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

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**FORM 10-Q**

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(Mark One):

- Quarterly report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. For the quarterly period ended June 30, 2009.**
- Transition report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934.**

**Commission File Number: 001-14195**

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**AMERICAN TOWER CORPORATION**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
Incorporation or Organization)

**65-0723837**  
(I.R.S. Employer  
Identification No.)

**116 Huntington Avenue**  
**Boston, Massachusetts 02116**  
(Address of principal executive offices)

**Telephone Number (617) 375-7500**  
(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days: Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check One):

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act): Yes  No

As of July 24, 2009, there were 394,632,779 shares of Class A Common Stock outstanding.

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**AMERICAN TOWER CORPORATION**  
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**FOR THE QUARTER ENDED JUNE 30, 2009**

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**AMERICAN TOWER CORPORATION AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED BALANCE SHEETS—Unaudited**  
**(in thousands, except share data)**

	June 30, 2009	December 31, 2008
<b>ASSETS</b>		
<b>CURRENT ASSETS:</b>		
Cash and cash equivalents	\$ 323,637	\$ 143,077
Restricted cash	50,774	51,866
Short-term investments and available-for-sale securities	8,990	2,028
Accounts receivable, net of allowances	72,526	51,313
Prepaid and other current assets	70,974	61,415
Deferred income taxes	191,157	163,981
Total current assets	<u>718,058</u>	<u>473,680</u>
PROPERTY AND EQUIPMENT, net	3,087,799	3,022,636
GOODWILL	2,232,783	2,186,233
OTHER INTANGIBLE ASSETS, net	1,547,944	1,566,155
DEFERRED INCOME TAXES	267,350	381,428
NOTES RECEIVABLE AND OTHER LONG-TERM ASSETS	632,553	581,533
TOTAL	<u>\$ 8,486,487</u>	<u>\$ 8,211,665</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>CURRENT LIABILITIES:</b>		
Accounts payable and accrued expenses	\$ 172,663	\$ 151,985
Accrued interest	26,813	28,635
Current portion of long-term obligations	22,577	1,837
Unearned revenue	125,967	120,188
Total current liabilities	<u>348,020</u>	<u>302,645</u>
LONG-TERM OBLIGATIONS	4,421,694	4,331,309
OTHER LONG-TERM LIABILITIES	625,738	583,232
Total liabilities	<u>5,395,452</u>	<u>5,217,186</u>
<b>COMMITMENTS AND CONTINGENCIES</b>		
<b>STOCKHOLDERS' EQUITY:</b>		
Preferred Stock: \$.01 par value; 20,000,000 shares authorized; no shares issued or outstanding		
Class A Common Stock: \$.01 par value; 1,000,000,000 shares authorized, 469,645,920 and 468,513,843 shares issued, and 395,810,003 and 396,976,896 shares outstanding, respectively	4,697	4,685
Additional paid-in capital	8,159,913	8,109,224
Accumulated deficit	(2,241,237)	(2,356,127)
Accumulated other comprehensive loss	(19,532)	(20,031)
Treasury stock (73,835,917 and 71,536,947 shares at cost, respectively)	(2,816,060)	(2,746,429)
Total American Tower Corporation stockholders' equity	3,087,781	2,991,322
Noncontrolling interest	3,254	3,157
Total stockholders' equity	<u>3,091,035</u>	<u>2,994,479</u>
TOTAL	<u>\$ 8,486,487</u>	<u>\$ 8,211,665</u>

See accompanying notes to unaudited condensed consolidated financial statements.

**AMERICAN TOWER CORPORATION AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS—Unaudited**  
(in thousands, except per share data)

	Three Months Ended		Six Months Ended	
	June 30,	2008	June 30,	2008
	2009	2008	2009	2008
<b>REVENUES:</b>				
Rental and management	\$ 406,751	\$ 384,343	\$ 802,698	\$ 758,326
Network development services	16,607	9,385	29,338	17,586
Total operating revenues	<u>423,358</u>	<u>393,728</u>	<u>832,036</u>	<u>775,912</u>
<b>OPERATING EXPENSES:</b>				
Costs of operations (exclusive of items shown separately below)				
Rental and management	92,330	91,952	182,420	178,883
Network development services	10,243	4,922	17,858	8,549
Depreciation, amortization and accretion	102,463	99,697	202,331	196,769
Selling, general, administrative and development expense (including stock-based compensation expense of \$12,836, \$13,597, \$37,174, and \$29,862, respectively)	49,861	41,784	107,493	90,693
Other operating expenses	2,014	583	5,203	1,372
Total operating expenses	<u>256,911</u>	<u>238,938</u>	<u>515,305</u>	<u>476,266</u>
<b>OPERATING INCOME</b>	<u>166,447</u>	<u>154,790</u>	<u>316,731</u>	<u>299,646</u>
<b>OTHER (EXPENSE) INCOME:</b>				
Interest income, TV Azteca, net of interest expense of \$372, \$372, \$744 and \$745, respectively	3,585	3,584	7,084	7,125
Interest income	482	979	981	1,942
Interest expense	(62,654)	(62,508)	(124,222)	(128,022)
Loss on retirement of long-term obligations	(5,994)	(211)	(5,994)	(236)
Other income (expense)	983	(1,326)	1,054	(2,104)
Total other expense	<u>(63,598)</u>	<u>(59,482)</u>	<u>(121,097)</u>	<u>(121,295)</u>
<b>INCOME FROM CONTINUING OPERATIONS BEFORE INCOME TAXES AND INCOME ON EQUITY METHOD INVESTMENTS</b>	<u>102,849</u>	<u>95,308</u>	<u>195,634</u>	<u>178,351</u>
Income tax provision	(51,428)	(44,535)	(88,535)	(85,336)
Income on equity method investments	7	8	17	13
<b>INCOME FROM CONTINUING OPERATIONS</b>	<u>51,428</u>	<u>50,781</u>	<u>107,116</u>	<u>93,028</u>
<b>INCOME FROM DISCONTINUED OPERATIONS, NET OF INCOME TAX BENEFIT OF \$5,101, \$104,926, \$3,171 and \$104,938, RESPECTIVELY</b>				
	<u>5,060</u>	<u>108,103</u>	<u>8,130</u>	<u>108,084</u>
<b>NET INCOME</b>	<u>56,488</u>	<u>158,884</u>	<u>115,246</u>	<u>201,112</u>
Net income attributable to noncontrolling interest	(199)	(98)	(356)	(171)
<b>NET INCOME ATTRIBUTABLE TO AMERICAN TOWER CORPORATION</b>	<u>\$ 56,289</u>	<u>\$ 158,786</u>	<u>\$ 114,890</u>	<u>\$ 200,941</u>
<b>NET INCOME PER COMMON SHARE AMOUNTS:</b>				
<b>BASIC:</b>				
Income from continuing operations attributable to American Tower Corporation	\$ 0.13	\$ 0.13	\$ 0.27	\$ 0.23
Income from discontinued operations attributable to American Tower Corporation	0.01	0.27	0.02	0.27
Net income attributable to American Tower Corporation	<u>\$ 0.14</u>	<u>\$ 0.40</u>	<u>\$ 0.29</u>	<u>\$ 0.51</u>
<b>DILUTED:</b>				
Income from continuing operations attributable to American Tower Corporation	\$ 0.13	\$ 0.12	\$ 0.26	\$ 0.23
Income from discontinued operations attributable to American Tower Corporation	0.01	0.26	0.02	0.26
Net income attributable to American Tower Corporation	<u>\$ 0.14</u>	<u>\$ 0.38</u>	<u>\$ 0.28</u>	<u>\$ 0.48</u>
<b>WEIGHTED AVERAGE COMMON SHARES OUTSTANDING:</b>				
<b>BASIC</b>	<u>397,418</u>	<u>396,935</u>	<u>397,300</u>	<u>397,031</u>
<b>DILUTED</b>	<u>408,832</u>	<u>421,617</u>	<u>408,855</u>	<u>422,488</u>

See accompanying notes to unaudited condensed consolidated financial statements.

**AMERICAN TOWER CORPORATION AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS—Unaudited**  
**(in thousands)**

	Six Months Ended June 30,	
	2009	2008
<b>CASH FLOWS PROVIDED BY OPERATING ACTIVITIES:</b>		
Net income	\$ 115,246	\$ 201,112
Stock-based compensation expense	37,174	29,862
Depreciation, amortization and accretion	202,331	196,769
Deferred income taxes related to discontinued operations	(3,171)	(104,938)
Other non-cash items reflected in statements of operations	89,084	70,403
Increase in net deferred rent asset	(5,334)	(12,983)
Decrease (increase) in restricted cash	1,829	(1,341)
Increase in assets	(31,553)	(5,402)
Increase (decrease) in liabilities	3,740	(14,349)
Cash provided by operating activities	<u>409,346</u>	<u>359,133</u>
<b>CASH FLOWS USED FOR INVESTING ACTIVITIES:</b>		
Payments for purchase of property and equipment and construction activities	(113,854)	(97,318)
Payments for acquisitions	(93,266)	(32,135)
Proceeds from sale of available-for-sale securities and other long-term assets	2,395	2,354
Deposits, restricted cash and investments	(7,056)	(1,849)
Cash used for investing activities	<u>(211,781)</u>	<u>(128,948)</u>
<b>CASH FLOWS USED FOR FINANCING ACTIVITIES:</b>		
Proceeds from issuance of senior debt	300,000	—
Borrowings under credit facilities	—	475,000
Repayments of notes payable, credit facilities and capital leases	(257,484)	(326,326)
Purchases of Class A common stock	(65,745)	(296,566)
Proceeds from stock options, warrants and stock purchase plan	16,101	40,376
Deferred financing costs and other financing activities	(9,719)	(3,662)
Cash used for financing activities	<u>(16,847)</u>	<u>(111,178)</u>
Net effect of changes in foreign currency exchange rates on cash and cash equivalents	(158)	—
<b>NET INCREASE IN CASH AND CASH EQUIVALENTS</b>	<u>180,560</u>	<u>119,007</u>
<b>CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR</b>	<u>143,077</u>	<u>33,123</u>
<b>CASH AND CASH EQUIVALENTS, END OF PERIOD</b>	<u>\$ 323,637</u>	<u>\$ 152,130</u>
<b>CASH PAID FOR INCOME TAXES</b>	<u>\$ 18,996</u>	<u>\$ 21,806</u>
<b>CASH PAID FOR INTEREST</b>	<u>\$ 119,881</u>	<u>\$ 126,402</u>

See accompanying notes to unaudited condensed consolidated financial statements.

**AMERICAN TOWER CORPORATION AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY—Unaudited**  
(In thousands, except share data)

	Class A Common Stock		Treasury Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Noncontrolling Interest	Total Stockholders' Equity	Total Comprehensive Income(Loss)
	Issued Shares	Amount	Shares	Amount						
BALANCE, DECEMBER 31, 2007	452,759,969	\$ 4,527	(53,241,427)	\$(2,047,818)	\$7,772,382	\$ (3,626)	\$ (2,703,373)	\$ 3,342	\$ 3,025,434	
Share based compensation related activity	2,306,337	24			69,854				69,878	
Issuance of common stock upon exercise of warrants	434,894	4			90				94	
Issuance of common stock – Stock Purchase Plan	25,723	—			982				982	
Treasury stock activity			(7,203,456)	(287,405)					(287,405)	
Net change in fair value of cash flow hedges, net of tax						4,760			4,760	4,760
Net realized gain on cash flow hedges, net of tax						(108)			(108)	(108)
Net unrealized loss on available-for-sale securities, net of tax						(220)			(220)	(220)
Convertible notes exchanged for common stock	1,115,742	11			13,476				13,487	
Foreign currency translation adjustment										
Distributions to noncontrolling interest								(282)	(282)	
Net income							200,941	171	201,112	
Total comprehensive income										\$ 201,112
BALANCE, JUNE 30, 2008	456,642,665	\$ 4,566	(60,444,883)	\$(2,335,223)	\$7,856,784	\$ 806	\$ (2,502,432)	\$ 3,231	\$ 3,027,732	\$ 205,544
	Class A Common Stock		Treasury Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Noncontrolling Interest	Total Stockholders' Equity	Total Comprehensive Income(Loss)
	Issued Shares	Amount	Shares	Amount						
BALANCE, DECEMBER 31, 2008	468,513,843	\$ 4,685	(71,536,947)	\$(2,746,429)	\$8,109,224	\$ (20,031)	\$ (2,356,127)	\$ 3,157	\$ 2,994,479	
Share based compensation related activity	1,062,730	12			49,580				49,592	
Issuance of common stock upon exercise of warrants	22,612	—			99				99	
Issuance of common stock – Stock Purchase Plan	46,639	—			1,008				1,008	
Treasury stock activity			(2,298,970)	(69,631)					(69,631)	
Net change in fair value of cash flow hedges, net of tax						2,029			2,029	2,029
Net realized gain on cash flow hedges, net of tax						60			60	60
Net unrealized loss on available-for-sale securities, net of tax						83			83	83
Convertible notes exchanged for common stock	96	—			2				2	2
Foreign currency translation adjustment						(1,673)			(1,673)	(1,673)
Distributions to noncontrolling interest								(259)	(259)	
Net income							114,890	356	115,246	115,246
Total comprehensive income										\$ 115,747
BALANCE, JUNE 30, 2009	469,645,920	\$ 4,697	(73,835,917)	\$(2,816,060)	\$8,159,913	\$ (19,532)	\$ (2,241,237)	\$ 3,254	\$ 3,091,035	

See accompanying notes to unaudited condensed consolidated financial statements.

AMERICAN TOWER CORPORATION AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—Unaudited

**1. Description of Business, Basis of Presentation and Accounting Policies**

American Tower Corporation and subsidiaries (collectively, ATC or the Company) is an independent owner, operator and developer of wireless and broadcast communications sites in the United States, Mexico, Brazil and India. The Company's primary business is the leasing of antenna space on multi-tenant communications sites to wireless service providers and radio and television broadcast companies. The Company also manages rooftop and tower sites for property owners, operates in-building distributed antenna system (DAS) networks, and provides network development services that support its rental and management operations and the addition of new tenants and equipment on its sites.

ATC is a holding company that conducts its operations through its directly and indirectly owned subsidiaries. ATC's principal United States operating subsidiaries are American Towers, Inc. and SpectraSite Communications, LLC (SpectraSite). ATC conducts its international operations through its subsidiary, American Tower International, Inc., which in turn conducts operations through its various international operating subsidiaries. The Company's international operations consist primarily of its operations in Mexico, Brazil and also include its recently established operations in India.

The accompanying condensed consolidated financial statements have been prepared by the Company pursuant to the rules and regulations of the Securities and Exchange Commission (SEC). The financial information included herein is unaudited; however, the Company believes that all adjustments (consisting only of normal recurring adjustments) considered necessary for a fair presentation of the Company's financial position and results of operations for such periods have been included. Results of interim periods may not be indicative of results for the full year. The Company considers events or transactions that occur after the balance sheet date but before the financial statements are issued as additional evidence for certain estimates or to identify matters that require additional disclosure. Subsequent events have been evaluated to the date of issuance of these financial statements. (See note 13.) These condensed consolidated financial statements and related notes should be read in conjunction with the Company's Annual Report on Form 10-K for the year ended December 31, 2008.

*Significant Accounting Policies and Use of Estimates*—The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America (GAAP) requires management to make estimates and assumptions that affect the amounts reported in the condensed consolidated financial statements and accompanying notes. Actual results may differ from those estimates, and such differences could be material to the accompanying condensed consolidated financial statements.

*Recently Adopted Accounting Pronouncements*—In December 2007, the Financial Accounting Standards Board (FASB) issued Statement of Financial Accounting Standards (SFAS) No. 141 (revised 2007), "Business Combinations" (SFAS No. 141R). SFAS No. 141R establishes principles and requirements for how an acquirer recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, any noncontrolling interest in the acquiree and the goodwill acquired. Among other items, SFAS No. 141R changes the accounting for acquisitions by eliminating the step acquisition model, providing that contingent consideration be recognized at the time of acquisition (instead of being recognized when it is probable), disallowing the capitalization of transaction costs, and changing when restructurings related to acquisitions can be recognized. SFAS No. 141R also establishes disclosure requirements to enable the evaluation of the nature and financial effects of the business combination. SFAS No. 141R was effective for the Company as of January 1, 2009. Approximately \$1.2 million of transaction costs previously capitalized in notes receivable and other long-term assets was expensed upon adoption of this standard.

In December 2007, the FASB issued SFAS No. 160, "Noncontrolling Interests in Consolidated Financial Statements—an amendment of Accounting Research Bulletin No. 51" (SFAS No. 160). SFAS No. 160

**AMERICAN TOWER CORPORATION AND SUBSIDIARIES**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—Unaudited—(Continued)**

establishes accounting and reporting standards for noncontrolling interests in a subsidiary and for the deconsolidation of a subsidiary. SFAS No. 160 requires noncontrolling interests to be classified as a separate component of equity and establishes disclosure requirements that clearly identify and distinguish between the interests of the parent and the interests of the noncontrolling owners. SFAS No. 160 was effective for the Company as of January 1, 2009. The adoption of SFAS No. 160 did not have a material impact on the Company's condensed consolidated results of operations and financial position. However, the Company has adjusted its presentation of noncontrolling interests in the condensed consolidated financial statements in order to comply with the disclosure requirements provided by SFAS No. 160.

In February 2008, the FASB issued FASB Staff Position (FSP) 157-2. FSP 157-2 delayed the effective date of SFAS No. 157 "Fair Value Measurements" (SFAS No. 157) to January 1, 2009 for all nonfinancial assets and nonfinancial liabilities that are recognized or disclosed at fair value in the financial statements on a nonrecurring basis (that is, at least annually). The adoption of FAS 157 for non-financial assets and liabilities had no impact on the Company's condensed consolidated results of operations or financial position.

In March 2008, the FASB issued SFAS No. 161, "Disclosures about Derivative Instruments and Hedging Activities, an amendment of FASB Statement No. 133" (SFAS No. 161). Among other items, this statement changes disclosure requirements and requires entities to provide enhanced disclosures about how and why entities use derivative financial instruments, how derivative instruments and related hedged items are accounted for under SFAS No. 133 "Accounting for Derivative Financial Instruments and Hedging Activities" (SFAS No. 133) and related interpretations, and how derivative instruments and related hedged items affect an entity's financial position, financial performance and cash flows. SFAS No. 161 was effective for the Company as of January 1, 2009. The Company has included additional disclosures regarding its derivative instruments in order to comply with the provisions of SFAS No. 161. (See note 5.) The adoption of SFAS No. 161 had no impact on the Company's condensed consolidated results of operations or financial position.

In May 2008, the FASB issued SFAS No. 162, "The Hierarchy of Generally Accepted Accounting Principles" (SFAS No. 162). This statement identifies the sources of accounting principles and the framework for selecting the principles used in the preparation of financial statements that are presented in conformity with GAAP. SFAS No. 162 was effective for the Company 60 days following the SEC's approval of the Public Company Accounting Oversight Board amendments to AU Section 411, "The Meaning of Present Fairly in Conformity with Generally Accepted Accounting Principles" on November 15, 2008. The adoption of SFAS No. 162 had no impact on the Company's condensed consolidated results of operations or financial position.

In April 2009, the FASB issued FASB Staff Position (FSP) 107-1 and Accounting Principles Board (APB) Opinion No. 28-1, "Interim Disclosures about Fair Value of Financials Instruments" (FSP 107-1 and APB 28-1). FSP 107-1 and APB 28-1 amend FASB Statement No. 107, "Disclosures about Fair Value of Financial Instruments" and APB Opinion No. 28, "Interim Financial Reporting," to require disclosures about the fair value of financial instruments for interim reporting periods as well as in annual financial statements. FSP 107-1 and APB 28-1 were effective for the Company as of April 1, 2009. Beginning with the Company's Quarterly Report for the quarter ended June 30, 2009, the Company has included additional disclosures regarding the fair value of its financial instruments. The adoption of FSP 107-1 and APB 28-1 had no impact on the Company's condensed consolidated results of operations or financial position.

In May 2009, the FASB issued SFAS No. 165, "Subsequent Events" (SFAS No. 165). This statement establishes general accounting standards for the disclosure of events that occur after the balance sheet date but before financial statements are issued or are available to be issued. Among other items, SFAS No. 165 sets forth the period after the balance sheet date during which management should evaluate events or transactions that may



**AMERICAN TOWER CORPORATION AND SUBSIDIARIES**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—Unaudited—(Continued)**

occur for potential recognition or disclosure in the financial statements, the circumstances under which an entity should disclose events or transactions occurring after the balance sheet date, and the disclosures entities should make about events or transactions that occurred after the balance sheet date. SFAS No. 165 was effective for the Company as of June 30, 2009. Beginning with the Company's Quarterly Report for the quarter ended June 30, 2009, the Company has included additional disclosures regarding its review of subsequent events in order to comply with the provisions of SFAS No. 165. (See note 1.) The adoption of SFAS No. 165 had no impact on the Company's condensed consolidated results of operations or financial position.

*Recent Accounting Pronouncements*—In June 2009, the FASB issued SFAS No. 168, "FASB Accounting Standards Codification and the Hierarchy of Generally Accepted Accounting Principles—a replacement of FASB Statement No. 162" (SFAS No. 168). FASB has stated that the FASB Accounting Standards Codification (Codification) will become the source of authoritative GAAP recognized by the FASB to be applied by nongovernmental entities. All guidance contained in the Codification carries an equal level of authority. On the effective date of SFAS No. 168, the Codification will supersede all then-existing non-SEC accounting and reporting standards. All other nongrandfathered non-SEC accounting literature not included in the Codification will become nonauthoritative. SFAS No. 168 will be effective for the Company as of September 30, 2009. The Company is in the process of evaluating the impact the adoption of SFAS No. 168 will have on its condensed consolidated results of operations and financial position.

**2. Short-Term Investments and Available-For-Sale Securities**

As of June 30, 2009, short-term investments and available-for-sale securities included Brazilian Treasury securities of approximately \$8.8 million, whose original maturities were in excess of three months, and approximately \$0.2 million of available-for-sale securities.

**3. Goodwill and Other Intangible Assets**

The changes in the carrying value of goodwill for the six months ended June 30, 2009 are as follows:

Balance as of December 31, 2008	\$ 2,186,233
Additions	48,167
Effect of Foreign Currency Translation	(1,617)
Balance as of June 30, 2009	<u>\$ 2,232,783</u>

The Company's intangible assets subject to amortization consist of the following:

	Estimated Useful Lives	June 30, 2009	December 31, 2008
	(years)	(in thousands)	
Acquired network location (1)	20	\$ 1,077,519	\$ 1,055,313
Acquired customer base	15-20	764,650	737,108
Acquired customer relationships	20	775,000	775,000
Deferred financing costs (2)	N/A	74,494	73,993
Acquired licenses and other intangibles	5-15	21,574	21,574
Economic Rights, TV Azteca	70	30,292	30,292
Total		<u>2,743,529</u>	<u>2,693,280</u>
Less accumulated amortization		(1,195,585)	(1,127,125)
Other intangible assets, net		<u>\$ 1,547,944</u>	<u>\$ 1,566,155</u>

**AMERICAN TOWER CORPORATION AND SUBSIDIARIES**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—Unaudited—(Continued)**

- (1) Acquired network location intangibles are amortized over the shorter of the term of the corresponding ground lease or 20 years, as the Company considers these intangibles to be directly related to the tower assets.
- (2) Deferred financing costs are amortized over the term of the respective debt instruments to which they relate. This amortization is included in interest expense, rather than in amortization of intangibles.

The Company amortizes these intangibles on a straight-line basis. As of June 30, 2009, the weighted average amortization period of the Company's intangible assets, excluding the TV Azteca Economic Rights detailed in note 4 to the Company's consolidated financial statements included in the Company's Annual Report on Form 10-K for the year ended December 31, 2008, was approximately 11 years. Amortization of intangible assets for the three and six months ended June 30, 2009 was approximately \$35.9 million and \$68.0 million (excluding amortization of deferred financing costs, which is included in interest expense), respectively.

#### **4. Financing Transactions**

*Revolving Credit Facility and Term Loan*—As of June 30, 2009, the Company had \$700.0 million outstanding under its \$1.25 billion senior unsecured revolving credit facility (Revolving Credit Facility) and had approximately \$4.7 million of undrawn letters of credit outstanding. In March 2008, the Company increased its borrowing capacity under the Revolving Credit Facility by adding \$325.0 million of term loan commitments (Term Loan). As of June 30, 2009, the Term Loan was fully drawn. The Company continues to maintain the ability to draw down and repay amounts under the Revolving Credit Facility in the ordinary course.

*7.25% Senior Notes Offering*—On June 10, 2009, the Company completed an institutional private placement of \$300.0 million aggregate principal amount of its 7.25% senior unsecured notes due 2019 (7.25% Notes). The net proceeds to the Company from the offering were approximately \$291.6 million, after deducting commissions and expenses. The Company used \$210.2 million of the net proceeds to finance the repurchase of its outstanding 7.50% notes due 2012 (7.50% Notes) through a cash tender offer. In addition, the Company used \$50.0 million of the net proceeds to repay certain of its outstanding indebtedness incurred under its Revolving Credit Facility.

The 7.25% Notes mature on May 15, 2019, and interest is payable semiannually in arrears on May 15 and November 15 of each year, commencing November 15, 2009, to the persons in whose names the notes are registered at the close of business on the preceding May 1 and November 1, respectively. The Company may redeem the 7.25% Notes at any time at a redemption price equal to 100% of the principal amount, plus a make-whole premium, together with accrued interest to the redemption date. Interest on the notes will accrue from June 10, 2009 and will be computed on the basis of a 360-day year comprised of twelve 30-day months.

If the Company undergoes a change of control and ratings decline, each as defined in the indenture for the 7.25% Notes, the Company may be required to repurchase all of the 7.25% Notes at a purchase price equal to 101% of the principal amount, plus accrued and unpaid interest, if any, and additional interest, if any, to but not including the date of repurchase. The 7.25% Notes rank equally with all of the Company's other senior unsecured debt and are structurally subordinated to all existing and future indebtedness and other obligations of the Company's subsidiaries. The indenture contains certain covenants that restrict the Company's ability to incur more subsidiary debt or permit subsidiaries to provide guarantees; create liens; and merge, consolidate or sell assets. These covenants are subject to a number of exceptions, including that the Company and its subsidiaries may incur certain indebtedness or liens on assets, mortgages or other liens securing indebtedness, if the aggregate amount of such indebtedness and such liens do not exceed 3.5x Adjusted EBITDA as defined in the indenture.

**AMERICAN TOWER CORPORATION AND SUBSIDIARIES**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—Unaudited—(Continued)**

*Tender Offer for and Redemption of 7.50% Senior Notes*—During the six months ended June 30, 2009, the Company repurchased an aggregate of \$204.2 million principal amount of the 7.50% Notes pursuant to a cash tender offer. The Company paid \$210.2 million, including approximately \$1.7 million in accrued and unpaid interest, to holders of the 7.50% Notes using net proceeds from the institutional private placement of the 7.25% Notes discussed above. The Company recorded a charge of \$6.0 million related to amounts paid in excess of carrying value and the write-off of deferred financing fees, which is reflected in loss on retirement of long-term obligations in the accompanying condensed consolidated statement of operations for the three and six months ended June 30, 2009. In June 2009, the Company issued a notice for the redemption of the \$20.8 million principal amount of its 7.50% Notes that remained outstanding following the expiration of the tender offer. (See note 13.)

*Stock Repurchase Program*—During the six months ended June 30, 2009, the Company repurchased an aggregate of 2.3 million shares of its Class A common stock (Common Stock) for an aggregate of \$69.6 million, including commissions and fees, pursuant to its \$1.5 billion stock repurchase program approved by the Company's Board of Directors in February 2008 (2008 Buyback). Between July 1, 2009 and July 24, 2009, the Company repurchased an additional 1.2 million shares of its Common Stock for an aggregate of \$38.2 million, including commissions and fees. As of July 24, 2009, the Company had repurchased a total of 17.5 million shares of Common Stock for an aggregate of \$641.2 million, including commissions and fees, pursuant to the 2008 Buyback.

Under the 2008 Buyback, the Company is authorized to purchase shares from time to time through open market purchases or privately negotiated transactions at prevailing prices in accordance with securities laws and other legal requirements, and subject to market conditions and other factors. To facilitate repurchases, the Company purchases its Common Stock pursuant to trading plans under Rule 10b5-1 of the Exchange Act, which allows the Company to repurchase shares during periods when it otherwise might be prevented from doing so under insider trading laws or because of self-imposed trading blackout periods. In the near term, the Company expects to fund any further repurchases of its Common Stock through a combination of cash on hand, cash generated by operations and borrowings under its Revolving Credit Facility. Purchases under the 2008 Buyback are subject to the Company having available cash to fund repurchases.

**5. Derivative Financial Instruments**

The Company is exposed to certain risks related to its ongoing business operations. The primary risk managed through the use of derivative instruments is interest rate risk. The Company enters into interest rate protection agreements to manage exposure on the variable rate debt under its credit facilities and to manage variability in cash flows relating to forecasted interest payments. Under these agreements, the Company is exposed to credit risk to the extent that a counterparty fails to meet the terms of a contract. The Company's credit risk exposure is limited to the current value of the contract at the time the counterparty fails to perform. The Company believes its contracts as of June 30, 2009 are with creditworthy institutions.

If a derivative is designated as a cash flow hedge, the effective portions of changes in the fair value of the derivative are recorded in accumulated other comprehensive income (loss) and are recognized in the results of operations when the hedged item affects earnings. Ineffective portions of changes in the fair value of cash flow hedges are recognized immediately in the results of operations. For derivative instruments not designated as hedging instruments, changes in fair value are recognized in the results of operations in the period in which the change occurs.

As of June 30, 2009, the Company held fifteen interest rate swap agreements, all of which have been designated as cash flow hedges, and which have an aggregate notional amount of \$775.0 million, interest rates

**AMERICAN TOWER CORPORATION AND SUBSIDIARIES**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—Unaudited—(Continued)**

ranging from 2.86% to 4.08% and expiration dates through March 2011. The Company utilizes these interest rate swap agreements to manage its exposure to variability in cash flows relating to forecasted interest payments under its Revolving Credit Facility and Term Loan. As of June 30, 2009, the carrying amounts of the Company's derivative financial instruments, along with the estimated fair values of the related liabilities are as follows (in thousands):

	<u>Balance Sheet Location</u>	<u>Notional Amount</u>	<u>Carrying Amount and Fair Value</u>
<b>Liabilities:</b>			
Interest rate swap agreements	Other long-term liabilities	\$775,000	\$ 23,317

During the six months ended June 30, 2009, the interest rate swap agreements held by the Company had the following impact on other comprehensive income (OCI) included in the condensed consolidated balance sheet and on the condensed consolidated statement of operations:

<u>Amount of Gain/(Loss) Recognized in OCI on Derivatives (Effective Portion)</u>	<u>Location of Gain/(Loss) Reclassified from Accumulated OCI into Income (Effective Portion)</u>	<u>Amount of Gain/(Loss) Reclassified from Accumulated OCI into Income (Effective Portion)</u>	<u>Location of Gain/(Loss) Recognized in Income on Derivative (Ineffective Portion and Amount Excluded from Effectiveness Testing)</u>	<u>Gain/(Loss) Recognized in Income on Derivative (Ineffective Portion and Amount Excluded from Effectiveness Testing)</u>
\$(9,678)	Interest expense	\$(7,649)	N/A	N/A

In May 2009, the Company entered into a foreign currency exchange contract to hedge the foreign currency exposure associated with its acquisition of XCEL Telecom Private Limited (XCEL). (See note 11.) The foreign currency exchange contract was not designated as a hedging instrument and was settled upon the completion of the acquisition of XCEL on May 27, 2009. The settlement resulted in a gain of approximately \$1.7 million, which was reflected in other income (expense) in the accompanying condensed consolidated statement of operations for the three and six months ended June 30, 2009.

**6. Fair Value Measurements**

The Company determines the fair market values of its financial instruments based on the fair value hierarchy established in SFAS No. 157, which requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. The standard describes the following three levels of inputs that may be used to measure fair value:

- Level 1 Quoted prices in active markets for identical assets or liabilities that the Company has the ability to access at the measurement date.
- Level 2 Observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.
- Level 3 Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

## AMERICAN TOWER CORPORATION AND SUBSIDIARIES

## NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—Unaudited—(Continued)

*Items Measured at Fair Value on a Recurring Basis*—Assets and liabilities measured at fair value on a recurring basis as of June 30, 2009 consist of the following (in thousands):

	Fair Value Measurements Using			Assets/Liabilities at Fair Value
	Level 1	Level 2	Level 3	
<b>Assets:</b>				
Short-term investments and available-for-sale securities (1)	\$ 8,990			\$ 8,990
<b>Liabilities:</b>				
Interest rate swap agreements (2)		\$23,317		\$ 23,317

(1) Consists of available-for-sale securities traded on active markets as well as certain Brazilian Treasury securities that are highly liquid and actively traded in over-the-counter markets.

(2) Consists of interest rate swap agreements based on the London Interbank Offering Rate (LIBOR) swap rate whose value is determined using a pricing model with inputs that are observable in the market or can be derived principally from, or corroborated by, observable market data.

The fair value of the Company's interest rate swap agreements recorded as liabilities is included in other long-term liabilities in the accompanying condensed consolidated balance sheet as of June 30, 2009. Fair valuations of the Company's interest rate swap agreements reflect the value of the instrument including the values associated with counterparty risk. With the issuance of SFAS No. 157, these values must also take into account the Company's own credit standing. As a result, the Company must include in the valuation of the derivative instrument the value of the net credit differential between the counterparties to the derivative contract.

*Items Measured at Fair Value on a Nonrecurring Basis*—The Company's long-lived assets, intangibles and goodwill are measured at fair value on a nonrecurring basis. During the six months ended June 30, 2009, the Company did not record any changes to the fair value of these assets as a result of impairment.

*Fair Value of Financial Instruments*—The carrying value of the Company's financial instruments, with the exception of long-term obligations, including current portion, reasonably estimate the related fair values as of June 30, 2009 and December 30, 2009. The Company's estimates of fair value of its long-term obligations, including current portion, are based primarily upon reported market values. As of June 30, 2009, the carrying value and fair value of long-term obligations, including current portion, were \$4.4 billion and \$4.3 billion, respectively. As of December 31, 2008, the carrying value and fair value of long-term obligations, including current portion, were \$4.3 billion and \$3.9 billion, respectively.

## 7. Income Taxes

The Company provides for income taxes at the end of each interim period based on the estimated effective tax rate for the full fiscal year. Cumulative adjustments to the Company's estimate are recorded in the interim period in which a change in the estimated annual effective rate is determined.

As of June 30, 2009 and December 31, 2008, the total amount of unrecognized tax benefits that would affect the effective tax rate, if recognized, was \$43.4 million and \$47.8 million, respectively. The Company expects the unrecognized tax benefits to change over the next 12 months if certain tax matters ultimately settle with the applicable taxing jurisdiction during this timeframe, as described in note 11 to the Company's consolidated financial statements included in the Company's Annual Report on Form 10-K for the year ended December 31, 2008. The impact of the amount of such changes to previously recorded uncertain tax positions could range from zero to \$2.0 million.

**AMERICAN TOWER CORPORATION AND SUBSIDIARIES****NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—Unaudited—(Continued)**

In accordance with FASB Interpretation No. 48, "Accounting for Uncertainty in Income Taxes, an interpretation of SFAS No. 109" (FIN 48), the Company recorded penalties and tax-related interest benefits during the three and six months ended June 30, 2009 of \$15.7 million and \$14.5 million, respectively. During the three and six months ended June 30, 2008, the Company recorded penalties and tax-related interest expense of \$1.7 million and \$2.1 million, respectively. As of June 30, 2009 and December 31, 2008, the total amount of accrued income tax-related interest and penalties included in other long-term liabilities in the condensed consolidated balance sheets was \$15.5 million and \$29.1 million, respectively. During the quarter ended June 30, 2009, the Company recognized approximately \$9.2 million of tax benefits previously considered uncertain as a result of the expiration of the applicable statute of limitations in one of its foreign jurisdictions. In addition, as a result of the findings in the audit described below, the Company reviewed certain deductions and reversed approximately \$4.5 million of previously recognized tax benefits which are now considered uncertain.

