3.1. *Supplemental Indenture.* The Indenture, as supplemented and amended by this Supplemental Indenture No. ___, is in all respects hereby adopted, ratified and confirmed.

Section 3.2. *Effectiveness.* This Supplemental Indenture No. ___ shall take effect as of the date hereof.

Section 3.3. *Execution by the Trustee.* The Trustee has executed this Supplemental Indenture No. ___ only upon the terms and conditions set forth in the Indenture. Without limiting the generality of the foregoing, the Trustee shall not be responsible for the correctness of the recitals herein contained, which shall be taken as statements of the Company and the Additional Guarantor, and the Trustee makes no representation and shall have no responsibility for, or in respect of, the validity or sufficiency of this Supplemental Indenture No. ___ or the execution hereof by any Person (other than the Trustee).

Section 3.4. *Governing Law.* This Supplemental Indenture shall be governed by and construed in accordance with the laws of the State of New York without regard to conflicts of laws principles thereof (other than Sections 5-1401 and 5-1402 of the General Obligations Law of the State of New York). To the fullest extent permitted by applicable law, the Company hereby irrevocably submits to the jurisdiction of any Federal or State court located in the Borough of Manhattan in The City of New York, New York in any suit, action or proceeding based on or arising out of or relating to this Indenture or any Securities and irrevocably agrees that all claims in respect of such suit or proceeding may be determined in any such court. The Company irrevocably waives, to the fullest extent permitted by law, any objection which it may have to the laying of the venue of any such suit, action or proceeding brought in an inconvenient forum. The Company agrees that final judgment in any such suit, action or proceeding brought in such a court shall be conclusive and binding upon the Company, and may be enforced in any courts to the jurisdiction of which the Company is subject by a suit upon such judgment, provided, that service of process is effected upon the Company in the manner specified herein or as otherwise permitted by law.

Section 3.05. *Counterparts.* This Supplemental Indenture No. __ may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture No. __ to be duly executed, as of the day and year first written above.

AMERANT BANCORP INC.,
as Issuer

Attest:

By: _____
Name:
Title:

By: _____
Name:
Title:

[Additional Guarantor(s)],
as Guarantor

Attest:

By: _____
Name:
Title:

By: _____
Name:
Title: Title:

THE BANK OF NEW YORK MELLON, as Trustee

By: _____
Name:
Title:

FORM OF GUARANTEE

_____ (the "Guarantor") hereby, jointly and severally with each other Guarantor, if any, fully and unconditionally guarantees (such guarantee being referred to herein as the "Guarantee") the due and punctual payment of the principal of, premium, if any, and interest on the Securities, whether at maturity, upon redemption, by acceleration or otherwise, the due and punctual payment of interest on the overdue principal, premium and interest, if any, on the Securities, and the due and punctual performance of all other obligations of the Company to the Holders or the Trustee, all in accordance with the terms set forth in Article Thirteen of the Indenture.

The obligations of the Guarantor to the Holders of Securities and to the Trustee pursuant to the Guarantee and the Indenture are expressly set forth, to the extent and in the manner provided, in Article Thirteen of the Indenture, and reference is hereby made to such Indenture for the precise terms of the Guarantee therein made.

The Guarantee shall not be valid or obligatory for any purpose until the certificate of authentication on the Securities upon which the Guarantee is noted shall have been executed by the Trustee under the Indenture by the manual or electronic signature of one of its authorized signatories.

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

This Guarantee is subject to release upon the terms set forth in the Indenture.

_____, as Guarantor

Dated: _____

By _____
Name: _____
Title: _____

AMERANT BANCORP INC., as Issuer
AMERANT FLORIDA BANCORP INC., as Guarantor
and
THE BANK OF NEW YORK MELLON,
as Trustee, Paying Agent and Security Registrar
FIRST SUPPLEMENTAL INDENTURE
Dated as of June 23, 2020

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 DEFINITIONS	
1.01 <i>Relation to Base Indenture</i>	1
1.02 <i>Definition of Terms</i>	1
ARTICLE 2 GENERAL TERMS AND CONDITIONS OF THE NOTES	
2.01 <i>Designation and Principal Amount</i>	2
2.02 <i>Maturity</i>	2
2.03 <i>Form, Payment and Appointment</i>	2
2.04 <i>Global Note</i>	3
2.05 <i>Interest</i>	3
2.06 <i>No Sinking Fund</i>	4
2.07 <i>Payment of the Notes</i>	4
ARTICLE 3 REDEMPTION OF THE NOTES	
3.01 <i>Optional Redemption</i>	4
ARTICLE 4 CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER, OR LEASE	
4.01 <i>Merger</i>	5
4.02 <i>Sale or Issuance of Capital Stock of Principal Subsidiary Bank</i>	5
ARTICLE 5 EVENTS OF DEFAULT	
5.01 <i>Appointment of a Receiver</i>	7
ARTICLE 6 FORM OF NOTES	
7.01 <i>Form of Notes</i>	7
ARTICLE 7 ISSUE OF NOTES	
8.01 <i>Original Issue of Notes</i>	7
8.02 <i>Further Issues of Notes</i>	8

ARTICLE 8
IMMUNITY OF STOCKHOLDERS, EMPLOYEES, AGENTS, OFFICERS AND DIRECTORS

9.01	<i>Indenture and Notes Solely Corporate Obligations</i>	8
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ARTICLE 9
MISCELLANEOUS

10.01	<i>Ratification of Indenture</i>	8
10.02	<i>Conflict</i>	8
10.03	<i>Trustee Not Responsible for Recitals</i>	8
10.04	<i>New York Law to Govern</i>	8
10.05	<i>Separability</i>	9
10.06	<i>Additional Trustee Provisions</i>	9
10.07	<i>Counterparts</i>	10

THIS FIRST SUPPLEMENTAL INDENTURE (this “**Supplemental Indenture**”), dated as of June 23, 2020, is among AMERANT BANCORP INC., a Florida corporation (the “**Corporation**”), AMERANT FLORIDA BANCORP INC., a Florida corporation (the “**Guarantor**”) and THE BANK OF NEW YORK MELLON, as Trustee (the “**Trustee**”).

RECITALS

WHEREAS, the Corporation, the Guarantor and the Trustee have heretofore executed and delivered an Indenture, dated as of June 23, 2020 (the “**Base Indenture**”), providing for the issuance from time to time, and the guarantee by the Guarantor, of the Corporation’s senior notes;

WHEREAS, Section 9.1(7) of the Base Indenture provides for the Corporation, the Guarantor and the Trustee to enter into an indenture supplemental to the Base Indenture to establish the forms or terms of Securities of any series as permitted by Section 2.1 and Section 3.1 of the Base Indenture;

WHEREAS, pursuant to Section 3.1 of the Base Indenture, the Corporation wishes to provide for the issuance of \$60,000,000 aggregate principal amount of a new series of Securities to be known as its 5.75% Senior Notes due 2025 (the “**Notes**”), the form and terms of such Notes and the terms, provisions and conditions thereof to be set forth as provided in this Supplemental Indenture; and

WHEREAS, the Corporation has requested that the Trustee execute and deliver this Supplemental Indenture and all requirements necessary to make this Supplemental Indenture a valid, binding and enforceable instrument in accordance with its terms, and to make the Notes and the Guarantee, when the Notes are executed by the Corporation and authenticated and delivered by the Trustee, the valid, binding and enforceable obligations of the Corporation and the Guarantor, respectively, and the execution and delivery of this Supplemental Indenture has been duly authorized in all respects.