The Company files numerous consolidated and separate income tax returns, including U.S. federal and state tax returns and foreign tax returns. The Company is subject to examinations in various U.S. state jurisdictions for certain tax years. As a result of the Company's ability to carry forward federal and state net operating losses, the applicable tax years remain open to examination until three years after the applicable loss carry forwards have been used or expired. The U.S. federal income tax examinations for tax years 2004 and 2005 were concluded during the three months ended June 30, 2009. Upon conclusion of the examinations, the Company recognized additional income tax expense of \$13.7 million relating to the disallowance of certain deductions.

**8. Stock-Based Compensation**

The Company recognized non-cash stock-based compensation expense during the three and six months ended June 30, 2009 of approximately \$12.8 million and \$37.2 million, respectively, and non-cash stock-based compensation expense during the three and six months ended June 30, 2008 of approximately \$13.6 million and \$29.9 million, respectively. Non-cash stock-based compensation expense for the six months ended June 30, 2009 includes \$6.6 million related to the modification of certain stock option awards during the six months ended June 30, 2009. The Company did not capitalize any non-cash stock-based compensation during the six months ended June 30, 2009 and 2008.

*Stock Options*—During the six months ended June 30, 2009, the Company granted stock options to purchase 1.6 million shares of its Common Stock pursuant to its 2007 Equity Incentive Plan (2007 Plan).

The following table summarizes the Company's option activity for the six months ended June 30, 2009:

	<b>Number of Options</b>
Outstanding as of January 1, 2009	13,185,866
Granted	1,617,702
Exercised	(867,886)
Forfeited	(258,235)
Outstanding as of June 30, 2009	<u>13,677,447</u>

**AMERICAN TOWER CORPORATION AND SUBSIDIARIES**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—Unaudited—(Continued)**

The Company estimates the fair value of each option grant on the date of grant using the Black-Scholes option pricing model. The following assumptions were used to determine the grant date fair value for options granted during the six months ended June 30, 2009:

Range of risk-free interest rate	1.41% - 2.04%
Weighted average risk-free interest rate	1.70%
Expected life of option grants	4.00 years
Range of expected volatility of underlying stock price	36.16% - 36.63%
Weighted average expected volatility of underlying stock price	36.23%
Expected annual dividends	N/A

As of June 30, 2009, total unrecognized compensation expense related to unvested stock options was \$50.5 million, and is expected to be recognized over a weighted average period of approximately two years. A summary of weighted average grant date fair value and fair value of options vested during the six months ended June 30, 2009 is as follows:

Weighted average grant date fair value per share	\$ 8.90
Weighted average fair value of options vested (in millions)	\$ 33.40

*Restricted Stock Units*—During the six months ended June 30, 2009, the Company granted restricted stock units with respect to 1.3 million shares of its Common Stock pursuant to the 2007 Plan.

The following table summarizes the Company's restricted stock unit activity during the six months ended June 30, 2009:

	<u>Number of Units</u>
Outstanding as of January 1, 2009	1,138,268
Granted	1,267,097
Vested	(278,896)
Forfeited	(86,724)
Outstanding as of June 30, 2009	<u>2,039,745</u>

The total fair value of the restricted stock units that vested during the six months ended June 30, 2009 was \$10.4 million. As of June 30, 2009, total unrecognized compensation expense related to unvested restricted stock units granted under the 2007 Plan was \$52.7 million, and is expected to be recognized over a weighted average period of approximately three years.

*Employee Stock Purchase Plan*—The Company maintains an employee stock purchase plan (ESPP) for all eligible employees as described in the Company's Annual Report on Form 10-K for the year ended December 31, 2008. The offering periods run from June 1 through November 30 and from December 1 through May 31 of each year. During the six months ended June 30, 2009, 46,639 shares were purchased by employees under the ESPP and the fair value of such shares was \$5.98.

**AMERICAN TOWER CORPORATION AND SUBSIDIARIES**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—Unaudited—(Continued)**

Key assumptions used to apply the Black-Scholes pricing model for shares purchased through the ESPP during the six months ended June 30, 2009 are as follows:

Approximate risk-free interest rate	0.44%
Expected life of shares	6 months
Expected volatility of underlying stock price	35.31%
Expected annual dividends	N/A

**9. Earnings per Common Share**

Basic income from continuing operations per common share represents income from continuing operations attributable to American Tower Corporation divided by the weighted average number of common shares outstanding during the period. Diluted income from continuing operations per common share represents income from continuing operations attributable to American Tower Corporation divided by the weighted average number of common shares outstanding during the period and any dilutive common share equivalents, including shares issuable upon exercise of stock options and warrants as determined under the treasury stock method and upon conversion of the Company's convertible notes, as determined under the if-converted method.

For the three and six months ended June 30, 2009, the weighted average number of common shares outstanding excludes shares issuable upon conversion of the Company's convertible notes of 1.2 million, and shares issuable upon exercise of the Company's stock options and share based awards of 10.3 million and 10.4 million, respectively, as the effect would be anti-dilutive. For the three and six months ended June 30, 2008, the weighted average number of common shares outstanding excludes shares issuable upon conversion of the Company's convertible notes of 1.2 million, and shares issuable upon exercise of the Company's stock options and share based awards of 6.2 million and 6.0 million, respectively, as the effect would be anti-dilutive.

The following table sets forth basic and diluted income from continuing operations per common share computational data for the three and six months ended June 30, 2009 and 2008 (in thousands, except per share data):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2009	2008	2009	2008
Income from continuing operations attributable to American Tower Corporation	\$ 51,229	\$ 50,683	\$ 106,760	\$ 92,857
Effect of convertible notes	747	1,606	1,494	3,328
Income available to common shareholders, as adjusted for diluted earnings	<u>\$ 51,976</u>	<u>\$ 52,289</u>	<u>\$ 108,254</u>	<u>\$ 96,185</u>
Basic weighted average common shares outstanding	397,418	396,935	397,300	397,031
Dilutive securities:				
Stock options, warrants and convertible notes	11,414	24,682	11,555	25,457
Diluted weighted average common shares outstanding	<u>408,832</u>	<u>421,617</u>	<u>408,855</u>	<u>422,488</u>
Basic income from continuing operations attributable to American Tower Corporation per common share	<u>\$ 0.13</u>	<u>\$ 0.13</u>	<u>\$ 0.27</u>	<u>\$ 0.23</u>
Diluted income from continuing operations attributable to American Tower Corporation per common share	<u>\$ 0.13</u>	<u>\$ 0.12</u>	<u>\$ 0.26</u>	<u>\$ 0.23</u>



**AMERICAN TOWER CORPORATION AND SUBSIDIARIES**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—Unaudited—(Continued)**

**10. Commitments and Contingencies**

*Legal and Governmental Proceedings Related to Review of Stock Option Granting Practices and Related Accounting*—During the year ended December 31, 2006, the Company received a letter of informal inquiry from the SEC Division of Enforcement, a subpoena from the United States Attorney's Office for the Eastern District of New York, and an Information Document Request from the Internal Revenue Service (IRS), each requesting documents and other information related to Company stock option grants and stock option practices. In addition, in August 2007, the Company received a request for information from the Department of Labor (DOL) with respect to the Company's retirement savings plan, including documents related to Company stock option grants and the Company's historical stock option administrative practices. The Company has become aware that a former officer of the Company has received and responded to a "Wells" notice from the SEC, which affords such individual the opportunity to make a submission to the SEC with respect to contemplated civil enforcement recommendations against such individual for certain violations of the federal securities laws. In September 2008, the DOL concluded its review and advised the Company that no action would be taken. The reviews being conducted by the SEC, the U.S. Attorney's Office and the IRS remain ongoing, and the Company continues to cooperate on these matters. For more information, see note 16 to the consolidated financial statements included in the Company's Annual Report on Form 10-K for the year ended December 31, 2008.

The Company was subject to a securities class action relating to its historical stock option granting practices and related accounting. On May 26, 2006, a purported securities class action was filed by John S. Greenebaum in United States District Court for the District of Massachusetts against the Company and certain of its current officers for monetary relief. Specifically, the complaint named the Company, James D. Taiclet, Jr. and Bradley E. Singer as defendants and alleged that the defendants violated federal securities laws in connection with public statements made relating to the Company's stock option practices and related accounting. The complaint asserted claims under Sections 10(b) and 20(a) of the Exchange Act and SEC Rule 10b-5. In December 2006, the court appointed the Steamship Trade Association-International Longshoreman's Association Pension Fund as the lead plaintiff. In March 2007, plaintiffs filed an amended consolidated complaint, which included additional current and former officers and directors of the Company as defendants. In December 2007, the Company reached a settlement in principle regarding the securities class action. The settlement, which was preliminarily approved by the court in February 2008, provided for a payment by the Company of \$14.0 million and the dismissal of all claims against all defendants in the litigation. The Company paid \$250,000 of the settlement amount to an escrow account controlled by the plaintiffs during the quarter ended March 31, 2008. In April 2008, the Company paid the remaining settlement amount of \$13.8 million into escrow and received \$12.5 million in insurance proceeds. In May 2008, the original plaintiff, Mr. Greenebaum, filed an objection to the settlement. Following a hearing in June 2008, the Court dismissed Mr. Greenebaum's objection and approved the settlement. In July 2008, Mr. Greenebaum filed an untimely request to opt-out of the settlement class certified by the Court, which the Court denied in August 2008. Mr. Greenebaum filed a notice of appeal of the Court's final order approving the settlement agreement and of the Court's decision denying his untimely request to opt out of the settlement class. In December 2008, the Company entered into a settlement agreement with Mr. Greenebaum providing for payment by the Company of \$5,000, which the Court approved in January 2009. In January 2009, the lead plaintiff also entered into a settlement agreement with Mr. Greenebaum. As a result of these settlements, Mr. Greenebaum withdrew his appeals, effectively ending the litigation.

On May 24, 2006 and June 14, 2006, two shareholder derivative lawsuits were filed in Suffolk County Superior Court in Massachusetts by Eric Johnston and Robert L. Garber, respectively. The lawsuits were filed against certain of the Company's current and former officers and directors for alleged breaches of fiduciary duties and unjust enrichment in connection with the Company's historical stock option granting practices. The lawsuits also named the Company as a nominal defendant. The lawsuits sought to recover the damages sustained by the Company and disgorgement of all profits received with respect to the alleged backdated stock options. In October 2006, these two lawsuits were consolidated, and in October 2007, the court dismissed the complaint,

**AMERICAN TOWER CORPORATION AND SUBSIDIARIES**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—Unaudited—(Continued)**

without leave to amend, due to the plaintiffs' failure to make a demand upon the Company's Board of Directors before initiating their lawsuits. In December 2007, the plaintiffs filed an appeal of that decision to the Massachusetts Court of Appeals, and in April 2008, the Company filed a motion to dismiss the appeal as moot. In June 2008, the Massachusetts Supreme Judicial Court elected, on its own motion, to hear the appeal, and in April 2009, affirmed the judgment dismissing the complaint without leave to amend due to failure to adequately establish demand futility and dismissed the complaint with prejudice. The plaintiffs' right to initiate a new claim based on the response to the demand made at the time of dismissal expired in July 2009.

*Mexico Litigation*—One of the Company's subsidiaries, SpectraSite Communications, Inc. (SCI), is involved in a lawsuit brought in Mexico against a former Mexican subsidiary of SCI that was sold in 2002, prior to the Company's merger with SCI's parent in 2005. The lawsuit concerns a terminated tower construction contract and related agreements with a wireless carrier in Mexico. The primary issue for the Company is whether SCI itself can be found liable to the Mexican carrier. The trial and lower appellate courts initially found that SCI had no such liability in part because Mexican courts do not have full jurisdiction over SCI. These decisions were appealed by the plaintiff, and in July 2008, they were reversed by an intermediate Mexican appellate court. In its decision, the intermediate appellate court identified potential damages of approximately \$23.0 million. SCI appealed that ruling to a higher constitutional court in Mexico. In January 2009, the constitutional court ruled in SCI's favor, remanding the case back to the intermediate appellate court for further proceedings. In March 2009, the intermediate appellate court issued its decision, which reasserts jurisdiction and reimposes liability on SCI. In April 2009, SCI filed an appeal of this decision to the higher constitutional court, as permitted under Mexican law, on the grounds that the decision of the intermediate appellate court is inconsistent with the January 2009 ruling of the higher constitutional court and Mexican law. As a result of the pending appeal, the Company is unable to estimate its share, if any, of potential liability at this stage of the proceedings.

*AT&T Transaction*—SpectraSite entered into an agreement with SBC Communications Inc., a predecessor entity to AT&T Inc. (AT&T), for the lease or sublease of approximately 2,500 towers from AT&T between December 2000 and August 2004. All of the towers are part of the securitization transaction. The average term of the lease or sublease for all sites at the inception of the agreement was approximately 27 years, assuming renewals or extensions of the underlying ground leases for the sites. SpectraSite has the option to purchase the sites subject to the lease or sublease upon their expiration. Each of the towers is assigned into an annual tranche, ranging from 2013 to 2032, which represents the outside expiration date for the sublease rights to that tower. The purchase price for each site is a fixed amount stated in the sublease for that site plus the fair market value of certain alterations made to the related tower by AT&T. The aggregate purchase option price for the towers leased and subleased was approximately \$393.6 million as of June 30, 2009, and will accrete at a rate of 10% per year to the applicable expiration of the lease or sublease of a site. For all such sites purchased by SpectraSite at the expiration of the lease or sublease, AT&T has the right to continue to lease the reserved space for successive one year terms at a rent equal to the lesser of the agreed upon market rate and the then current monthly fee, which is subject to an annual increase based on changes in the Consumer Price Index.

*ALLTEL Transaction*—In December 2000, the Company entered into an agreement with ALLTEL (which completed its merger with Verizon Wireless in January 2009) to acquire communications towers from ALLTEL through a 15-year sublease agreement. Pursuant to the agreement with ALLTEL, as amended, the Company acquired rights to a total of approximately 1,800 towers in tranches between April 2001 and March 2002. The Company has the option to purchase these towers at the expiration of the sublease period, which will occur between April 2016 and March 2017 based on the original closing date for such tranche of towers. The purchase price per tower as of the original closing date was \$27,500 and will accrete at a rate of 3% per annum through the expiration of the sublease period. The aggregate purchase option price for the subleased towers was approximately \$62.3 million as of June 30, 2009. At ALLTEL's option, at the expiration of the sublease period, the purchase price will be payable in cash or with 769 shares of the Company's Common Stock per tower.

**AMERICAN TOWER CORPORATION AND SUBSIDIARIES****NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—Unaudited—(Continued)**

*Litigation*—The Company periodically becomes involved in various claims and lawsuits that are incidental to its business. In the opinion of Company management, after consultation with counsel, other than the legal proceedings discussed above, there are no matters currently pending which would, in the event of an adverse outcome, have a material impact on the Company's consolidated financial position, results of operations or liquidity.

**11. Business Acquisition**

On May 27, 2009, the Company acquired 100% of the outstanding common and preferred stock of XCEL for an aggregate cash purchase price of approximately \$98.0 million. XCEL provides shared telecom infrastructure services to telecom operators in India. At closing, XCEL owned approximately 1,660 towers located in fifteen telecom circles in India. Additionally, XCEL had approximately 70 towers in various stages of development. The acquisition of XCEL is consistent with the Company's strategy to expand in selected markets around the world.

The acquisition of XCEL has been accounted for as a business combination in accordance with SFAS No. 141R. The operating results of the acquired business have been included in the Company's condensed consolidated results of operations since the date of acquisition. The operating results of XCEL for periods prior to the acquisition by the Company were not material to the Company's condensed consolidated results of operations and accordingly, pro forma results of operations have not been presented. The purchase price was preliminarily allocated to the acquired assets and liabilities based on the estimated fair value of the acquired assets and assumed liabilities at the date of acquisition. The preliminary goodwill of \$45.9 million is calculated as the purchase premium after first allocating the purchase price to the fair value of net assets acquired and represents future growth opportunities and established infrastructure that XCEL provides. The allocation of the purchase price will be finalized upon completion of analyses of the fair value of XCEL's assets and liabilities and certain tax matters. These analyses include examination of the underlying book and tax records, completion of an appraisal of certain tangible and intangible assets and liabilities and a full assessment of legal and tax contingencies.

The following table summarizes the aggregate purchase consideration paid for XCEL and the amounts of assets acquired and liabilities assumed at the acquisition date (in thousands):

Current assets (1)	\$ 28,782
Other non-current assets (2)	30,362
Property and equipment	84,541
Intangible assets (3)	47,133
Current liabilities	(26,673)
Long-term debt	(72,013)
Other long-term liabilities (2)	(40,003)
Fair value of net assets acquired	52,129
Preliminary goodwill (4)	45,867

- (1) Includes approximately \$5.6 million of accounts receivable which approximates the gross value due the Company under certain contractual arrangements.
- (2) Includes contingent amounts of approximately \$25.6 million related to tax positions related to the acquisition and a related indemnification asset.
- (3) Consists of customer relationships of approximately \$24.7 million and network capacity of approximately \$22.5 million. The customer relationships and network capacity are being amortized on a straight-line basis over a period of 20 years.
- (4) No goodwill is expected to be deductible for income tax purposes.

**AMERICAN TOWER CORPORATION AND SUBSIDIARIES**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—Unaudited—(Continued)**

**12. Business Segments**

The Company operates in two business segments: rental and management and network development services. The rental and management segment provides for the leasing and subleasing of antenna space on multi-tenant towers and other properties for a diverse range of customers primarily in the wireless communications and broadcast industries. The network development services segment provides third party services that are complementary to the Company's rental and management operations and that facilitate the addition of new tenants and equipment on the Company's towers, including site acquisition, zoning, permitting, construction management and structural analysis.

The accounting policies applied in compiling segment information below are similar to those described in the Company's Annual Report on Form 10-K for the year ended December 31, 2008. In evaluating financial performance, management focuses on segment gross margin and segment operating profit. The Company defines segment gross margin as segment revenue less segment operating expenses excluding depreciation, amortization and accretion; selling, general, administrative and development expense; and other operating expenses. The Company defines segment operating profit as segment gross margin less selling, general, administrative and development expense attributable to the segment, excluding stock-based compensation expense and corporate expenses. For reporting purposes, the rental and management segment operating profit and segment gross margin also include interest income, TV Azteca, net. These measures of segment gross margin and segment operating profit are also before interest income, interest expense, loss on retirement of long-term obligations, other (expense) income, noncontrolling interest in net earnings of subsidiaries, income on equity method investments, income taxes and discontinued operations.

The Company's reportable segments are strategic business units that offer different services. They are managed separately because each segment requires different resources, skill sets and marketing strategies. Summarized financial information concerning the Company's reportable segments for the three and six months ended June 30, 2009 and 2008 is shown in the table below. The Other column below represents amounts excluded from specific segments, such as stock-based compensation expense and corporate expenses included in selling, general, administrative and development expense; other operating expenses; interest income; interest expense; loss on retirement of long-term obligations; and other (expense) income, as well as reconciles segment operating profit to income before income taxes and income on equity method investments.

<u>Three months ended June 30,</u>	<u>Rental and Management</u>	<u>Network Development Services</u> (in thousands)	<u>Other</u>	<u>Total</u>
<b>2009</b>				
Segment revenues	\$ 406,751	\$ 16,607		\$423,358
Segment operating expenses	92,330	10,243		102,573
Interest income, TV Azteca, net	3,585			3,585
Segment gross margin	<u>318,006</u>	<u>6,364</u>		<u>324,370</u>
Segment selling, general, administrative and development expenses	22,621	1,412		24,033
Segment operating profit	<u>\$ 295,385</u>	<u>\$ 4,952</u>		<u>300,337</u>
Other selling, general, administrative and development expense			\$25,828	25,828
Depreciation, amortization and accretion	\$ 99,944	\$ 692	1,827	102,463
Other expenses (principally interest expense)			69,197	69,197
Income from continuing operations before income taxes and income on equity method investments				<u>\$102,849</u>

**AMERICAN TOWER CORPORATION AND SUBSIDIARIES**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—Unaudited—(Continued)**

<u>Three months ended June 30,</u>	<u>Rental and Management</u>	<u>Network Development Services</u> (in thousands)	<u>Other</u>	<u>Total</u>
<b>2008</b>				
Segment revenues	\$ 384,343	\$ 9,385		\$393,728
Segment operating expenses	91,952	4,922		96,874
Interest income, TV Azteca, net	3,584			3,584
Segment gross margin	<u>295,975</u>	<u>4,463</u>		<u>300,438</u>
Segment selling, general, administrative and development expenses	16,092	880		16,972
Segment operating profit	<u>\$ 279,883</u>	<u>\$ 3,583</u>		<u>283,466</u>
Other selling, general, administrative and development expense			\$ 24,812	24,812
Depreciation, amortization and accretion	\$ 97,123	\$ 611	1,963	99,697
Other expenses (principally interest expense)			63,649	63,649
Income from continuing operations before income taxes and income on equity method investments				<u>\$ 95,308</u>
<u>Six months ended June 30,</u>	<u>Rental and Management</u>	<u>Network Development Services</u> (in thousands)	<u>Other</u>	<u>Total</u>
<b>2009</b>				
Segment revenues	\$ 802,698	\$ 29,338		\$832,036
Segment operating expenses	182,420	17,858		200,278
Interest income, TV Azteca, net	7,084			7,084
Segment gross margin	<u>627,362</u>	<u>11,480</u>		<u>638,842</u>
Segment selling, general, administrative and development expenses	40,265	2,947		43,212
Segment operating profit	<u>\$ 587,097</u>	<u>\$ 8,533</u>		<u>595,630</u>
Other selling, general, administrative and development expense			\$ 64,281	64,281
Depreciation, amortization and accretion	\$ 197,326	\$ 1,357	3,648	202,331
Other expenses (principally interest expense)			133,384	133,384
Income from continuing operations before income taxes and income on equity method investments				<u>\$195,634</u>

**AMERICAN TOWER CORPORATION AND SUBSIDIARIES**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—Unaudited—(Continued)**

<u>Six months ended June 30,</u>	<u>Rental and Management</u>	<u>Network Development Services</u> (in thousands)	<u>Other</u>	<u>Total</u>
<b>2008</b>				
Segment revenues	\$ 758,326	\$ 17,586		\$775,912
Segment operating expenses	178,883	8,549		187,432
Interest income, TV Azteca, net	7,125			7,125
Segment gross margin	<u>586,568</u>	<u>9,037</u>		<u>595,605</u>
Segment selling, general, administrative and development expenses	32,478	2,193		34,671
Segment operating profit	<u>\$ 554,090</u>	<u>\$ 6,844</u>		<u>560,934</u>
Other selling, general, administrative and development expense			\$ 56,022	56,022
Depreciation, amortization and accretion	\$ 192,147	\$ 1,191	3,431	196,769
Other expenses (principally interest expense)			129,792	129,792
Income from continuing operations before income taxes and income on equity method investments				<u>\$178,351</u>

### 13. Subsequent Events

*7.50% Senior Notes*—In June 2009, the Company issued a notice for the redemption of the 7.50% Notes that remained outstanding following the expiration of its tender offer. On July 20, 2009, the Company redeemed the remaining \$20.8 million aggregate principal amount of its 7.50% Notes in accordance with the indenture for the 7.50% Notes at a price equal to 101.875% of the principal amount, plus accrued and unpaid interest, for an aggregate purchase price of \$21.5 million. The Company used available cash on hand to fund the redemption. Upon completion of this redemption, none of the 7.50% Notes remained outstanding.

*3.00% Convertible Notes*—On August 6, 2009, the Company issued a notice for the redemption of all of the \$162.2 million aggregate principal amount of its outstanding 3.00% convertible notes due August 15, 2012 (3.00% Notes). In accordance with the redemption provisions of the 3.00% Notes and the indenture for the 3.00% Notes, the notes will be redeemed at a price equal to 101.125% of the principal amount. In addition, the Company will pay accrued and unpaid interest on the redeemed notes up to, but excluding, the redemption date. In accordance with the conversion provisions of the 3.00% Notes and the indenture for the 3.00% Notes, holders of the notes have the right at any time until and including, but not after, the close of business on August 26, 2009, to convert their notes into shares of the Company's Common Stock at a conversion rate of 48.7805 shares per \$1,000 principal amount of notes.

*Brazil Acquisition*—On June 25, 2009, the Company agreed to acquire up to 350 communications tower sites and related third party leases located in Brazil for an aggregate purchase price of approximately \$70 million. In July 2009, the Company completed the first tranche of this transaction, acquiring 230 communications tower sites and related third party leases for an aggregate purchase price of approximately \$50 million.

## ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

*This Quarterly Report on Form 10-Q contains forward-looking statements relating to our goals, beliefs, plans or current expectations and other statements that are not of historical facts. For example, when we use words such as "project," "believe," "anticipate," "expect," "forecast," "estimate," "intend," "should," "would," "could" or "may," or other words that convey uncertainty of future events or outcomes, we are making forward-looking statements. Certain important factors may cause actual results to differ materially from those indicated by our forward-looking statements, including those set forth under the caption "Risk Factors" in Part II, Item 1A. of this Quarterly Report on Form 10-Q. Forward-looking statements represent management's current expectations and are inherently uncertain. We do not undertake any obligation to update forward-looking statements made by us.*

The discussion and analysis of our financial condition and results of operations that follow are based upon our condensed consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States ("GAAP"). The preparation of our financial statements requires us to make estimates and judgments that affect the reported amounts of assets and liabilities, revenues and expenses, and the related disclosure of contingent assets and liabilities at the date of our financial statements. Actual results may differ significantly from these estimates under different assumptions or conditions. This discussion should be read in conjunction with our condensed consolidated financial statements herein and the accompanying notes thereto, information set forth under the caption "Critical Accounting Policies and Estimates" beginning on page 35 and our Annual Report on Form 10-K for the year ended December 31, 2008, in particular, the information set forth therein under Item 7. "Management's Discussion and Analysis of Financial Condition and Results of Operations."

### Overview

We are a leading wireless and broadcast communications infrastructure company with a portfolio of over 25,800 communications sites, including wireless communications towers, broadcast communications towers and distributed antenna system ("DAS") networks. Our portfolio of wireless and broadcast tower sites consists of towers that we own and towers that we operate pursuant to long-term lease arrangements, including, as of June 30, 2009, approximately 19,600 sites in the United States and approximately 6,000 sites in Mexico, Brazil and India. Our portfolio also includes approximately 200 DAS networks that we operate in malls, casinos and other in-building applications in the United States and Mexico. In addition to the communications sites in our portfolio, we manage rooftop and tower sites for property owners in the United States, Mexico and Brazil. Our primary business is leasing antenna space on multi-tenant communications sites to wireless service providers and radio and television broadcast companies. This segment of our business, which we refer to as our rental and management segment, accounted for approximately 96% of our total revenues for the three and six months ended June 30, 2009.

Our communications site portfolio provides us with growth potential because we have the ability to add new tenants, and new equipment for existing tenants, on our sites. Our broad site portfolio and our large customer base provide us with a diverse source of new business opportunities, which has historically resulted in consistent and predictable revenue growth. Through our network development services segment, we also offer tower-related services in the United States, including site acquisition, zoning and permitting services and structural analysis services, which directly support our site leasing business and the addition of new tenants and equipment on our sites. We intend to capitalize on the increasing use of wireless communications services by actively marketing space available for lease on our existing sites and selectively developing or acquiring new sites that meet our return on investment criteria.

Our continuing operations are reported in two segments, rental and management and network development services. Management focuses on segment gross margin and segment operating profit as a means to measure

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operating performance in these business segments. We define segment gross margin as segment revenue less segment operating expenses excluding depreciation, amortization and accretion; selling, general, administrative and development expense; and other operating expenses. We define segment operating profit as segment gross margin less selling, general, administrative and development expense attributable to the segment, excluding stock-based compensation expense and corporate expenses. Segment gross margin and segment operating profit for the rental and management segment also include interest income, TV Azteca, net (see note 12 to our condensed consolidated financial statements included herein). These measures of segment gross margin and segment operating profit are also before interest income, interest expense, loss on retirement of long-term obligations, other income (expense), income attributable to noncontrolling interest, income on equity method investments, income taxes and discontinued operations.

**Results of Operations**

**Three Months Ended June 30, 2009 and 2008 (dollars in thousands)**

	Three Months Ended June 30,		Amount of Increase (Decrease)	Percent Increase (Decrease)
	2009	2008		
<b>REVENUES:</b>				
Rental and management	\$406,751	\$384,343	\$ 22,408	6%
Network development services	16,607	9,385	7,222	77
Total revenues	<u>423,358</u>	<u>393,728</u>	<u>29,630</u>	8
<b>OPERATING EXPENSES:</b>				
Costs of operations (exclusive of items shown separately below)				
Rental and management	92,330	91,952	378	—
Network development services	10,243	4,922	5,321	108
Depreciation, amortization and accretion	102,463	99,697	2,766	3
Selling, general, administrative and development expense (including stock-based compensation expense of \$12,836 and \$13,597, respectively)	49,861	41,784	8,077	19
Other operating expenses	2,014	583	1,431	245
Total operating expenses	<u>256,911</u>	<u>238,938</u>	<u>17,973</u>	8
<b>OTHER INCOME (EXPENSE) AND OTHER ITEMS:</b>				
Interest income, TV Azteca, net	3,585	3,584	1	—
Interest income	482	979	(497)	(51)
Interest expense	(62,654)	(62,508)	146	—
Loss on retirement of long-term obligations	(5,994)	(211)	5,783	2,741
Other income (expense)	983	(1,326)	2,309	174
Income tax provision	(51,428)	(44,535)	6,893	15
Income on equity method investments	7	8	(1)	(13)
Income from continuing operations	51,428	50,781	647	1
Income from discontinued operations, net	5,060	108,103	(103,043)	(95)
Net income	56,488	158,884	(102,396)	(64)
Net income attributable to noncontrolling interest	(199)	(98)	(101)	(103)
Net income attributable to American Tower Corporation	<u>\$ 56,289</u>	<u>\$ 158,786</u>	<u>(102,497)</u>	(65)%



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### *Total Revenues*

Total revenues for the three months ended June 30, 2009 were \$423.4 million, an increase of \$29.6 million from the three months ended June 30, 2008. Approximately \$22.4 million of the increase was attributable to an increase in rental and management revenue, with the remaining portion of the increase attributable to network development services revenue.

### *Rental and Management Revenue*

Rental and management revenue for the three months ended June 30, 2009 was \$406.8 million, an increase of \$22.4 million from the three months ended June 30, 2008. Approximately \$14.1 million of the increase resulted from incremental revenue generated by communications sites that existed in our portfolio during the entire period between April 1, 2008 and June 30, 2009, which reflects revenue increases from adding new tenants to those sites, existing tenants adding more equipment to those sites, contractual escalators, partially offset by unfavorable foreign currency exchange rates and the impact of straight-line lease accounting. Approximately \$8.3 million of the increase resulted from approximately 2,780 communications sites acquired and/or constructed subsequent to April 1, 2008. We believe that our rental and management revenue will grow as we continue to utilize existing site capacity. We anticipate that the majority of our new leasing activity will continue to come from wireless service providers.

### *Network Development Services Revenue*

Network development services revenue for the three months ended June 30, 2009 was \$16.6 million, an increase of \$7.2 million from the three months ended June 30, 2008. This increase was primarily attributable to revenues generated from our site acquisition, zoning, permitting and installation services. As we continue to focus on and grow our rental and management business, we anticipate that our network development services revenue will continue to represent only a small percentage of our total revenues.

### *Total Operating Expenses*

Total operating expenses for the three months ended June 30, 2009 were \$256.9 million, an increase of \$18.0 million from the three months ended June 30, 2008. The increase was primarily attributable to an increase in selling, general, administrative and development expense of \$8.1 million and an increase in expenses within our network development services segment of \$5.3 million. The increases in depreciation, amortization and accretion expenses of \$2.8 million and in other operating expenses of \$1.4 million also contributed to the increase in total operating expenses.

### *Rental and Management Expense/Segment Gross Margin/Segment Operating Profit*

Rental and management expense for the three months ended June 30, 2009 was \$92.3 million, an increase of \$0.4 million from the three months ended June 30, 2008. The increase was primarily the result of a \$3.3 million increase in expenses related to approximately 2,780 sites acquired and/or constructed subsequent to April 1, 2008, offset by a decrease of \$2.9 million in expenses attributable to communications sites that existed in our portfolio during the period between April 1, 2008 and June 30, 2009, primarily due to the impact of fluctuations in foreign currency exchange rates.

Rental and management segment gross margin for the three months ended June 30, 2009 was \$318.0 million, an increase of \$22.0 million from the three months ended June 30, 2008. The increase primarily resulted from the additional rental and management revenue described above.

Rental and management segment operating profit for the three months ended June 30, 2009 was \$295.4 million, an increase of \$15.5 million from the three months ended June 30, 2008. This was comprised of the \$22.0 million increase in rental and management segment gross margin described above, partially offset by an increase of approximately \$6.5 million in selling, general, administrative and development expenses related to the rental and management segment.

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### *Network Development Services Expense*

Network development services expense for the three months ended June 30, 2009 was \$10.2 million, an increase of \$5.3 million from the three months ended June 30, 2008. The increase correlates to the growth in services performed as noted above.

### *Depreciation, Amortization and Accretion*

Depreciation, amortization and accretion for the three months ended June 30, 2009 was \$102.5 million, an increase of \$2.8 million from the three months ended June 30, 2008. This increase was primarily attributable to an increase in property, plant and equipment (including the property, plant and equipment acquired from XCEL Telecom Private Limited (“XCEL”) (See note 11 to our condensed consolidated financial statements included herein)) from June 30, 2008 to June 30, 2009.

### *Selling, General, Administrative and Development Expense*

Selling, general, administrative and development expense for the three months ended June 30, 2009 was \$49.9 million, an increase of \$8.1 million from the three months ended June 30, 2008. The increase was primarily attributable to an increase of \$4.8 million of bad debt expense and increases in various administrative expenses. For the three months ended June 30, 2008, selling, general, administrative and development expense included a one-time reduction related to payroll tax expense of approximately \$3.1 million.

### *Other Operating Expenses*

Other operating expenses for the three months ended June 30, 2009 were \$2.0 million, an increase of \$1.4 million from the three months ended June 30, 2008. The increase was primarily attributable to approximately \$1.2 million in acquisition related costs which have been expensed under the provisions of Financial Accounting Standards Board (“FASB”) Statement of Financial Accounting Standards (“SFAS”) No. 141 (revised 2007), “Business Combinations” (“SFAS No. 141R”).

### *Loss on Retirement of Long-Term Obligations*

Loss on retirement of long-term obligations for the three months ended June 30, 2009 was \$6.0 million, an increase of \$5.8 million from the three months ended June 30, 2008.

During the three months ended June 30, 2009, pursuant to a tender offer, we repurchased an aggregate of \$204.2 million principal amount of 7.50% notes due 2012 (“7.50% Notes”) for an aggregate purchase price of \$210.2 million in cash. As a result of this transaction, we recorded a charge of \$6.0 million related to the amounts paid in excess of carrying value and the write-off of the related deferred financing fees.

### *Other Income (Expense)*

Other income for the three months ended June 30, 2009 was approximately \$1.0 million, as compared to other expense of approximately \$1.3 million for the three months ended June 30, 2008. During the three months ended June 30, 2009, we recorded a gain of approximately \$1.7 million on the settlement of a foreign currency exchange contract executed to hedge the foreign currency exposure associated with our acquisition of XCEL, offset by foreign currency remeasurement losses of approximately \$0.8 million. During the three months ended June 30, 2008, we recorded foreign currency remeasurement losses of approximately \$1.3 million.

### *Income Tax Provision*

The income tax provision for the three months ended June 30, 2009 was \$51.4 million, an increase of \$6.9 million from the three months ended June 30, 2008. The effective tax rate was 50.0% for the three months ended June 30, 2009, as compared to an effective tax rate of 46.7% for the three months ended June 30, 2008. The increase in the effective tax rate for the three months ended June 30, 2009, as compared to the three months

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ended June 30, 2008, is primarily due to the discrete impact of foreign currency fluctuations on certain tax items, IRS audit adjustments, partially offset by the decrease in certain tax reserves.

The effective tax rates on income from continuing operations for the three months ended June 30, 2009 and June 30, 2008 differ from the federal statutory rate due primarily to adjustments for foreign items, non-deductible stock-based compensation expense, IRS audit adjustments, tax reserves and state taxes.

### *Income from Discontinued Operations, Net*

Income from discontinued operations, net for the three months ended June 30, 2009 was \$5.1 million, a decrease of \$103.0 million from the three months ended June 30, 2008. The decrease is primarily attributable to the recording of an income tax benefit during the three months ended June 30, 2008, related to losses associated with our investment in our wholly subsidiary, Verestar, Inc. (“Verestar”). Verestar filed for protection under Chapter 11 of the federal bankruptcy laws in December 2003. In April 2008, the bankruptcy court approved Verestar’s plan of liquidation. We recorded an income tax benefit of \$106.1 million as income from discontinued operations during the three months ended June 30, 2008.

### **Six Months Ended June 30, 2009 and 2008 (dollars in thousands)**

	Six Months Ended June 30,		Amount of Increase (Decrease)	Percent Increase (Decrease)
	2009	2008		
<b>REVENUES:</b>				
Rental and management	\$ 802,698	\$ 758,326	44,372	6%
Network development services	29,338	17,586	11,752	67
Total revenues	<u>832,036</u>	<u>775,912</u>	<u>56,124</u>	7
<b>OPERATING EXPENSES:</b>				
Costs of operations (exclusive of items shown separately below)				
Rental and management	182,420	178,883	3,537	2
Network development services	17,858	8,549	9,309	109
Depreciation, amortization and accretion	202,331	196,769	5,562	3
Selling, general, administrative and development expense (including stock-based compensation expense of \$37,174 and \$29,862, respectively)	107,493	90,693	16,800	19
Other operating expenses	5,203	1,372	3,831	279
Total operating expenses	<u>515,305</u>	<u>476,266</u>	<u>39,039</u>	8
<b>OTHER INCOME (EXPENSE) AND OTHER ITEMS:</b>				
Interest income, TV Azteca, net	7,084	7,125	(41)	(1)
Interest income	981	1,942	(961)	(49)
Interest expense	(124,222)	(128,022)	(3,800)	(3)
Loss on retirement of long-term obligations	(5,994)	(236)	5,758	2,440
Other income (expense)	1,054	(2,104)	3,158	150
Income tax provision	(88,535)	(85,336)	3,199	4
Income on equity method investments	17	13	4	31
Income from continuing operations	107,116	93,028	14,088	15
Income from discontinued operations, net	8,130	108,084	(99,954)	(92)
Net income	<u>115,246</u>	<u>201,112</u>	<u>(85,866)</u>	(43)
Net income attributable to noncontrolling interest	(356)	(171)	(185)	(108)
Net income attributable to American Tower Corporation	<u>\$ 114,890</u>	<u>\$ 200,941</u>	<u>(86,051)</u>	(43)%

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### *Total Revenues*

Total revenues for the six months ended June 30, 2009 were \$832.0 million, an increase of \$56.1 million from the six months ended June 30, 2008. Approximately \$44.4 million of the increase was attributable to an increase in rental and management revenue, with the remaining portion of the increase attributable to network development services revenue.

### *Rental and Management Revenue*

Rental and management revenue for the six months ended June 30, 2009 was \$802.7 million, an increase of \$44.4 million from the six months ended June 30, 2008. Approximately \$30.1 million of the increase resulted from incremental revenue generated by communications sites that existed in our portfolio during the entire period between January 1, 2008 and June 30, 2009, which reflects revenue increases from adding new tenants to those sites, existing tenants adding more equipment to those sites, contractual escalators, partially offset by unfavorable foreign currency exchange rates and the impact of straight-line lease accounting. Approximately \$14.3 million of the increase resulted from approximately 3,000 communications sites acquired and/or constructed subsequent to January 1, 2008. We believe that our rental and management revenue will grow as we continue to utilize existing site capacity. We anticipate that the majority of our new leasing activity will continue to come from wireless service providers.

### *Network Development Services Revenue*

Network development services revenue for the six months ended June 30, 2009 was \$29.3 million, an increase of \$11.8 million from the six months ended June 30, 2008. This increase was primarily attributable to revenues generated from our site acquisition, zoning, permitting and installation services. As we continue to focus on and grow our rental and management business, we anticipate that our network development services revenue will continue to represent a small percentage of our total revenues.

### *Total Operating Expenses*

Total operating expenses for the six months ended June 30, 2009 were \$515.3 million, an increase of \$39.0 million from the six months ended June 30, 2008. The increase was primarily attributable to an increase in selling, general, administrative and development expense of \$16.8 million and increases in expenses within our network development services segment of \$9.3 million and rental and management segment of \$3.5 million. The increases in depreciation, amortization and accretion expenses of \$5.6 million and in other operating expenses of \$3.8 million also contributed to the increase in total operating expenses.

### *Rental and Management Expense/Segment Gross Margin/Segment Operating Profit*

Rental and management expense for the six months ended June 30, 2009 was \$182.4 million, an increase of \$3.5 million from the six months ended June 30, 2008. The increase was primarily the result of a \$5.9 million increase in expenses related to approximately 3,000 sites acquired and/or constructed subsequent to January 1, 2008, offset by a decrease of \$2.4 million in expenses attributable to communications sites that existed in our portfolio during the period between January 1, 2008 and June 30, 2009, primarily due to the impact of fluctuations in foreign currency exchange rates.

Rental and management segment gross margin for the six months ended June 30, 2009 was \$627.4 million, an increase of \$40.8 million from the six months ended June 30, 2008. The increase primarily resulted from additional rental and management revenue described above.

Rental and management segment operating profit for the six months ended June 30, 2009 was \$587.1 million, an increase of \$33.0 million from the six months ended June 30, 2008. This was comprised of the \$40.8

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million increase in rental and management segment gross margin described above, partially offset by an increase of approximately \$7.8 million in selling, general, administrative and development expenses related to our rental and management segment.

### *Network Development Services Expense*

Network development services expense for the six months ended June 30, 2009 was \$17.9 million, an increase of \$9.3 million from the six months ended June 30, 2008. The increase correlates to the growth in services performed as noted above.

### *Depreciation, Amortization and Accretion*

Depreciation, amortization and accretion for the six months ended June 30, 2009 was \$202.3 million, an increase of \$5.6 million from the six months ended June 30, 2008. This increase was primarily attributable to an increase in property, plant and equipment (including the property, plant and equipment acquired from XCEL (see note 11 to our condensed consolidated financial statements included herein)) from June 30, 2008 to June 30, 2009.

### *Selling, General, Administrative and Development Expense*

Selling, general, administrative and development expense for the six months ended June 30, 2009 was \$107.5 million, an increase of \$16.8 million from the six months ended June 30, 2008. The increase was primarily attributable to an increase of approximately \$7.3 million in non-cash stock based compensation expense, which was principally driven by the additional expense recognized upon the modification of certain stock option awards during the six months ended June 30, 2009, an increase of \$4.8 million of bad debt expense and increases in various administrative expenses. For the six months ended June 30, 2008, selling, general, administrative and development expense included a one-time reduction related to payroll tax expense of approximately \$3.1 million.

### *Other Operating Expenses*

Other operating expenses for the six months ended June 30, 2009 were \$5.2 million, an increase of \$3.8 million from the six months ended June 30, 2008. The increase was primarily attributable to approximately \$3.8 million in acquisition related costs which have been expensed due to the adoption of SFAS No. 141R on January 1, 2009. Approximately \$1.2 million of these costs are related to the expensing of amounts which had been recorded as other long-term assets at December 31, 2008 for pending acquisitions and the remaining \$2.6 million relates to additional acquisition related costs incurred during the six months ended June 30, 2009.

### *Interest Expense*

Interest expense for the six months ended June 30, 2009 was \$124.2 million, a decrease of \$3.8 million from the six months ended June 30, 2008. The decrease was primarily attributable to a decrease in average outstanding debt of approximately \$85.1 million coupled with a decrease in the average borrowing rate.

### *Loss on Retirement of Long-Term Obligations*

Loss on retirement of long-term obligations for the six months ended June 30, 2009 was \$6.0 million, an increase of \$5.8 million from the six months ended June 30, 2008.

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During the six months ended June 30, 2009, pursuant to a tender offer, we repurchased an aggregate of \$204.2 million principal amount of 7.50% Notes for an aggregate purchase price of \$210.2 million in cash. As a result of this transaction, we recorded a charge of \$6.0 million related to the amounts paid in excess of carrying value and the write-off of the related deferred financing fees.

### *Other Income (Expense)*

Other income for the six months ended June 30, 2009 was approximately \$1.1 million, as compared to other expense of approximately \$2.1 million for the six months ended June 30, 2008. During the six months ended June 30, 2009, we recorded a gain of approximately \$1.7 million on the settlement of a foreign currency exchange contract executed to hedge the foreign currency exposure associated with our acquisition of XCEL, offset by foreign currency remeasurement losses of approximately \$1.0 million. During the three months ended June 30, 2008, we recorded foreign currency remeasurement losses of approximately \$2.1 million.

### *Income Tax Provision*

The income tax provision for the six months ended June 30, 2009 was \$88.5 million, an increase of \$3.2 million from the six months ended June 30, 2008. The effective tax rate was 45.3% for the six months ended June 30, 2009, as compared to an effective tax rate of 47.8% for the six months ended June 30, 2008. The reduction in the effective tax rate for the six months ended June 30, 2009, as compared to the six months ended June 30, 2008, is primarily due to the discrete impact of foreign currency fluctuations on certain tax items, IRS audit adjustments, partially offset by the decrease in certain tax reserves.

The effective tax rates on income from continuing operations for the six months ended June 30, 2009 and June 30, 2008 differ from the federal statutory rate due primarily to adjustments for foreign items, non-deductible stock-based compensation expense, IRS audit adjustments, tax reserves and state taxes.

### *Income from Discontinued Operations, Net*

Income from discontinued operations, net for the six months ended June 30, 2009 was \$8.1 million, a decrease of \$100.0 million from the six months ended June 30, 2008. This decrease is primarily attributable to the recording of an income tax benefit of \$106.1 million during the six months ended June 30, 2008, related to losses associated with our investment in Verestar as income from discontinued operations during the six months ended June 30, 2008, partially offset by an insurance reimbursement received during the six months ended June 30, 2009 for approximately \$5.0 million related to the Verestar bankruptcy settlement.

## **Liquidity and Capital Resources**

The information in this section updates as of June 30, 2009 the "Liquidity and Capital Resources" section of our Annual Report on Form 10-K for the year ended December 31, 2008 and should be read in conjunction with that report.

### **Overview**

As a holding company, our cash flows are derived primarily from the operations of, and distributions from, our operating subsidiaries or funds raised through borrowings under our credit facilities and debt and equity offerings. As of June 30, 2009, we had approximately \$868.9 million of total liquidity, comprised of approximately \$323.7 million in cash and cash equivalents and the ability to borrow approximately \$545.3 million under our \$1.25 billion senior unsecured revolving credit facility ("Revolving Credit Facility"). In March 2008, we increased our borrowing capacity under the Revolving Credit Facility by adding \$325.0 million of term loan commitments ("Term Loan"), and as of June 30, 2009, the Term Loan was fully drawn. As of June 30, 2009,

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our cash and cash equivalents increased by \$171.5 million as compared to June 30, 2008. Summary cash flow information for the six months ended June 30, 2009 and 2008 is set forth below (in thousands).

	Six Months Ended June 30,	
	2009	2008
Net cash provided by (used for):		
Operating activities	\$ 409,346	\$ 359,133
Investing activities	(211,781)	(128,948)
Financing activities	(16,847)	(111,178)
Net effect of changes in exchange rates on cash and cash equivalents	(158)	—
Net increase in cash and cash equivalents	<u>\$ 180,560</u>	<u>\$ 119,007</u>

We use our cash flows to fund our operations and investments in our business, including tower maintenance and improvements, tower construction, DAS network installations, and tower and land acquisitions. We also use our cash flows to fund refinancings and repurchases of our outstanding indebtedness, as well as our stock repurchase programs.

As of June 30, 2009, we had total outstanding indebtedness of approximately \$4.4 billion. During the six months ended June 30, 2009 and the year ended December 31, 2008, we generated sufficient cash flow from operations to fund our capital expenditures and cash interest obligations. We believe the cash generated by operations during the next twelve months will be sufficient to fund our capital expenditures and our cash debt service (interest and principal repayments) obligations for the next twelve months. During 2009, if the financial and credit markets improve, we expect that we may opportunistically raise additional capital to fund stock repurchases, repurchase existing debt and for other general corporate purposes.

### ***Cash Flows from Operating Activities***

For the six months ended June 30, 2009, cash provided by operating activities was \$409.3 million, an increase of approximately \$50.2 million as compared to the six months ended June 30, 2008. This increase was primarily attributable to an increase of approximately \$43.2 million in the gross margin of our operating segments and a decrease of approximately \$6.5 million in interest costs.

Each of our rental and management and network development services segments is expected to generate cash flows from operations during 2009 in excess of its cash needs for operating expenses and capital expenditures for tower construction, improvements and acquisitions.

### ***Cash Flows from Investing Activities***

For the six months ended June 30, 2009, cash used for investing activities was \$211.8 million, an increase of approximately \$82.8 million as compared to the six months ended June 30, 2008. This increase was primarily attributable to the acquisition of XCEL in May 2009 (see note 11 to the condensed consolidated financial statements), increased spending on the purchase of property and equipment and construction activities and increased purchases of short-term investments.

During the six months ended June 30, 2009, payments for purchases of property and equipment and construction activities totaled \$113.9 million, including \$34.5 million of capital expenditures related to the maintenance, improvement and augmentation of our existing communications sites, \$59.1 million spent in connection with the construction of 404 communications tower sites and the installation of eight in-building DAS

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networks, \$17.6 million spent to acquire land under our towers that was subject to ground agreements (including leases), and \$2.7 million spent on information technology improvements. In addition, during the six months ended June 30, 2009, we spent \$86.7 million, net of \$11.3 million in cash acquired, to acquire XCEL and \$6.6 million to acquire 14 communications tower sites.

We plan to continue to allocate our available capital among investment alternatives that meet our return on investment criteria. Accordingly, we may continue to acquire communications sites, acquire land under our towers, build or install new communications sites and redevelop or improve existing communications sites when the expected returns on such investments meet our return on investment criteria. We expect that our 2009 total capital expenditures will be between approximately \$220.0 million and \$255.0 million, including \$45.0 million for capital improvements and corporate expenditures, between \$30.0 million and \$35.0 million for the redevelopment of existing communications sites, between \$30.0 million and \$40.0 million for ground lease purchases and between \$115.0 million and \$135.0 million for the construction of approximately 900 to 1,100 new communications sites, including towers and DAS networks, and for the installation of shared back-up power generators at certain of our tower sites.

### ***Cash Flows from Financing Activities***

For the six months ended June 30, 2009, cash used for financing activities was \$16.8 million, as compared to cash used for financing activities of \$111.2 million during the six months ended June 30, 2008. The \$16.8 million of cash used for financing activities during the six months ended June 30, 2009 primarily related to the tender offer for the 7.50% Notes, repayment of credit facilities and capital leases of approximately \$257.5 million; payments for the repurchase of our Class A common stock ("Common Stock") of \$65.7 million, which consisted of approximately \$63.2 million of Common Stock and \$2.5 million of amounts surrendered in connection with the vesting of restricted stock units, partially offset by \$300.0 million (\$291.6 million, net of commissions and expenses) of proceeds from the issuance of the 7.25% senior unsecured notes due 2019 ("7.25% Notes") and approximately \$16.1 million of proceeds from stock options, warrants and the employee stock purchase plan. The \$111.2 million of cash used for financing activities during the six months ended June 30, 2008 primarily related to the repayment of notes payable, credit facilities and capital leases of approximately \$326.3 million and payments for the repurchases of our Common Stock of \$296.6 million, partially offset by \$475.0 million of borrowings under the Revolving Credit Facility and Term Loan.

*Revolving Credit Facility.* As of June 30, 2009, we had \$700.0 million outstanding and the ability to borrow approximately \$545.3 million under the Revolving Credit Facility. We continue to maintain the ability to draw down and repay amounts under the Revolving Credit Facility in the ordinary course.

The Borrower under the Revolving Credit Facility is American Tower Corporation. The Revolving Credit Facility has a term of five years and matures on June 8, 2012. Any outstanding principal and accrued but unpaid interest will be due and payable in full at maturity. The Revolving Credit Facility does not require amortization of principal and may be paid prior to maturity in whole or in part at our option without penalty or premium. The Revolving Credit Facility allows us to use borrowings for our and our subsidiaries' working capital needs and other general corporate purposes (including, without limitation, to refinance or repurchase other indebtedness and, provided certain conditions are met, to repurchase our equity securities, in each case without additional lender approval).

*Term Loan.* On March 24, 2008, we entered into the \$325.0 million Term Loan pursuant to the Revolving Credit Facility. At closing, we received net proceeds of approximately \$321.7 million from the Term Loan, which, together with available cash, we used to repay \$325.0 million of existing indebtedness under the Revolving Credit Facility. The Term Loan is governed by the terms of the loan agreement for the Revolving Credit Facility. Consistent with the terms of the Revolving Credit Facility, the borrower under the Term Loan is American Tower Corporation, and the maturity date for the Term Loan is June 8, 2012. Any outstanding



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principal and accrued but unpaid interest will be due and payable in full at maturity. The Term Loan does not require amortization of principal and may be paid prior to maturity in whole or in part at our option without penalty or premium.

*7.25% Senior Notes Offering*—On June 10, 2009, we completed an institutional private placement of \$300.0 million aggregate principal amount of our 7.25% Notes. The net proceeds to us from the offering were approximately \$291.6 million, after deducting commissions and expenses. We used \$210.2 million of the net proceeds to finance the repurchase of our outstanding 7.50% Notes through a tender offer. In addition, we used \$50.0 million of the net proceeds to repay certain of our outstanding indebtedness incurred under our Revolving Credit Facility.

The 7.25% Notes mature on May 15, 2019, and interest is payable semiannually in arrears on May 15 and November 15 of each year, commencing November 15, 2009, to the persons in whose names the notes are registered at the close of business on the preceding May 1 and November 1, respectively. We may redeem the 7.25% Notes at any time at a redemption price equal to 100% of the principal amount, plus a make-whole premium, together with accrued interest to the redemption date. Interest on the notes will accrue from June 10, 2009 and will be computed on the basis of a 360-day year comprised of twelve 30-day months.

If we undergo a change of control, as defined in the indenture for the 7.25% Notes, or ratings decline (a decrease by one or more gradations of our current debt ratings of Ba1, BB+ and BBB-), we may be required to repurchase all of the 7.25% Notes at a purchase price equal to 101% of the principal amount, plus accrued and unpaid interest, if any, and additional interest, if any, to but not including the date of repurchase. The 7.25% Notes rank equally with all of our other senior unsecured debt and are structurally subordinated to all existing and future indebtedness and other obligations of our subsidiaries. The indenture contains certain covenants that restrict our ability to incur more subsidiary debt or permit subsidiaries to provide guarantees; create liens; and merge, consolidate or sell assets. These covenants are subject to a number of exceptions, including that we and our subsidiaries may incur certain indebtedness or liens on assets, mortgages or other liens securing indebtedness, if the aggregate amount of such indebtedness and such liens do not exceed 3.5x Adjusted EBITDA, as defined in the indenture.

*Stock Repurchase Program.* During the six months ended June 30, 2009, we repurchased an aggregate of 2.3 million shares of our Common Stock for an aggregate of \$69.6 million, including commissions and fees, pursuant to our \$1.5 billion stock repurchase program approved by our Board of Directors in February 2008 (the “2008 Buyback”). Between July 1, 2009 and July 24, 2009, we repurchased an additional 1.2 million shares of our Common Stock for an aggregate of \$38.2 million, including commissions and fees. As of July 24, 2009, we had repurchased a total of 17.5 million shares of Common Stock for an aggregate of \$641.2 million, including commissions and fees, pursuant to the 2008 Buyback.

Under the 2008 Buyback, we are authorized to purchase shares from time to time through open market purchases or privately negotiated transactions at prevailing prices in accordance with securities laws and other legal requirements, and subject to market conditions and other factors. To facilitate repurchases, we purchase our Common Stock pursuant to trading plans under Rule 10b5-1 of the Exchange Act, which allow us to repurchase shares during periods when we otherwise might be prevented from doing so under insider trading laws or because of self-imposed trading blackout periods.

In the near term, we expect to fund any further repurchases of our Common Stock through a combination of cash on hand, cash generated by operations and borrowings under our Revolving Credit Facility. Purchases under the 2008 Buyback are subject to us having available cash to fund repurchases.

*Sales of Equity Securities.* We receive proceeds from sales of our equity securities pursuant to our employee stock purchase plan, upon the exercise of stock options granted under our equity incentive plans and upon the exercise of warrants to purchase our equity securities. For the six months ended June 30, 2009, we received an aggregate of approximately \$16.1 million in proceeds from sales of shares pursuant to our employee stock purchase plan, upon exercises of stock options and upon exercises of warrants.

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**Contractual Obligations.** Our contractual obligations relate primarily to the Commercial Mortgage Pass-Through Certificates, Series 2007-1 issued in our May 2007 securitization transaction, borrowings under our Revolving Credit Facility and Term Loan and our outstanding notes.

The following table summarizes our borrowings under our Revolving Credit Facility and Term Loan, and balance outstanding under our notes and the certificates issued in our securitization transaction and certain other debt, as of June 30, 2009 (in thousands):

<u>Indebtedness</u>	<u>Balance Outstanding</u>	<u>Maturity Date</u>
Commercial Mortgage Pass-Through Certificates, Series 2007-1	\$ 1,750,000	April 15, 2014 <sup>(1)</sup>
Revolving Credit Facility	700,000	June 8, 2012
Term Loan	325,000	June 8, 2012
7.25% senior subordinated notes	288	December 1, 2011
7.50% senior notes <sup>(2)</sup>	20,816	May 1, 2012
7.25% senior notes	294,857	May 15, 2019
7.125% senior notes	500,980	October 15, 2012
7.00% senior notes	500,000	October 15, 2017
5.0% convertible notes	59,683	February 15, 2010
3.00% convertible notes	161,936	August 15, 2012
XCEL Credit Facility <sup>(3)</sup>	70,932	March 31, 2016
Other debt, including capital leases	59,779	
<b>Total</b>	<b>\$ 4,444,271</b>	

(1) Anticipated repayment date; final legal maturity date is April 2037.

(2) On July 20, 2009, we redeemed the outstanding balance, as described in further detail below under “—Refinancing Activities.”

(3) The rupee-denominated debt was outstanding at the time of the acquisition of XCEL.

A description of our contractual debt obligations is set forth under the caption “Quantitative and Qualitative Disclosures about Market Risk” in Part I, Item 3 of this Quarterly Report on Form 10-Q. In accordance with the provisions of Financial Accounting Standards Board (“FASB”) Interpretation No. 48, “Accounting for Uncertainty in Income Taxes, an interpretation of SFAS No. 109”, we classified uncertain tax positions as non-current income tax liabilities. We expect the unrecognized tax benefits to change over the next twelve months if certain tax matters ultimately settle with the applicable taxing jurisdiction during this timeframe. However, based on the status of these items and the amount of uncertainty associated with the outcome and timing of audit settlements, we are currently unable to estimate the impact of the amount of such changes, if any, to previously recorded uncertain tax positions and have classified approximately \$16.5 million as other long-term liabilities in the condensed consolidated balance sheet as of June 30, 2009. We also classified approximately \$15.5 million of accrued income tax related interest and penalties as other long-term liabilities in the condensed consolidated balance sheet as of June 30, 2009.

### **Refinancing Activities**

In order to extend the maturity dates of our indebtedness, lower our cost of debt and improve our financial flexibility, we use our available liquidity and seek new sources of liquidity to refinance our outstanding indebtedness.

**7.50% Senior Notes**—During the six months ended June 30, 2009, we repurchased an aggregate of \$204.2 million principal amount of the 7.50% Notes pursuant to a cash tender offer. We paid \$210.2 million, including approximately \$1.7 million in accrued and unpaid interest, to holders of the 7.50% Notes using net proceeds from the offering of the 7.25% Notes discussed above. In June 2009, we issued a notice for the redemption of the 7.50%

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Notes that remained outstanding following the expiration of the tender offer. On July 20, 2009, we redeemed the remaining \$20.8 million aggregate principal amount of 7.50% Notes in accordance with the indenture for the 7.50% Notes at a price equal to 101.875% of the principal amount, plus accrued and unpaid interest, for an aggregate purchase price of \$21.5 million. We used available cash on hand to fund the redemption. Upon completion of this redemption, none of the 7.50% Notes remained outstanding.

**3.00% Convertible Notes**—On August 6, 2009, we issued a notice for the redemption of all of the \$162.2 million aggregate principal amount of our outstanding 3.00% convertible notes due August 15, 2012 (“3.00% Notes”). In accordance with the conversion provisions of the 3.00% Notes and the indenture for the 3.00% Notes, holders of the notes have the right at any time until and including, but not after, the close of business on August 26, 2009, to convert their notes into shares of our Common Stock at a conversion rate of 48.7805 shares per \$1,000 principal amount of notes.

### **Factors Affecting Sources of Liquidity**

As discussed in the “Liquidity and Capital Resources” section of our Annual Report on Form 10-K for the year ended December 31, 2008, our liquidity is dependent on our ability to generate cash flow from operating activities, borrow funds under our Revolving Credit Facility and maintain compliance with the contractual agreements governing our indebtedness. As discussed below, the loan agreements relating to the securitization transaction and to our Revolving Credit Facility and Term Loan contain certain financial ratios and operating covenants and other restrictions that could impact our liquidity. In addition, as discussed below under the caption “Information Presented Pursuant to the Indenture of our 7.125% Notes,” the indenture governing the terms of our 7.125% senior notes due 2012 (“7.125% Notes”) contains certain restrictive covenants not found in our other indentures that could impact our liquidity. We believe that the foregoing debt agreements and indentures represent those of our material debt agreements that incorporate covenants, the compliance with which would be material to an investor’s understanding of our financial results and the impact of those results on our liquidity.

**Restrictions Under Loan Agreement Relating to Revolving Credit Facility and Term Loan.** The loan agreement for the Revolving Credit Facility and Term Loan contains certain financial ratios and operating covenants and other restrictions applicable to us and all of our subsidiaries designated as restricted subsidiaries on a consolidated basis. These include limitations on additional debt, distributions and dividends, guaranties, sales of assets and liens. The loan agreement also contains covenants that establish three financial tests with which we and our restricted subsidiaries must comply related to total leverage, senior secured leverage and interest coverage, as set forth below. As of June 30, 2009, we were in compliance with each of these covenants.

- **Consolidated Total Leverage Ratio:** This ratio requires that we not exceed a ratio of Total Debt to Adjusted EBITDA (as defined in the loan agreement) of 6.00 to 1.00. Based on our financial performance for the twelve months ended June 30, 2009, we could incur approximately \$2.35 billion of additional indebtedness and still remain in compliance with this ratio. In addition, if we maintain our existing debt levels and our expenses do not change materially from current levels, our revenues could decrease by approximately \$392 million and we would still remain in compliance with this ratio.
- **Consolidated Senior Secured Leverage Ratio:** This ratio requires that we not exceed a ratio of Senior Secured Debt to Adjusted EBITDA of 3.00 to 1.00. Based on our financial performance for the twelve months ended June 30, 2009, we could incur approximately \$1.61 billion of additional Senior Secured Debt and still remain in compliance with this ratio. In addition, if we maintain our existing Senior Secured Debt levels and our expenses do not change materially from current levels, our revenues could decrease by approximately \$538 million and we would still remain in compliance with this ratio.
- **Interest Coverage Ratio:** This ratio requires that we maintain a ratio of Adjusted EBITDA to Interest Expense of not less than 2.50 to 1.00. Based on our financial performance for the twelve months ended June 30, 2009, our interest expense, which was \$238 million for that period, could increase by approximately \$215 million and we would still remain in compliance with this ratio. In addition, if our interest expense does not change materially from current levels, our revenues could decrease by approximately \$539 million and we would still remain in compliance with this ratio.

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The loan agreement also contains reporting and information covenants that require us to provide financial and operating information within certain time periods. If we are unable to provide the required information on a timely basis, we would be in breach of these covenants.

Any failure to comply with the financial maintenance tests and operating covenants of the loan agreement for the Revolving Credit Facility and Term Loan would not only prevent us from being able to borrow additional funds under the facility, but would constitute a default, which could result in, among other things, the amounts outstanding, including all accrued interest and unpaid fees, becoming immediately due and payable. If this were to occur, we would not have sufficient cash on hand to repay such indebtedness. The key factors affecting our ability to comply with the debt covenants described above are our financial performance relative to the financial maintenance tests defined in the loan agreement for the Revolving Credit Facility and Term Loan and our ability to fund our debt service obligations. Based upon our current expectations, we believe our operating results during the next twelve months will be sufficient to comply with these covenants.

*Restrictions Under Loan Agreement Relating to Securitization Transaction.* The loan agreement related to the securitization transaction (the “Securitization”) involved assets related to 5,295 broadcast and wireless communications towers owned by two special purpose subsidiaries of the Company (the “Borrowers”), through a private offering of \$1.75 billion of Commercial Mortgage Pass-Through Certificates, Series 2007-1 (the “Certificates”). The Securitization loan agreement includes certain financial ratios and operating covenants and other restrictions customary for loans subject to rated securitizations. Among other things, the Borrowers are prohibited from incurring other indebtedness for borrowed money or further encumbering their assets. The Borrowers’ organizational documents contain provisions consistent with rating agency securitization criteria for special purpose entities, including the requirement that the Borrowers maintain at least two independent directors. The Securitization loan agreement also contains certain covenants that require the Borrowers to provide the trustee with regular financial reports and operating budgets, promptly notify the trustee of events of default and material breaches under the Securitization loan agreement and other agreements related to the towers subject to the Securitization, and allow the trustee reasonable access to the towers, including the right to conduct site investigations.

Under the terms of the Securitization loan agreement, the loan will be paid solely from the cash flows generated by the towers subject to the Securitization, which must be deposited, and thereafter distributed, solely pursuant to the terms of the Securitization loan. The Borrowers are required to make monthly payments of interest on the Securitization loan. On a monthly basis, all cash flow in excess of amounts required to make debt service payments, to fund required reserves, to pay management fees and budgeted operating expenses and to make other payments required under the Securitization loan, referred to as excess cash flow, is to be released to the Borrowers for distribution to us. During the three months ended June 30, 2009, the Borrowers distributed excess cash to us of approximately \$113.9 million.

In order to distribute this excess cash flow to us, the Borrowers must maintain several specified ratios with respect to their debt service coverage (“DSCR”). For this purpose, DSCR is tested as of the last day of each calendar quarter and is generally defined as four times the Borrowers’ net cash flow for that quarter divided by the amount of interest, servicing fees and trustee fees that the Borrowers must pay over the succeeding twelve months on the Securitization loan. Pursuant to one such test, if the DSCR as of the end of any calendar quarter were:

- 1.30x or less, during the five-year period commencing on the closing date of the Securitization in May 2007, or
- 1.75x or less, thereafter, (1.30x or 1.75x as applicable, the “Cash Trap DSCR”),

then all excess cash flow would be placed in a reserve account and would not be released to the Borrowers for distribution to us until the DSCR exceeded the Cash Trap DSCR for two consecutive calendar quarters.

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Additionally, while principal payments generally are not due with respect to any component of the Securitization loan until April 2014, excess cash flow would be applied to principal during an “Amortization Period” under the Securitization loan until April 2014. An “Amortization Period” would commence under the Securitization loan if the DSCR as of the end of any calendar quarter fell below:

- 1.15x, during the five-year period commencing on the closing date of the Securitization in May 2007, or
- 1.45x thereafter (1.15x or 1.45x as applicable, the “Minimum DSCR”).

In such a case, all excess cash flow and any amounts then in the reserve account because the Cash Trap DSCR was not met would be applied to pay principal of the Securitization loan on each monthly payment date until the DSCR exceeded the Minimum DSCR for two consecutive calendar quarters, and so would not be available for distribution to us.

Consequently, a failure to comply with the covenants in the Securitization loan agreement could prevent the Borrowers from taking certain actions with respect to the towers. Additionally, a failure to meet the noted DSCR tests could prevent the Borrowers from distributing excess cash flow to us, which could affect our ability to fund our discretionary expenditures, including tower construction and acquisitions, and our stock repurchase programs. In addition, if the Borrowers were to default on the loan related to the Securitization, the trustee could seek to foreclose upon or otherwise convert the ownership of the towers subject to the Securitization, in which case we could lose the towers and the revenue associated with the towers.

As of the end of the quarter ended June 30, 2009, the Borrowers’ DSCR was 3.01x. Based on the Borrowers’ net cash flow for the calendar quarter ended June 30, 2009 and the amount of interest, servicing fees and trustee fees payable over the succeeding twelve months on the Securitization loan, the Borrowers could endure a reduction of approximately \$171 million in net cash flow before triggering a Cash Trap DSCR, and approximately \$185.8 million in net cash flow before triggering an Amortization Period.

As discussed above, we use our available liquidity and seek new sources of liquidity to refinance and repurchase our outstanding indebtedness. In addition, in order to fund our stock repurchase programs and fund future growth and expansion initiatives, we may need to raise additional capital through financing activities. The downturn in the economy and the disruptions in the financial and credit markets have made it more difficult and more expensive to obtain financing. If we determined that it is desirable or necessary to raise additional capital, we may be unable to do so, or such additional financing may be prohibitively expensive or restricted by the terms of our outstanding indebtedness. If we are unable to raise capital when our needs arise, we may not be able to fund our stock repurchase programs, refinance our existing indebtedness or fund future growth and expansion initiatives.

In addition, our liquidity depends on our ability to generate cash flow from operating activities. As set forth under the caption “Risk Factors” in Part II, Item 1A. of this Quarterly Report on Form 10-Q, we derive a substantial portion of our revenues from a small number of customers and, consequently, a failure by a significant customer to perform its contractual obligations to us could adversely affect our cash flow and liquidity. As also set forth in that Item, as of June 30, 2009, foreign currency fluctuations have caused a subsidiary of Grupo Iusacell, which represented approximately 5% of our total revenues for the six months ended June 30, 2009, to suspend debt service payments of its U.S. dollar denominated debt. While Grupo Iusacell has continued to make partial payments to us over the past several months, our net accounts receivable related to Grupo Iusacell was approximately \$30.9 million as of June 30, 2009.

For more information regarding the terms of our outstanding indebtedness, please see note 6 to our consolidated financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2008.

### **Critical Accounting Policies and Estimates**

Management's discussion and analysis of financial condition and results of operations are based upon our condensed consolidated financial statements, which have been prepared in accordance with GAAP. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, as well as related disclosures of contingent assets and liabilities. We evaluate our policies and estimates on an ongoing basis, including those related to income taxes, asset retirement obligations, stock-based compensation, impairment of assets, revenue recognition and estimated useful lives of assets, which we discussed in our Annual Report on Form 10-K for the year ended December 31, 2008. Management bases its estimates on historical experience and other various assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

We have reviewed our policies and estimates to determine our critical accounting policies for the three months ended June 30, 2009. We have made no material changes to the critical accounting policies described in our Annual Report on Form 10-K for the year ended December 31, 2008, other than the adoption of the accounting pronouncements discussed below.

### **Recently Adopted Accounting Pronouncements**

In December 2007, the FASB issued SFAS No. 141R. SFAS No. 141R establishes principles and requirements for how an acquirer recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, any noncontrolling interest in the acquiree and the goodwill acquired. Among other items, SFAS No. 141R changes the accounting for acquisitions by eliminating the step acquisition model, providing that contingent consideration be recognized at the time of acquisition (instead of being recognized when it is probable), disallowing the capitalization of transaction costs, and changing when restructurings related to acquisitions can be recognized. SFAS No. 141R also establishes disclosure requirements to enable the evaluation of the nature and financial effects of the business combination. SFAS No. 141R was effective for us as of January 1, 2009. Approximately \$1.2 million of transaction costs previously capitalized in notes receivable and other long-term assets were expensed upon adoption of this standard.