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE 1 DEFINITIONS

1.01 *Relation to Base Indenture.* This Supplemental Indenture constitutes an integral part of the Base Indenture.

1.02 *Definition of Terms.* For all purposes of this Supplemental Indenture:

(a) capitalized terms used herein without definition shall have the meanings set forth in the Base Indenture;

- (b) a term defined anywhere in this Supplemental Indenture has the same meaning throughout;
- (c) the singular includes the plural and vice versa;
- (d) headings are for convenience of reference only and do not affect interpretation;
- (e) unless otherwise specified or unless the context requires otherwise, (i) all references in this Supplemental Indenture to Sections refer to the corresponding Sections of this Supplemental Indenture and (ii) the terms “herein”, “hereof”, “hereunder” and any other word of similar import refer to this Supplemental Indenture; and
- (f) the following terms have the meanings given to them in this Section 1.02(f):

“**Capital Stock**” shall have the meaning set forth in Section 4.02.

“**DTC**” shall have the meaning set forth in Section 2.03.

“**Global Note**” shall have the meaning set forth in Section 2.04.

“**Interest Payment Date**” shall have the meaning set forth in Section 2.05(b).

“**Interest Period**” shall have the meaning set forth in Section 2.05(a).

“**Intermediate Bank Holding Company**” shall have the meaning set forth in Section 4.02.

“**Maturity Date**” shall have the meaning set forth in Section 2.02.

“**Principal Subsidiary Bank**” shall have the meaning set forth in Section 4.02.

“**Voting Stock**” shall have the meaning set forth in Section 4.02.

The terms “**Corporation**,” “**Guarantor**,” “**Trustee**,” “**Base Indenture**,” and “**Notes**” shall have the respective meanings set forth in the recitals to this Supplemental Indenture and the paragraph preceding such recitals.

ARTICLE 2 GENERAL TERMS AND CONDITIONS OF THE NOTES

2.01 *Designation and Principal Amount.* The Notes may be issued from time to time upon written order of the Corporation for the authentication and delivery of Notes pursuant to Section 3.3 of the Base Indenture. There is hereby authorized a series of Securities designated as the 5.75% Senior Notes due 2025 having an initial aggregate principal amount of \$60,000,000.

2.02 *Maturity.* The date upon which the Notes shall become due and payable at final maturity, together with any accrued and unpaid interest, is June 30, 2025 (the “**Maturity Date**”).

2.03 *Form, Payment and Appointment.* Except as provided in the last four paragraphs of Section 3.5 of the Base Indenture, the Notes will be issued only in book-entry form as Global Securities. Principal of and interest on the Notes will be payable in global form registered in the name of or held by The Depository Trust Corporation (“**DTC**”) or its nominee in immediately available funds to DTC or its nominee, as the case may be, as the registered holder of such Global Note (as hereinafter defined). The principal of any certificated Notes will be payable at the office or agency of the Corporation maintained for such purpose which shall initially be the principal office of the Trustee at 240 Greenwich Street, New York, NY 10286, Attn: Global Corporate Trust; *provided, however,* that payment of interest may be made at the option of the Corporation by check mailed to the Person entitled thereto at such address as shall appear in the Security Register or by wire transfer to an account appropriately designated by the Person entitled to payment; *provided* that the paying agent shall have received written notice of such account designation at least five Business Days prior to the date of such payment (subject to surrender of the relevant Note in the case of a payment of interest on the Maturity Date).

The Corporation hereby appoints the Trustee to act as Security Registrar and Paying Agent for the Notes.

The Notes will be issuable and may be transferred only in minimum denominations of \$1,000 or any amount in excess thereof that is an integral multiple of \$1,000. The specified currency of the Notes shall be U.S. Dollars.

Notwithstanding any other provisions of this Supplemental Indenture or the Base Indenture, (i) all payments on Global Notes may be made pursuant to the Applicable Procedures and (ii) any notice required to be given to Holders under this Supplemental Indenture or the Base Indenture shall be sufficiently given if given to the Depository for a Global Note (or its designee), pursuant to the Applicable Procedures, not later than the latest date (if any), and not earlier than the earliest date (if any), prescribed for the giving of such notice.

2.04 *Global Note.* The Notes shall be issued initially in the form of one or more fully registered global notes (each such global note, a “**Global Note**”) deposited with DTC or its designated custodian or such other Depository as any officer of the Corporation may from time to time designate. Unless and until a Global Note is exchanged for Notes in certificated form, such Global Note may be transferred, in whole but not in part, and any payments on the Notes shall be made, only to DTC or a nominee of DTC, or to a successor Depository selected or approved by the Corporation or to a nominee of such successor Depository.

2.05 *Interest.*

(a) Interest payable on any Interest Payment Date or the Maturity Date with respect to the Notes shall be the amount of interest accrued from, and including, the immediately preceding Interest Payment Date in respect of which interest has been paid or duly provided for (or from and including the original issue date of June 23, 2020, if no interest has been paid or duly provided for with respect to the Notes) to, but excluding, such Interest Payment Date or Maturity Date, as the case may be (each, an “**Interest Period**”).

(b) The Notes will bear interest at the rate of 5.75% per annum from and including June 23, 2020 until the principal of the Notes has been paid in full or a sum sufficient to pay the principal of the Notes has been made available for payment. Interest on the Notes shall be payable semi-annually in arrears on June 30 and December 30 of each year (each, an “**Interest Payment Date**”), commencing December 30, 2020, to the Persons in whose names the relevant Notes are registered at the close of business on the June 15 and December 15 immediately preceding the applicable Interest Payment Date (each such date, a “**Regular Record Date**”), except as provided in Section 2.05(c).

(c) The amount of interest payable for any Interest Period will be computed on the basis of a 360-day year consisting of twelve 30-day months. In the event that any scheduled Interest Payment Date for the Notes falls on a day that is not a Business Day, then payment of interest payable on such Interest Payment Date will be postponed to the next succeeding day which is a Business Day (and no interest on such payment will accrue for the period from and after such scheduled Interest Payment Date).

(d) In the event that the Maturity Date for any Note falls on a day that is not a Business Day, then the related payments of principal, premium, if any, and interest may be made on the next succeeding day that is a Business Day (and no additional interest will accumulate on the amount payable for the period from and after the Maturity Date). Interest due on the Maturity Date (whether or not an Interest Payment Date) of any Notes will be paid to the Person to whom principal of such Notes is payable.

2.06 *No Sinking Fund.* The Notes are not entitled to the benefit of any sinking fund.

2.07 *Payment of the Notes.* Not later than 10:00 a.m. (New York City time) on each due date of the principal of, premium, if any, and interest on any Notes, the Corporation shall deposit with the Paying Agent money in immediately available funds sufficient to pay such principal, redemption payments, premium, if any, and interest so becoming due. All the payments must be in U.S. Dollars.