In December 2007, the FASB issued SFAS No. 160, "Noncontrolling Interests in Consolidated Financial Statements—an amendment of Accounting Research Bulletin No. 51" (SFAS No. 160). SFAS No. 160 establishes accounting and reporting standards for noncontrolling interests in a subsidiary and for the deconsolidation of a subsidiary. SFAS No. 160 requires noncontrolling interests to be classified as a separate component of equity and establishes disclosure requirements that clearly identify and distinguish between the interests of the parent and the interests of the noncontrolling owners. SFAS No. 160 was effective for us as of January 1, 2009. The adoption of SFAS No. 160 did not have a material impact on our condensed consolidated results of operations and financial position. However, we have adjusted our presentation of noncontrolling interests in the condensed consolidated financial statements in order to comply with the disclosure requirements provided by SFAS No. 160.

In February 2008, the FASB issued FASB Staff Position (FSP) 157-2. FSP 157-2 delayed the effective date of SFAS No. 157 "Fair Value Measurements" (SFAS No. 157) to January 1, 2009 for all nonfinancial assets and nonfinancial liabilities that are recognized or disclosed at fair value in the financial statements on a nonrecurring basis (that is, at least annually). The adoption of FAS 157 for non-financial assets and liabilities had no impact on our condensed consolidated results of operations or financial position.

In March 2008, the FASB issued SFAS No. 161, "Disclosures about Derivative Instruments and Hedging Activities, an amendment of FASB Statement No. 133" (SFAS No. 161). Among other items, this statement changes disclosure requirements and requires entities to provide enhanced disclosures about how and why entities use derivative financial instruments, how derivative instruments and related hedged items are accounted

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for under SFAS No. 133 “Accounting for Derivative Financial Instruments and Hedging Activities” and related interpretations, and how derivative instruments and related hedged items affect an entity’s financial position, financial performance and cash flows. SFAS No. 161 was effective for us as of January 1, 2009. We have included additional disclosures regarding our derivative instruments in order to comply with the provisions of SFAS No. 161 (see note 5 to our condensed consolidated financial statements included herein). The adoption of SFAS No. 161 had no impact on our condensed consolidated results of operations or financial position.

In May 2008, the FASB issued SFAS No. 162, “The Hierarchy of Generally Accepted Accounting Principles” (SFAS No. 162). This statement identifies the sources of accounting principles and the framework for selecting the principles used in the preparation of financial statements that are presented in conformity with GAAP. SFAS No. 162 was effective for us 60 days following the SEC’s approval of the Public Company Accounting Oversight Board amendments to AU Section 411, “The Meaning of Present Fairly in Conformity with Generally Accepted Accounting Principles” on November 15, 2008. The adoption of SFAS No. 162 had no impact on our condensed consolidated results of operations or financial position.

In April 2009, the FASB issued FASB Staff Position (FSP) 107-1 and Accounting Principles Board (APB) Opinion No. 28-1, “Interim Disclosures about Fair Value of Financial Instruments” (FSP 107-1 and APB 28-1). FSP 107-1 and APB 28-1 amend FASB Statement No. 107, “Disclosures about Fair Value of Financial Instruments” and APB Opinion No. 28, “Interim Financial Reporting,” to require disclosures about the fair value of financial instruments for interim reporting periods as well as in annual financial statements. FSP 107-1 and APB 28-1 were effective for us as of April 1, 2009. Beginning with our Quarterly Report for the quarter ended June 30, 2009, we have included additional disclosures regarding the fair value of our financial instruments. The adoption of FSP 107-1 and APB 28-1 had no impact on our condensed consolidated results of operations or financial position.

In May 2009, the FASB issued SFAS No. 165, “Subsequent Events” (SFAS No. 165). This statement establishes general accounting standards for the disclosure of events that occur after the balance sheet date but before financial statements are issued or are available to be issued. Among other items, SFAS No. 165 sets forth the period after the balance sheet date during which management of a reporting entity should evaluate events or transactions that may occur for potential recognition or disclosure in the financial statements, the circumstances under which an entity should disclose events or transactions occurring after the balance sheet date, and the disclosures entities should make about events or transactions that occurred after the balance sheet date. SFAS No. 165 was effective for us as of June 30, 2009. Beginning with our Quarterly Report for the quarter ended June 30, 2009, we have included additional disclosures regarding our review of subsequent events in order to comply with the provisions of SFAS No. 165 (see note 1 to our condensed consolidated financial statements included herein). The adoption of SFAS No. 165 had no impact on our condensed consolidated results of operations or financial position.

*Recent Accounting Pronouncements*—In June 2009, the FASB issued SFAS No. 168, “FASB Accounting Standards Codification and the Hierarchy of Generally Accepted Accounting Principles – a replacement of FASB Statement No. 162” (SFAS No. 168). FASB has stated that the FASB Accounting Standards Codification (“Codification”) will become the source of authoritative GAAP recognized by the FASB to be applied by nongovernmental entities. All guidance contained in the Codification carries an equal level of authority. On the effective date of SFAS No. 168, the Codification will supersede all then-existing non-SEC accounting and reporting standards. All other nongrandfathered non-SEC accounting literature not included in the Codification will become nonauthoritative. SFAS No. 168 will be effective for us as of September 30, 2009. We are currently in the process of evaluating the impact the adoption of SFAS No. 168 will have on our condensed consolidated results of operations and financial position.

### **Information Presented Pursuant to the Indenture of our 7.125% Notes**

The table below sets forth information that is presented solely to address certain tower cash flow reporting requirements contained in the indenture for our 7.125% Notes. The indenture governing our 7.125% Notes

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contains affirmative and restrictive covenants with which we and our restricted subsidiaries must comply. The restrictive covenants include restrictions on our ability to incur additional debt, guarantee debt, pay dividends and make other distributions and make certain investments. Any failure to comply with these covenants would constitute a default, which could result in the acceleration of the principal amount and accrued and unpaid interest on all our outstanding 7.125% Notes.

In order for the holders of the 7.125% Notes to assess our compliance with certain of these covenants, the indenture requires us to disclose in the periodic reports we file with the SEC our Tower Cash Flow, Adjusted Consolidated Cash Flow and Non-Tower Cash Flow (as defined in the indenture). The indenture also contains certain restrictive covenants. For example, subject to certain exceptions, the indenture limits our ability to make restricted payments by the sum of the amount of Consolidated Cash Flow (as defined in the indenture) that we generate, which is determined based on our Tower Cash Flow and Non-Tower Cash Flow, and certain other amounts such as investment return and equity issuance proceeds. In addition, subject to certain exceptions, the indenture prohibits us from incurring additional debt or issuing certain types of preferred stock if, on a pro forma basis, the issuance of such debt and preferred stock would cause our consolidated debt to be greater than 7.5 times our Adjusted Consolidated Cash Flow. As of June 30, 2009, the ratio of our consolidated debt to Adjusted Consolidated Cash Flow was approximately 3.6:1. Based on our financial performance for the twelve months ended June 30, 2009, we could incur approximately \$2.9 billion of additional consolidated debt and still remain in compliance with this ratio. In addition, assuming that our consolidated debt levels stay constant, our Adjusted Consolidated Cash Flow could decrease by \$387 million and we would still remain in compliance with this ratio.

As noted above, we are required to provide the following data on our and our restricted subsidiaries' Tower Cash Flow, Adjusted Consolidated Cash Flow and Non-Tower Cash Flow, which are considered non-GAAP financial measures (in thousands):

Tower Cash Flow, for the three months ended June 30, 2009	<u>\$ 189,645</u>
Consolidated Cash Flow, for the twelve months ended June 30, 2009	746,356
Less: Tower Cash Flow, for the twelve months ended June 30, 2009	(755,270)
Plus: four times Tower Cash Flow, for the three months ended June 30, 2009	758,580
Adjusted Consolidated Cash Flow, for the twelve months ended June 30, 2009	<u>\$ 749,666</u>
Non-Tower Cash Flow, for the twelve months ended June 30, 2009	<u>\$ (8,914)</u>

For more information about the restrictions under our notes indenture, see note 6 to our consolidated financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2008, and the section entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Factors Affecting Sources of Liquidity."



**ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

We are exposed to market risk from changes in interest rates on long-term debt obligations. We attempt to reduce these risks by utilizing derivative financial instruments, namely interest rate swaps. As of June 30, 2009, we held fifteen interest rate swap agreements, all of which have been designated as cash flow hedges, and which have an aggregate notional amount of \$775.0 million, interest rates ranging from 2.86% to 4.08% and expiration dates through March 2011. In addition, in May 2009, we entered into a foreign currency exchange contract to hedge the foreign currency exposure associated with our acquisition of XCEL. This foreign currency exchange contract was not designated as a hedging instrument and was settled upon the completion of the acquisition of XCEL on May 27, 2009.

The following tables provide information as of June 30, 2009 about our market risk exposure associated with changing interest rates. For long-term debt obligations, the table presents principal cash flows by maturity date and average interest rates related to outstanding obligations.

**Principal Payments and Interest Rate Detail by Contractual Maturity Dates  
As of June 30, 2009  
(In thousands, except percentages)**

<u>Long-Term Debt</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>Thereafter</u>	<u>Total</u>	<u>Fair Value</u>
Fixed Rate Debt (a)	\$1,761	\$69,660	\$12,950	\$ 695,459	\$12,469	\$2,631,317	\$3,423,616	\$3,270,764
Average Interest Rate (a)	5.53%	6.05%	12.58%(b)	6.28%	12.82%(b)	6.19%		
Variable Rate Debt (a)				\$1,025,000			\$1,025,000	\$ 994,250

**Aggregate Notional Amounts Associated with Interest Rate Swaps in Place  
As of June 30, 2009 and Interest Rate Detail by Contractual Maturity Dates  
(In thousands, except percentages)**

<u>Interest Rate SWAPS</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>Thereafter</u>	<u>Total</u>	<u>Fair Value</u>
Notional Amount	\$150,000(d)						\$150,000	\$ (2,218)
Fixed Rate (c)	3.95%							
Notional Amount		\$100,000(e)					\$100,000	\$ (4,465)
Fixed Rate (c)		4.08%						
Notional Amount			\$525,000(f)				\$525,000	\$ (16,634)
Fixed Rate (c)			3.11%					

- (a) As of June 30, 2009, variable rate debt consists of our Revolving Credit Facility (\$700.0 million drawn) and Term Loan (\$325.0 million) included above based on the June 8, 2012 maturity date. As of June 30, 2009, fixed rate debt consists of: the Certificates issued in the Securitization (\$1.75 billion); 2.25% convertible notes due 2009 (\$0.04 million); the 7.125% Notes (\$500.0 million principal amount due at maturity; the balance as of June 30, 2009 is \$501.0 million); the 5.0% convertible notes due 2010 (\$59.7 million); the 7.50% Notes (\$20.8 million), which were fully redeemed on July 20, 2009, as further described under "Management's Discussion and Analysis of Financial Condition and Results of Operation-Refinancing Activities"; the 7.25% senior notes due 2019 (\$300.0 million principal amount due at maturity, the balance as of June 30, 2009 is \$294.9 million); ATI 7.25% senior subordinated notes due 2011 (\$0.3 million); the 3.00% Notes (\$162.2 million principal amount due at maturity; the balance as of June 30, 2009 is \$161.9 million accreted value); the 7.00% senior notes due 2017 (\$500.0 million); the XCEL Credit Facility (\$70.9 million); and other debt of \$59.7 million. Interest on the Revolving Credit Facility and Term Loan is payable in accordance with the applicable London Interbank Offering Rate ("LIBOR") agreement or quarterly and accrues at our option either at LIBOR plus margin (as defined) or the base rate plus margin (as defined). The weighted average interest rate in effect at June 30, 2009 for the Revolving Credit Facility and Term Loan was 3.60%. For the six months ended June 30, 2009, the weighted average interest rate under the Revolving Credit Facility and Term Loan was 2.73%.
- (b) The increase in the interest rate is primarily due to the scheduled payments under the XCEL credit facility.
- (c) Represents the weighted-average fixed rate or range of interest based on contractual notional amount as a percentage of total notional amounts in a given year.

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- (d) Includes notional amounts of \$150,000 that expire in December 2009.
- (e) Includes notional amount of \$100,000 that expires in December 2010.
- (f) Includes notional amounts of \$525,000 that expire between January and March 2011.

Changes in interest rates can cause interest charges to fluctuate on our variable rate debt. Variable rate debt as of June 30, 2009, after giving effect to our interest rate swap agreements, was comprised of \$200.0 million under the Revolving Credit Facility and \$50.0 million under the Term Loan. A 10% increase, or approximately 27 basis points, in current interest rates would have caused an additional pre-tax charge to our net income and an increase in our cash outflows of \$0.3 million for the year ended June 30, 2009.

We are exposed to market risk from changes in foreign currency exchange rates in connection with our foreign operations, including our rental and management segment divisions in Mexico, Brazil and India. For the three and six months ended June 30, 2009, the remeasurement loss from these operations approximated \$0.8 million and \$1.0 million, respectively. For the three and six months ended June 30, 2008, the remeasurement loss from these operations approximated \$1.3 million and \$2.1 million, respectively.

**ITEM 4. CONTROLS AND PROCEDURES**

**Disclosure Controls and Procedures**

We have established disclosure controls and procedures to ensure that material information relating to us, including our consolidated subsidiaries, is made known to the officers who certify our financial reports and to other members of senior management and the Board of Directors.

Our management, with the participation of our principal executive officer and principal financial officer, evaluated the effectiveness of the design and operation of our disclosure controls and procedures as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act as of the end of the period covered by this Quarterly Report on Form 10-Q. Based on this evaluation, our principal executive officer and principal financial officer concluded that these disclosure controls and procedures are effective and designed to ensure that the information required to be disclosed in our reports filed or submitted under the Exchange Act is recorded, processed, summarized and reported within the requisite time periods.

**Changes in Internal Control over Financial Reporting**

Our management, with the participation of our principal executive officer and principal financial officer, is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act. Our internal control system is designed to provide reasonable assurance to our management and Board of Directors regarding the preparation and fair presentation of published financial statements.

There have not been any changes in our internal control over financial reporting during the three months ended June 30, 2009 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## PART II. OTHER INFORMATION

### ITEM 1. LEGAL PROCEEDINGS

On May 24, 2006 and June 14, 2006, two shareholder derivative lawsuits were filed in Suffolk County Superior Court in Massachusetts by Eric Johnston and Robert L. Garber, respectively. The lawsuits were filed against certain of our current and former officers and directors for alleged breaches of fiduciary duties and unjust enrichment in connection with our historical stock option granting practices. The lawsuits also named us as a nominal defendant. The lawsuits sought to recover the damages sustained by us and disgorgement of all profits received with respect to the alleged backdated stock options. In October 2006, these two lawsuits were consolidated, and in October 2007, the court dismissed the complaint, without leave to amend, due to the plaintiffs' failure to make a demand upon our Board of Directors before initiating their lawsuits. In December 2007, the plaintiffs filed an appeal of that decision to the Massachusetts Court of Appeals, and in April 2008, we filed a motion to dismiss the appeal as moot. In June 2008, the Massachusetts Supreme Judicial Court elected, on its own motion, to hear the appeal, and in April 2009, affirmed the judgment dismissing the complaint without leave to amend due to failure to adequately establish demand futility and dismissed the complaint with prejudice. The plaintiffs' right to initiate a new claim based on the response to the demand made at the time of dismissal expired in July 2009.

We periodically become involved in various claims and lawsuits that are incidental to our business. In our Annual Report on Form 10-K for the year ended December 31, 2008 and the Quarterly Report on Form 10-Q for the three months ended March 31, 2009, we reported our material legal proceedings. Since these filings, other than the legal proceedings discussed above, there have been no material developments with respect to any material legal proceedings to which we are a party. In the opinion of management, after consultation with counsel, other than the legal proceedings discussed in note 10 to our condensed consolidated financial statements included herein, there are no matters currently pending that would, in the event of an adverse outcome, have a material impact on our consolidated financial position, results of operations or liquidity.

### ITEM 1A. RISK FACTORS

#### ***Decrease in demand for our communications sites would materially and adversely affect our operating results and we cannot control that demand.***

Many of the factors affecting the demand for our communications sites, and to a lesser extent our network development services, could adversely affect our operating results. Those factors include:

- a decrease in consumer demand for wireless services due to general economic conditions or other factors;
- the financial condition of wireless service providers;
- the ability and willingness of wireless service providers to maintain or increase capital expenditures;
- the growth rate of wireless communications or of a particular wireless segment;
- governmental licensing of spectrum;
- mergers or consolidations among wireless service providers;
- increased use of network sharing, roaming or resale arrangements by wireless service providers;
- delays or changes in the deployment of next generation wireless technologies;
- zoning, environmental, health or other government regulations; and
- technological changes.

The demand for broadcast space is dependent on the needs of television and radio broadcasters. Among other things, technological advances, including the development of satellite-delivered radio and video services, may reduce the need for tower-based broadcast transmission. In addition, our broadcast tower division could be adversely affected as a result of the recently completed shift from analog-based transmissions to digital-based transmissions.

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Furthermore, the downturn in the economy and the disruptions in the financial and credit markets could have an impact on consumer demand for wireless services. If wireless service subscribers significantly reduce their minutes of use, or fail to widely adopt and use wireless data applications, our wireless carrier customers would experience a decrease in demand for their services. As a result, they may scale back their business plans or otherwise reduce their spending, which could adversely affect demand for our tower sites and our network development services business, which could have a material adverse effect on our business, results of operations and financial condition.

***If our wireless service provider customers consolidate or merge with each other to a significant degree, our growth, revenue and ability to generate positive cash flows could be adversely affected.***

Significant consolidation among our wireless service provider customers may result in the decommissioning of certain existing communications sites, because certain portions of their networks may be redundant, and a reduction in future capital expenditures in the aggregate, because their expansion plans may be similar. For example, in connection with the recent combinations of Verizon Wireless and ALLTEL (to form Verizon Wireless), Cingular and AT&T Wireless (to form AT&T Mobility) and Sprint PCS and Nextel (to form Sprint Nextel) in the United States, and of Iusacell Celular and Unefon (now under the common ownership of Grupo Iusacell) in Mexico, the combined companies have or are considering rationalizing their duplicative networks, which has led and may continue to lead to the decommissioning of certain communications sites. In addition, these and other customers could determine not to renew leases with us as a result. Our future results may be negatively impacted if a significant number of these contracts are terminated, and our ongoing contractual revenues would be reduced as a result. Similar consequences might occur if wireless service providers engage in extensive sharing, roaming or resale arrangements as an alternative to leasing on our communications sites.

***Substantial leverage and debt service obligations may adversely affect us.***

We have a substantial amount of indebtedness. As of June 30, 2009, we had approximately \$4.4 billion of consolidated debt, and the ability to borrow additional amounts of approximately \$545.3 million under the Revolving Credit Facility. Our substantial level of indebtedness increases the possibility that we may be unable to generate cash sufficient to pay when due the principal of, interest on, or other amounts due with respect to our indebtedness. In addition, we may draw down the Revolving Credit Facility, effectively increasing our indebtedness. We are also permitted, subject to certain restrictions under our existing indebtedness, to obtain additional long-term debt and working capital lines of credit to meet future financing needs. This would have the effect of increasing our total leverage.

Our substantial leverage could have significant negative consequences on our financial condition and results of operations, including:

- impairing our ability to meet one or more of the financial ratio covenants contained in our debt agreements or to generate cash sufficient to pay interest or principal, which could result in an acceleration of some or all of our outstanding debt and the loss of towers subject to our Securitization in the event that an uncured default occurs;
- increasing our vulnerability to general adverse economic and industry conditions;
- limiting our ability to obtain additional debt or equity financing;
- requiring the dedication of a substantial portion of our cash flow from operations to service our debt, thereby reducing the amount of our cash flow available for other purposes, including capital expenditures;
- requiring us to sell debt or equity securities or to sell some of our core assets, possibly on unfavorable terms, to meet payment obligations;
- limiting our flexibility in planning for, or reacting to, changes in our business and the industries in which we compete;

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- limiting our ability to repurchase our Common Stock; and
- placing us at a possible competitive disadvantage with less leveraged competitors and competitors that may have better access to capital resources.

***Restrictive covenants in the loan agreement for the Revolving Credit Facility and Term Loan, the indentures governing our debt securities, and the loan agreement related to our Securitization could adversely affect our business by limiting flexibility.***

The loan agreement for the Revolving Credit Facility and Term Loan and the indentures governing the terms of our debt securities contain restrictive covenants, as well as requirements to comply with certain leverage and other financial maintenance tests. These covenants and requirements limit our ability to take various actions, including incurring additional debt, guaranteeing indebtedness and engaging in various types of transactions, including mergers, acquisitions and sales of assets. These covenants could place us at a disadvantage compared to some of our competitors, who may have fewer restrictive covenants and may not be required to operate under these restrictions. Further, these covenants could have an adverse effect on our business by limiting our ability to take advantage of financing, new tower development, mergers and acquisitions or other opportunities.

In addition, the loan agreement related to our Securitization includes operating covenants and other restrictions customary for loans subject to rated securitizations. Among other things, the Borrowers under the loan agreement for the Securitization are prohibited from incurring other indebtedness for borrowed money or further encumbering their assets. A failure to comply with the covenants in the loan agreement could prevent the Borrowers from taking certain actions with respect to the towers subject to the Securitization, and could prevent the Borrowers from distributing any excess cash from the operation of such towers to us. If the Borrowers were to default on the loan, the servicer on the loan could seek to foreclose upon or otherwise convert the ownership of the towers subject to the Securitization, in which case we could lose such towers and the revenue associated with such towers.

In addition, reporting and information covenants in our loan agreements and indentures require that we provide financial and operating information within certain time periods. If we are unable to timely provide the required information, we would be in breach of these covenants. For more information regarding the covenants and requirements discussed above, please see Item 7 of our Annual Report on Form 10-K for the year ended December 31, 2008 under the caption “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Factors Affecting Sources of Liquidity” and note 6 to our consolidated financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2008.

***We could suffer adverse tax and other financial consequences if taxing authorities do not agree with our tax positions, or we are unable to utilize our net operating losses.***

We are periodically subject to a number of tax examinations by taxing authorities in the states and countries where we do business. We also have significant deferred tax assets related to our net operating losses (“NOLs”) in U.S. federal and state taxing jurisdictions. Generally, for U.S. federal and state tax purposes, NOLs can be carried forward and used for up to twenty years, and all of our tax years will remain subject to examination until three years after our NOLs are used or expire. We expect that we will continue to be subject to tax examinations in the future. We recognize tax benefits of uncertain tax positions when we believe the positions are more likely than not of being sustained upon a challenge by the relevant tax authority in accordance with the provisions of FASB Interpretation No. 48, “Accounting for Uncertainty in Income Taxes, an interpretation of SFAS No. 109” (“FIN 48”). We believe our judgments in this area are reasonable and correct, but there is no guarantee that we will be successful if challenged by a tax authority. If there are tax benefits, including from our use of NOLs or other tax attributes, that we have recognized under FIN 48 that are challenged successfully by a taxing authority, we may be required to pay additional taxes or we may seek to enter into settlements with the taxing authorities, which could require significant payments or otherwise have a material adverse effect on our business, results of operations and financial condition.

In addition, we may be limited in our ability to utilize our NOLs to offset future taxable income and thereby reduce our otherwise payable income taxes. We have substantial federal and state NOLs, including significant portions obtained through acquisitions and dispositions, as well as those generated through our historic business operations. In addition, we have disposed of some entities and restructured other entities in conjunction with financing transactions and other business activities. We apply the principles contained in FIN 48 to our NOLs and, to the extent we believe that a position with respect to an NOL is not more likely than not to be sustained, we do not record the related deferred tax asset. In addition, for NOLs that meet the recognition threshold of FIN 48, we assess the recoverability of the NOL and establish a valuation allowance against the deferred tax asset related to the NOL if recoverability is questionable. Given the uncertainty surrounding the recoverability of certain of our NOLs, we have established a valuation allowance to offset the related deferred tax asset so as to reflect what we believe to be the recoverable portion of our NOLs.

Our ability to utilize our NOLs is also dependent, in part, upon us having sufficient future earnings to utilize our NOLs before they expire. If market conditions change materially and we determine that we will be unable to generate sufficient taxable income in the future to utilize our NOLs, we could be required to record an additional valuation allowance. We review our FIN 48 position and the valuation allowance for our NOLs periodically and make adjustments from time to time, which can result in an increase or decrease to the net deferred tax asset related to our NOLs. Our NOLs are also subject to review and potential disallowance upon audit by the taxing authorities of the jurisdictions where the NOLs were incurred, and future changes in tax laws or interpretations of such tax laws could limit materially our ability to utilize our NOLs. If we are unable to use our NOLs or use of our NOLs is limited, we may have to make significant payments or otherwise record charges or reduce our deferred tax assets, which could have a material adverse effect on our business, results of operations and financial condition.

***Due to the long-term expectations of revenue from tenant leases, the tower industry is sensitive to the creditworthiness and financial strength of its tenants.***

Due to the long-term nature of our tenant leases, we, like others in the tower industry, are dependent on the continued financial strength of our tenants. Many wireless service providers operate with substantial leverage. In the past, we have had customers that have filed for bankruptcy, although to date these bankruptcies have not had a material adverse effect on our business or revenues. In addition, many of our customers and potential customers rely on capital raising activities to fund their operations and capital expenditures, and the downturn in the economy and the disruptions in the financial and credit markets have made it more difficult and more expensive to raise capital. If our customers or potential customers are unable to raise adequate capital to fund their business plans, they may reduce their spending, which could adversely affect demand for our tower sites and our network development services business. If, as a result of a prolonged economic downturn or otherwise, one or more of our significant customers experienced financial difficulties or filed for bankruptcy, it could result in uncollectible accounts receivable and an impairment on our deferred rent asset. In addition, it could result in the loss of significant customers and anticipated lease revenues, all of which could have a material adverse effect on our business, results of operations and financial condition.

***Our foreign operations are subject to economic, political and other risks that could adversely affect our revenues or financial position, including risks associated with foreign currency exchange rates.***

Our business operations in Mexico, Brazil and India, and our expansion into any other international markets in the future, could result in adverse financial consequences and operational problems not experienced in the United States. For the six months ended June 30, 2009, approximately 14% of our consolidated revenues were generated by our international operations. We anticipate that our revenues from our international operations may grow in the future. Accordingly, our business is subject to risks associated with doing business internationally, including:

- changes in a specific country's or region's political or economic conditions;
- laws and regulations that tax or otherwise restrict repatriation of earnings or other funds or otherwise limit distributions of capital;

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- changes to existing or new tax laws directed specifically at the ownership and operation of tower sites;
- expropriation and governmental regulation restricting foreign ownership;
- uncertainties regarding legal or judicial systems, including inconsistencies between and within laws, regulations and decrees, and judicial application thereof;
- difficulty in recruiting and retaining trained personnel; and
- language and cultural differences.

In addition, we face risks associated with changes in foreign currency exchange rates, including those arising from our operations, investments and financing transactions related to our international business. Volatility in foreign currency exchange rates can also affect our ability to plan, forecast and budget for our international operations and expansion efforts. While most of the contracts for our operations in Mexico are denominated in the U.S. Dollar, many are denominated in the Mexican Peso, and contracts for our operations in Brazil and India are denominated in the local currencies. We have not historically engaged in significant currency hedging activities relating to our non-U.S. Dollar operations, and a weakening of these foreign currencies against the U.S. Dollar would have a negative impact on our revenues and operating profits, which could have a material adverse effect on our business, results of operations and financial condition.

### ***A substantial portion of our revenue is derived from a small number of customers.***

A substantial portion of our total operating revenues is derived from a small number of customers. For the three months ended June 30, 2009:

- Four customers accounted for approximately 63% of our revenues;
- AT&T Mobility accounted for approximately 20% of our revenues;
- Sprint Nextel accounted for approximately 18% of our revenues;
- Verizon Wireless and ALLTEL, which completed their merger in January 2009, accounted for approximately 16% of our revenues; and
- T-Mobile accounted for approximately 9% of our revenues.

Our largest international customer is Grupo Iusacell, which now controls both Iusacell Celular and Unefon in Mexico. Grupo Iusacell is under common control with TV Azteca. Grupo Iusacell accounted for approximately 5% of our total revenues for the six months ended June 30, 2009. In addition, for the six months ended June 30, 2009, we received \$7.1 million in net interest income from TV Azteca.

If any of these customers is unwilling or unable to perform its obligations under our agreements with them, our revenues, results of operations, financial condition and liquidity could be adversely affected. In the ordinary course of our business, we do occasionally experience disputes with our customers, generally regarding the interpretation of terms in our agreements. Although we have historically resolved these disputes in a manner that did not have a material adverse effect on us or our customer relationships, it is possible that such disputes could lead to a termination of our agreements with customers or a material modification of the terms of those agreements, either of which could have a material adverse effect on our business, results of operations and financial condition. If we are forced to resolve any of these disputes through litigation, our relationship with the applicable customer could be terminated or damaged, which could lead to decreased revenues or increased costs, resulting in a corresponding adverse effect on our business, results of operations and financial condition.

On April 1, 2009, Grupo Iusacell announced that one of its subsidiaries has suspended the debt service payment of its U.S. dollar denominated debt as part of an ongoing process to restructure its U.S. dollar denominated debt, which has been affected by the significant devaluation of the Mexican peso versus the U.S. dollar. While Grupo Iusacell has continued to make partial payments to us over the past several months, our net



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accounts receivable related to Grupo Iusacell was approximately \$30.9 million as of June 30, 2009. We also have approximately \$34.3 million of other Grupo Iusacell related assets which includes financing lease commitments and straight-line revenue accrued that are primarily long-term in nature as of June 30, 2009. If Grupo Iusacell is unable to restructure its indebtedness or if a further devaluation of the Mexican peso were to adversely impact Grupo Iusacell's overall liquidity, Grupo Iusacell may not be able to meet its operating obligations, including making full payments under the lease agreements with us in the future.

***We anticipate that we may need additional financing to fund our stock repurchase programs, to refinance our existing indebtedness and to fund future growth and expansion initiatives.***

In order to fund our stock repurchase programs, refinance our existing indebtedness and fund future growth and expansion initiatives, we may need to raise additional capital through financing activities. We believe our cash provided by operations for the year ending December 31, 2009 will be sufficient to fund our cash needs for operations, capital expenditures and cash debt service (interest and principal repayments) obligations for 2009. However, we anticipate that we may need to obtain additional sources of capital in the future to fund growth initiatives and to support additional return of capital to stockholders. If so, depending on market conditions, we may seek to raise capital through credit facilities or debt or equity offerings. The downturn in the economy and the disruptions in the financial and credit markets have made it more difficult and more expensive to raise capital. Such additional financing may be unavailable, may be prohibitively expensive, or may be restricted by the terms of our outstanding indebtedness. If we are unable to raise capital when our needs arise, we may not be able to fund our stock repurchase programs, refinance our existing indebtedness or fund future growth and expansion initiatives.

***New technologies could make our tower leasing business less desirable to potential tenants and result in decreasing revenues.***

The development and implementation of new technologies designed to enhance the efficiency of wireless networks could reduce the use and need for tower-based wireless services transmission and reception and have the effect of decreasing demand for tower space. Examples of such technologies include technologies that enhance spectral capacity, which can increase the capacity at existing sites and reduce the number of additional sites a given carrier needs to serve any given subscriber base. Additionally, certain complementary network technologies, such as femtocells, could offload a portion of network traffic away from the traditional tower-based networks, which would reduce the need for carriers to add more equipment at certain communications sites. Moreover, the emergence of alternative technologies could reduce the need for tower-based broadcast services transmission and reception. For example, the growth in delivery of radio and video services by direct broadcast satellites could adversely affect demand for our antenna space. The development and implementation of any of these and similar technologies to any significant degree could have a material adverse effect on our business, results of operations and financial condition.

***We could have liability under environmental laws.***

Our operations, like those of other companies engaged in similar businesses, are subject to the requirements of various federal, state and local and foreign environmental and occupational safety and health laws and regulations, including those relating to the management, use, storage, disposal, emission and remediation of, and exposure to, hazardous and non-hazardous substances, materials and wastes. As the owner, lessee or operator of many thousands of real estate sites underlying our towers, we may be liable for substantial costs of remediating soil and groundwater contaminated by hazardous materials, without regard to whether we, as the owner, lessee or operator, knew of or were responsible for the contamination. Many of these laws and regulations contain information reporting and record keeping requirements. We cannot assure you that we are at all times in complete compliance with all environmental requirements. We may be subject to potentially significant fines or penalties if we fail to comply with any of these requirements. The requirements of these laws and regulations are complex, change frequently, and could become more stringent in the future. It is possible that these requirements will change or that liabilities will arise in the future in a manner that could have a material adverse effect on our business, results of operations and financial condition.

***Our business is subject to government regulations and changes in current or future laws or regulations could restrict our ability to operate our business as we currently do.***

Our business, and that of our customers, is subject to federal, state, local and foreign regulation, including by the Federal Aviation Administration (“FAA”), the U.S. Federal Communications Commission (“FCC”), the U.S. Environmental Protection Agency (“EPA”) and the Occupational Safety and Health Administration. Both the FCC and the FAA regulate towers used for wireless communications and radio and television broadcasting and the FCC separately regulates transmitting devices operating on towers. Similar regulations exist in Mexico, Brazil, India and other foreign countries regarding wireless communications and the operation of communications towers. Local zoning authorities and community organizations are often opposed to construction in their communities and these regulations can delay, prevent or increase the cost of new tower construction, modifications, additions of new antennas to a site, or site upgrades, thereby limiting our ability to respond to customer demands and requirements. Existing regulatory policies may adversely affect the associated timing or cost of such projects and additional regulations may be adopted which increase delays or result in additional costs to us, or that prevent such projects in certain locations. These factors could adversely affect our business, results of operations and financial condition.

***Increasing competition in the tower industry may create pricing pressures that may adversely affect us.***

Our industry is highly competitive, and our customers have numerous alternatives for leasing antenna space. Some of our competitors, such as national wireless carriers that allow collocation on their towers, are larger and have greater financial resources than we do, while other competitors are in a weaker financial condition or may have lower return on investment criteria than we do.

Our competition includes:

- national and regional tower companies;
- wireless carriers that own towers and lease antenna space to other carriers;
- site development companies that purchase antenna space on existing towers for wireless carriers and manage new tower construction; and
- alternative site structures (e.g., building rooftops, outdoor and indoor DAS networks, billboards and electric transmission towers).

Competitive pricing pressures for tenants on towers from these competitors could adversely affect our lease rates and services income. In addition, we may not be able to renew existing customer leases or enter into new customer leases, resulting in a material adverse impact on our results of operations and growth rate. Increasing competition could also make the acquisition of high quality tower assets more costly.

***If we are unable to protect our rights to the land under our towers, it could adversely affect our business and operating results.***

Our real property interests relating to our towers consist primarily of leasehold and sub-leasehold interests, fee interests, easements, licenses and rights-of-way. A loss of these interests at a particular tower site may interfere with our ability to operate a tower and generate revenues. For various reasons, we may not always have the ability to access, analyze and verify all information regarding titles and other issues prior to completing an acquisition of communications sites, which can affect our rights to access and operate a site. From time to time we also experience disputes with landowners regarding the terms of ground agreements for land under a tower, which can affect our ability to access and operate a tower site. Further, for various reasons, landowners may not want to renew their ground agreements with us, they may lose their rights to the land, or they may transfer their land interests to third parties, including ground lease aggregators, which could affect our ability to renew ground agreements on commercially viable terms. Approximately 83% of the communications sites in our portfolio as of June 30, 2009 are located on land we do not own. Approximately 88% of the ground agreements for these sites have a final expiration date of 2018 and beyond. Our inability to protect our rights to the land under our towers may have a material adverse effect on us.