ARTICLE 3
REDEMPTION OF THE NOTES

3.01 *Optional Redemption.* The Notes are not subject to redemption at the option of the Corporation at any time except as described herein.

On or after three months prior to the Maturity Date of the Notes, the Notes will be redeemable at the option of the Corporation at a redemption price equal to 100% of the principal amount of the Notes to be redeemed plus in each case accrued interest to but excluding the date of redemption.

If the Corporation elects to redeem the Notes, the Corporation will provide notice by first class mail, postage prepaid, or electronic transmission, addressed to the holders of record (which, in the case of registered global Notes, will be DTC or its nominee or a nominee of Euroclear and Clearstream) of the Notes to be redeemed. Such mailing or transmission will be at least 10 days and not more than 60 days before the date fixed for redemption. Each notice of redemption will state:

- the redemption date;
- the redemption price;
- if fewer than all the outstanding Notes are to be redeemed, the identification (and in the case of partial redemption, the principal amounts) of the particular Notes to be redeemed;
- “CUSIP” or “ISIN” number of the Notes to be redeemed;
- that on the redemption date the redemption price will become due and payable upon each note to be redeemed, and that interest thereon will cease to accrue on and after the date of redemption; and
- the place or places where the Notes are to be surrendered for payment of the redemption price.

If any Notes are redeemed, the redemption price payable to the holder of any Notes called for redemption will be payable on the applicable redemption date against the surrender to the Corporation or its agent of any certificate(s) evidencing the Notes called for redemption. If money sufficient to pay the redemption price of, and any accrued interest on, the Notes (or portions thereof) to be redeemed on the redemption date is deposited with the paying agent on or before the redemption date and certain other conditions are satisfied, then on and after the redemption date, interest will cease to accrue on the Notes (or such portion thereof) called for redemption and such Notes will cease to be outstanding.

The Notes are not subject to repayment at the option of any Holder at any time prior to maturity and are not entitled to any sinking fund.

ARTICLE 4
CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER, OR LEASE

4.01 *Merger.* In addition to the requirements set forth in Section 8.1 of the Base Indenture, the Corporation shall not consolidate with or merge into any other Person or convey, transfer, or lease its properties and assets substantially as an entirety to any Person, and the Corporation shall not permit any Person to consolidate with or merge into the Corporation or convey, transfer, or lease its properties and assets substantially as an entirety to the Corporation if, as a result of any such consolidation or merger or such conveyance, transfer or lease, properties or assets of the Corporation would become subject to a mortgage, pledge, lien, security interest or other encumbrance which would not be permitted by the Indenture, unless the Corporation or such successor Person, as the case may be, shall take such steps as shall be necessary effectively to secure the Securities equally and ratably with (or prior to) all indebtedness secured thereby.

4.02 *Sale or Issuance of Capital Stock of Principal Subsidiary Bank or Intermediate Bank Holding Company.* Except as otherwise provided herein or in Article 8 of the Base Indenture, the Corporation shall not, directly or indirectly sell, assign, pledge, transfer or otherwise dispose of, or permit to be issued, including by means of a dividend, any shares of Capital Stock (as defined herein) of a Principal Subsidiary Bank (as defined herein) or Intermediate Bank Holding Company (as defined herein) or any securities convertible into or rights to subscribe to such Capital Stock *provided, however*, the foregoing shall not prohibit any of the following: (1) any payment of a dividend of a class of Capital Stock of a Principal Subsidiary Bank or Intermediate Bank Holding Company that is solely paid pro-rata to all holders of such class of Capital Stock; (2) any dispositions or dividends made by the Corporation or any Principal Subsidiary Bank or Intermediate Bank Holding Company acting in a fiduciary capacity for any Person other than the Corporation or any Principal Subsidiary Bank or Intermediate Bank Holding Company or to the Corporation or any Wholly Owned Subsidiary; (3) the merger or consolidation of (x) a Principal Subsidiary Bank with and into another Principal Subsidiary Bank or us or (y) an Intermediate Bank Holding Company with and into a Principal Subsidiary Bank or us; (4) the sale, assignment, pledge, transfer or other disposition or issuance of shares of Voting Stock of a Principal Subsidiary Bank or Intermediate Bank Holding Company made by the Corporation or any Subsidiary of the Corporation where: (A) the sale, assignment, pledge, transfer or other disposition or issuance is made, in the minimum amount required by law, to any Person for the purpose of the qualification of such Person to serve as a director; or (B) the sale, assignment, pledge, transfer or other disposition or issuance is made in compliance with an order of a court or regulatory authority of competent jurisdiction or as a condition imposed by any such court or regulatory authority to the acquisition by the Corporation or any Principal Subsidiary Bank or Intermediate Bank Holding Company, directly or indirectly, of any other Person; or (C) the sale, assignment, pledge, transfer or other disposition or issuance of Voting Stock or any other securities convertible into or rights to subscribe to Voting Stock of a Principal Subsidiary Bank or Intermediate Bank Holding Company, so long as: (i) any such transaction is made for fair market value as determined by the Board of Directors and the board of directors of the Principal Subsidiary Bank or Intermediate Bank Holding Company disposing of such Voting Stock or other securities or rights, and (ii) after giving effect to such transaction and to any potential dilution, and the shares to be issued upon conversion of such securities or exercise of such rights into that Capital Stock, the Corporation and its Wholly Owned Subsidiaries will own, directly or indirectly, at least 80% of the Voting Stock of such Principal Subsidiary Bank or Intermediate Bank Holding Company; (5) any Principal Subsidiary Bank or Intermediate Bank Holding Company from selling additional shares of Voting Stock to its shareholders at any price, so long as immediately after such sale, the Corporation owns, directly or indirectly, at least as great a percentage of the Voting Stock of such Principal Subsidiary Bank as the Corporation owned prior to such sale of additional shares; or (6) a pledge made or a lien created to secure loans or other extensions of credit by a Principal Subsidiary Bank subject to Section 23A of the Federal Reserve Act. As used herein, “**Capital Stock**” shall mean any shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) the equity of such Person, including any preferred stock, but excluding any debt securities convertible into such equity, “**Voting Stock**” shall mean stock which ordinarily has voting power for the election of directors, whether at all times or only so long as no senior class of stock has such voting power by reason of any contingency, and “**Principal Subsidiary Bank**” shall mean any subsidiary of the Corporation that is a bank or trust company organized and doing business under any state or federal law, the consolidated assets of which constitute 50% or more of the consolidated assets of the Corporation. “**Intermediate Bank Holding Company**” shall mean any subsidiary of the Corporation that owns more than 50% of the share of capital of a Principal Subsidiary Bank.