***If we are unable or choose not to exercise our rights to purchase towers that are subject to lease and sublease agreements at the end of the applicable period, our cash flows derived from such towers would be eliminated.***

Our communications site portfolio includes towers that we operate pursuant to lease and sublease agreements that include a purchase option at the end of each lease period. If we are unable or choose not to exercise our rights to purchase towers under these agreements at the end of the applicable period, our cash flows derived from such towers would be eliminated. For example, our SpectraSite subsidiary has entered into lease or sublease agreements with affiliates of SBC Communications, a predecessor entity to AT&T Mobility, with respect to approximately 2,500 towers pursuant to which SpectraSite has the option to purchase the sites upon the expiration of the lease or sublease beginning in 2013. The aggregate purchase option price for the AT&T Mobility towers was approximately \$393.6 million as of June 30, 2009, and will accrete at a rate of 10% per year to the applicable expiration of the lease or sublease of a site. In addition, we have entered into a similar agreement with ALLTEL, which completed its merger with Verizon Wireless in January 2009, with respect to approximately 1,800 towers, for which we have an option to purchase the sites upon the expiration of the lease or sublease beginning in 2016. The aggregate purchase option price for the ALLTEL towers was approximately \$62.3 million as of June 30, 2009, and will accrete at a rate of 3% per year through the expiration of the lease or sublease period. At ALLTEL's option, at the expiration of the sublease period, the purchase price will be payable in cash or with 769 shares of our Common Stock per tower. We may not have the required available capital to exercise our right to purchase these or other leased or subleased towers at the end of the applicable period. Even if we do have available capital, we may choose not to exercise our right to purchase such towers for business or other reasons. In the event that we do not exercise these purchase rights, or are otherwise unable to acquire an interest that would allow us to continue to operate these towers after the applicable period, we will lose the cash flows derived from such towers, which may have a material adverse effect on our business. In the event that we decide to exercise these purchase rights, the benefits of the acquisitions of such towers may not exceed the associated acquisition, compliance and integration costs, and our financial results could be adversely affected.

***Our towers may be affected by natural disasters and other unforeseen damage for which our insurance may not provide adequate coverage.***

Our towers are subject to risks associated with natural disasters, such as ice and wind storms, tornadoes, floods, hurricanes and earthquakes, as well as other unforeseen damage. Any damage or destruction to our towers as a result of these or other risks would impact our ability to provide services to our customers and could impact our results of operation and financial condition. For example, as a result of the severe hurricane activity in 2005, approximately 25 of our broadcast and wireless communications sites in the southeastern United States and Mexico suffered material damage and many more suffered lesser damage. While we maintain insurance that provided sufficient coverage for this incident, we may not have adequate insurance to cover the associated costs of repair or reconstruction for a future major event. Further, we carry business interruption insurance, but such insurance may not adequately cover all of our lost revenues, including potential revenues from new tenants that could have been added to our towers but for the damage. If we are unable to provide services to our customers as a result of damage to our towers, it could lead to customer loss, resulting in a corresponding adverse effect on our business, results of operations and financial condition.

***Our costs could increase and our revenues could decrease due to perceived health risks from radio emissions, especially if these perceived risks are substantiated.***

Public perception of possible health risks associated with cellular and other wireless communications media could slow the growth of wireless companies, which could in turn slow our growth. In particular, negative public perception of, and regulations regarding, these perceived health risks could slow the market acceptance of wireless communications services and increase opposition to the development and expansion of tower sites. The potential connection between radio frequency emissions and certain negative health effects has been the subject of substantial study by the scientific community in recent years, and numerous health-related lawsuits have been

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filed against wireless carriers and wireless device manufacturers. If a scientific study or court decision resulted in a finding that radio frequency emissions posed health risks to consumers, it could negatively impact the market for wireless services, as well as our wireless carrier customers, which would adversely affect our operations, costs and revenues. We do not maintain any significant insurance with respect to these matters.

***Our historical stock option granting practices are subject to ongoing governmental proceedings, which could result in fines, penalties or other liability.***

In May 2006, we announced that our Board of Directors had established a special committee of independent directors to conduct a review of our stock option granting practices and related accounting. Subsequent to the formation of the special committee, we received an informal letter of inquiry from the SEC, a subpoena from the office of the United States Attorney for the Eastern District of New York and an information document request from the IRS, each requesting documents and information related to our stock option grants and practices. We also received a request for information from the Department of Labor, which concluded its review in September 2008, with no action taken against us. We are cooperating with these governmental authorities to provide the requested documents and information. These governmental proceedings are ongoing, and the time period necessary to resolve these proceedings is uncertain and could require significant additional management and financial resources. Significant legal and accounting expenses related to these matters have been incurred to date, and we may continue to incur expenses in the future. Depending on the outcomes of these proceedings, we and members of our senior management could be subject to regulatory fines, penalties, enforcement actions or other liability, which could have a material adverse impact on our business, results of operations and financial condition. In addition, as a result of the special committee's findings, we restated our historical financial statements for certain periods prior to March 31, 2006 to, among other things, record changes for stock-based compensation expense (and related tax effects) relating to certain past stock option grants.

**ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS**

During the three months ended June 30, 2009, we issued an aggregate of 14,039 shares of our Common Stock upon the exercise of 1,972 warrants assumed in our merger with SpectraSite, Inc. In August 2005, in connection with the merger, we assumed approximately 1.0 million warrants to purchase shares of SpectraSite, Inc. common stock. Upon completion of the merger, each warrant to purchase shares of SpectraSite, Inc. common stock automatically converted into a warrant to purchase 7.15 shares of Common Stock at an exercise price of \$32 per warrant. Net proceeds from these warrant exercises were \$61,216. The shares were issued in reliance on the exemption from registration set forth in Sections 3(a)(9) and 3(a)(10) of the Securities Act of 1933, as amended, and Section 1145 of the United States Code. No underwriters were engaged in connection with such issuances.

**Issuer Purchases of Equity Securities**

During the three months ended June 30, 2009, we repurchased 2,231,532 shares of our Common Stock for an aggregate of \$67.8 million, including commissions and fees, pursuant to our publicly announced stock repurchase program, as follows:

<u>Period</u>	<u>Total Number of Shares Purchased</u>	<u>Average Price Paid per Share</u>	<u>Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs</u>	<u>Approximate Dollar Value of Shares that May Yet be Purchased Under the Plans or Programs</u> (In millions)
April 2009 (1)	—	—	—	\$ 966.1
May 2009 (1)	59,400	\$ 29.36	59,400	\$ 964.2
June 2009 (1)	2,172,132	\$ 30.39	2,172,132	\$ 898.1
Total Second Quarter	<u>2,231,532</u>	\$ 30.36	<u>2,231,532</u>	\$ 898.1

- (1) Repurchases made pursuant to the \$1.5 billion stock repurchase program publicly approved by our Board of Directors in February 2008. Under this program, our management is authorized to purchase shares from time to time through open market purchases or privately negotiated transactions at prevailing prices as permitted by securities laws and other legal requirements, and subject to market conditions and other factors. To facilitate repurchases, we make purchases pursuant to a trading plan under Rule 10b5-1 of the Exchange Act, which allows us to repurchase shares during periods when we otherwise might be prevented from doing so under insider trading laws or because of self-imposed trading blackout periods. This program may be discontinued at any time.

Since June 30, 2009, we have continued to repurchase shares of our Common Stock pursuant to our stock repurchase program. Between July 1, 2009 and July 24, 2009, we repurchased 1.2 million shares of our Common Stock for an aggregate of \$38.2 million, including commissions and fees, pursuant to this program.

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**ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS**

The 2009 Annual Meeting of Stockholders was held on May 6, 2009, to consider and act upon the following matters, all of which were approved and adopted. The results of the stockholder voting were as follows:

1. Election of the following directors for the ensuing year or until their successors are elected and qualified.

<u>Nominee</u>	<u>Votes Cast For</u>	<u>Votes Against</u>	<u>Votes Abstained</u>
Raymond P. Dolan	345,641,086	4,901,682	468,066
Ronald M. Dykes	350,412,437	253,391	345,006
Carolyn F. Katz	345,664,951	4,879,508	466,375
Gustavo Lara Cantu	350,392,713	268,225	349,896
JoAnn A. Reed	350,417,622	242,967	350,246
Pamela D.A. Reeve	346,417,761	4,195,081	397,992
David E. Sharbutt	350,217,377	375,816	417,642
James D. Taiclet, Jr.	335,616,893	14,988,179	405,762
Samme L. Thompson	349,832,107	710,108	468,620

2. Ratification of the selection of Deloitte & Touche LLP as the Company's independent registered public accounting firm for 2009.

<u>Votes Cast For</u>	<u>Votes Against</u>	<u>Votes Abstained</u>
340,553,303	10,090,358	367,173

**ITEM 6. EXHIBITS**

See the Exhibit Index on Page EX-1 of this Quarterly Report on Form 10-Q, which Exhibit Index is incorporated herein by reference.



**EXHIBIT INDEX**

<u>Exhibit No.</u>	<u>Description</u>
10.1	Indenture, dated as of June 10, 2009 by and between American Tower Corporation and The Bank of New York Mellon Trust Company, N.A., as Trustee, for the 7.25% Senior Notes due 2019, including the form of 7.25% Senior Note.
10.2	Registration Rights Agreement, dated as of June 10, 2009, by and among American Tower Corporation and the Initial Purchasers named therein with respect to the 7.25% Senior Notes due 2019.
31.1	Certification of Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32	Certifications pursuant to 18 U.S.C. Section 1350.
101*	The following materials from American Tower Corporation's Quarterly Report on Form 10-Q for the quarter ended June 30, 2009, formatted in XBRL (Extensible Business Reporting Language): (i) the Condensed Consolidated Balance Sheets, (ii) Condensed Consolidated Statements of Operations, (iii) Condensed Consolidated Statements of Cash Flows, (iv) Condensed Consolidated Statements of Stockholders' Equity and (v) Notes to Condensed Consolidated Financial Statements, tagged as blocks of text.

\*            Furnished herewith.



**AMERICAN TOWER CORPORATION**

**ISSUER**

**7.25% SENIOR NOTES DUE 2019**

**DATED AS OF JUNE 10, 2009**

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

**TRUSTEE**

CROSS-REFERENCE TABLE<sup>1</sup>

<u>Trust Indenture Act Section</u>	<u>Indenture Section</u>
310 (a)(1)	7.10
(a)(2)	7.10
(a)(3)	N.A.
(a)(4)	N.A.
(a)(5)	7.10
(b)	7.10
(c)	N.A.
311 (a)	7.11
(b)	7.11
(c)	N.A.
312 (a)	2.05
(b)	12.03
(c)	12.03
313 (a)	7.06
(b)(1)	7.06
(b)(2)	7.06; 7.07
(c)	7.06; 12.02
(d)	7.06
314 (a)	4.03; 4.04; 12.02
(b)	N.A.
(c)(1)	12.04
(c)(2)	12.04
(c)(3)	N.A.
(d)	N.A.
(e)	12.05
(f)	N.A.
315 (a)	7.01
(b)	7.05; 12.02
(c)	7.01
(d)	7.01
(e)	6.11
316 (a)(last sentence)	2.09
(a)(1)(A)	6.05
(a)(1)(B)	6.04
(a)(2)	N.A.
(b)	6.07
(c)	N.A.
317 (a)(1)	6.08
(a)(2)	6.09
(b)	2.04
318 (a)	12.01
(b)	N.A.
(c)	12.01

N.A. means not applicable

<sup>1</sup> This Cross Reference Table is not part of the Indenture.

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EXHIBITS

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EXHIBIT D	Form of Free Transferability Certificate

INDENTURE dated as of June 10, 2009 between American Tower Corporation, a Delaware corporation, and The Bank of New York Mellon Trust Company, N.A., a national banking association, as trustee.

The Company and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the 7.25% Senior Notes due 2019 (each, a “Note”, and, collectively, the “Notes”):

## ARTICLE 1

### DEFINITIONS AND INCORPORATION BY REFERENCE

#### Section 1.01. *Definitions.*

“*Acquired Indebtedness*” means, with respect to any Person:

- (1) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Subsidiary of such specified Person, or is assumed in the acquisition of assets from such Person, whether or not such Indebtedness is incurred (a) in connection with, or in contemplation of, such other Person merging with or into, or becoming a Subsidiary of, such specified Person or (b) in connection with the acquisition of assets from such Person; and
- (2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

“*Additional Interest*” means, at any time, all additional interest then owing under the Registration Rights Agreement or any registration rights agreement applicable to Additional Notes.

“*Additional Note Board Resolution*” means resolutions duly adopted by the Board of Directors of the Company and delivered to the Trustee in an Officers’ Certificate providing for issuance of Additional Notes.

“*Additional Note Supplemental Indenture*” means a supplement to this Indenture duly executed and delivered by the Company and the Trustee pursuant to Article 9.

“*Additional Notes*” means the Company’s Notes originally issued after the Issue Date pursuant to Section 2.14, except for Notes authenticated and delivered upon registration of, transfer of, or in exchange for, or in lieu of other Notes pursuant to Section 2.06, 2.07, 9.06, 3.06, or 4.09 hereof, as specified in the relevant Additional Note Board Resolutions or Additional Note Supplemental Indenture issued therefor in accordance with this Indenture.

“*Adjusted EBITDA*” means, for the 12-month period preceding the calculation date, for the Company and its Subsidiaries on a consolidated basis in accordance with GAAP, the sum of (a) Net Income, plus (b) to the extent deducted in determining Net Income, the sum of (i) Interest

Expense, (ii) income tax expense, including, without limitation, taxes paid or accrued based on income, profits or capital, including state, franchise and similar taxes and foreign withholding taxes, (iii) depreciation and amortization (including, without limitation, amortization of goodwill and other intangible assets), (iv) extraordinary losses and non-recurring non-cash charges and expenses, (v) all other non-cash charges, expenses and interest (including, without limitation, any non-cash losses in respect of Commodity Agreements, Currency Agreements or Interest Rate Agreements, non-cash impairment charges, non-cash valuation charges for stock option grants or vesting of restricted stock awards or any other non-cash compensation charges, and losses from the early extinguishment of Indebtedness) and (vi) non-recurring charges and expenses, restructuring charges, transaction expenses (including, without limitation, transaction expenses incurred in connection with any merger or acquisition) and underwriters' fees or discounts, and severance and retention payments in connection with any merger or acquisition, in each case for such period, less extraordinary gains and cash payments (not otherwise deducted in determining net income) made during such period with respect to non-cash charges that were added back in a prior period; *provided, however*, (I) with respect to any Person that became a Subsidiary, or was merged with or consolidated into the Company or any Subsidiary, during such period, or any acquisition by the Company or any Subsidiary of the assets of any Person during such period, "Adjusted EBITDA" shall, at the option of the Company in respect of any or all of the foregoing, also include the Adjusted EBITDA of such Person or attributable to such assets, as applicable, during such period as if such acquisition, merger or consolidation had occurred on the first day of such period and (II) with respect to any Person that has ceased to be a Subsidiary during such period, or any material assets of the Company or any Subsidiary sold or otherwise disposed of by the Company or any Subsidiary during such period, "Adjusted EBITDA" shall exclude the Adjusted EBITDA of such Person or attributable to such assets, as applicable, during such period as if such sale or disposition of such Subsidiary or such assets had occurred on the first day of such period.

"Adjusted Treasury Rate" means, with respect to any redemption date:

- (1) the yield, under the heading which represents the average for the immediately preceding week, appearing in the most recently published statistical release designated "H.15(519)" or any successor publication which is published weekly by the Board of Governors of the Federal Reserve System and which establishes yields on actively traded United States Treasury securities adjusted to constant maturity under the caption "Treasury Constant Maturities," for the maturity corresponding to the Comparable Treasury Issue (if no maturity is within three months before or after the Remaining Life, yields for the two published maturities most closely corresponding to the Comparable Treasury Issue shall be determined and the Adjusted Treasury Rate shall be interpolated or extrapolated from such yields on a straight line basis, rounding to the nearest month); or
- (2) if such release (or any successor release) is not published during the week preceding the calculation date or does not contain such yields, the rate per annum equal to the semi-annual equivalent yield to maturity of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such redemption date.



The Adjusted Treasury Rate shall be calculated on the third Business Day preceding the redemption date.

“*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” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise; *provided* that beneficial ownership of 10% or more of the Voting Stock of a Person shall be deemed to be control. No natural person who is an executive officer or director of a Person shall, solely by virtue of such position, be deemed to control such Person.

“*Agent*” means any Registrar, Paying Agent or co-registrar.

“*Applicable Procedures*” means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depository, Euroclear and Clearstream that apply to such transfer or exchange.

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

“*Beneficial Owner*” has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular “person” (as that term is used in Section 13(d)(3) of the Exchange Act), such “person” will be deemed to have beneficial ownership of all securities that such “person” has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition. The terms “Beneficially Owns” and “Beneficially Owned” have a corresponding meaning.

“*Board of Directors*” means either the Board of Directors of the Company or any committee of such Board duly authorized to act on its behalf.

“*Board Resolution*” means one or more resolutions duly adopted or consented to by the Board of Directors and in full force and effect.

“*Business Day*” means a day that (a) in the Place of Payment (or in any of the Places of Payment, if more than one) on which amounts are payable and (b) in the city in which the Corporate Trust Office is located, is not a Saturday or Sunday or a day on which banking institutions are authorized or required by law or regulation to close.

“*Capital Lease Obligation*” means, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet in accordance with GAAP.

“*Capital Stock*” means:

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

“*Cash Equivalents*” means:

- (1) marketable, direct obligations of the United States of America, its agencies and instrumentalities maturing within 365 days of the date of purchase;
- (2) commercial paper and other short-term obligations of business savings accounts issued by corporations, each of which shall have a combined net worth of at least \$100,000,000 and each of which conducts a substantial part of its business in the United States of America, maturing within 270 days from the date of original issue thereof, and whose issuer is, at the time of purchase, rated “P-2” or better by Moody’s or “A-2” or better by S&P;
- (3) repurchase agreements, bankers’ acceptances and domestic and Eurodollar certificates of deposit maturing within 365 days of the date of purchase which are issued by, or time deposits maintained with
  - (a) a United States national or state bank (or any domestic branch of a foreign bank) subject to supervision and examination by federal or state banking or depository institution authorities and having capital, surplus and undivided profits totaling more than \$100,000,000 and rated “A” or better by Moody’s or S&P,
  - (b) a broker/dealer (acting as principal) registered as a broker or a dealer under Section 15 of the Exchange Act the unsecured short-term debt obligations of which are rated “P-1” by Moody’s and at least “A-1” by S&P at the date of purchase, or

- (c) an unrated broker/dealer, acting as principal, that is a Wholly Owned Restricted Subsidiary (but substituting “Subsidiary” for “Restricted Subsidiary” in the definition thereof) of a non-bank or bank holding company, the unsecured short-term debt obligations of which are rated “P-1” by Moody’s and at least “A-1” by S&P at the date of purchase; and
- (4) money market funds having a rating from Moody’s and S&P in the highest investment category granted thereby.

“*Change of Control*” means the occurrence of any of the following:

- (1) the adoption of a plan relating to the liquidation or dissolution of the Company;
- (2) any “person,” as such term is used in Section 13(d)(3) of the Exchange Act, becomes the Beneficial Owner, directly or indirectly, of more than 50% of the voting power of the Voting Stock of the Company; *provided* that a transaction in which the Company becomes a Subsidiary of another Person shall not constitute a Change of Control if (a) the stockholders of the Company immediately prior to such transaction Beneficially Own, directly or indirectly through one or more intermediaries, 50% or more of the voting power of the outstanding Voting Stock of such other Person of whom the Company is a Subsidiary immediately following such transaction and (b) immediately following such transaction no person (as defined above) other than such other Person, Beneficially Owns, directly or indirectly, more than 50% of the voting power of the Voting Stock of the Company; or
- (3) the first day on which a majority of the members of the Board of Directors of the Company are not Continuing Directors.

“*Change of Control Triggering Event*” means the occurrence of both a Change of Control and a Ratings Decline.

“*Clearstream*” means Clearstream Banking S.A. (or any successor securities clearing agency).

“*Commodity Agreement*” of any Person means any commodity forward contract, commodity swap agreement, commodity option agreement or other similar agreement or arrangement to which such Person is a party.

“*Company*” means American Tower Corporation or any and all successors thereto pursuant to Section 5.02.

“*Comparable Treasury Issue*” means the United States Treasury security selected by an Independent Investment Banker as having a maturity comparable to the remaining term of the

notes that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of such notes (“Remaining Life”).

“*Comparable Treasury Price*” means, for any redemption date, (1) the average of four Reference Treasury Dealer Quotations for such redemption date, after excluding the highest and lowest Reference Treasury Dealer Quotations, or (2) if the Independent Investment Banker obtains fewer than four such Reference Treasury Dealer Quotations the average of all such quotations.

“*Continuing Director*” means, as of any date of determination, any member of the Board of Directors of the Company who:

- (1) was a member of such Board of Directors of the Company on the Issue Date; or
- (2) was nominated for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such Board of Directors at the time of such nomination or election.

“*Convertible Notes*” means, collectively, (a) the 2.25% Convertible Notes Due 2009 issued pursuant to that certain indenture dated October 4, 1999 of the Company with The Bank of New York as trustee, (b) the 5.00% Convertible Notes Due 2010 issued pursuant to that certain indenture dated February 15, 2000 of the Company with The Bank of New York as trustee and (c) the 3.00% Convertible Notes Due 2012 issued pursuant to that certain indenture dated August 17, 2004 of the Company with The Bank of New York Trust Company, N.A. as trustee.

“*Corporate Trust Office*” means the principal office of the Trustee at which at any time its corporate trust business shall be administered, which office at the date hereof is located at 222 Berkeley Street, 2nd Floor, Boston, Massachusetts, 02116, Attention: Corporate Trust Administration, or such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Holders and the Company).

“*Currency Agreement*” of any Person means any foreign exchange contract, currency swap agreement or other similar agreement or arrangement as to which such Person is a party.

“*Custodian*” means the Trustee, as custodian with respect to the Notes in global form, or any successor entity thereto.

“*Default*” means any event that is, or after notice or passage of time or both would be, an Event of Default.

“*Definitive Note*” means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A hereto except that such Note shall not bear the Global Note Legend and shall not have the “Schedule of Exchanges of Interests in the Global Note” attached thereto.

“*Depository*” means, with respect to the Notes issuable or issued in whole or in part in global form, the Person specified in Section 2.03 hereof as the Depository with respect to the Notes, and any and all successors thereto appointed as depository hereunder and having become such pursuant to the applicable provision of this Indenture.

“*Designated Subsidiary*” means any Subsidiary of the Company (a) the Capital Stock of which the Company intends to distribute to its shareholders or (b) the assets or Capital Stock of which the Company intends to sell or otherwise dispose of to any Person other than the Company or any of its Subsidiaries, in each case, as evidenced by a Board Resolution.

“*Disqualified Stock*” means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case at the option of the holder of the Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Capital Stock, in whole or in part, on or prior to the Stated Maturity of the Notes.

“*Effectiveness Target Date*” shall have the meaning set forth in Section 6(a)(i) of the Registration Rights Agreement.

“*Euroclear*” means Euroclear Bank S.A./N.V., as operator of the Euroclear system (or any successor securities clearing agency).

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended.

“*Exchange Note*” means any Note issued in exchange for an Original Note or Original Notes or an Additional Note or Additional Notes pursuant to the Exchange Offer or otherwise registered under the Securities Act and any Note with respect to which the next preceding Predecessor Note of such Note was an Exchange Note.

“*Exchange Offer*” has the meaning set forth in the form of Note attached as Exhibit A.

“*Exchange Registration Statement*” has the meaning set forth in the form of Note attached as Exhibit A.

“*Existing SpectraSite Indebtedness*” means that certain mortgage loan more fully described in the Offering Memorandum dated April 27, 2007 regarding the \$1,750,000,000 American Tower Trust I Commercial Mortgage Pass-Through Certificates, Series 2007-1.

“*Fair Market Value*” means, with respect to any asset, the price that (after taking into account any liabilities relating to such asset) would be paid in an arm’s-length transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy, as determined in good faith by the Board of Directors, whose determination shall be conclusive if evidenced by a Board Resolution.

“*Fitch*” means Fitch, Inc. or any successor to the rating agency business thereof.

“*Foreign Subsidiary*” means, with respect to any Person, (a) any Subsidiary of such Person that is not organized or existing under the laws of, and whose principal business is conducted outside of, the United States, any state thereof, the District of Columbia, or any territory thereof (for purposes of this definition only, the “United States”), or (b) any Subsidiary of such Person that is organized or existing under the laws of the United States whose only material assets are the Capital Stock of Foreign Subsidiaries meeting clause (a) of this definition.

“*GAAP*” means generally accepted accounting principles set forth in the standards, statements and pronouncements of the Financial Accounting Standards Board, or in such other statements by such other entity as may be approved by a significant segment of the accounting profession of the United States, which are in effect on the Issue Date.

“*Global Note Legend*” means the legend set forth in Section 2.06(f)(i), which is required to be placed on all Global Notes issued under this Indenture.

“*Global Notes*” means the global Notes, substantially in the form of Exhibit A hereto.

“*Government Securities*” means direct obligations of, or obligations guaranteed by, the United States of America, and the payment for which the United States pledges its full faith and credit.

“*Guarantee*” means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner (including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof), of all or any part of any Indebtedness. The term “*Guarantee*” used as a verb has a corresponding meaning.

“*Holder*” means a Person in whose name a Note is registered.

“*Indebtedness*” means, with respect to any specified Person, any indebtedness of such Person, whether or not contingent:

- (1) in respect of borrowed money;
- (2) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof);
- (3) in respect of banker’s acceptances;
- (4) representing Capital Lease Obligations;
- (5) representing the balance deferred and unpaid of the purchase price of any property, except any such balance that constitutes an accrued expense or trade payable;

- (6) representing obligations under any Interest Rate Agreements, Commodity Agreements and Currency Agreements except for those entered into for the purpose of fixing, hedging or swapping interest rate, commodity price or foreign currency exchange risk; or
- (7) in respect of all Disqualified Stock issued by such Person with the amount of Indebtedness represented by such Disqualified Stock being equal to the greater of its voluntary or involuntary liquidation preference and its maximum fixed repurchase price, but excluding accrued dividends, if any; *provided* that (a) if the Disqualified Stock does not have a fixed repurchase price, such maximum fixed repurchase price shall be calculated in accordance with the terms of the Disqualified Stock as if the Disqualified Stock were purchased on any date on which Indebtedness shall be required to be determined pursuant to the applicable indenture, and (b) if the maximum fixed repurchase price is based upon, or measured by, the fair market value of the Disqualified Capital Stock, the fair market value shall be the Fair Market Value thereof;

if and to the extent any of the preceding items (other than letters of credit and obligations under Interest Rate Agreements, Commodity Agreements and Currency Agreements) would appear as a liability upon a balance sheet of such Person prepared in accordance with GAAP. In addition, the term "Indebtedness" includes all Indebtedness of others secured by a Lien on any asset of such Person whether or not such Indebtedness is assumed by such Person (the amount of such Indebtedness as of any date being deemed to be the lesser of the Fair Market Value of such property or assets as of such date or the principal amount of such Indebtedness of such other Person so secured) and, to the extent not otherwise included, the Guarantee by such Person of any Indebtedness of any other Person.

The amount of any Indebtedness outstanding as of any date shall be:

- (1) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount; and
- (2) the principal amount of the Indebtedness, together with any interest on the Indebtedness that is more than 30 days past due, in the case of any other Indebtedness.

"*Indenture*" means this Indenture, as amended or supplemented from time to time.

"*Independent Investment Banker*" means one of the Reference Treasury Dealers appointed by the Company.

"*Indirect Participant*" means a Person who holds a beneficial interest in a Global Note through a Participant.

"*Interest Expense*" means, for any period, all cash interest expense (including imputed interest with respect to Capital Lease Obligations and commitment fees) with respect to any Indebtedness of the Company and its Subsidiaries on a consolidated basis during such period pursuant to the terms of such Indebtedness.

“*Interest Payment Date*” means May 15 and November 15 of each year, beginning November 15, 2009.

“*Interest Rate Agreement*” of any Person means any interest rate protection agreement, interest rate future agreement, interest rate option agreement, interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedge agreement, option or future contract or other similar agreement or arrangement as to which such Person is a party.

“*Investment Grade Rating*” means a rating equal to or greater than BBB- by S&P and Fitch and Baa3 by Moody’s or the equivalent thereof under any new ratings system if the ratings system of any such agency shall be modified after the date hereof, or the equivalent rating or any other Ratings Agency selected by the Company as provided by the definition of Ratings Agency.

“*Issue Date*” means the date on which the Notes are originally issued under this Indenture.

“*Legal Holiday*” means a Saturday, a Sunday or a day on which banking institutions in The City of New York or at a place of payment are authorized by law, regulation or executive order to remain closed. If a payment date is a Legal Holiday at a place of payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue on such payment for the intervening period.

“*Licenses*” means, collectively, any telephone, microwave, radio transmissions, personal communications or other license, authorization, certificate of compliance, franchise, approval or permit, whether for the construction, ownership or operation of any communications tower facilities, granted or issued by the Federal Communications Commission (or other similar or successor agency of the federal government administering the Communications Act of 1934 or any similar or successor federal statute) and held by the Company or any of its Subsidiaries.

“*Lien*” means, with respect to any property or assets, including Capital Stock, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law (including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction).

“*Moody’s*” means Moody’s Investors Services, Inc. or any successor to the rating agency business thereof.

“*Net Income*” means, for any period of determination, net income (loss) of the Company and its Subsidiaries, on a consolidated basis, determined in accordance with GAAP.



“*Newly Created Subsidiary*” means a newly created direct or indirect Subsidiary of the Company that is formed or organized after the Issue Date; *provided* that neither the Company nor any Subsidiary of the Company shall have transferred, or may in the future transfer, any assets (other than cash or cash equivalents) to such Newly Created Subsidiary for so long as such Newly Created Subsidiary remains designated as an Unrestricted Subsidiary.

“*Notes*” has the meaning assigned to it in the preamble to this Indenture and includes the Exchange Notes and the Original Notes and any Additional Notes.

“*Offering*” means the private offering of the Notes by the Company.

“*Offering Circular*” means the confidential Offering Circular, dated May 27, 2009, including the documents incorporated by reference therein, relating to the private offering of the Original Notes.

“*Officer*” means, with respect to any Person, the chairman of the Board of Directors, the chief executive officer, the president, the chief operating officer, the chief financial officer, or any vice president and by the treasurer, any assistant treasurer, the controller, any assistant controller, the secretary or any assistant secretary of such Person.

“*Officers’ Certificate*” means, with respect to any Person, a certificate signed by the chairman of the Board of Directors, the chief executive officer, the president, the chief operating officer, the chief financial officer, or any vice president and by the treasurer, any assistant treasurer, the controller, any assistant controller, the secretary or any assistant secretary of such Person in accordance with the requirements of Section 12.04 hereof.

“*Opinion of Counsel*” means an opinion from legal counsel that meets the requirements of Section 12.04 hereof. The counsel may be an employee of or counsel to the Company or any Subsidiary of the Company.

“*Outstanding Notes*” means (i) the 7.125% senior notes due 2012 issued pursuant to an indenture dated as of October 5, 2004, as amended (including by a supplemental indenture dated as of December 6, 2004), (ii) the 7.25% senior subordinated notes due 2011 issued pursuant to an indenture dated as of November 18, 2003, as amended (including by a supplemental indenture dated as of May 7, 2007), (iii) the 7.50% senior notes due 2012 issued pursuant to an indenture dated as of February 4, 2004, as amended, and (iv) the 7.00% senior notes due 2017 issued pursuant to an indenture dated as of October 1, 2007, as amended, in each case, for so long as such notes are outstanding and the indentures governing any such notes contain substantially all of the restrictive covenants as in effect on the Issue Date.

“*Participant*” means, with respect to the Depository, Euroclear or Clearstream, a Person who has an account with the Depository, Euroclear or Clearstream, respectively (and, with respect to DTC, shall include Euroclear and Clearstream).

“*Permitted Amount*” means, on any date, an amount equal to 3.5 times Adjusted EBITDA as of the most recent fiscal quarter for which financial statements of the Company are internally available immediately preceding such date.

“Permitted Liens” means:

- (1) Liens in favor of the Company or its Subsidiaries;
- (2) Liens existing on the Issue Date (other than those securing Existing SpectraSite Indebtedness) and renewals and replacements thereof;
- (3) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted; *provided* that any reserve or other appropriate provision as shall be required in conformity with GAAP shall have been made therefor;
- (4) Liens of carriers, warehousemen, mechanics, vendors (solely to the extent arising by operation of law), laborers and materialmen incurred in the ordinary course of business for sums not yet due or being diligently contested in good faith, if reserves or appropriate provisions shall have been made therefor;
- (5) Liens incurred in the ordinary course of business in connection with worker’s compensation and unemployment insurance, social security obligations, assessments or government charges which are not overdue for more than 60 days;
- (6) restrictions on the transfer of Licenses or assets of the Company or any of its Subsidiaries imposed by any of the Licenses as in effect on the Issue Date or imposed by the Communications Act of 1934, any similar or successor federal statute or the rules and regulations of the Federal Communications Commission (or other similar or successor agency of the federal government administering such Act or successor statute) thereunder, all as the same may be in effect from time to time;
- (7) Liens arising by operation of law in favor of purchasers in connection with the sale of an asset; *provided, however*, that such Lien only encumbers the property being sold;
- (8) Liens to secure performance of statutory obligations, surety or appeal bonds, performance bonds, bids or tenders;
- (9) judgment Liens;
- (10) Liens in connection with escrow or security deposits made in connection with any acquisition of assets;
- (11) Liens securing (a) Indebtedness permitted to be incurred under clauses (3) and (5) of the first paragraph of Section 4.07 hereof and (b) Indebtedness of the Company of the type described under such clauses (3) and (5), *provided* that, solely for purposes of this definition of “Permitted Liens,” the \$500.0 million limit in such clause (3) shall be in the aggregate for the Company and any Subsidiaries of the Company;

- (12) easements, rights-of-way, zoning restrictions, licenses or restrictions on use and other similar encumbrances on the use of real property that:
  - (a) are not incurred in connection with the borrowing of money or the obtaining of advances or credit (other than trade credit in the ordinary course of business); and
  - (b) do not in the aggregate materially detract from the value of the property or materially impair the use thereof in the operation of business by the Company and its Subsidiaries;
- (13) Liens on property of the Company or a Subsidiary of the Company at the time the Company or such Subsidiary acquired the property, including acquisition by means of a merger or consolidation with or into the Company or any Subsidiary, or an acquisition of assets, and any replacement thereof, *provided, however*, that such Liens are not created, incurred or assumed in connection with or in contemplation of such acquisition, and *provided further* that such Liens may not extend to any other property owned by the Company or any Subsidiary of the Company;
- (14) leases and subleases of real property in the ordinary course of business (for the avoidance of doubt, excluding sale and lease-back transactions) which do not materially interfere with the ordinary conduct of the business; and
- (15) banker's Liens, rights of set-off or similar rights and remedies as to deposit accounts or other funds maintained with a depository institution; *provided that*:
  - (a) such deposit account is not a dedicated cash collateral account and is not subject to restrictions against access in excess of those set forth by regulations promulgated by the Federal Reserve Board or other applicable law; and
  - (b) such deposit account is not intended to provide collateral to the depository institution.

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

“*Place of Payment*” means the place or places where the principal of and interest, if any, on the Notes are payable as determined in accordance with this Indenture.

“*Predecessor Note*” of any particular Note means every previous Note issued before, and evidencing all or a portion of the same debt as that evidenced by, such particular Note; and, for the purposes of this definition, any Note authenticated and delivered under Section 2.07 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Note shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Note.

“*Purchase Agreement*” means the Purchase Agreement, dated May 27, 2009, among the Company and the Purchasers, as such agreement may be amended from time to time.

“*Purchasers*” means the several initial purchasers named in Schedule A of the Purchase Agreement.

“*Ratings Agencies*” means (1) Moody’s, S&P and Fitch; and (2) if any of S&P, Moody’s and Fitch ceases to rate the Notes or ceases to make a rating on the Notes publicly available, an entity registered as a “nationally recognized statistical rating organization” (registered as such pursuant to Rule 17g-1 of the Exchange Act) then making a rating on the Notes publicly available selected by the Company (as certified by an Officers’ Certificate), which shall be substituted for S&P, Moody’s or Fitch, as the case may be.

“*Ratings Decline*” means the occurrence of the following on, or within 90 days after, the date of the public notice of the occurrence of a Change of Control or of the intention by the Company or any third-party to effect a Change of Control (which period shall be extended for so long as the rating of the notes is under publicly announced consideration for possible downgrade by any of the Ratings Agencies if such period exceeds 90 days): (1) in the event that the Notes have an Investment Grade Rating by all three Ratings Agencies, the Notes cease to have an Investment Grade Rating by two of the three Rating Agencies, (2) in the event that the Notes have an Investment Grade Rating by only two Ratings Agencies, the Notes cease to have an Investment Grade Rating by both such Rating Agencies, or (3) in any other event, the rating of the Notes by two of the three Ratings Agencies (or if there are less than three Rating Agencies rating the notes, the rating of each Rating Agency) decreases by one or more gradations (including gradations within ratings categories as well as between rating categories) or is withdrawn.

“*Reference Treasury Dealer*” means any of the primary U.S. Government securities dealers in New York City.

“*Reference Treasury Dealer Quotations*” means, with respect to each Reference Treasury Dealer and any redemption date, the average, as determined by the Independent Investment Banker, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Independent Investment Banker at 5:00 p.m., New York City time, on the third Business Day preceding such redemption date.

“*Registered Notes*” means the Exchange Notes and all other Notes sold or otherwise disposed of pursuant to an effective registration statement under the Securities Act, together with their respective Successor Notes.

“*Registration Default*” has the meaning set forth in the form of Note attached as Exhibit A.

“*Registration Rights Agreement*” means the Registration Rights Agreement among the Company and the Purchasers, dated the Issue Date, as the same may be amended, supplemented or otherwise modified from time to time in accordance with its terms.

“*Regular Record Date*” has the meaning set forth in the form of Note attached as Exhibit A.

“*Regulation S*” means Regulation S under the Securities Act (or any successor provision), as it may be amended from time to time.

“*Regulation S Legend*” means a legend substantially in the form of the legend required in the form of Note attached as Exhibit A to be placed upon each Regulation S Note.

“*Regulation S Notes*” means all Notes required pursuant to Section 2.06(f)(ii) to bear a Regulation S Legend. Such term includes the Regulation S Global Note.

“*Resale Restriction Termination Date*” means, for any Restricted Note (or beneficial interest therein) the date on which the Company instructs the Trustee in writing to remove the Restricted Notes Legend from the Restricted Notes in accordance with the procedures described in this Indenture (which instruction is expected to be given on or about the one-year anniversary of the issuance of such Restricted Note).

“*Responsible Officer*” with respect to the Trustee, means any officer within the Corporate Trust Administration of the Trustee, including any vice president, assistant vice president, assistant treasurer, trust officer or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of its Indenture.

“*Restricted Notes*” means all Notes or any Additional Notes (or beneficial interest therein) not originally issued and sold pursuant to an effective registration statement under the Securities Act required pursuant to Section 2.06(f)(ii) to bear any Restricted Notes Legend. Such term includes the Rule 144A Global Note.

“*Restricted Notes Legend*” means, collectively, the legends substantially in the forms of the legends required in the form of Note attached as Exhibit A to be placed upon each Restricted Note.

“*Restricted Period*” means, in the case of any Regulation S Notes, the period of 40 consecutive days beginning on and including the later of (i) the day on which Notes are first offered to persons other than distributors (as defined in Regulation S) in reliance on Regulation S and (ii) the issue date for such Regulation S Notes.

“*Rule 144A*” means Rule 144A under the Securities Act (or any successor provision), as such Rule 144A may be amended from time to time.

“*Rule 144A Notes*” means the Notes purchased by the Purchasers from the Company pursuant to the Purchase Agreement, other than the Regulation S Notes. Such term includes the Rule 144A Global Note.

“*S&P*” means Standard & Poor Rating Services, a division of The McGraw-Hill Companies, Inc., or any successor to the rating agency business thereof.

“*SEC*” means the Securities and Exchange Commission.

“*Securities Act*” means the Securities Act of 1933, as amended.

“*Securities Act Legend*” means a Restricted Notes Legend or a Regulation S Legend.

“*Shelf Registration Statement*” has the meaning set forth in the form of Note attached as Exhibit A.

“*Significant Subsidiary*” means, with respect to any Person, any Subsidiary of such Person that would be a “significant subsidiary” of such Person as defined in Article 1, clauses (1) and (2), Rule 1-02(w) of Regulation S-X, promulgated pursuant to the Act, as such Regulation is in effect on the Issue Date.

“*Stated Maturity*” means, (1) with respect to any debt security, the date specified in such debt security as the fixed date on which the final installment of principal of such debt security is due and payable and (2) with respect to any scheduled installment of principal of or interest on any debt security, the date specified in such debt security as the fixed date on which such installment is due and payable.

“*Subsidiary*” means, with respect to any Person, (1) any corporation, limited liability company, association or other business entity of which more than 50% of the voting power of the outstanding Voting Stock is owned, directly or indirectly, by such Person and one or more other Subsidiaries of such Person or (2) any partnership (A) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (B) the only general partners of which are such Person or one or more Subsidiaries of such Person (or any combination thereof). The term “Subsidiary” with respect to the Company shall not include any Unrestricted Subsidiary.

“*Successor Note*” of any particular Note means every Note issued after, and evidencing all or a portion of the same debt as that evidenced by, such particular Note; and, for purposes of this definition, any Note authenticated and delivered under Section 2.07 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Note shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Note.

“*TIA*” means the Trust Indenture Act of 1939 (15 U.S.C. §§ 77aaa-77bbbb) as in effect on the date on which this Indenture is qualified under the TIA.

“*Trade Payables*” means, with respect to any Person, any accounts payable or any other indebtedness or monetary obligation to trade creditors created, assumed or Guaranteed by such Person or any of its Subsidiaries arising in the ordinary course of business in connection with the acquisition of goods or services.

“*Trustee*” means the party named as such above until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

“*Unrestricted Subsidiary*” means (a) any Foreign Subsidiary or Newly Created Subsidiary of the Company that is designated by the Board of Directors as an Unrestricted Subsidiary until such time as the Board of Directors may designate it to be a Subsidiary, *provided* that no Default or Event of Default would occur or be existing following such designation, and (b) any subsidiary of an Unrestricted Subsidiary. Any such designation by the Board of Directors shall be evidenced to the Trustee by filing a Board Resolution with the Trustee giving effect to such designation. At the time of designation of an Unrestricted Subsidiary as a Subsidiary, such Subsidiary shall be deemed to incur outstanding Indebtedness and grant any existing Liens.

“*U.S. Person*” means a U.S. person as defined in Rule 902(o) under the Securities Act.

“*Voting Stock*” of any Person as of any date means the Capital Stock of such Person that is normally entitled to vote in the election of the board of directors, managers or trustees of such Person.

Section 1.02. *Other Definitions.*

<u>Term</u>	<u>Defined in Section</u>
“Authentication Order”	2.02
“Change of Control Offer”	4.09
“Change of Control Payment”	4.09
“Change of Control Payment Date”	4.09
“Covenant Defeasance”	8.03
“DTC”	2.03
“Event of Default”	6.01
“incur”	4.07
“Legal Defeasance”	8.02
“Original Notes”	2.02
“Paying Agent”	2.03
“Registrar”	2.03
“Regulation S Global Note”	2.01
“Rule 144A Global Note”	2.01

Section 1.03. *Incorporation by Reference of Trust Indenture Act.*

Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture.

The following TIA terms used in this Indenture have the following meanings:

- “indenture securities” means the Notes;
- “indenture security Holder” means a Holder of a Note;
- “indenture to be qualified” means this Indenture;
- “indenture trustee” or “institutional trustee” means the Trustee; and
- “obligor” on the Notes means the Company and any successor obligor upon the Notes.

All other terms used in this Indenture that are defined by the TIA, defined by the TIA’s reference to another statute or defined by SEC rule under the TIA have the meanings so assigned to them.

Section 1.04. *Rules of Construction.*

Unless the context otherwise requires:

- (a) a term has the meaning assigned to it;
- (b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (c) “or” is not exclusive;
- (d) words in the singular include the plural, and in the plural include the singular;
- (e) provisions apply to successive events and transactions;
- (f) references to sections of or rules under the Securities Act shall be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time;
- (g) references to “interest” on the Notes shall include Additional Interest; and
- (h) references to the payment of “principal” on the Notes shall include applicable premium, if any.

**ARTICLE 2**

**THE NOTES**

Section 2.01. *Form and Dating.*

(a) *General.* The Notes and the Trustee’s certificate of authentication shall be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Note shall be dated the date of its authentication. The Notes shall be in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof.



The Notes may consist of Original Notes, Additional Notes and/or Exchange Notes, which shall rank *pari passu* in right of payment with each other and with all other existing and future senior unsecured obligations of the Company. Unless the context otherwise requires, Original Notes and Exchange Notes and any Additional Notes shall be considered collectively to be a single class for all purposes of this Indenture, including without limitation waivers, amendments, redemptions and Change of Control Offers.

The terms and provisions contained in the Notes shall constitute, and are hereby expressly made, a part of this Indenture and the Company and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

(b) *Global Notes*. Notes issued in global form shall be substantially in the form of Exhibit A attached hereto (including the Global Note Legend thereon and the “Schedule of Exchanges of Interests in the Global Note” attached thereto). Notes issued in definitive form shall be substantially in the form of Exhibit A attached hereto (but without the Global Note Legend thereon and without the “Schedule of Exchanges of Interests in the Global Note” attached thereto).

Each Global Note shall represent such of the outstanding Notes as shall be specified therein and each shall provide that it shall represent the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges, redemptions, repurchases and transfers of interests. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby shall be made by the Trustee or the Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 hereof.

(c) *Euroclear and Clearstream Procedures Applicable*. The provisions of the “Operating Procedures of the Euroclear System” and “Terms and Conditions Governing Use of Euroclear” and the “General Terms and Conditions of Clearstream” and “Customer Handbook” of Clearstream, as amended, or any successor publications thereto, shall be applicable to transfers of beneficial interests in Global Notes that are held by Participants through Euroclear or Clearstream.

(d) *Rule 144A and Regulation S Global Notes*. Upon their original issuance, Rule 144A Notes shall be issued in the form of one or more Global Notes registered in the name of the Depository or its nominee and deposited with the Trustee, as Custodian for the Depository, for credit by the Depository to the respective accounts of beneficial owners of the Notes represented thereby (or such other accounts as they may direct). Such Global Notes, together with their Successor Notes which are Global Notes other than the Regulation S Global Notes, are collectively herein called the “Rule 144A Global Note.”

Upon their original issuance, Regulation S Notes shall be issued in the form of one or more Global Notes registered in the name of the Depositary, or its nominee and deposited with the Trustee, as Custodian for the Depositary, for credit to the respective accounts of the beneficial owners of the Notes represented thereby (or such other accounts as they may direct). Such Global Notes, together with their Successor Notes which are Global Notes other than the Rule 144A Global Note, are collectively herein called the “Regulation S Global Note.”

Section 2.02. *Execution and Authentication.*

One Officer shall sign the Notes for the Company by manual or facsimile signature.

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

A Note shall not be valid until authenticated by the manual signature of the Trustee. The signature shall be conclusive evidence that the Note has been authenticated under this Indenture.

The Trustee shall, upon a written order of the Company signed by an Officer (an “*Authentication Order*”), authenticate Notes for original issue on the Issue Date in an aggregate principal amount not to exceed \$300 million (the “*Original Notes*”). Notes shall be dated the date of their authentication.

At any time and from time to time after the execution and delivery of this Indenture and after the effectiveness of a Registration Statement under the Securities Act with respect thereto, the Company may deliver Exchange Notes executed by the Company to the Trustee for authentication, together with an Authentication Order for the authentication and delivery of such Exchange Notes and a like principal amount of Original Notes for cancellation in accordance with Section 2.11 of this Indenture, and the Trustee in accordance with an Authentication Order shall authenticate and deliver such Notes. In authenticating such Exchange Notes, and accepting the additional responsibilities under this Indenture in relation to such Notes, the Trustee shall be provided with, and (subject to Section 7.01) shall be fully protected in relying upon, an Opinion of Counsel stating,

- (i) that such Exchange Notes have been duly and validly issued in accordance with the terms of this Indenture, and are entitled to all the rights and benefits set forth herein; and
- (ii) that the issuance of the Exchange Notes in exchange for the Original Notes has been effected in compliance with the Securities Act.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with Holders or an Affiliate of the Company.

### Section 2.03. *Registrar and Paying Agent.*

The Company shall maintain an office or agency where Notes may be presented for registration of transfer or for exchange (“*Registrar*”) and an office or agency where Notes may be presented for payment (“*Paying Agent*”). The Registrar shall keep a register of the Notes and of their transfer and exchange. The Company may appoint one or more co-registrars and one or more additional paying agents. The term “*Registrar*” includes any co-registrar and the term “*Paying Agent*” includes any additional paying agent. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company shall promptly notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Company fails to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall act as such. The Company or any of its Subsidiaries may act as Paying Agent or Registrar.

The Company initially appoints The Depository Trust Company (“*DTC*”) to act as Depository with respect to the Global Notes.

The Company initially appoints the Trustee to act as the Registrar and Paying Agent and to act as Custodian with respect to the Global Notes.

### Section 2.04. *Paying Agent to Hold Money in Trust.*

The Company shall require each Paying Agent other than the Trustee to agree in writing that the Paying Agent will hold in trust for the benefit of the Holders or the Trustee all money held by the Paying Agent for the payment of principal of, or premium, if any, or interest on the Notes, and will notify the Trustee of any default by the Company in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Company or a Subsidiary) shall have no further liability for the money. If the Company or a Subsidiary acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Company, the Trustee shall serve as Paying Agent for the Notes.

### Section 2.05. *Holder Lists.*

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders and shall otherwise comply with TIA § 312(a). If the Trustee is not the Registrar, the Company shall furnish to the Trustee at least seven Business Days before each Interest Payment Date and at such other times as the Trustee may reasonably request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders of Notes, and the Company shall otherwise comply with TIA § 312(a).

### Section 2.06. *Transfer and Exchange.*

(a) *Transfer and Exchange of Global Notes.* A Global Note may not be transferred as a whole except by the Depository to a nominee of the Depository, by a nominee of the Depository to the Depository or to another nominee of the Depository, or by the Depository or

any such nominee to a successor Depositary or a nominee of such successor Depositary. All Global Notes will be exchanged by the Company for Definitive Notes if (i) the Company delivers to the Trustee notice from the Depositary that it is unwilling or unable to continue to act as Depositary or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Company within 120 days after the date of such notice from the Depositary, (ii) the Company in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and delivers a written notice to such effect to the Trustee, or (iii) an Event of Default has occurred and is continuing and the Registrar has received a request from the Depositary. Upon the occurrence of any of the preceding events in (i), (ii) or (iii) above, Definitive Notes shall be issued in such names as the Depositary shall instruct the Trustee. The owner of a beneficial interest in a Global Note will be entitled to receive a Definitive Note in exchange for such interest if an Event of Default has occurred and is continuing. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06, or Section 2.07 or 2.10 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06(a); *provided, however*, that beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b), (c) or (f) hereof and a Global Note may be exchanged for another Global Note as provided in Section 2.06(f) hereof.

In the event that Definitive Notes are not issued to each holder of a beneficial interest in a Global Note promptly after the Registrar has received a request from the Holder of a Global Note to issue such Definitive Notes, the Company expressly acknowledges, with respect to the right of any Holder to pursue a remedy pursuant to Section 6.06 or 6.07 hereof, the right of any beneficial holder of Notes to pursue such remedy with respect to the portion of the Global Note that represents such beneficial holder's Notes as if such Definitive Notes had been issued.

(b) *Transfer and Exchange of Beneficial Interests in the Global Notes.* The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures. Transfers of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

- (i) *Transfer of Beneficial Interests in the Same Global Note.* Beneficial interests in any Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(i).
- (ii) *All Other Transfers and Exchanges of Beneficial Interests in Global Notes.* In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(i) above, the transferor of such beneficial interest must deliver to the Registrar either (A) (1) a written order from a Participant or an Indirect Participant given to the

Depository in accordance with the Applicable Procedures directing the Depository to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or (B) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given by the Depository to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(g) hereof.

- (iii) *Rule 144A Global Note to Regulation S Global Note.* If the owner of a beneficial interest in the Rule 144A Global Note wishes at any time to transfer such interest to a Person who wishes to acquire the same in the form of a beneficial interest in the Regulation S Global Note, such transfer may be effected only in accordance with the provisions of this clause (iii) and clause (iv) below and subject to the Applicable Procedures. Upon receipt by the Trustee, as Registrar, of (A) an order given by the Depository or its authorized representative directing that a beneficial interest in the Regulation S Global Note in a specified principal amount be credited to a specified Participant's account and that a beneficial interest in the Rule 144A Global Note in an equal principal amount be debited from another specified Participant's account and (B) a certificate in the form of Exhibit B hereto, satisfactory to the Trustee and duly executed by the owner of such beneficial interest in the Rule 144A Global Note or his attorney duly authorized in writing, then the Trustee, as Registrar but subject to clause (iv) below, shall reduce the principal amount of the Rule 144A Global Note and increase the principal amount of the Regulation S Global Note by such specified principal amount.
- (iv) *Regulation S Global Note to Rule 144A Global Note.* If the owner of a beneficial interest in the Regulation S Global Note wishes at any time to transfer such interest to a Person who wishes to acquire the same in the form of a beneficial interest in the Rule 144A Global Note, such transfer may be effected only in accordance with this clause (iv) and subject to the Applicable Procedures. Upon receipt by the Trustee, as Registrar, of (A) an order given by the Depository or its authorized representative directing that a beneficial interest in the Rule 144A Global Note in a specified principal amount be credited to a specified Participant's account and that a

beneficial interest in the Regulation S Global Note in an equal principal amount be debited from another specified Participant's account and (B) if such transfer is to occur during the Restricted Period, a certificate in the form of Exhibit C hereto, satisfactory to the Trustee and duly executed by the owner of such beneficial interest in the Regulation S Global Note or his attorney duly authorized in writing, then the Trustee, as Registrar, shall reduce the principal amount of the Regulation S Global Note and increase the principal amount of the Rule 144A Global Note by such specified principal amount.

(c) *Transfer or Exchange of Beneficial Interests for Definitive Notes.* If any Holder of a beneficial interest in a Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth in Sections 2.06(a) and 2.06(b)(ii) hereof, the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(g) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c) shall bear the legend restricting transfers that is borne by such Global Note and shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depository and the Participant or Indirect Participant.

(d) *Transfer or Exchange of Definitive Notes for Beneficial Interests.* Upon request by a Holder of Definitive Notes to exchange such Definitive Notes for a beneficial interest in a Global Note and such requesting Holder's presenting or surrendering to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing, the Registrar shall register the transfer or exchange of Definitive Notes and effect the transfer or exchange through the Depository, in accordance with the provisions of this Indenture and the Applicable Procedures. The Trustee shall cancel the Definitive Note and cause the aggregate principal amount of the applicable Global Note to be increased accordingly pursuant to the terms of this Indenture and the Applicable Procedures. If the Definitive Note to be transferred in whole or in part is a Restricted Note, or is a Regulation S Note and the transfer is to occur during the Restricted Period therefor, then the Trustee shall have received (A) a certificate substantially in the form of Exhibit C hereto, satisfactory to the Trustee and duly executed by the transferor Holder or his attorney duly authorized in writing, in which case the transferee Holder shall take delivery in the form of a beneficial interest in the Restricted Global Note, or (B) a certificate substantially in the form of Exhibit B hereto, satisfactory to the Trustee and duly executed by the transferor Holder or his attorney duly authorized in writing, in which case the transferee Holder shall take delivery in the form of a beneficial interest in the Regulation S Global Note (subject in every case to Section 2.06(f)).

(e) *Transfer and Exchange of Definitive Notes for Definitive Notes.* Upon request by a Holder of Definitive Notes and such requesting Holder's presenting or surrendering to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer

in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing, the Registrar shall register the transfer or exchange of Definitive Notes; *provided* that, if the Note to be transferred in whole or in part is a Restricted Note, or is a Regulation S Note and the transfer is to occur during the Restricted Period therefor, then the Trustee shall have received (A) a certificate substantially in the form of Exhibit C hereto, satisfactory to the Trustee and duly executed by the transferor Holder or his attorney duly authorized in writing, in which case the transferee Holder shall take delivery in the form of a Restricted Note, or (B) a certificate substantially in the form of Exhibit B hereto, satisfactory to the Trustee and duly executed by the transferor Holder or his attorney duly authorized in writing, in which case the transferee Holder shall take delivery in the form of a Regulation S Note (subject in every case to Section 2.06(f)).

(f) *Legends.*

(i) *Private Placement Legend.*

(A) Except as permitted by this Indenture, each Global Note and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof) shall bear the legend in substantially the following form:

“THIS NOTE (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND THIS NOTE MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THIS NOTE IS HEREBY NOTIFIED THAT THE SELLER OF THIS NOTE MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER.

THE HOLDER OF THIS NOTE, BY ITS ACCEPTANCE HEREOF, AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED SECURITIES AND FOR THE BENEFIT OF THE COMPANY THAT PRIOR TO THE DATE (THE “RESALE RESTRICTION TERMINATION DATE”) ON WHICH THE COMPANY INSTRUCTS THE TRUSTEE THAT THIS RESTRICTIVE LEGEND SHALL BE DEEMED REMOVED IN ACCORDANCE WITH THE PROCEDURE DESCRIBED IN THE INDENTURE (WHICH INSTRUCTION IS EXPECTED TO BE GIVEN ON OR ABOUT THE ONE-YEAR ANNIVERSARY OF THE ISSUANCE OF THIS SECURITY) (A) THIS NOTE MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) IN THE UNITED STATES TO A PERSON WHOM THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (II) OUTSIDE THE UNITED STATES IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH RULE 904 UNDER THE SECURITIES ACT, (III) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144

THEREUNDER OR ANY SUCCESSOR PROVISION THERETO (IF AVAILABLE) OR (IV) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, IN EACH OF CASES (I) THROUGH (IV) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES, AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER OF THIS NOTE FROM IT OF THE RESALE RESTRICTIONS REFERRED TO IN (A) ABOVE. THIS LEGEND SHALL BE DEEMED REMOVED FROM THE FACE OF THIS NOTE WITHOUT FURTHER ACTION OF THE COMPANY, THE TRUSTEE, OR THE HOLDERS OF THIS NOTE AT SUCH TIME AS THE COMPANY INSTRUCTS THE TRUSTEE TO REMOVE SUCH LEGEND IN ACCORDANCE WITH THE INDENTURE.”

(ii) *Global Notes Legend.* Each Global Note shall bear a legend in substantially the following form:

“THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”), TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY NOTE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS MAY BE 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.”



- (iii) *Regulation S Temporary Global Note Legend.* The Regulation S Temporary Global Note shall bear a legend in substantially the following form:

“THIS NOTE (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION ORIGINALLY EXEMPT FROM REGISTRATION UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND MAY NOT BE TRANSFERRED IN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, ANY U.S. PERSON EXCEPT PURSUANT TO AN AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND ALL APPLICABLE STATE SECURITIES LAWS. TERMS USED ABOVE HAVE THE MEANINGS GIVEN TO THEM IN REGULATION S UNDER THE SECURITIES ACT.”

- (iv) *Securities Act Legends.* Rule 144A Notes and their Successor Notes shall bear a Restricted Notes Legend, and the Regulation S Notes and their Successor Notes shall bear a Regulation S Legend, subject to the following:
- (1) subject to the following sub-clauses of this clause (iv), a Note or any portion thereof which is exchanged, upon transfer or otherwise, for a Global Note or any portion thereof shall bear the Securities Act Legend borne by such Global Note while represented thereby;
  - (2) subject to the following sub-clauses of this clause (iv), a new Note which is not a Global Note and is issued in exchange for another Note (including a Global Note) or any portion thereof, upon transfer or otherwise, shall bear the Securities Act Legend borne by such other Note, *provided* that, if such new Note is required pursuant to Section 2.06(a) to be issued in the form of a Restricted Note, it shall bear a Restricted Note Legend and, if such new Note is so required to be issued in the form of a Regulation S Note, it shall bear a Regulation S Legend;
  - (3) Registered Notes shall not bear a Securities Act Legend;
  - (4) at any time after a Note may be freely transferred without registration under the Securities Act or without being subject to transfer restrictions pursuant to the Securities Act, a new Note which does not bear a Securities Act Legend may be issued in exchange for or in lieu of such Note or any portion thereof which bears such a legend if the Trustee has received a certificate substantially in the form of Exhibit C hereto, satisfactory to the Trustee and duly executed by the Holder of such legended Note or his attorney duly authorized in writing, and after such date and receipt of such certificate, the Trustee shall authenticate and deliver such a new Note in exchange for or in lieu of such other Note as provided in this Article 2;

- (5) at any time after the expiration of the relevant Restricted Period, upon written request to the Trustee of the Holder of a Regulation S Note, a new Note which does not bear the Regulation S Legend may be issued in exchange for or in lieu of such Regulation S Note, and after such date and upon receipt of such certificate the Trustee shall authenticate and deliver such a new Note in exchange for or in lieu of such Regulation S Note as provided in this Article 2;
- (6) a new Note which does not bear a Securities Act Legend may be issued in exchange for or in lieu of a Note or any portion thereof which bears such a legend if, in the Company's judgment, placing such a legend upon such new Note is not necessary to ensure compliance with the registration requirements of the Securities Act, and the Trustee, at the written direction of the Company, shall authenticate and deliver such new Note as provided in this Article 2; and
- (7) notwithstanding the foregoing provisions of this clause (iv) of Section 2.06(f), a Successor Note of a Note that does not bear a particular form of Securities Act Legend shall not bear such form of legend unless the Company has reasonable cause to believe that such Successor Note is a "restricted security" within the meaning of Rule 144, in which case the Trustee, at the direction of the Company, shall authenticate and deliver a new Note bearing a Restricted Notes Legend in exchange for such Successor Note as provided in this Article 2.

(g) *Cancellation and/or Adjustment of Global Notes.* At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(h) *General Provisions Relating to Transfers and Exchanges.*

- (i) To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon the Company's order or at the Registrar's request.
- (ii) No service charge shall be made to a holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.07, 4.09 and 9.06 hereof).
- (iii) The Registrar shall not be required to register the transfer of or exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.
- (iv) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.
- (v) The Company shall not be required (A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the date of any selection of Notes for redemption under Section 3.02 hereof and ending at the close of business on the day of selection, (B) to register the transfer of or to exchange any Note (i) selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part or (ii) tendered for repurchase or (C) to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before any Regular Record Date and ending at the close of business on such Regular Record Date.
- (vi) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and premium, if any, and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary. All such payments so made to any such Person shall be valid and, to the extent of the sum or sums so paid, effectual to satisfy and discharge the liability for moneys payable upon any Note.
- (vii) The Trustee shall authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 2.02 hereof.

- (viii) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06 to effect a registration of transfer or exchange may be submitted by facsimile.
- (i) *Applicable Procedures for Delegending.*
  - (i) Promptly after one year has elapsed following (A) the date of original issuance of the Notes or (B) if the Company has issued any Additional Notes with the same terms and the same CUSIP number as the Notes pursuant to Section 2.14 hereof within one year following the date of original issuance of the Notes, the date of original issuance of such Additional Notes, if the Notes are freely tradeable pursuant to Rule 144 under the Securities Act by Holders who are not Affiliates of the Company where no conditions of Rule 144 are then applicable (other than the holding period requirement in paragraph (d)(1)(ii) of Rule 144 so long as such holding period requirement is satisfied), the Company shall:
    - (1) instruct the Trustee in writing to remove the Restricted Notes Legend from the Notes by delivering to the Trustee a certificate in the form of Exhibit D hereto, and upon such instruction the Restricted Notes Legend shall be deemed removed from any Global Notes representing such Notes without further action on the part of Holders;
    - (2) notify Holders of the Notes that the Restricted Notes Legend has been removed or deemed removed; and
    - (3) instruct DTC to change the CUSIP number for the Notes to the unrestricted CUSIP number for the Notes.

In no event will the failure of the Company to provide any notice set forth in this paragraph or of the Trustee to remove the Restricted Notes Legend constitute a failure by the Company to comply with any of its covenants or agreements set forth in Section 6.01 or otherwise. Any Restricted Note (or security issued in exchange or substitution therefor) as to which such restrictions on transfer shall have expired in accordance with their terms may, upon surrender of such Restricted Note for exchange to the Registrar in accordance with the provisions of Article Two of the Indenture, be exchanged for a new Note or Notes, of like tenor and aggregate principal amount, which shall not bear the Restricted Notes Legend. The Issuer shall notify the Trustee in writing upon the occurrence of the Resale Restriction Termination Date and promptly after a registration statement with respect to the Notes, if any, has been declared effective under the Securities Act.

- (ii) Notwithstanding any provision of this Sections 2.06 to the contrary, in the event that Rule 144 as promulgated under the Securities Act (or any successor rule) is amended to change the one-year holding period

thereunder (or the corresponding period under any successor rule), (i) each reference in this Section 2.06(i) to “one year” and in the Restricted Notes Legend and in Section 2.06(f)(i)(A) herein to “ONE YEAR” shall be deemed for all purposes hereof to be references to such changed period, and (ii) all corresponding references in the Notes (including the definition of Resale Restriction Termination Date) and the Restricted Notes Legends thereon shall be deemed for all purposes hereof to be references to such changed period, *provided*, that such changes shall not become effective if they are otherwise prohibited by, or would otherwise cause a violation of, the then-applicable federal securities laws. This Section 2.06(i)(ii) shall apply to successive amendments to Rule 144 (or any successor rule) changing the holding period thereunder.

*Section 2.07. Replacement Notes.*

If any mutilated Note is surrendered to the Trustee or the Company and the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Note, the Company shall issue and the Trustee, upon receipt of an Authentication Order, shall authenticate a replacement Note if the Trustee’s requirements are met. If required by the Trustee or the Company, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Company to protect the Company, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Note is replaced. The Company may charge for its expenses in replacing a Note.

Every replacement Note is an additional obligation of the Company and shall be entitled to all of the benefits of this Indenture equally and proportionately with all other Notes duly issued hereunder.

*Section 2.08. Outstanding Notes.*

The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof, and those described in this Section as not outstanding. Except as set forth in Section 2.09 hereof, a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note.

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

If the principal amount of any Note is considered paid under Section 4.01 hereof, it ceases to be outstanding and interest on it ceases to accrue.

If the Paying Agent (other than the Company, a Subsidiary or an Affiliate of any thereof) holds, on a redemption date or maturity date, money sufficient to pay Notes payable on that date, then on and after that date such Notes shall be deemed to be no longer outstanding and shall cease to accrue interest.

Section 2.09. *Treasury Notes.*

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company, or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company, shall be considered as though not outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes that the Trustee knows are so owned shall be so disregarded.

Section 2.10. *Temporary Notes.*

Until certificates representing Notes are ready for delivery, the Company may prepare and the Trustee, upon receipt of an Authentication Order, shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of certificated Notes but may have variations that the Company considers appropriate for temporary Notes and as shall be reasonably acceptable to the Trustee. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate definitive Notes in exchange for temporary Notes.

Holders of temporary Notes shall be entitled to all of the benefits of this Indenture.

Section 2.11. *Cancellation.*

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and shall dispose of such cancelled Notes in its customary manner in accordance with prudent business practices. The Company may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation except as expressly permitted pursuant to this Indenture.

Section 2.12. *Defaulted Interest.*

If the Company defaults in a payment of interest on the Notes, it shall pay the defaulted interest in any lawful manner, plus, to the extent lawful, interest payable on the defaulted interest, to the Persons who are Holders on a subsequent special record date, in each case at the rate provided in the Notes and in Section 4.01 hereof. The Company shall notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment. The Company shall fix or cause to be fixed each such special record date and payment date, *provided* that no such special record date shall be less than 10 days prior to the related payment date for such defaulted interest. At least 15 days before the special record date, the Company (or, upon the written request of the Company and provision of the notice information to the Trustee, the Trustee in the name and at the expense of the Company) shall mail or cause to be mailed to Holders a notice that states the special record date, the related payment date and the amount of such interest to be paid.

Section 2.13. *CUSIP or ISIN Numbers.*

The Trustee shall use “CUSIP” and/or “ISIN” numbers in notices of redemption as a convenience to Holders if the Company uses “CUSIP” and/or “ISIN” numbers in issuing the Notes; *provided* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee of any change in the “CUSIP” and/or “ISIN” numbers.

Section 2.14. *Additional Notes.*

The Company may, from time to time, subject to compliance with any other applicable provisions of this Indenture, without the consent of the Holders, create and issue pursuant to this Indenture additional notes (“*Additional Notes*”) having terms and conditions identical to those of the Notes, except that *Additional Notes*:

(i) may have a different issue date from the Notes;

(ii) may have a different amount of interest payable on the first Interest Payment Date after issuance than is payable on other Notes; and

(iii) may have terms specified in the *Additional Note Board Resolution* or *Additional Note Supplemental Indenture* for such *Additional Notes* making appropriate adjustments to this Article II and Exhibit A (and related definitions) applicable to such *Additional Notes* in order to conform to and ensure compliance with the Securities Act (or other applicable securities laws) and any registration rights or similar agreement applicable to such *Additional Notes*, which are not adverse in any material respect to the Holder of any Notes (other than such *Additional Notes*);

*provided*, that no adjustment pursuant to this Section 2.14 shall cause such *Additional Notes* to constitute, as determined pursuant to an Opinion of Counsel, a different class of securities than the Original Notes for U.S. federal income tax purposes except for *Additional Notes* that have a separate CUSIP and/or ISIN number from the Notes pending performance by the Company of its obligations under the Registration Rights Agreement.

### ARTICLE 3

#### REDEMPTION AND PREPAYMENT

Section 3.01. *Notices to Trustee.*

If the Company elects to redeem Notes pursuant to the optional redemption provisions of Section 3.07 hereof, it shall furnish to the Trustee, at least 30 days but not more than 60 days

before a redemption date, an Officers' Certificate setting forth (1) the redemption date, (2) the principal amount of Notes to be redeemed and (3) the redemption price (expressed as a percentage of the principal amount).

Section 3.02. *Selection of Notes to Be Redeemed.*

If less than all of the Notes are to be redeemed, the Trustee shall select the Notes to be redeemed as follows:

- (1) if the Notes are listed on any national securities exchange, in compliance with the requirements of the principal national securities exchange on which the Notes are listed; or
- (2) if the Notes are not listed on any national securities exchange, on a pro rata basis (subject to the procedures of DTC) or, to the extent a pro rata basis is not permitted, by lot or in such other manner as the Trustee deems fair and appropriate.

No Notes of \$2,000 of principal amount or less will be redeemed in part. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption.

Notes called for redemption become due on the date fixed for redemption.

Section 3.03. *Notice of Redemption.*

At least 30 days but not more than 60 days before a redemption date, the Company shall mail or cause to be mailed, by first class mail, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Indenture. Notices of redemption may not be conditional.

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

- (1) the CUSIP and ISIN (if applicable) numbers;
- (2) the redemption date;
- (3) the redemption price;
- (4) if any Note is being redeemed in part, the portion of the principal amount of such Note to be redeemed and that, after the redemption date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion shall be issued upon cancellation of the original Note;
- (5) the name and address of the Paying Agent;



- (6) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;
- (7) that interest and Additional Interest, if any, on the Notes or portions of them called for redemption shall cease to accrue on and after the redemption date;
- (8) the paragraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed; and
- (9) that no representation is made as to the correctness or accuracy of the CUSIP and ISIN (if applicable) numbers, if any, listed in such notice or printed on the Notes.

At the Company's request, the Trustee shall give the notice of redemption in the Company's name and at its expense; *provided, however*, that the Company shall have delivered to the Trustee, at least 45 days (or such shorter time as may be agreed to by the Trustee) prior to the redemption date, an Officers' Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

*Section 3.04. Effect of Notice of Redemption.*

Once notice of redemption is mailed in accordance with Section 3.03 hereof, Notes called for redemption become irrevocably due and payable on the redemption date at the redemption price.

*Section 3.05. Deposit of Redemption Price.*

Prior to 10:00 a.m., Eastern Time, on a redemption date, the Company shall deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption price of and accrued interest and Additional Interest, if any, on all Notes to be redeemed on that date. The Trustee or the Paying Agent shall promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the redemption price of and accrued interest and Additional Interest, if any, on all Notes to be redeemed.