ARTICLE 5
EVENTS OF DEFAULT

5.01 *Appointment of a Receiver.* In addition to the Events of Default set forth in Section 5.1 of the Base Indenture, an Event of Default shall occur with respect to the Notes, in the event (i) a receiver, conservator or similar official is appointed for the Corporation's Principal Subsidiary Bank (which, for the avoidance of doubt, as of the date hereof, is Amerant Bank, N.A.) or (ii) a default under a bond, debenture, note or other evidence of indebtedness for money borrowed by the Corporation, the Guarantor or any Principal Subsidiary Bank that has a principal amount outstanding that is more than \$25 million (other than non-recourse indebtedness) under the terms of the instrument under which the indebtedness is issued or secured, which default has caused the indebtedness to become due and payable earlier than it would otherwise have become due and payable, and the acceleration has not been rescinded or annulled, or the indebtedness has not been discharged, or there has not been deposited in trust enough money to discharge the indebtedness, and continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Corporation or the Guarantor by the Trustee or to the Corporation, the Guarantor and the Trustee by the Holders of at least 25% in principal amount of the Notes a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "**Notice of Default**" under this Indenture. Such Event of Default shall be treated for all purposes under the Indenture as if it were an Event of Default under Section 5.1(1) of the Base Indenture.

**ARTICLE 6
FORM OF NOTES**

6.01 *Form of Notes.* The Notes and the Trustee's Certificate of Authentication to be endorsed thereon are to be substantially in the forms attached as Exhibit A hereto, with such changes therein as the officers of the Corporation and the Guarantor executing the Notes (by manual, electronic or facsimile signature) may approve, such approval to be conclusively evidenced by their execution thereof.

**ARTICLE 7
ISSUE OF NOTES**

7.01 *Original Issue of Notes.* Notes having an aggregate principal amount of \$60,000,000 may from time to time, upon execution of this Supplemental Indenture, be executed by the Corporation and guaranteed by the Guarantor and delivered to the Trustee for authentication, and the Trustee shall thereupon authenticate and deliver said Notes to or upon the written order of the Corporation pursuant to Section 3.3 of the Base Indenture without any further action by the Corporation (other than as required by the Base Indenture).

7.02 *Further Issues of Notes.* The Corporation may from time to time, without notice to or the consent of the holders of the Notes, create and issue further notes ranking *pari passu* with the Notes and with identical terms in all respects (or in all respects except for the offering price, the payment of interest accruing prior to the issue date of such further notes or except for the first payment of interest following the issue date of such further notes) in order that such further notes may be consolidated and form a single series with the Notes and have the same terms as to status, redemption or otherwise as the Notes.

**ARTICLE 8
IMMUNITY OF STOCKHOLDERS,
EMPLOYEES, AGENTS, OFFICERS AND DIRECTORS**

8.01 *Indenture, Notes, Guarantees Solely Corporate Obligations.* No recourse for the payment of the principal of or interest on any Note or Guarantee, or for any claim based thereon or otherwise in respect thereof, shall be had against any stockholder, employee, agent, officer or director, as such, past, present or future, of the Corporation or the Guarantee or of any successor corporation or guarantor; it being expressly understood that all such liability is hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Supplemental Indenture and the issue and the guarantee of the Notes.

ARTICLE 9
MISCELLANEOUS

9.01 *Ratification of Indenture.* The Base Indenture, as supplemented by this Supplemental Indenture, is in all respects ratified and confirmed, and this Supplemental Indenture shall be deemed part of the Base Indenture in the manner and to the extent herein and therein provided.

9.02 *Conflict.* If any provision hereof limits, qualifies or conflicts with another provision hereof which is required to be included in this Supplemental Indenture by any of the provisions of the Trust Indenture Act of 1939, as amended, such required provision shall control.

9.03 *Trustee Not Responsible for Recitals.* The recitals herein contained are made by the Corporation and the Guarantor and not by the Trustee, and the Trustee assumes no responsibility for the correctness thereof. The Trustee makes no representation as to the validity or sufficiency of this Supplemental Indenture.

9.04 *New York Law to Govern.* THIS SUPPLEMENTAL INDENTURE, THE GUARANTEE AND EACH NOTE SHALL BE DEEMED TO BE A CONTRACT MADE UNDER THE LAWS OF THE STATE OF NEW YORK, AND FOR ALL PURPOSES SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF SAID STATE. EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING AMONG THE PARTIES HERETO ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTION CONTEMPLATED HEREBY OR THEREBY.

9.05 *Separability.* In case any one or more of the provisions contained in this Supplemental Indenture or in the Notes or in the Guarantee shall for any reason be held to be invalid, illegal or unenforceable in any respect, then, to the extent permitted by law, such invalidity, illegality or unenforceability shall not affect any other provisions of this Supplemental Indenture or of the Notes or the Guarantee, but this Supplemental Indenture and the Notes and the Guarantee shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein or therein.

9.06 *Additional Trustee Provisions.*

(a) Delivery to the Trustee of any reports, information and documents pursuant to the Base Indenture is for informational purposes only and the Trustee's receipt of such reports, information and documents shall not constitute actual or constructive notice or knowledge of any information contained therein or determinable from information contained therein, including the compliance of the Corporation and the Guarantor with any of their covenants in the Base Indenture and this Supplemental Indenture (as to which the Trustee is entitled to conclusively rely exclusively on Officers' Certificates).

(b) The Trustee may request that the Corporation and the Guarantor deliver an Officers' Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to the Base Indenture and this Supplemental Indenture, which Officers' Certificate may be signed by any person authorized to sign an Officers' Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded.

(c) In no event shall the Trustee be liable for special, indirect, punitive, or consequential loss or damages whatsoever (including, but not limited to, lost profits), even if the Trustee has been advised of the likelihood of such damage and regardless of the form of action taken.

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

(e) The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, pdf, facsimile transmission or other similar unsecured electronic methods, provided, however, that the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the Corporation or the Guarantor elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding that such instructions conflict or are inconsistent with a subsequent written instruction. The Corporation and the Guarantor agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including, without limitation, the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

9.07 *Counterparts.* This Supplemental Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK.]

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

AMERANT BANCORP INC.

By: /s/ Millar Wilson
Name: Millar Wilson
Title: Vice Chairman and CEO

AMERANT FLORIDA BANCORP INC., as Guarantor

By: /s/ Carlos Iafigliola
Name: Carlos Iafigliola
Title: Treasurer

[Amerant Bancorp—Signature Page to First Supplemental Indenture]

THE BANK OF NEW YORK MELLON, as Trustee

By: /s/ Francine Kincaid
Name: Francine Kincaid
Title: Vice President

[Amerant Bancorp Inc.—Signature Page to First Supplemental Indenture]

EXHIBIT A

Form of Note

THIS NOTE IS AN UNSECURED DEBT OBLIGATION OF THE COMPANY. THIS NOTE IS NOT A DEPOSIT OR SAVINGS ACCOUNT AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY OR INSTRUMENTALITY.

THIS NOTE IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITORY OR A NOMINEE OF THE DEPOSITORY OR A SUCCESSOR DEPOSITORY, WHICH MAY BE TREATED BY THE COMPANY, THE TRUSTEE AND ANY AGENT THEREOF AS OWNER AND HOLDER OF THIS NOTE FOR ALL PURPOSES. THIS NOTE IS NOT EXCHANGEABLE FOR NOTES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITORY OR ITS NOMINEE EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED HEREIN AND IN THE INDENTURE, AND NO TRANSFER OF THIS NOTE (OTHER THAN A TRANSFER OF THIS NOTE AS A WHOLE BY THE DEPOSITORY TO A NOMINEE OF THE DEPOSITORY OR BY A NOMINEE OF THE DEPOSITORY TO THE DEPOSITORY OR ANOTHER NOMINEE OF THE DEPOSITORY) MAY BE REGISTERED EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED HEREIN AND IN THE INDENTURE.