If the Company complies with the provisions of the preceding paragraph, on and after the redemption date, interest and Additional Interest, if any, on the Notes or the portions of the Notes called for redemption shall cease to accrue for as long as the Company has deposited with the Trustee or Paying Agent funds in satisfaction of the applicable redemption price. If a Note is redeemed on or after a Regular Record Date but on or prior to the related Interest Payment Date, then any accrued and unpaid interest and Additional Interest, if any, shall be paid to the Person in whose name such Note was registered at the close of business on such Regular Record Date.

*Section 3.06. Notes Redeemed in Part.*

Upon surrender of a Note that is redeemed in part, the Company shall issue and, upon the Company's written request, the Trustee shall authenticate for the Holder at the expense of the Company a new Note equal in principal amount to the unredeemed portion of the Note surrendered. If a Global Note is so surrendered, such new Note shall also be a Global Note.

Section 3.07. *Optional Redemption.*

(a) The Notes are redeemable at the Company's election, in whole or in part, at any time at a redemption price equal to the greater of:

- (1) 100% of the principal amount of the Notes to be redeemed then outstanding; and
- (2) as determined by an Independent Investment Banker, the sum of the present values of the remaining scheduled payments of interest on the notes to be redeemed (not including any portion of such payments of interest accrued to the date of redemption) discounted to the redemption date on a semiannual basis (assuming a 360-day year consisting of twelve 30-day months) at the Adjusted Treasury Rate for such notes, plus 50 basis points

*plus*, in either of the above cases, accrued and unpaid interest to the date of redemption on the notes to be redeemed.

If the optional redemption date is on or after an interest record date and on or before the related interest payment date, the accrued and unpaid interest, if any, will be paid to the person in whose name the note is registered at the close of business on such record date.

(b) Any redemption pursuant to this Section 3.07 shall be made pursuant to the provisions of Section 3.01 through 3.06 hereof.

Section 3.08. *Mandatory Redemption.*

The Company shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

**ARTICLE 4**

**COVENANTS**

Section 4.01. *Payment of Notes.*

The Company shall pay or cause to be paid the principal of, premium, if any, and interest on the Notes on the dates and in the manner provided in the Notes. Principal, premium, if any, and interest shall be considered paid on the date due if the Paying Agent, if other than the Company or a Subsidiary thereof, holds as of 10:00 a.m., Eastern Time, on the due date money deposited by the Company in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due.

The Company shall, in accordance with Section 2.12 hereof, pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to 1% per annum in excess of the then applicable interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace period) at the same rate to the extent lawful.

Section 4.02. *Maintenance of Office or Agency.*

The Company shall maintain in the Borough of Manhattan, The City of New York, an office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office.

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

The Company hereby designates the Corporate Trust Office as one such office or agency of the Company in accordance with Section 2.03 hereof.

Section 4.03. *Reports.*

The Company covenants:

(i) to file with the Trustee, within 15 days after the Company is required to file the same with the SEC, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the SEC may from time to time by rules and regulations prescribe), if any, which the Company may be required to file with the SEC pursuant to Section 13 or Section 15(d) of the Exchange Act; or, if the Company is not required to file information, documents or reports pursuant to either of such Sections, then to file with the Trustee and the SEC, in accordance with rules and regulations prescribed from time to time by the SEC, such of the supplementary and periodic information, documents and reports which may be required pursuant to Section 13 of the Exchange Act, in respect of a debt security listed and registered on a national securities exchange as may be prescribed from time to time in such rules and regulations;

(ii) to file with the Trustee and the SEC, in accordance with rules and regulations prescribed from time to time by the SEC, such additional information, documents and reports with respect to compliance by the Company with the conditions and covenants provided for in this Indenture as may be required from time to time by such rules and regulations; and

(iii) to transmit by mail to the Holders of the Notes within 30 days after the filing thereof with the Trustee, in the manner and to the extent provided in Section 4.07, such summaries of any information, documents and reports required to be filed by the Company pursuant to subsections (a) and (b) of this Section 4.03 as may be required to be transmitted to such Holders by rules and regulations prescribed from time to time by the SEC.

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

Section 4.04. *Compliance Certificate.*

- (1) The Company shall deliver to the Trustee, within 90 days after the end of each fiscal year, an Officers' Certificate stating that a review of the activities of the Company and its Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Indenture, and further stating, as to each such Officer signing such certificate, that to the best of his or her knowledge the Company has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions of this Indenture (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto).
- (2) The Company shall, so long as any of the Notes are outstanding, deliver to the Trustee, within 5 days upon any Officer becoming aware of any Default or Event of Default, an Officers' Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

Section 4.05. *Taxes.*

The Company shall pay or discharge or cause to be paid or discharged, and shall cause each of its Subsidiaries to pay or discharge, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders of the Notes.

Section 4.06. *Stay, Extension and Usury Laws.*

The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law has been enacted.

Section 4.07. *Limitation on Subsidiary Indebtedness.*

The Company shall not permit any of its Subsidiaries, directly or indirectly, to create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, “*incur*”) any Indebtedness, other than:

- (1) Indebtedness in an aggregate principal amount (without duplication) incurred pursuant to this clause (1) and outstanding, when taken together with the aggregate principal amount of outstanding Indebtedness secured by Liens on the property or assets (which includes Capital Stock) of the Company and its Subsidiaries incurred pursuant to the second paragraph of Section 4.08, not to exceed the Permitted Amount at the time of incurrence of such Indebtedness (it being understood that Existing SpectraSite Indebtedness shall be deemed to be incurred under this clause (1));
- (2) Indebtedness of any Designated Subsidiary or any Subsidiary of such Designated Subsidiary; *provided* that, with respect to this clause (2) only, no portion of such Indebtedness shall be recourse to the Company or any of its other Subsidiaries;
- (3) Indebtedness since the Issue Date represented by Capital Lease Obligations, mortgage financings or purchase money obligations, in each case incurred for the purpose of financing all or any part of the purchase price or cost of construction or improvement of property, plant or equipment used in any business of the Company or any Subsidiary of the Company in an aggregate principal amount, including all Indebtedness incurred to refund, refinance or replace any other Indebtedness incurred pursuant to this clause (3), not to exceed \$500.0 million at any time outstanding;
- (4) intercompany Indebtedness between or among the Company and any of its Subsidiaries;
- (5) obligations under Interest Rate Agreements, Commodity Agreements and Currency Agreements not for speculative purposes;

- (6) the Guarantee of Indebtedness of a Subsidiary of the Company that was permitted to be incurred by another provision of this Indenture;
- (7) Indebtedness represented by letters of credit, for the account of such Person, in the ordinary course of business to the extent such letters of credit are not drawn upon or, if drawn upon, are reimbursed within five Business Days of the relevant draw;
- (8) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently (except in the case of daylight overdrafts) drawn against insufficient funds in the ordinary course of business; *provided*, that such Indebtedness is extinguished within five business days of incurrence;
- (9) Acquired Indebtedness in connection with a merger with or into a Subsidiary, or the acquisition of assets or a new Subsidiary; *provided* that, in the case of any such incurrence of Acquired Indebtedness, such Acquired Indebtedness was incurred by the prior owner of such assets or such Subsidiary prior to such acquisition by the Company or one of its Subsidiaries and was not incurred in connection with, or in contemplation of, the acquisition by the Company or one of its Subsidiaries;
- (10) Disqualified Stock since the Issue Date in an aggregate principal amount (or liquidation preference, as applicable) at any time outstanding not to exceed \$100.0 million;
- (11) Indebtedness (other than Existing SpectraSite Indebtedness) existing on the Issue Date; or
- (12) Indebtedness of any Subsidiary of the Company issued in exchange for, or the net proceeds of which are used or will be used to extend, refinance, renew, replace, defease or refund (including through open market purchases and tender offers), other Indebtedness that was permitted by the applicable indenture to be incurred under clauses (9) or (11) or this clause (12) of this paragraph.

The maximum amount of Indebtedness that may be incurred pursuant to this Section 4.07 will not be deemed to be exceeded with respect to any outstanding Indebtedness due solely to the result of fluctuations in the exchange rates of currencies. In addition, the accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock shall not be deemed to be an incurrence of Indebtedness for purposes of this Section 4.07. For purposes of determining compliance with this Section 4.07, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Indebtedness described in clauses (1) through (12) above, the Company will be permitted to classify, or later reclassify, all or a portion of such item of Indebtedness in any manner that complies with this Section 4.07.

Section 4.08. *Limitation on Liens.*

The Company shall not, and shall not permit any of its Subsidiaries to, allow any Lien on any of the Company's or its Subsidiaries' property or assets (which includes Capital Stock) securing Indebtedness, unless the Lien secures the Notes equally and ratably with, or prior to, any other Indebtedness secured by such Lien, so long as such other Indebtedness is so secured, other than Permitted Liens.

Notwithstanding the foregoing, the Company may, and may permit any of its Subsidiaries to, incur Liens securing Indebtedness without equally and ratably securing the Notes if, after giving effect to the incurrence of such Liens, the aggregate amount (without duplication) of (a) the Indebtedness secured by Liens (other than Permitted Liens) on the property or assets (which includes Capital Stock) of the Company and its Subsidiaries plus (b) the Indebtedness of the Company's Subsidiaries incurred pursuant to clause (1) of the first paragraph of Section 4.07 and outstanding shall not exceed the Permitted Amount at the time of the incurrence of such Liens (it being understood that Liens securing Existing SpectraSite Indebtedness shall be deemed to be incurred pursuant to this paragraph).

Section 4.09. *Repurchase of the Notes Upon a Change of Control Triggering Event.*

Upon the occurrence of a Change of Control Triggering Event, each Holder of Notes shall have the right to require the Company to repurchase all or any part, equal to \$2,000 or an integral multiple of \$1,000 thereafter, of that Holder's Notes pursuant to an offer (the "*Change of Control Offer*") on the terms set forth in this Indenture at an offer price in cash equal to 101% of the aggregate principal amount of Notes repurchased plus accrued and unpaid interest on the Notes up to but excluding the applicable date of repurchase (the "*Change of Control Payment*"). Within 30 days following any Change of Control Triggering Event, if the Company had not, prior to the Change of Control Triggering Event, sent a redemption notice for all the Notes in connection with an optional redemption permitted by Section 3.07 hereof, the Company shall mail or caused to be mailed a notice to each registered Holder briefly describing the transaction or transactions that constitute a Change of Control Triggering Event and offering to repurchase Notes on the date specified in such notice (the "*Change of Control Payment Date*"), which date shall be no earlier than 30 days and no later than 60 days from the date the notice is mailed, pursuant to the procedures required by this Indenture and described in such notice.

The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable to any Change of Control Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Section 4.09, the Company shall comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the provisions of this Section 4.09 by virtue of such conflict.

On the Change of Control Payment Date, the Company shall, to the extent lawful:

- (a) accept for payment all Notes or portions thereof properly tendered pursuant to the Change of Control Offer;

(b) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Notes or portions thereof properly tendered; and

(c) deliver or cause to be delivered to the Trustee the Notes so accepted together with an Officers' Certificate stating the aggregate principal amount of Notes or portions thereof being purchased by the Company.

The Paying Agent will promptly mail to each registered Holder of Notes so tendered the Change of Control Payment for such Notes, and the Trustee will promptly authenticate and mail (at the Company's expense), or cause to be transferred by book entry, to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; *provided* that each such new Note shall be in a principal amount of \$2,000 or an integral multiple of \$1,000 thereafter. Any Note so accepted for payment shall cease to accrue interest on and after the Change of Control Payment Date.

This Section 4.09 shall be applicable, except as described in this Section 4.09, regardless of whether or not any other provisions of this Indenture are applicable.

Notwithstanding the foregoing, the Company shall not be required to make a Change of Control Offer upon a Change of Control Triggering Event if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Section 4.09 applicable to a Change of Control Offer made by the Company and purchases all Notes properly tendered and not withdrawn under the Change of Control Offer.

The Company may make a Change of Control Offer in advance of a Change of Control Triggering Event, and conditional upon the occurrence of such Change of Control Triggering Event, if a definitive agreement is in place for the Change of Control Triggering Event at the time of making the Change of Control Offer.

#### Section 4.10. *Termination of Covenant.*

In the event that the Notes receive an Investment Grade Rating from at least two of the three Rating Agencies, and notwithstanding that the Notes may later cease to have an Investment Grade Rating from any Rating Agency, the Company and its Subsidiaries shall be released from their obligations to comply with Section 4.07 and those obligations will not at any future point be reinstated.

## ARTICLE 5

### SUCCESSORS

#### Section 5.01. *Merger, Consolidation or Sale of Assets.*

The Company may not consolidate or merge with or into, or sell, lease or convey all or substantially all of its assets in any one transaction or series of related transactions to any other Person, unless:

- (1) the resulting, surviving or transferee corporation (the "*successor*") is either the Company or is a corporation organized under the laws of the United States, any state or the District of Columbia and expressly assumes by supplemental indenture all of the Company's obligations under this Indenture and the Notes; and



- (2) immediately after giving effect to the transaction no Default or Event of Default has occurred and is continuing.

Section 5.02. *Successor Corporation Substituted.*

Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the assets of the Company in accordance with Section 5.01 hereof (except in the case of a lease of all or substantially all of the Company's assets), the successor corporation formed by such consolidation or into or with which the Company is merged or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, lease, conveyance or other disposition, the provisions of this Indenture referring to the "Company" shall refer instead to the successor corporation and not to the Company), and may exercise every right and power of the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein; *provided, however*, that the predecessor Company shall not be relieved from the obligation to pay the principal of and interest on the Notes except in the case of a sale of all of the Company's assets that meets the requirements of Section 5.01 hereof.

## ARTICLE 6

### DEFAULTS AND REMEDIES

Section 6.01. *Events of Default.*

The term "*Event of Default*" with respect to the Notes, wherever used herein, means any one of the following events which shall have occurred and be continuing (whatever the reason for such Event of Default), whether it shall 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):

- (1) failure by the Company to pay interest on any Note for 30 days after the date payment is due and payable; or
- (2) failure by the Company to pay principal of or premium, if any, on any Note when due, at maturity, upon any redemption, by declaration or otherwise; or
- (3) failure by the Company to comply with any other covenant in this Indenture or the Notes for 90 days after notice that compliance was required; or

- (4) default under any mortgage, indenture or instrument under which there is issued or by which there is secured or evidenced any Indebtedness for money borrowed by the Company or any of its Significant Subsidiaries or the payment of which is Guaranteed by the Company or any of its Significant Subsidiaries, other than Indebtedness owed to the Company or a Subsidiary, whether such Indebtedness or Guarantee now exists or is created after the Issue Date, if both:
- (a) such default either results from the failure to pay any principal of such Indebtedness at its stated final maturity (after giving effect to any applicable grace periods) or relates to an obligation other than the obligation to pay principal of any such Indebtedness at its stated final maturity and results in the holder or holders of such Indebtedness causing such Indebtedness to become due prior to its stated maturity; and
  - (b) the principal amount of such Indebtedness, together with the principal amount of any other such Indebtedness in default for failure to pay principal at stated final maturity (after giving effect to any applicable grace periods), or the maturity of which has been so accelerated, aggregate \$100.0 million or more at any time outstanding;

*provided*, that, in the case of this clause (4), it shall not be an Event of Default if any such default arises in connection with the Indebtedness of any Subsidiary of the Company that is designated as an “Unrestricted Subsidiary” under any indenture governing the Outstanding Notes; or

- (5) the Company or any of its Significant Subsidiaries pursuant to or within the meaning of Bankruptcy Law:
- (a) commences a voluntary case,
  - (b) consents to the entry of an order for relief against it in an involuntary case,
  - (c) consents to the appointment of a custodian of it or for all or substantially all of its property,
  - (d) makes a general assignment for the benefit of its creditors, or
  - (e) generally is not paying its debts as they become due; or
- (6) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:
- (a) is for relief against the Company or any of its Significant Subsidiaries in an involuntary case;

- (b) appoints a custodian of the Company or any of its Significant Subsidiaries or for all or substantially all of the property of the Company or any of its Significant Subsidiaries; or
  - (c) orders the liquidation of the Company or any of its Significant Subsidiaries;
- and the order or decree remains unstayed and in effect for 60 consecutive days.

Section 6.02. *Acceleration.*

If an Event of Default described in clauses (1) through (4) of Section 6.01 hereof occurs and is continuing, then, and in each and every such case, either the Trustee or the Holders of not less than 25% in aggregate principal amount of the Notes then outstanding hereunder by notice in writing to the Company (and to the Trustee if given by Holders), may declare the entire principal of all Notes, and the interest and Additional Interest accrued thereon, if any, to be due and payable immediately, and upon any such declaration, the same shall become immediately due and payable.

If an Event of Default described in clause (5) or (6) of Section 6.01 hereof occurs and is continuing, then the principal amount of all the Notes then outstanding, and the interest and Additional Interest accrued thereon, if any, shall become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

Section 6.03. *Other Remedies.*

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal amount of, premium, if any, and interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

Notwithstanding the foregoing, the sole remedy for any breach of the Company's obligation under this Indenture to file or furnish reports or other financial information pursuant to section 314(a)(1) of the Trust Indenture Act (or as otherwise required by this Indenture) shall be the payment of liquidated damages, and the Holders will not have any right under this Indenture to accelerate the maturity of the Notes as a result of any such breach. If any such breach continues for 90 days after notice thereof is given in accordance with this Indentures, we will pay liquidated damages to all the Holders of the Notes at a rate per annum equal to (i) 0.25% per annum of the principal amount of the Notes from the 90th day following such notice to but not including the 180th day following such notice (or such earlier date on which the Event of Default relating to the reporting obligations referred to in this paragraph shall have been cured or waived) and (ii) 0.50% per annum of the principal amount of the Notes from the 180th day

following such notice to but not including the 365th day following such notice (or such earlier date on which the Event of Default relating to the reporting obligations referred to in this paragraph shall have been cured or waived). On such 365th day (or earlier, if the Event of Default relating to the reporting obligations referred to in this paragraph shall have been cured or waived prior to such 365th day), such additional interest will cease to accrue, and the Notes will be subject to acceleration as provided above if the Event of Default is continuing. This paragraph will not affect the rights of the holders of Notes in the event of the occurrence of any other Event of Default.

*Section 6.04. Waiver of Past Defaults.*

Holders of not less than a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may on behalf of the Holders of all of the Notes waive an existing Default or Event of Default and its consequences hereunder, except a continuing Default or Event of Default in the payment of the principal amount, premium, if any, and any accrued and unpaid interest on, the Notes (including in connection with an offer to purchase) *provided, however*, that the Holders of a majority in aggregate principal amount of the then outstanding Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration. 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.

*Section 6.05. Control by Majority.*

Holders of a majority in principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture, that the Trustee determines may be unduly prejudicial to the rights of other Holders of Notes or that may involve the Trustee in personal liability.

*Section 6.06. Limitation on Suits.*

A Holder of a Note may pursue a remedy with respect to this Indenture or the Notes only if:

- (1) the Holder of a Note gives to the Trustee written notice of an Event of Default and the continuance of such Event of Default;
- (2) the Holders of at least 25% in principal amount of the then outstanding Notes make a written request to the Trustee to pursue the remedy;
- (3) the Trustee does not comply with the request within 60 days after receipt of the request; and

- (4) during such 60-day period the Holders of a majority in principal amount of the then outstanding Notes do not give the Trustee a direction inconsistent with the request.

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

*Section 6.07. Rights of Holders of Notes to Receive Payment.*

Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of principal of, premium, if any, and interest on the Note, on or after the respective due dates expressed in the Note (including in connection with an offer to purchase), or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

*Section 6.08. Collection Suit by Trustee.*

If an Event of Default specified in clauses (1) or (2) of Section 6.01 occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal of, premium, if any, and interest remaining unpaid on the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

*Section 6.09. Trustee May File Proofs of Claim.*

The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes), its creditors or its property and shall be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10. *Priorities.*

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

First: to the Trustee, its agents and attorneys for amounts due under Section 7.07 hereof, including payment of all compensation, expense and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

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

Third: to the Company or to such party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 6.10.

Section 6.11. *Undertaking for Costs.*

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 6.07 hereof, or a suit by Holders of more than 10% in principal amount of the then outstanding Notes.

**ARTICLE 7**

**TRUSTEE**

Section 7.01. *Duties of Trustee.*

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

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

- (i) the duties of the Trustee shall be determined solely by the express provisions of this Indenture and the Trustee need perform only those

duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

- (ii) in the absence of bad faith or willful misconduct on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, in the case of certificates or opinions specifically required by any provision hereof to be furnished to it, the Trustee shall examine the certificates and opinions required to be furnished to the Trustee hereunder to determine whether or not they conform to the requirements of this Indenture.

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

- (i) this paragraph does not limit the effect of paragraph (b) of this Section;
- (ii) 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; and
- (iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05 hereof.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), and (c) of this Section 7.01.

(e) No provision of this Indenture shall require the Trustee to expend or risk its own funds or incur any liability. The Trustee shall be under no obligation to exercise any of its rights and powers under this Indenture at the request of any Holders, unless such Holders shall have offered to the Trustee security and indemnity satisfactory to it against any loss, liability or expense.

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

#### Section 7.02. *Rights of Trustee.*

(a) The Trustee may conclusively rely upon any document (whether in its original or facsimile form) believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel 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. The Trustee may consult with counsel of its own selection and the written and oral advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

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

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company shall be sufficient if signed by an Officer of the Company.

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

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

(h) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its rights 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.

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

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

Section 7.03. *Individual Rights of Trustee.*

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or any Affiliate of the Company with the same



rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as trustee or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to Sections 7.10 and 7.11 hereof.

*Section 7.04. Trustee's Disclaimer.*

The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Company's use of the proceeds from the Notes or any money paid to the Company or upon the Company's direction under any provision of this Indenture, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

*Section 7.05. Notice of Defaults.*

If a Default or Event of Default occurs and is continuing and if it is actually known to a Responsible Officer of the Trustee, the Trustee shall mail to Holders of Notes a notice of the Default or Event of Default within 90 days after it occurs. Except with respect to a Default or Event of Default relating to the payment of principal of, premium, if any, or interest on the Notes, the Trustee may withhold the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Notes.

*Section 7.06. Reports by Trustee to Holders of the Notes.*

Within 60 days after each December 15 beginning with the December 15 following the Issue Date, and for so long as Notes remain outstanding, the Trustee shall mail to the Holders of the Notes a brief report dated as of such reporting date that complies with TIA § 313(a) (but if no event described in TIA § 313(a) has occurred within the twelve months preceding the reporting date, no report need be transmitted). The Trustee also shall comply with TIA § 313(b). The Trustee shall also transmit by mail all reports as required by TIA § 313(c).

A copy of each report at the time of its mailing to the Holders of Notes shall be mailed to the Company and filed with the SEC and each stock exchange on which the Notes are listed in accordance with TIA § 313(d). The Company shall promptly notify the Trustee when the Notes are listed on any stock exchange or delisted therefrom.

*Section 7.07. Compensation and Indemnity.*

The Company shall pay to the Trustee from time to time reasonable compensation for its acceptance of this Indenture and services hereunder. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

The Company shall fully indemnify the Trustee against any and all losses, liabilities, claims, damages or expenses (including legal fees and expenses) incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company (including this Section 7.07) and defending itself against any claim (whether asserted by the Company or any Holder or any other person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability or expense is caused by its own negligence, bad faith or willful misconduct. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company shall not relieve the Company of its obligations hereunder. The Company shall defend the claim and the Trustee shall cooperate in the defense. The Trustee may have separate counsel and the Company shall pay the reasonable fees and expenses of such counsel. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld.

The obligations of the Company under this Section 7.07 shall survive the satisfaction and discharge of this Indenture and the resignation or removal of the Trustee.

To secure the Company's payment obligations in this Section 7.07, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal and interest on particular Notes. Such Lien shall survive the satisfaction and discharge of this Indenture.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(7) or (8) hereof occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

The provisions of this Section 7.07 shall survive termination of this Indenture. The Trustee shall comply with the provisions of TIA § 313(b)(2) to the extent applicable.

*Section 7.08. Replacement of Trustee.*

A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section.

The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Company. The Holders of a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Company in writing. The Company may remove the Trustee if:

- (a) the Trustee fails to comply with Section 7.10 hereof;

- (b) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (c) a custodian or public officer takes charge of the Trustee or its property; or
- (d) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company, or the Holders of at least 10% in principal amount of the then outstanding Notes may petition at the expense of the Company any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee, after written request by any Holder who has been a Holder for at least six months, fails to comply with Section 7.10, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, *provided* all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.07 hereof.

*Section 7.09. Successor Trustee by Merger, etc.*

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act shall be the successor Trustee.

*Section 7.10. Eligibility; Disqualification.*

There shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least \$75.0 million as set forth in its most recent published annual report of condition.

This Indenture shall always have a Trustee who satisfies the requirements of TIA § 310(a)(1), (2) and (5). The Trustee is subject to TIA § 310(b). For purposes of TIA §310(b)(1)(C)(i), the indentures relating to the Convertible Notes and the Outstanding Notes are hereby specifically described.

Section 7.11. *Preferential Collection of Claims Against Company.*

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

Section 7.12. *Trustee's Application for Instructions from the Company.*

Any application by the Trustee for written instructions from the Company may, at the option of the Trustee, set forth in writing any action proposed to be taken or omitted by the Trustee under this Indenture and the date on and/or after which such action shall be taken or such omission shall be effective. The Trustee shall not be liable for any action taken by, or omission of, the Trustee in accordance with a proposal included in such application on or after the date specified in such application (which date shall not be less than three Business Days after the date any Officer of the Company actually receives such application, unless any such Officer shall have consented in writing to any earlier date) unless prior to taking any such action (or the effective date in the case of an omission), the Trustee shall have received written instructions in response to such application specifying the action to be taken or omitted.

## ARTICLE 8

### LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01. *Option to Effect Legal Defeasance or Covenant Defeasance.*

The Company may, at the option of its Board of Directors evidenced by a resolution set forth in an Officers' Certificate, at any time, elect to have either Section 8.02 or 8.03 hereof be applied to all outstanding Notes upon compliance with the conditions set forth below in this Article 8.

Section 8.02. *Legal Defeasance and Discharge.*

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Company shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be deemed to have been discharged from its obligations with respect to all outstanding Notes on the date the conditions set forth below are satisfied (hereinafter, "*Legal Defeasance*"). For this purpose, Legal Defeasance means that the Company shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, which shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in (1) and (2) below, and to have satisfied all its other obligations under such Notes and this Indenture (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments provided to it acknowledging the same), except for the following provisions which shall survive until otherwise terminated or discharged hereunder:

- (1) the rights of Holders of outstanding Notes to receive payments in respect of the principal amount, premium, if any, interest and Additional Interest, if any, on such Notes when such payments are due from the trust referred to in Section 8.04 hereof;

- (2) the Company's obligations with respect to such Notes under Article 2 and Section 4.02 hereof;
- (3) the rights, powers, trusts, duties and immunities of the Trustee and the Company's obligations in connection therewith; and
- (4) this Article 8.

Subject to compliance with this Article 8, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof.

*Section 8.03. Covenant Defeasance.*

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, the Company shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be released from its obligations under the covenants contained in Sections 4.07, 4.08 and 4.09 hereof and Section 5.01 hereof with respect to the outstanding Notes on and after the date the conditions set forth in Section 8.04 are satisfied (hereinafter, "*Covenant Defeasance*"), and the Notes shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes shall not be deemed outstanding for accounting purposes). For this purpose, *Covenant Defeasance* means that, with respect to the outstanding Notes, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01 hereof, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby. In addition, upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03 hereof, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, Sections 6.01(5) and 6.01(6) hereof shall not constitute Events of Default.

*Section 8.04. Conditions to Legal or Covenant Defeasance.*

The following shall be the conditions to the application of either Section 8.02 or 8.03 hereof to the outstanding Notes:

In order to exercise either Legal Defeasance or Covenant Defeasance:

- (1) the Company must irrevocably deposit or cause to be deposited with the Trustee, in trust, for the benefit of the Holders, cash in United States dollars, non-callable Government Securities, or a combination thereof, in amounts as will be sufficient, in the opinion of a nationally recognized

firm of independent public accountants, to pay the principal of, premium, if any, interest and Additional Interest, if any, on the outstanding Notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Company shall specify whether the Notes are being defeased to maturity or to a particular redemption date;

- (2) in the case of an election under Section 8.02 hereof, the Company has delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that:
  - (a) the Company has received from, or there has been published by, the Internal Revenue Service a ruling; or
  - (b) since the Issue Date, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel will confirm that, the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;
- (3) in the case of an election under Section 8.03 hereof, the Company has delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;
- (4) no Default or Event of Default has occurred and is continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit);
- (5) such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than this Indenture) to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound;
- (6) the Company shall have delivered to the Trustee an Opinion of Counsel to the effect that on the 91st day following the deposit, the trust funds will not be subject to the effect of any applicable bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally;
- (7) the Company shall have delivered to the Trustee an Officers' Certificate stating that the deposit was not made by the Company with the intent of

preferring the Holders over any other creditors of the Company or with the intent of defeating, hindering, delaying or defrauding any other creditors of the Company or others; and

- (8) the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

Section 8.05. *Deposited Money and Government Securities to be Held in Trust; Other Miscellaneous Provisions.*

Subject to Section 8.06 hereof, all money and non-callable Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "Trustee") pursuant to Section 8.04 hereof in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or non-callable Government Securities deposited pursuant to Section 8.04 hereof 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 the outstanding Notes.

Anything in this Article 8 to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon the request of the Company any money or non-callable Government Securities held by it as provided in Section 8.04 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(a) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

Section 8.06. *Repayment to Company.*

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium, if any, or interest on any Note and remaining unclaimed for two years after such principal, and premium, if any, or interest has become due and payable shall be paid to the Company on its request or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company 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 Company cause to be published

once, in *The New York Times* and *The Wall Street Journal* (national edition), notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining will be repaid to the Company.

Section 8.07. *Reinstatement.*

If the Trustee or Paying Agent is unable to apply any United States dollars or non-callable Government Securities in accordance with Section 8.02 or 8.03 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03 hereof, as the case may be; *provided, however*, that, if the Company makes any payment of principal of, premium, if any, or interest on any Note following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

**ARTICLE 9**

**AMENDMENT, SUPPLEMENT AND WAIVER**

Section 9.01. *Supplemental Indentures without Consent of Holders of Notes.*

The Company, when authorized by a Board Resolution (which resolution may provide general terms or parameters for such action and may provide that the specific terms of such action may be determined in accordance with or pursuant to an Officers' Certificate), and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto (which shall conform to the provisions of the TIA as in force at the date of the execution thereof) for one or more of the following purposes:

- (1) to convey, transfer, assign, mortgage or pledge to the Trustee as security for the Notes any property or assets;
- (2) to evidence the assumption of the Company's obligations to Holders of Notes in the case of a merger, amalgamation or consolidation of the Company or sale of all or substantially all of the assets of the Company;
- (3) to add to the covenants of the Company such further covenants, restrictions, conditions or provisions as the Company and the Trustee shall consider to be for the protection of the Holders of the Notes, and to make the occurrence, or the occurrence and continuance, of a default in any such additional covenants, restrictions, conditions or provisions an Event of Default permitting the enforcement of all or any of the several remedies provided in this Indenture as herein set forth; *provided, however*, that in respect of any such additional covenant, restriction, condition or provision



such supplemental indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement upon such an Event of Default or may limit the remedies available to the Trustee upon such an Event of Default or may limit the right of the Holders of a majority in aggregate principal amount of the Notes to waive such an Event of Default;

- (4) to cure any ambiguity or to correct or supplement any provision contained herein or in any supplemental indenture that may be defective or inconsistent with any other provision contained herein or in any supplemental indenture, or to make any other provisions as the Company may deem necessary or desirable; *provided, however*, that no such provisions shall materially adversely affect the interests of the Holders of the Notes;
- (5) to evidence and provide for the acceptance of the appointment of a successor Trustee pursuant to Section 7.08 hereof;
- (6) to provide for uncertificated Notes in addition to or in place of certificated Notes or to alter the provisions of Article 2 hereof (including the related definitions) in a manner that does not materially adversely affect any Holder;
- (7) to conform the text of this Indenture or the Notes to any provision of the “Description of the Notes” in the Offering Circular to the extent that such provision in the “Description of the Notes” was intended to be a verbatim recitation of a provision of this Indenture or the Notes;
- (8) to provide for the issuance of Additional Notes as permitted by Sections 2.14, which will have terms substantially identical to the other Notes except as specified in Section 2.14, and which will be treated, together with any other Notes, as a single issue of securities;
- (9) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights hereunder of any Holder of Notes or any holder of a beneficial interest in the Notes; or
- (10) to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the TIA.

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental Indenture, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee shall join with the Company in the execution of any amended or supplemental Indenture authorized or permitted by the terms of this Indenture. The Trustee is hereby authorized to join with the

Company in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be therein contained and to accept the conveyance, transfer, assignment, mortgage or pledge of any property thereunder, but the Trustee shall not be obligated to enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Any supplemental indenture authorized by the provisions of this Section may be executed without the consent of the Holders of any of the Notes then outstanding, notwithstanding any of the provisions of Section 9.02.

*Section 9.02. Amendments and Supplemental Indentures with Consent of Holders of Notes.*

Except as provided below in this Section 9.02, with the consent of the Holders of not less than a majority in aggregate principal amount of the Notes then outstanding voting as one class (including, without limitation, consents obtained in connection with purchase of, or tender or exchange offers for, the Notes), the Company, when authorized by a Board Resolution (which resolution may provide general terms or parameters for such action and may provide that the specific terms of such action may be determined in accordance with or pursuant to an Officers' Certificate), and the Trustee may, from time to time and at any time, amend this Indenture or enter into an indenture or indentures supplemental hereto (which shall conform to the provisions of the TIA as in force at the date of execution thereof) for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of any supplemental indenture or of modifying in any manner the rights of the Holders of the Notes; and, subject to Sections 6.04 and 6.07 hereof, any existing Default or Event of Default (other than an uncured Default or Event of Default in the payment of principal, premium or interest on the Notes, except a payment default resulting from an acceleration that has been rescinded) and compliance with any provision of the Indenture or the Notes may be waived with the consent of the Holders of not less than a majority in principal amount of the then-outstanding Notes, voting as one class (including, without limitation, consents obtained in connection with a purchase of, or tender or exchange offer for, the Notes); *provided, however*, that without the consent of each Holder affected, an amendment or waiver under this Section 9.02 may not (but only with respect to any Notes held by a non-consenting Holder):

- (1) change the stated final maturity of any Note;
- (2) reduce the principal amount of any Note;
- (3) reduce the rate or amend or modify the calculation, or time of payment, of interest, including defaulted interest on the Notes;
- (4) reduce or alter the method of computation of any amount payable on redemption, prepayment or purchase of any Note (or the time at which any such redemption, prepayment or purchase may be made) or otherwise alter or waive any of the provisions with respect to the redemption of Notes (other than the provisions of Sections 3.07 and 4.09 hereof), or waive a redemption payment (other than payment required by Sections 3.07 and 4.09 hereof) with respect to any Note;

- (5) make the principal thereof, or interest, including Additional Interest, thereon payable in any coin or currency other than provided in the Notes or in accordance with the terms of the Notes and this Indenture;
- (6) impair the right to institute suit for the enforcement of any payment on any Note when due, or otherwise make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of, or premium, if any, or interest (including Additional Interest) on the Notes; or
- (7) reduce the percentage of principal amount of Notes whose Holders must consent to an amendment, supplement or waiver.

The Holders of the Notes affected thereby shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such amendment, waiver or supplemental indenture shall be and shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Upon the request of the Company, accompanied by a copy of a resolution of the Board of Directors (which resolution may provide general terms or parameters for such action and may provide that the specific terms of such action may be determined in accordance with or pursuant to an Officers' Certificate) certified by the secretary or an assistant secretary of the Company authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence of the consent of the Holders of the Notes as aforesaid, the Trustee shall join with the Company in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may at its discretion, but shall not be obligated to, enter into such supplemental indenture.

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

Promptly after the execution by the Company and the Trustee of any supplemental indenture pursuant to the provisions of this Section 9.02, the Company (or the Trustee at the request and expense of the Company) shall give notice thereof to the Holders of then outstanding Notes affected thereby, as provided in Section 11.02. Any failure of the Company to give such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

*Section 9.03. Effect of Supplemental Indenture, Amendment or Waiver.*

Upon the execution of any supplemental indenture pursuant to the provisions hereof, or any amendment to or waiver of the provisions of the Indenture, this Indenture shall be and shall

be deemed to be modified and amended in accordance therewith and the respective rights, limitations of rights, obligations, duties and immunities under this Indenture of the Trustee, the Company and the Holders of Notes affected thereby shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture, amendment or waiver shall be and shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 9.04. *Conformity with Trust Indenture Act.*

Every amendment or supplement to this Indenture or the Notes shall be set forth in an amended or supplemental indenture executed pursuant to this Article that shall conform to the requirements of the TIA as then in effect if this Indenture shall then be qualified under the TIA.

Section 9.05. *Revocation and Effect of Consents.*

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

Section 9.06. *Notation on or Exchange of Notes.*

Notes authenticated and delivered after the execution of any supplemental indenture, amendment or waiver pursuant to the provisions of this Article 9 may bear a notation in form approved by the Trustee as to any matter provided for by such supplemental indenture or as to any action taken by the Holders of Notes. If the Company or the Trustee shall so determine, new Notes so modified as to conform, in the opinion of the Trustee and the Company, to any modification of this Indenture contained in any such supplemental indenture may be prepared and executed by the Company, authenticated by the Trustee and delivered in exchange for the Notes then outstanding.

Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

Section 9.07. *Trustee to Sign Amendments, etc.*

The Trustee shall sign any amended or supplemental indenture authorized pursuant to this Article 9 if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. In executing any amended or supplemental indenture, the Trustee shall be provided with and (subject to Section 7.01 hereof) shall be fully protected in relying upon, in addition to the documents required by Section 12.04 hereof, an Officer's Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture.

**ARTICLE 10**

**[RESERVED]**

**ARTICLE 11**

**SATISFACTION AND DISCHARGE**

Section 11.01. *Satisfaction and Discharge.*

This Indenture shall be discharged and shall cease to be of further effect as to all Notes issued hereunder, when:

- (1) either
  - (a) all Notes that have been authenticated, except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has been deposited in trust and thereafter repaid to the Company, have been delivered to the Trustee for cancellation; or
  - (b) all Notes that have not been delivered to the Trustee for cancellation have become due and payable by reason of the mailing of a notice of redemption or otherwise or will become due and payable within one year and the Company has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination of cash in U.S. dollars and non-callable Government Securities, in amounts as will be sufficient without consideration of any reinvestment of interest, to pay and discharge the entire indebtedness on the Notes not delivered to the Trustee for cancellation for the principal amount and premium, if any, plus accrued interest and Additional Interest, if any, on all Notes; and
- (2) no Default or Event of Default has occurred and is continuing on the date of the deposit or will occur as a result of the deposit and the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the is a party or by which the Company is bound;
- (3) the Company has paid or caused to be paid all sums payable by it under this Indenture; and

- (4) the Company has delivered irrevocable instructions to the Trustee under this Indenture to apply the deposited money toward the payment of the Notes at maturity or the redemption date, as the case may be.

In addition, the Company must deliver an Officers' Certificate to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

Notwithstanding the satisfaction and discharge of this Indenture, if money has been deposited with the Trustee pursuant to subclause (b) of clause (1) of this Section, the provisions of Section 11.02 and Section 8.06 shall survive. In addition, nothing in this Section 11.01 shall be deemed to discharge those provisions of Section 7.07 hereof, that, by their terms, survive the satisfaction and discharge of this Indenture.

Section 11.02. *Notices.*

Subject to the provisions of Section 8.06, all money deposited with the Trustee pursuant to Section 11.01 shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal and premium, if any, and interest and Additional Interest, if any, for whose payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or Government Securities in accordance with Section 11.01 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 Company's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 11.01; *provided* that if the Company has made any payment of principal of and premium, if any, and interest and Additional Interest, if any, on any Notes because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Government Securities held by the Trustee or Paying Agent.

## ARTICLE 12

### MISCELLANEOUS

Section 12.01. *Trust Indenture Act Controls.*

If any provision of this Indenture limits, qualifies or conflicts with the duties imposed by TIA § 318(c), the imposed duties shall control.

Section 12.02. *Notices.*

Any notice or communication by the Company or the Trustee to the others is duly given if in writing and delivered in Person or mailed by first class mail (registered or certified, return receipt requested), telex, telecopier or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Company:

American Tower Corporation  
116 Huntington Avenue  
Boston, MA 02116  
Telecopier No.: (617) 375-7575  
Attention: Executive Vice President and Chief Financial Officer

If to the Trustee:

The Bank of New York Mellon Trust Company, N.A.  
222 Berkeley Street  
2<sup>nd</sup> Floor  
Boston, MA 02116  
Telecopier No.: 617-351-2401  
Attention: Corporate Trust Administration

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

All notices and communications (other than those sent to Holders) shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when receipt acknowledged, if telecopied; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

Any notice or communication to a Holder shall be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. Any notice or communication shall also be so mailed to any Person described in TIA § 313(c), to the extent required by the TIA. Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Company mails a notice or communication to Holders, it shall mail a copy to the Trustee and each Agent at the same time.

Section 12.03. *Communication by Holders of Notes with Other Holders of Notes.*

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

Section 12.04. *Certificate and Opinion as to Conditions Precedent.*

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

(a) an Officers' Certificate in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 12.05 hereof) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and

(b) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 12.05 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

Section 12.05. *Statements Required in Certificate or Opinion.*

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate provided pursuant to TIA § 314(a)(4)) shall comply with the provisions of TIA § 314(e) and shall include:

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

(b) 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;

(c) a statement that, in the opinion of such Person, he, she or it 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 satisfied; and

(d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied.

Section 12.06. *Rules by Trustee and Agents.*

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions; *provided* that no such rule shall conflict with the terms of this Indenture or the TIA.

Section 12.07. *No Personal Liability of Directors, Officers, Employees and Stockholders.*

No past, present or future director, officer, employee, incorporator, stockholder or agent of the Company, as such, shall have any liability for any obligations of the Company under the Notes, this Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.



Section 12.08. *Governing Law.*

**THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS INDENTURE AND THE NOTES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.**

Section 12.09. *No Adverse Interpretation of Other Agreements.*

This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 12.10. *Successors.*

All agreements of the Company in this Indenture and the Notes shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors.

Section 12.11. *Severability.*

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

Section 12.12. *Counterpart Originals.*

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

Section 12.13. *Table of Contents, Headings, etc.*

The Table of Contents, Cross-Reference Table and Headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

Section 12.14. *Waiver of Jury Trial.*

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

Section 12.15. *Force Majeure.*

In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its reasonable control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of

God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

[Signatures on following page]

**SIGNATURES**

Dated as of June 10, 2009

AMERICAN TOWER CORPORATION

By: /s/ Thomas A. Bartlett

Name: Thomas A. Bartlett

Title: Executive Vice President and Chief Financial Officer

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

By: /s/ Vaneta Bernard

Name: Vaneta Bernard

Title: Vice President

[Form of Note]

[Insert the Global Note Legend, if applicable, pursuant to Section 2.06(f)(ii) of the Indenture – THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”), TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY NOTE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS MAY BE 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.

[If Rule 144A Notes or Regulation S Note issued during the Restricted Period therefor, then insert the following legend (the “Restricted Notes Legend”) –

THIS NOTE (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND THIS NOTE MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THIS NOTE IS HEREBY NOTIFIED THAT THE SELLER OF THIS NOTE MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER.

THE HOLDER OF THIS NOTE, BY ITS ACCEPTANCE HEREOF, AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED SECURITIES AND FOR THE BENEFIT OF THE COMPANY THAT PRIOR TO THE DATE (THE “RESALE RESTRICTION TERMINATION DATE”) ON WHICH THE COMPANY INSTRUCTS THE TRUSTEE THAT THIS RESTRICTIVE LEGEND SHALL BE DEEMED REMOVED IN ACCORDANCE WITH THE PROCEDURE DESCRIBED IN THE INDENTURE (WHICH INSTRUCTION IS EXPECTED TO BE GIVEN ON OR ABOUT THE ONE-YEAR ANNIVERSARY OF THE ISSUANCE OF THIS SECURITY) (A) THIS NOTE MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) IN THE UNITED STATES TO A PERSON WHOM THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (II) OUTSIDE THE UNITED STATES IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH RULE 904 UNDER THE SECURITIES ACT, (III) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER OR ANY SUCCESSOR PROVISION THERETO (IF AVAILABLE) OR (IV) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, IN EACH OF CASES (I) THROUGH (IV) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES, AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER OF THIS NOTE FROM IT OF THE RESALE RESTRICTIONS REFERRED TO IN (A) ABOVE. THIS LEGEND SHALL BE DEEMED REMOVED FROM THE FACE OF THIS NOTE WITHOUT FURTHER ACTION OF THE COMPANY, THE TRUSTEE, OR THE HOLDERS OF THIS NOTE AT SUCH TIME AS THE COMPANY INSTRUCTS THE TRUSTEE TO REMOVE SUCH LEGEND IN ACCORDANCE WITH THE INDENTURE.

[Insert the Regulation S Temporary Global Note Legend, if applicable pursuant to the provisions of the Indenture —

THIS NOTE (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION ORIGINALLY EXEMPT FROM REGISTRATION UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND MAY NOT BE TRANSFERRED IN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, ANY U.S. PERSON EXCEPT PURSUANT TO AN AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND ALL APPLICABLE STATE SECURITIES LAWS. TERMS USED ABOVE HAVE THE MEANINGS GIVEN TO THEM IN REGULATION S UNDER THE SECURITIES ACT.]

CUSIP: \_\_\_\_\_ †

ISIN: \_\_\_\_\_ †

7.25% Senior Notes due 2019

No. \_\_\_\_

\$\_\_\_\_\_

**AMERICAN TOWER CORPORATION**

promises to pay to \_\_\_\_\_ or registered assigns, the principal sum of \_\_\_\_\_ DOLLARS on May 15, 2019 (which principal sum may from time to time be reduced or increased as appropriate to reflect exchanges, redemptions, repurchases and transfers of interest, but which, when taken together with the aggregate principal sum of all other Notes (excluding Additional Notes, if any), shall not exceed \$300,000,000 at any time).

Interest Payment Dates: May 15 and November 15

Regular Record Dates: May 1 and November 1

<sup>†</sup> *At such time as the Company notifies the Trustee to remove the legend set forth in the third and fourth paragraphs hereof pursuant to Section 2.06(i) of the Indenture, the unrestricted CUSIP and the ISIN numbers for this Note shall be deemed to be CUSIP No. \_\_\_\_\_ and ISIN No. \_\_\_\_\_, respectively.*

IN WITNESS WHEREOF, the Issuer has caused this instrument to be duly executed as of the date below.

Dated:

AMERICAN TOWER CORPORATION

By: \_\_\_\_\_  
Name: James D. Taiclet, Jr.  
Title: Chairman, President and Chief Executive Officer

By: \_\_\_\_\_  
Name: Thomas A. Bartlett  
Title: Executive Vice President and Chief Financial Officer

This is one of the Notes referred to in the within-mentioned Indenture.

Dated:

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

---

Authorized Signatory



7.25% Senior Notes Due 2019

Capitalized terms used herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. *Interest.* American Tower Corporation, a Delaware corporation (the “Company”), promises to pay interest on the principal amount of this Note at 7.25% per annum from June 10, 2009 until maturity and to pay the Additional Interest, if any, payable pursuant to the Registration Rights Agreement referred to below. The Company will pay interest semi-annually in arrears on May 15 and November 15 of each year commencing on November 15, 2009, or if any such day is not a Business Day, on the next succeeding Business Day (each, an “Interest Payment Date”). Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance; *provided* that if there is no existing Default in the payment of interest, the Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal and premium and Additional Interest, if any, from time to time on demand at a rate that is 1% per annum in excess of the rate then in effect; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest (other than Additional Interest) will be computed on the basis of a 360-day year of twelve 30-day months.

2. *Method of Payment.* The Company will pay interest on the Notes (except defaulted interest) to the Persons who are registered Holders of Notes at the close of business on the May 1 or November 1 next preceding the Interest Payment Date (each, a “Regular Record Date”), even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. The Notes will be payable as to principal, premium, if any, and interest and Additional Interest, if any, at the office or agency of the Paying Agent and Registrar maintained for such purpose within the City and State of New York, or, at the option of the Company, payment of interest and Additional Interest, if any, may be made by check mailed to the Holders at their addresses set forth in the register of Holders, and *provided* that payment by wire transfer of immediately available funds will be required with respect to principal of, premium, if any, and interest and Additional Interest, if any, on, all Global Notes and all other Notes the Holders of which shall have provided wire transfer instructions to the Company or the Paying Agent. Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

3. *Paying Agent and Registrar.* Initially, The Bank of New York Mellon Trust Company, N.A., the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries may act in any such capacity.

4. *Indenture.* The Company issued the Notes under an Indenture dated as of June 10, 2009 (the “Indenture”) between the Company and the Trustee. The terms of the Notes

include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (15 U.S. Code §§ 77aaa-77bbb) (the “Trust Indenture Act”). The Notes are subject to all such terms, and Holders are referred to the Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. The Notes are obligations of the Company. The Original Notes are limited to \$300 million in aggregate principal amount. Unless the context otherwise requires, the Original Notes and the Exchange Notes shall constitute one series for all purposes under the Indenture, including without limitation, amendments, waivers, redemptions and Change of Control Offers. Subject to the conditions set forth in the Indenture and without the consent of the Holders, the Company may issue Additional Notes. All Notes, including any Additional Notes, will be treated as a single class of securities under the Indenture.

5. *Optional Redemption.* This Note is redeemable at the Company’s election, in whole or in part, at any time at a redemption price equal to the greater of:

- (1) 100% of the principal amount of the Notes to be redeemed then outstanding; *and*
- (2) as determined by an Independent Investment Banker, the sum of the present values of the remaining scheduled payments of interest on the Notes to be redeemed (not including any portion of such payments of interest accrued to the date of redemption) discounted to the redemption date on a semiannual basis (assuming a 360-day year consisting of twelve 30-day months) at the Adjusted Treasury Rate, plus 50 basis points;

*plus*, in either of the above cases, accrued and unpaid interest to the date of redemption on the Notes to be redeemed.

If the Company selects a redemption date that is on or after a Regular Record Date and on or before the related interest payment date, the accrued and unpaid interest, if any, shall be paid to the person in whose name the Note is registered at the close of business on such record date.

The Company will mail or caused to be mailed a notice of redemption at least 30 days, but not more than 60 days, before the redemption date to each Holder of the Notes to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of the Indenture. Notices of redemption may not be conditional.

Unless the Company defaults in payment of the redemption price, on and after the redemption date, interest will cease to accrue on the Notes or portions thereof called for redemption. Notes called for redemption become due on the date fixed for redemption.

For purposes of the foregoing, the following terms shall have the following meanings:

“*Adjusted Treasury Rate*” means, with respect to any redemption date:

- (1) the yield, under the heading which represents the average for the immediately preceding week, appearing in the most recently published statistical release designated “H.15(519)” or any successor publication which is published weekly by the Board of Governors of the Federal Reserve System and which establishes yields on actively traded United States Treasury securities adjusted to constant maturity under the caption “Treasury Constant Maturities,” for the maturity corresponding to the Comparable Treasury Issue (as defined below) (if no maturity is within three months before or after the Remaining Life (as defined below), yields for the two published maturities most closely corresponding to the Comparable Treasury Issue shall be determined and the Adjusted Treasury Rate shall be interpolated or extrapolated from such yields on a straight line basis, rounding to the nearest month); or

- (2) if such release (or any successor release) is not published during the week preceding the calculation date or does not contain such yields, the rate per annum equal to the semi-annual equivalent yield to maturity of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price (as defined below) for such redemption date.

The Adjusted Treasury Rate shall be calculated on the third Business Day preceding the redemption date.

“*Comparable Treasury Issue*” means the United States Treasury security selected by an Independent Investment Banker (as defined below) as having a maturity comparable to the remaining term of the Notes that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of the Notes (“*Remaining Life*”).

“*Comparable Treasury Price*” means, for any redemption date, (1) the average of four Reference Treasury Dealer Quotations (as defined below) for such redemption date, after excluding the highest and lowest Reference Treasury Dealer Quotations, or (2) if the Independent Investment Banker obtains fewer than four such Reference Treasury Dealer Quotations, the average of all such quotations.

“*Independent Investment Banker*” means one of the Reference Treasury Dealers appointed by the Company.

“*Reference Treasury Dealer*” means any of the primary U.S. Government securities dealers in New York City.

“*Reference Treasury Dealer Quotations*” means, with respect to each Reference Treasury Dealer and any redemption date, the average, as determined by the Independent Investment Banker, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as

a percentage of its principal amount) quoted in writing to the Independent Investment Banker at 5:00 p.m., New York City time, on the third Business Day preceding such redemption date.

6. *No Mandatory Redemption.* The Company shall not be required to make mandatory redemption payments with respect to the Notes.

7. *Repurchase at Option of Holder.* Upon the occurrence of a Change of Control Triggering Event, and subject to certain conditions set forth in the Indenture, the Company will be required to offer to purchase all of the outstanding Notes at a purchase price equal to 101% of the principal amount thereof, plus accrued and unpaid interest, if any, thereon to the date of repurchase.

8. *Notice of Redemption.* Notice of redemption shall be mailed at least 30 days but not more than 60 days before the redemption date to each Holder whose Notes are to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with Article 8 or Article 13 of the Indenture. Notes in denominations larger than \$2,000 may be redeemed in part but only in whole multiples of \$1,000, unless all of the Notes held by a Holder are to be redeemed. Unless the Company defaults in payment of the redemption price, on and after the redemption date interest ceases to accrue on Notes or portions thereof called for redemption.

9. *Denominations, Transfer, Exchange.* The Notes are in registered form without coupons in denominations of \$2,000 and integral multiples of \$1,000 thereafter. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed or during the period between a record date and the corresponding Interest Payment Date.

10. *Persons Deemed Owners.* The registered Holder of a Note may be treated as its owner for all purposes, except as provided in Section 2.06(a) of the Indenture.

11. *Amendment, Supplement and Waiver.* The Indenture or the Notes may be amended or supplemented as provided in the Indenture.

12. *Defaults and Remedies.* The Events of Default relating to the Notes are defined in Section 6.01 of the Indenture. If any Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare the principal, premium, if any, interest and any other monetary obligations on all the then outstanding Notes to be due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency, all outstanding Notes will become due and payable immediately without further action or notice.

12. Holders may not enforce the Indenture or the Notes except as provided in the Indenture. Subject to certain limitations, Holders of a majority in aggregate principal amount of the then outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders of the Notes notice of any continuing Default (except a Default relating to the payment of principal, premium, if any, or interest) if it determines that withholding notice is in their interest. The Holders of a majority in aggregate principal amount of the Notes then outstanding by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default or and its consequences under the Indenture except a continuing Default in payment of the principal of, premium, if any, or interest, including Additional Interest, if any, on, any of the Notes held by a non-consenting Holder. The Company is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Company is required upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

13. *Trustee Dealings with Company.* The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

14. *No Recourse Against Others.* A director, officer, employee, incorporator or stockholder, of the Company, as such, shall not have any liability for any obligations of the Company under the Notes or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

15. *Authentication.* This Note shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

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

17. *Registration Rights Agreement.* In addition to the rights provided to the Holders of Notes under the Indenture, Holders shall have all the rights set forth in the Registration Rights Agreement dated as of June 10, 2009, among the Company and the other parties named on the signature pages thereof.

18. *CUSIP and ISIN Numbers.* Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP and ISIN numbers to be printed on the Notes and the Trustee may use CUSIP and ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon

The Company shall furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to: American Tower Corporation, 116 Huntington Avenue, Boston, MA 02116, Attention: Investor Relations.

**Assignment Form**

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to: \_\_\_\_\_

*(Insert assignee's legal name)*

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

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

and irrevocably appoint

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

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_

*(Sign exactly as your name appears on  
the face of this Note)*

Signature Guarantee\*: \_\_\_\_\_

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

**Option of Holder to Elect Purchase**

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 4.09 of the Indenture, state the amount you elect to have purchased:

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_  
*(Sign exactly as your name appears on  
the face of this Note)*

Tax Identification No.: \_\_\_\_\_

Signature Guarantee\*: \_\_\_\_\_

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).



**SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE\***

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

<u>Date of Exchange</u>	<u>Amount of decrease in Principal Amount of this Global Note</u>	<u>Amount of increase in Principal Amount of this Global Note</u>	<u>Principal Amount of this Global Note following such decrease (or increase)</u>	<u>Signature of authorized officer of Trustee or Custodian</u>

\* This schedule should be included only if the Note is issued in global form.

## FORM OF CERTIFICATE OF TRANSFER

American Tower Corporation  
 116 Huntington Avenue  
 Boston, MA 02116  
 Telecopier No.: (617) 375-7575  
 Attention: Executive Vice President and Chief Financial Officer

The Bank of New York Mellon Trust Company, N.A.  
 222 Berkeley Street  
 2<sup>nd</sup> Floor  
 Boston, MA 02116  
 Telecopier No.: 617-351-2401  
 Attention: Corporate Trust Administration

Re: 7.25% Senior Notes due 2019

Reference is hereby made to the Indenture, dated as of June 10, 2009 (the “*Indenture*”), between American Tower Corporation, as issuer (the “*Company*”), and The Bank of New York Mellon Trust Company, N.A., as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

\_\_\_\_\_ (the “*Transferor*”) owns and proposes to transfer the Notes or interest in such Notes specified in Annex A hereto, in the principal amount of \$[ ] in such Notes or interests (the “*Transfer*”), to \_\_\_\_\_ (the “*Transferee*”), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

## [CHECK ALL THAT APPLY]

1.  **Check if Transferee will take delivery of a beneficial interest in the 144A Global Note or a Definitive Note pursuant to Rule 144A.** The Transfer is being effected pursuant to and in accordance with Rule 144A under the United States Securities Act of 1933, as amended (the “*Securities Act*”), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believed and believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a “qualified institutional buyer” within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the 144A Global Note and/or the Definitive Note and in the Indenture and the Securities Act.

2.  **Check if Transferee will take delivery of a beneficial interest in the Regulation S Global Note or a Definitive Note pursuant to Regulation S.**

The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a Person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(a) of Regulation S under the Securities Act, (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Distribution Compliance Period, the transfer is not being made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on Transfer enumerated in the Private Placement Legend printed on the Regulation S Global Note, the Regulation S Temporary Global Note and/or a Definitive Note and in the Indenture and the Securities Act.

3.  **Check and complete if Transferee will take delivery of a beneficial interest in a Definitive Note pursuant to any provision of the Securities Act other than Rule 144A or Regulation S.** The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

(a)  such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act;

**or**

(b)  such Transfer is being effected to the Company or a Subsidiary thereof;

**or**

(c)  such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act;

4.  **Check if Transferee will take delivery of a beneficial interest in an Unrestricted Global Note or of an Unrestricted Definitive Note.**

(a)  **Check if Transfer is pursuant to Rule 144.** (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(b)  **Check if Transfer is pursuant to Regulation S.** (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(c)  **Check if Transfer is pursuant to Other Exemption.** (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

\_\_\_\_\_  
[Insert Name of Transferor]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

**ANNEX A TO CERTIFICATE OF TRANSFER**

1. The Transferor owns and proposes to transfer the following:

**[CHECK ONE OF (a) OR (b)]**

- (a)  a beneficial interest in the:
  - (i)  144A Global Note (CUSIP           ); or
  - (ii)  Regulation S Global Note (CUSIP           ); or
- (b)  a Restricted Definitive Note.

2. After the Transfer, the Transferee will hold:

**[CHECK ONE OF (a), (b) OR (c)]**

- (a)  a beneficial interest in the:
  - (i)  144A Global Note (CUSIP           ); or
  - (ii)  Regulation S Global Note (CUSIP           ); or
  - (iv)  Unrestricted Global Note (CUSIP           ); or
- (b)  a Restricted Definitive Note; or
- (c)  an Unrestricted Definitive Note,  
in accordance with the terms of the Indenture.

## FORM OF CERTIFICATE OF EXCHANGE

American Tower Corporation  
 116 Huntington Avenue  
 Boston, MA 02116  
 Telecopier No.: (617) 375-7575  
 Attention: Executive Vice President and Chief Financial Officer

The Bank of New York Mellon Trust Company, N.A.  
 222 Berkeley Street  
 2<sup>nd</sup> Floor  
 Boston, MA 02116  
 Telecopier No.: 617-351-2401  
 Attention: Corporate Trust Department

Re: 7.25% Senior Notes due 2019

Reference is hereby made to the Indenture, dated as of June 10, 2009 (the “*Indenture*”), between American Tower Corporation, as issuer (the “*Company*”), and The Bank of New York Mellon Trust Company, N.A., as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

\_\_\_\_\_, (the “*Owner*”) owns and proposes to exchange the Notes or interest in such Notes specified herein, in the principal amount of \$[ ] in such Notes or interests (the “*Exchange*”). In connection with the Exchange, the Owner hereby certifies that:

**1. Exchange of Restricted Definitive Notes or Beneficial Interests in a Restricted Global Note for Unrestricted Definitive Notes or Beneficial Interests in an Unrestricted Global Note**

(a)  **Check if Exchange is from beneficial interest in a Restricted Global Note to beneficial interest in an Unrestricted Global Note.** In connection with the Exchange of the Owner’s beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner’s own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Note and pursuant to and in accordance with the United States Securities Act of 1933, as amended (the “*Securities Act*”), (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(b)  **Check if Exchange is from beneficial interest in a Restricted Global Note to Unrestricted Definitive Note.** In connection with the Exchange of the Owner’s beneficial

interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Note and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(c)  **Check if Exchange is from Restricted Definitive Note to beneficial interest in an Unrestricted Global Note.** In connection with the Owner's Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(d)  **Check if Exchange is from Restricted Definitive Note to Unrestricted Definitive Note.** In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

**2. Exchange of Restricted Definitive Notes or Beneficial Interests in Restricted Global Notes for Restricted Definitive Notes or Beneficial Interests in Restricted Global Notes**

(a)  **Check if Exchange is from beneficial interest in a Restricted Global Note to Restricted Definitive Note.** In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

(b)  **Check if Exchange is from Restricted Definitive Note to beneficial interest in a Restricted Global Note.** In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the [CIRCLE ONE] 144A Global Note, Regulation S Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the

Owner's own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Definitive Note and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.



This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

\_\_\_\_\_  
[Insert Name of Transferor]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Dated: \_\_\_\_\_

EXHIBIT D

FORM OF FREE TRANSFERABILITY CERTIFICATE

The Bank of New York Mellon Trust Company, N.A.  
222 Berkeley Street  
2<sup>nd</sup> Floor  
Boston, MA 02116  
Telecopier No.: 617-351-2401  
Attention: Corporate Trust Administration

Re: 7.25% Senior Notes due 2019; CUSIP: 029912 AW2; ISIN: US029912AW24

Dear Sir/Madam:

Reference is hereby made to the Indenture, dated as of June 10, 2009 (the "*Indenture*"), between American Tower Corporation, as issuer (the "*Company*"), and The Bank of New York Mellon Trust Company, N.A., as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

Whereas the 7.25% Senior Notes due 2019 (the "*Notes*") have become freely tradable without restrictions by non-affiliates of the Company pursuant to Rule 144(b)(1) under the Securities Act, in accordance with Section 2.06(i) of the Indenture, pursuant to which the Notes were issued, the Company hereby instructs you that:

(i) the Restrictive Notes Legend described in Section 2.06(f)(i)(A) of the Indenture and set forth on the Notes shall be deemed removed from the Notes, in accordance with the terms and conditions of the Notes and as provided in the Indenture, without further action on the part of Holders; and

(ii) the restricted CUSIP number and restricted ISIN number for the Notes shall be deemed removed from the Notes and replaced with the unrestricted CUSIP number (029912 AY8) and unrestricted ISIN number (US029912AY89), respectively, set forth therein, in accordance with the terms and conditions of the Notes and as provided in the Indenture, without further action on the part of Holders.

AMERICAN TOWER CORPORATION

By: \_\_\_\_\_  
Name: Thomas A. Bartlett  
Title: Executive Vice President and Chief Financial Officer

AMERICAN TOWER CORPORATION  
7.25% Senior Notes due 2019

## REGISTRATION RIGHTS AGREEMENT

June 10, 2009

CREDIT SUISSE SECURITIES (USA) LLC  
J.P. MORGAN SECURITIES INC.

As Representatives of the several Purchasers  
listed in Schedule A to the Purchase Agreement

c/o Credit Suisse Securities (USA) LLC  
11 Madison Avenue  
New York, New York 10010

Ladies and Gentlemen:

American Tower Corporation, a corporation organized under the laws of Delaware (the "Company"), proposes to issue and sell to the purchasers named in Schedule A to the Purchase Agreement referenced below (the "Purchasers"), for whom Credit Suisse Securities (USA) LLC and J.P. Morgan Securities Inc. are acting as representatives (the "Representatives"), \$300,000,000 aggregate principal amount of its 7.25% Senior Notes due 2019 (the "Securities"), upon the terms set forth in a purchase agreement dated May 27, 2009 (the "Purchase Agreement") relating to the initial placement (the "Initial Placement") of the Securities. To induce the Purchasers to enter into the Purchase Agreement, the Company agrees with you for your benefit and the benefit of the holders from time to time of the Securities (including the Purchasers) (each a "Holder" and, together, the "Holders"), as follows:

1. **Definitions.** Capitalized terms used herein without definition shall have their respective meanings set forth in the Purchase Agreement. As used in this Agreement, the following capitalized defined terms shall have the following meanings:

"Act" shall mean the Securities Act of 1933, as amended, and the rules and regulations of the Commission promulgated thereunder.

"Additional Interest" shall have the meaning set forth in Section 6(a) hereof.

"Additional Interest Amount" shall have the meaning set forth in Section 6(a) hereof.

"Advice" shall have the meaning set forth in Section 4(c).

“Affiliate” of any specified Person shall mean any other Person that, directly or indirectly, is in control of, is controlled by, or is under common control with, such specified Person. For purposes of this definition, control of a Person shall mean the power, direct or indirect, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise; and the terms “controlling” and “controlled” shall have meanings correlative to the foregoing.

“Broker-Dealer” shall mean any broker or dealer registered as such under the Exchange Act.

“Business Day” shall mean any day other than a Saturday, a Sunday or a legal holiday or a day on which banking institutions or trust companies are authorized or obligated by law to close in New York City or Washington, D.C.

“Commission” shall mean the Securities and Exchange Commission.

“Company” shall have the meaning set forth in the preamble and shall also include the Company’s successors.

“Effective Time,” (i) in the case of an Exchange Offer Registration Statement, shall mean the time and date as of which the Commission declares the Exchange Offer Registration Statement effective or as of which the Exchange Offer Registration Statement otherwise becomes effective and (ii) in the case of a Shelf Registration Statement, shall mean the time and date as of which the Commission declares the Shelf Registration Statement effective or as of which the Shelf Registration Statement otherwise becomes effective.

“Exchange Act” shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission promulgated thereunder.

“Exchange Offer Registration Period” shall mean the 180-day period following the consummation of the Registered Exchange Offer (exclusive of any period during which any stop order shall be in effect suspending the effectiveness of the Exchange Offer Registration Statement).

“Exchange Offer Registration Statement” shall mean a registration statement on an appropriate form under the Act with respect to the Registered Exchange Offer, all amendments and supplements to such registration statement, including post-effective amendments thereto, in each case including the Prospectus contained therein, all exhibits thereto and all material incorporated by reference therein.

“Exchanging Dealer” shall mean any Holder (which may include any Purchaser) that is a Broker-Dealer and elects to exchange for New Securities any Securities that it acquired for its own account as a result of market-making activities or other trading activities (but not directly from the Company or any Affiliate of the Company) for New Securities.

“Freely Tradeable” means, with respect to a Security, a Security that at any time of determination (i) is freely transferable in accordance with Rule 144 under the Act (“Rule 144”) by a person that is not an “affiliate” (as defined in Rule 144 under the Act) of the Company where no conditions of Rule 144 are then applicable (other than the holding period requirement in paragraph (d)(1)(ii) of Rule 144 so long as such holding period requirement is satisfied at such time of determination), (ii) does not bear any restrictive legends relating to the Securities Act and (iii) does not bear a restricted CUSIP number.

“Final Offering Circular” shall mean the final offering circular related to the Securities, as amended or supplemented as of the date hereof, including any and all exhibits thereto and any information incorporated by reference therein.

“Holder” shall have the meaning set forth in the preamble hereto.

“Indenture” shall mean the Indenture relating to the Securities, dated as of June 10, 2009, between the Company and The Bank of New York Mellon Trust Company, N.A., as Trustee as the same may be amended from time to time in accordance with the terms thereof.

“Initial Placement” shall have the meaning set forth in the preamble hereto.

“Issue Date” shall mean the date of the original issuance of the Securities.

“Losses” shall have the meaning set forth in Section 7(d) hereof.

“Majority Holders” shall mean, when no Registration Statement is filed under this Agreement, the Holders of a majority of the aggregate principal amount of Securities outstanding and shall mean, when a Registration Statement is filed under this Agreement, the Holders of a majority of the aggregate principal amount of Securities registered under the Registration Statement.

“Managing Underwriters” shall mean the investment banker or investment bankers and manager or managers that shall administer an underwritten offering.

“New Securities” shall mean debt securities of the Company identical in all material respects to the Securities (except that the additional interest provisions and the transfer restriction provisions shall be modified or eliminated, as appropriate) and to be issued under the Indenture.

“Notice and Questionnaire” shall have the meaning set forth in Section 3(c) hereof.

“Person” shall mean an individual, partnership, limited liability company, corporation, trust or unincorporated organization, or a government or agency or political subdivision thereof.

“Prospectus” shall mean the prospectus included in any Registration Statement (including, without limitation, a prospectus that discloses information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A under the Act), as amended or supplemented by any prospectus supplement, with respect to the terms

of the offering of any portion of the Securities or the New Securities covered by such Registration Statement, and all amendments and supplements thereto and all material incorporated by reference therein.

“Purchase Agreement” shall have the meaning set forth in the preamble hereto.

“Purchaser” shall have the meaning set forth in the preamble hereto.

“Registrable Securities” shall mean the Securities; provided, however, that the Securities shall cease to be Registrable Securities (i) when such Securities are exchanged, by a person other than a Broker-Dealer, for New Securities in the Registered Exchange Offer, (ii) in the case of any New Security held by a Broker-Dealer, following the exchange by such Broker-Dealer in the Registered Exchange Offer of a Security for such New Security, the date on which such New Security is sold to a purchaser who receives from such Broker-Dealer on or prior to the date of such sale a copy of the prospectus contained in the Exchange Offer Registration Statement, (iii) when a Registration Statement with respect to such Securities has become effective under the Act and such Securities have been disposed of pursuant to such Registration Statement, (iv) when such Securities are Freely Tradeable or (v) when such Securities have otherwise ceased to be outstanding.

“Registered Exchange Offer” shall mean the proposed offer of the Company to issue and deliver to the Holders of the Securities that are not prohibited by any law or policy of the Commission from participating in such offer, in exchange for the Securities, a like aggregate principal amount of New Securities.

“Registration Default” shall have the meaning set forth in Section 6(a) hereof.

“Registration Statement” shall mean any Exchange Offer Registration Statement or Shelf Registration Statement that covers any of the Securities or the New Securities pursuant to the provisions of this Agreement, any amendments and supplements to such registration statement, including post-effective amendments (in each case including the Prospectus contained therein), all exhibits thereto and all material incorporated by reference therein.

“Registration Trigger Date” shall mean the fifth Business Day following the one-year anniversary of the Issue Date.

“Securities” shall have the meaning set forth in the preamble hereto.

“Shelf Registration” shall mean a registration effected pursuant to Section 3 hereof.

“Shelf Registration Period” has the meaning set forth in Section 3(b) hereof.

“Shelf Registration Statement” shall mean a “shelf” registration statement of the Company pursuant to the provisions of Section 3 hereof which covers some or all of the Securities or New Securities, as applicable, on an appropriate form under Rule 415 under the Act, or any similar rule that may be adopted by the Commission, amendments and supplements to such registration statement, including post-effective amendments, in each case including the