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

AMERANT BANCORP INC.

5.75% SENIOR NOTES DUE 2025

Guaranteed as to Payment of Principal, Premium, if any, and Interest

by the Guarantors named in the Indenture Referred to Below

Registered No.

U.S.S

CUSIP NO. 023576 AA9

ISIN NO. US023576AA95

AMERANT BANCORP, INC., a Florida corporation (herein called the “**Corporation**”, which term includes any successor Person under the Indenture referred to on the reverse hereof), for value received, hereby promises to pay to Cede & Co., or its registered assigns, the principal sum of million United States dollars on June 30, 2025 and all accrued and unpaid interest thereon on June 30, 2025, or if such day is not a Business Day, the following Business Day. The Corporation further promises to pay interest on said principal sum from and including June 23, 2020, or from the most recent Interest Payment Date (as defined below) to which interest has been paid or duly provided for, semiannually in arrears on June 30 and December 30 in each year (each an “**Interest Payment Date**”), commencing December 30, 2020 at the rate of 5.75% per annum, computed for any full semiannual period on the basis of a 360-day year of twelve 30-day months and computed for any partial semiannual period on the actual days elapsed during such period, until the principal hereof is due, and at the rate of 5.75% per annum on any overdue principal amounts, and, to the extent permitted by law, on any overdue interest.

The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in the Indenture, be paid to the Person in whose name this Note (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date (defined below) for such interest, which shall be the June 15 or December 15, as the case may be, of each year (whether or not a Business Day) (each such date, a “**Regular Record Date**”). Interest on the Outstanding Notes payable at maturity will be payable to the persons to whom principal is payable next preceding such Interest Payment Date. In any case where such Interest Payment Date shall not be a Business Day, then (notwithstanding any other provision of the Indenture) payment of such interest need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on such Interest Payment Date, and, if such payment is so made, no interest shall accrue on such payment for the period from and after such Interest Payment Date. Except as otherwise provided in the Indenture, any such interest not so punctually paid or duly provided for will forthwith cease to be payable to the Holder on such Regular Record Date and may either be paid to the Person in whose name this Note (or one or more Predecessor Securities) is registered at the close of business on a Special Record Date for the payment of such Defaulted Interest to be fixed by the Corporation, with notice thereof to be given by the Trustee to Holders of Notes not less than 10 days prior to the Special Record Date, or be paid at any time in any other lawful manner not inconsistent with the requirements of any automated quotation system or securities exchange on which the Notes may be quoted or listed, and upon such notice as may be required by such system or exchange, all as more fully provided in the Indenture.

All terms used in this Note which are defined in the Indenture and not otherwise defined herein shall have the meanings assigned to them in the Indenture.

Payment of principal and interest shall be made at the Corporate Trust Office of the Trustee, or at such other office or agency of the Corporation as may be designated by the Corporation for such purpose, in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts, by Dollar check drawn on, or transfer to, a Dollar account. Payments of interest on this Note may be made by Dollar check, drawn on a Dollar account, mailed to the address of the Person entitled thereto as such address shall appear in the Security Register, or, upon written application by the Holder to the Security Registrar setting forth wire instructions not later than the relevant Record Date, by transfer to a Dollar account.

Except as specifically provided herein and in the Indenture, the Corporation shall not be required to make any payment with respect to any tax, assessment or other governmental charge imposed by any government or any political subdivision or taxing authority thereof or therein.

Reference is hereby made to the further provisions of this Note set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof or an Authenticating Agent by the manual or electronic signature of one of their respective authorized signatories, this Note shall not be entitled to any benefit under the Indenture or the Supplemental Indenture or be valid or obligatory for any purpose.

[Signature Page Follows]

IN WITNESS WHEREOF, the Corporation has caused this Note to be duly executed and delivered.

AMERANT BANCORP INC.

By: _____

Name:

Title:

(Trustee's Certificate of Authentication)

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

THE BANK OF NEW YORK MELLON, as Trustee

By: _____

Name:

Title: Authorized Signatory

[FORM OF REVERSE SIDE OF THE NOTE]

This Note is one of a duly authorized issue of senior debt securities of the Corporation designated as its **“5.75% Senior Notes due 2025”** (the **“Notes”**). The Notes, taken together, are initially limited in aggregate principal amount to U.S. \$60,000,000 issued and are to be issued under an Indenture, dated as of June 23, 2020 (herein called the **“Base Indenture”**), among the Corporation, the Guarantor and The Bank of New York Mellon, as Trustee (the **“Trustee”**, which term includes any successor trustee under the Base Indenture), as amended and supplemented by the First Supplemental Indenture, dated as of June 23, 2020 among the Corporation, the Guarantor and the Trustee (the **“Supplemental Indenture”**; the Base Indenture, as amended and supplemented by the Supplemental Indenture, the **“Indenture”**), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Corporation, the Guarantor, the Trustee and the Holders of the Notes and of the terms upon which the Notes are, and are to be, authenticated and delivered. As provided in the Indenture and subject to certain limitations therein set forth, Notes are exchangeable for a like aggregate principal amount of Notes of any authorized denominations as requested by the Holder surrendering the same upon surrender of the Note or Notes to be exchanged, at the Corporate Trust Office of the Trustee. The Trustee upon such surrender by the Holder will issue the new Notes in the requested denominations.

On or after March 30 (three months prior to the Maturity Date), the Notes will be redeemable at a redemption price equal to 100% of the principal amount of the Notes to be redeemed plus in each case accrued interest to but excluding the date of redemption.

If the Corporation elects to redeem the Notes, the Corporation will provide notice by first class mail, postage prepaid, or electronic transmission, addressed to the holders of record (which, in the case of registered global Notes, will be DTC or its nominee or a nominee of Euroclear and Clearstream) of the Notes to be redeemed. Such mailing or transmission will be at least 10 days and not more than 60 days before the date fixed for redemption. Each notice of redemption will state:

- the redemption date;
- the redemption price;
- if fewer than all the outstanding Notes are to be redeemed, the identification (and in the case of partial redemption, the principal amounts) of the particular Notes to be redeemed;
- “CUSIP” or “ISIN” number of the Notes to be redeemed;
- that on the redemption date the redemption price will become due and payable upon each note to be redeemed, and that interest thereon will cease to accrue on and after the date of redemption; and

- the place or places where the Notes are to be surrendered for payment of the redemption price.

If any Notes are redeemed, the redemption price payable to the holder of any Notes called for redemption will be payable on the applicable redemption date against the surrender to the Corporation or its agent of any certificate(s) evidencing the Notes called for redemption. If money sufficient to pay the redemption price of, and any accrued interest on, the Notes (or portions thereof) to be redeemed on the redemption date is deposited with our paying agent on or before the redemption date and certain other conditions are satisfied, then on and after the redemption date, interest will cease to accrue on the Notes (or such portion thereof) called for redemption and such Notes will cease to be outstanding.

The Notes are not be subject to repayment at the option of any Holder at any time prior to maturity and are not entitled to any sinking fund.

The Notes are unsecured and rank equally with all of the Corporation's other unsecured and unsubordinated indebtedness.

The Notes are issuable only in registered form without coupons in minimum denominations of \$1,000 and integral multiples of \$1,000 in excess thereof.

The Corporation may, without consent of the holders of the Notes, increase the principal amount of the Notes by issuing additional securities in the future on the same terms and conditions as the Notes, except for any difference in the issue price and interest accrued prior to the date of issuance of the additional securities, and with the same CUSIP number as the Notes. The Notes and any additional Notes issued by the Corporation would rank equally and ratably and would be treated as a single series for all purposes under the Indenture.

In any case where the due date for the payment of the principal of or interest on any Note at any Place of Payment, as the case may be, is not a Business Day, then payment of principal or interest need not be made on or by such date at such place but may be made on or by the next succeeding Business Day, with the same force and effect as if made on the date for such payment, and no interest shall accrue on the amount so payable for the period after such date.

The Notes of this series are fully and unconditionally guaranteed as to the due and punctual payment of the principal, premium, if any, and interest in respect thereof by the Guarantor as evidenced by its guarantee (the "Guarantee") set forth hereon. The Guarantee is the direct and unconditional obligations of such Guarantor and ranks and will rank equally in priority of payment and in all other respects with all other unsecured and unsubordinated obligations of the Guarantor now or hereafter outstanding.

If an Event of Default shall occur and be continuing, the principal of all the Notes, together with accrued interest to the date of declaration, may be declared due and payable in the manner and with the effect provided in the Indenture.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Corporation and the Guarantor and the rights of the Holders of the Notes under the Indenture at any time by the Corporation, the Guarantor and the Trustee with the written consent of the Holders of not less than a majority in principal amount of the Notes at the time Outstanding. The Indenture also contains provisions permitting the Holders of specified percentages in principal amount of the Notes at the time Outstanding, on behalf of the Holders of all the Notes, to waive compliance by the Corporation and the Guarantor with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Note shall be conclusive and binding upon such Holder and upon all future Holders of this Note and of any Note issued in exchange herefor or in lieu hereof whether or not notation of such consent or waiver is made upon this Note or such other Note.

As provided in and subject to the provisions of the Indenture, the Holder of this Note shall not have the right to institute any proceeding with respect to the Indenture or for the appointment of a receiver or trustee or for any other remedy thereunder, unless such Holder shall have previously given the Trustee written notice of a continuing Event of Default, the Holders of not less than 25% in principal amount of the Outstanding Notes shall have made written request to the Trustee to institute proceedings in respect of such Event of Default as Trustee and offered the Trustee indemnity satisfactory to it and the Trustee shall not have received from the Holders of a majority in principal amount of the Outstanding Notes a direction inconsistent with such request, and shall have failed to institute any such proceeding, for 20 days after receipt of such notice, request and offer of indemnity. The foregoing shall not apply to any suit instituted by any Holder of this Note for the enforcement of any payment of principal of or interest on this Note or after the respective due dates expressed herein.

No reference herein to the Indenture and no provision of this Note or of the Indenture shall alter or impair the obligation of the Corporation, which is absolute and unconditional, to pay the principal of and interest on this Note at the times, places and rate, and in the coin or currency, herein prescribed.

The Notes will be subject to defeasance and covenant defeasance pursuant to Sections 14.2 and 14.3 of the Base Indenture.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Note is registrable on the Security Register upon surrender of this Note for registration of transfer at the Corporate Trust Office of the Trustee or at such other office or agency of the Corporation as may be designated by it for such purpose (which shall initially be an office or agency of the Trustee), or at such other offices or agencies as the Corporation may designate, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Corporation and the Security Registrar duly executed by, the Holder thereof or his attorney duly authorized in writing, and thereupon one or more new Securities, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees by the Security Registrar. No service charge shall be made for any such registration of transfer or exchange, but the Corporation may require payment of a sum sufficient to recover any tax or other governmental charge payable in connection therewith.

Prior to due presentation of this Note for registration of transfer, the Corporation, the Guarantor, the Trustee and any agent of the Corporation, the Guarantor or the Trustee may treat the Person in whose name this Note is registered, as the owner thereof for all purposes, whether or not such Note be overdue, and neither the Corporation, the Guarantor, the Trustee nor any such agent shall be affected by notice to the contrary.

No recourse for the payment of the principal of or interest on this Note and no recourse under or upon any obligation, covenant or agreement of the Corporation and the Guarantor in the Indenture or any indenture supplemental thereto or in any Note, or because of the creation of any indebtedness represented thereby, shall be had against any incorporator, stockholder, employee, agent, officer or director or subsidiary, as such, past, present or future, of the Corporation or the Guarantor or of any successor corporation or guarantor, either directly or through the Corporation or the Guarantor or any successor corporation or guarantor, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of consideration for the issue hereof, expressly waived and released.

THE NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

All capitalized terms used in this Note which are defined in the Indenture, and not otherwise defined herein, shall have the meanings assigned to them in the Indenture.

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

[PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE]

[PLEASE PRINT OR TYPE NAME AND ADDRESS, INCLUDING ZIP CODE, OF ASSIGNEE]

the within Book-Entry Security, and all rights thereunder, hereby irrevocably constituting and appointing attorney to transfer such security on the books of the Corporation, with full power of substitution in the premises.

Dated:

NOTICE: The signature to this assignment must correspond with the name as written upon the face of the within Book-Entry Security in every particular without alteration or enlargement or any change whatsoever.

SCHEDULE OF CHANGES IN OUTSTANDING PRINCIPAL AMOUNT

The following notations in respect of changes in the outstanding principal amount of this Note have been made:

Date	Initial Principal Amount	Change in Outstanding Principal Amount	New Balance	Notation Made by
1				

GUARANTEE

Amerant Florida Bancorp Inc. (the "Guarantor") hereby, jointly and severally with each other Guarantor, if any, fully and unconditionally guarantees (such guarantee being referred to herein as the "Guarantee") the due and punctual payment of the principal of, premium, if any, and interest on the Securities, whether at maturity, upon redemption, by acceleration or otherwise, the due and punctual payment of interest on the overdue principal, premium and interest, if any, on the Securities, and the due and punctual performance of all other obligations of the Company to the Holders or the Trustee, all in accordance with the terms set forth in Article Thirteen of the Indenture.

The obligations of the Guarantor to the Holders of Securities and to the Trustee pursuant to the Guarantee and the Indenture are expressly set forth, to the extent and in the manner provided, in Article Thirteen of the Indenture, and reference is hereby made to such Indenture for the precise terms of the Guarantee therein made.

The Guarantee shall not be valid or obligatory for any purpose until the certificate of authentication on the Securities upon which the Guarantee is noted shall have been executed by the Trustee under the Indenture by the manual or electronic signature of one of its authorized signatories.

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

This Guarantee is subject to release upon the terms set forth in the Indenture.

Amerant Florida Bancorp Inc., as Guarantor

Dated: _____

By: _____

Name:

Title:



Akerman LLP
666 Fifth Avenue
20th Floor
New York, NY 10103

T: 212 880 3800
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Amerant Bancorp Inc.
220 Alhambra Circle
Coral Gables, Florida 33134

Re: Amerant Bancorp Inc. – Public Offering of \$60,000,000 5.75% Senior Notes due 2025

Ladies and Gentlemen:

We have acted as counsel to Amerant Bancorp Inc., a Florida corporation (the “Company”), and Amerant Florida Bancorp Inc., a Florida corporation and the subsidiary guarantor of the Company (the “Subsidiary Guarantor” and together with the Company, the “Registrants”), in connection with (i) that certain registration statement on Form S-3 filed by the Registrants with the Securities and Exchange Commission (the “Commission”) on June 5, 2020, as amended by Pre-Effective Amendment No. 1 filed by the Registrants with the Commission on June 10, 2020 and Pre-Effective Amendment No. 2 filed by the Registrants with the Commission on June 12, 2020 (the “Registration Statement”) under the Securities Act of 1933, as amended (the “Securities Act”), and (ii) the Company’s offering and sale of \$60,000,000 5.75% Senior Notes due 2025 (the “Notes”) and the related guarantee of the Notes by the Subsidiary Guarantor (the “Notes Guarantee”). The Registration Statement registers the offering from time to time, pursuant to Rule 415 under the Securities Act, of (i) debt securities of the Company (“Debt Securities”), (ii) guarantees of debt by the Company and the Subsidiary Guarantor (“Guarantees”), (iii) preferred stock, par value \$0.10 per share, of the Company (the “Preferred Stock”) (iv) common stock, par value \$0.10 per share, of the Company (the “Common Stock”), (v) warrants to purchase Preferred Stock, Common Stock, or Depositary Shares (the “Warrants”), (vi) depositary shares of the Company each of which will represent a fraction of a particular series of Preferred Stock (“Depositary Shares”), (vii) rights to purchase Preferred Stock, Common Stock, Depositary Shares or Warrants (“Subscription Rights”), (viii) stock purchase contracts, including contracts obligating holders to purchase from or sell to the Company, and obligating the Company to sell to or purchase from the holders, a specified number of shares of Common Stock, Preferred Stock, Depositary Shares or Warrants at a future date or dates (the “Stock Purchase Contracts”), (ix) stock purchase units consisting of a stock purchase contract and any combination of Preferred Stock, Common Stock, Depositary Shares or Warrants (the “Stock Purchase Units”) and (x) units of the Company consisting of one or more of Preferred Stock, Common Stock, Warrants, Depositary Shares, Subscription Rights, Stock Purchase Contracts and Stock Purchase Units (the “Units” and together with the Debt Securities, Guarantees, Preferred Stock, Common Stock, Warrants, Depositary Shares, Subscription Rights, Stock Purchase Contracts, and Stock Purchase Units, the “Securities”).

The Notes and the Notes Guarantee are being offered and sold as described in the prospectus, dated June 15, 2020, contained in the Registration Statement (the “Base Prospectus”), the preliminary prospectus supplement thereto, dated June 16, 2020 (the “Preliminary Prospectus Supplement”), and the final prospectus supplements thereto dated June 16, 2020 and June 19, 2020 (the “Final Prospectus Supplements” and together with the Base Prospectus and the Preliminary Prospectus Supplement, the “Prospectus”). The Notes will be issued under the indenture, dated as of June 23, 2020, among the Company, the Subsidiary Guarantor and The Bank of New York Mellon, as trustee (the “Trustee”) (the “Base Indenture”). Certain terms of the Notes and Notes Guarantee are being established pursuant to a First Supplemental Indenture, dated June 23, 2020, among the Company, the Subsidiary Guarantor and the Trustee, to the Base Indenture (the “Supplemental Indenture” and together with the Base Indenture, the “Indenture”).

This opinion is being furnished in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act. This opinion letter is limited to the matters expressly stated herein and no opinions are to be inferred or may be implied beyond the opinion expressly so stated.

In connection with this opinion, we have examined the organizational documents of the Company and of the Subsidiary Guarantor, and such corporate records, documents, instruments, certificates of public officials, the Company and the Subsidiary Guarantor and such questions of law as we have deemed necessary for the purpose of rendering the opinions set forth herein. We have also examined the Registration Statement, Prospectus, the Underwriting Agreement, dated June 16, 2020, by and among the Company, the Subsidiary Guarantor, and Raymond James & Associates, Inc., as the underwriter (the "Underwriter") (the "Initial Underwriting Agreement"), the Underwriting Agreement, dated June 19, 2020, by and among the Company, the Subsidiary Guarantor, and the Underwriter (the "Add-On Offering Underwriting Agreement" and together with the Initial Underwriting Agreement, the "Underwriting Agreements"), the Indenture, Notes Guarantee, and a specimen of the Notes (the "Specimen" and collectively with the Underwriting Agreements, the Indenture, and the Notes Guarantee, the "Opinion Documents"). In such examination, we have assumed (a) the authenticity of original documents and the genuineness of all signatures; (b) the conformity to the originals of all documents submitted to us as copies; and (c) the truth, accuracy and completeness of the information, representations and warranties contained in the records, documents, instruments and certificates we have reviewed. As to any facts material to the opinions expressed herein that we did not independently establish or verify, we have relied upon statements and representations of officers and other representatives of the Company, the Subsidiary Guarantor and others.

When used in this opinion letter, the term "Applicable Laws" means Florida, New York and federal laws, rules and regulations that a Florida and New York counsel exercising customary professional diligence would reasonably be expected to recognize as being applicable to the Company, and the Subsidiary Guarantor; provided, however, that Applicable Laws does not include any law, rule or regulation that is applicable to the Company or the Subsidiary Guarantor solely because such law, rules or regulation is part of a regulatory regime applicable to such or any of its affiliates due to the specific assets or business of such party or affiliate.

Based upon and subject to the foregoing, and subject to the qualifications set forth below, it is our opinion that:

1. The Company is a Florida corporation that is validly existing and in good standing under Florida law.
 2. The Subsidiary Guarantor is a Florida corporation that is validly existing and in good standing under Florida law.
 3. The Company has the corporate power to execute and deliver the Opinion Documents to which it is a party and to perform its respective obligations thereunder.
 4. The Subsidiary Guarantor has the corporate power to execute and deliver the Opinion Documents to which it is a party and to perform its respective obligations thereunder.
 5. The Company has authorized the execution, delivery and performance of the Opinion Documents to which it is a party by all necessary corporate action.
 6. The Subsidiary Guarantor has authorized the execution, delivery and performance of the Opinion Documents to which it is a party by all necessary corporate action.
 7. The Base Indenture has been executed and delivered by the Company and the Subsidiary Guarantor and the Supplemental Indenture has been executed and delivered by the Company and the Subsidiary Guarantor.
 8. The Base Indenture is a legal, valid and binding obligation of each of the Company and the Subsidiary Guarantor and the Supplemental Indenture is a legal, valid and binding obligation of each of the Company and the Subsidiary Guarantor, enforceable against each such party in accordance with its terms.
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9. The Notes have been duly authorized, and when the Notes have been duly executed and delivered by the Company and authenticated by the Trustee in accordance with the terms of the Indenture and delivered and paid for as provided in the Underwriting Agreements, the Notes will be the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms and entitled to the benefit of the Indenture.

10. When the Notes have been duly executed and delivered by the Company and authenticated by the Trustee and the Notes Guarantee has been duly executed and delivered by the Subsidiary Guarantor in accordance with the terms of the Indenture and delivered and paid for as provided in the Underwriting Agreements, the Notes Guarantee will be the legal, valid and binding obligations of the Subsidiary Guarantor, enforceable against the Subsidiary Guarantor in accordance with its terms.

The opinions set forth above are subject to the effects of (a) bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting the enforcement of creditors' rights generally, (b) general equitable principles (whether considered in a proceeding in equity or at law), (c) an implied covenant of good faith and fair dealing, (d) provisions of law that require that a judgment for money damages rendered by a court in the United States be expressed only in United States dollars, (e) limitations by any governmental authority that limit, delay or prohibit the making of payments outside the United States and (f) generally applicable laws that (i) provide for the enforcement of oral waivers or modifications where a material change of position in reliance thereon has occurred or provide that a course of performance may operate as a waiver, (ii) limit the availability of a remedy under certain circumstances where another remedy has been elected, (iii) limit the enforceability of provisions releasing, exculpating or exempting a party from, or requiring indemnification of a party for, liability for its own action or inaction, to the extent the action or inaction involves gross negligence, recklessness, willful misconduct or unlawful conduct, (iv) may, where less than all of a contract may be unenforceable, limit the enforceability of the balance of the contract to circumstances in which the unenforceable portion is not an essential part of the agreed exchange, (v) may limit the enforceability of provisions providing for compounded interest, imposing increased interest rates or late payment charges upon delinquency in payment or default or providing for liquidated damages or for premiums upon acceleration or (vi) limit the waiver of rights under usury laws.

This opinion letter speaks only as of the date hereof and we assume no obligation to update or supplement this opinion letter if any applicable laws change after the date of this opinion letter or if we become aware after the date of this opinion letter of any facts, whether existing before or arising after the date hereof, that might change the opinions expressed above.

No portion of this letter may be quoted, circulated or referred to in any other document for any other purpose without our prior written consent.

We hereby consent to the filing of this opinion letter with the Commission in connection with the filing of the Registration Statement referred to above. We also hereby consent to the reference to our firm under the heading "Legal Matters" in the prospectus which forms a part of the Registration Statement. In giving this consent, we do not admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the Rules and Regulations of the Commission issued thereunder.

Very truly yours,

/s/ AKERMAN LLP

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AMERANT BANCORP INC. ANNOUNCES CLOSING OF \$60.0 MILLION SENIOR NOTES OFFERING

Coral Gables, Florida. AMERANT BANCORP INC. (NASDAQ: AMTB and AMTBB) (the "Company") today announced the closing of its previously announced registered offering of senior notes due 2025 (the "Notes"). Due to the incremental demand for the Notes, the Company increased the size of its offering to an aggregate principal amount of \$60.0 million of Notes. The Notes bear interest at 5.75% per annum, payable semi-annually in arrears on June 30 and December 30 of each year, commencing on December 30, 2020 and ending on the earlier of the optional redemption date (which is on or after three months prior to the maturity of the Notes) or the maturity date. The Notes are unsecured and unsubordinated, and rank equally with all of the Company's existing and future unsecured and unsubordinated indebtedness. The Notes are fully and unconditionally guaranteed by the Company's wholly-owned subsidiary, Amerant Florida Bancorp Inc. The Notes will mature on June 30, 2025.

The Company intends to use the net proceeds from this offering for general corporate purposes, which may include working capital, providing capital to support the organic growth of Amerant Bank, N.A., the Company's wholly-owned bank subsidiary, funding the opportunistic acquisition of similar or complementary financial service organizations and repaying outstanding indebtedness.

Raymond James & Associates, Inc. served as the sole book-running manager for the offering. Akerman LLP served as legal counsel to the Company and Davis Polk & Wardwell LLP served as legal counsel to Raymond James & Associates, Inc.

The Notes were offered by the Company pursuant to a shelf registration statement on Form S-3 (File No. 333-238958) declared effective by the Securities and Exchange Commission (the "SEC") on June 15, 2020. A final prospectus supplement and an accompanying prospectus relating to the offering of \$46.0 million of the Notes and a final prospectus supplement and an accompanying prospectus relating to the offering of \$14.0 million of the Notes have been filed with the SEC. Electronic copies of the prospectus supplements and the accompanying prospectuses relating to the offering may be obtained from Raymond James & Associates, Inc., Attention: Equity Syndicate, 880 Carillon Parkway, St. Petersburg, Florida 33716, by telephone at (800) 248-8863, by e-mail at prospectus@raymondjames.com, or by accessing the SEC's website at www.sec.gov.

This press release is for informational purposes only and shall not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of these securities in any state or jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state or jurisdiction.



Cautionary Notice Regarding Forward-Looking Statements

This press release contains “forward-looking statements” within the meaning of the Securities Act of 1933 and the Securities Exchange Act of 1934, including, without limitation, statements regarding the Company’s intended use of proceeds from the offering and other statements that are not historical facts. All statements other than statements of historical fact are statements that could be forward-looking statements. You can identify these forward-looking statements through our use of words such as “may,” “will,” “anticipate,” “assume,” “should,” “indicate,” “would,” “believe,” “contemplate,” “expect,” “estimate,” “continue,” “plan,” “point to,” “project,” “could,” “intend,” “target,” “goals,” “outlooks,” “modeled,” and other similar words and expressions of the future.

Forward-looking statements, including those as to our beliefs, plans, objectives, goals, expectations, anticipations, estimates and intentions, involve known and unknown risks, uncertainties and other factors, which may be beyond our control, and which may cause the Company’s actual results, performance, achievements, or financial condition to be materially different from future results, performance, achievements, or financial condition expressed or implied by such forward-looking statements. You should not rely on any forward-looking statements as predictions of future events. You should not expect us to update any forward-looking statements. All written or oral forward-looking statements attributable to us are expressly qualified in their entirety by this cautionary notice, together with those risks and uncertainties described in “Risk factors” in our annual report on Form 10-K for the fiscal year ended December 31, 2019, our quarterly report on Form 10-Q for the quarter ended March 31, 2020 and in our other filings with the U.S. Securities and Exchange Commission (the “SEC”), which are available at the SEC’s website www.sec.gov.

About Amerant Bancorp Inc.

Amerant Bancorp Inc. is a bank holding company headquartered in Coral Gables, Florida. The Company operates through its subsidiaries, Amerant Bank, N.A. (the “Bank”), Amerant Investments, Inc., Amerant Trust, N.A. and Elant Bank and Trust Ltd. The Company provides individuals and businesses in the U.S., as well as select international clients, with deposit, credit and wealth management services. The Bank, which has operated for over 40 years, is the largest community bank headquartered in Florida. The Bank operates 27 banking centers—19 in South Florida and 8 in the Houston, Texas area—and loan production offices in Dallas, Texas and New York, New York. For more information, please visit www.amerantbank.com or our investor relations page at <https://investor.amerantbank.com>.
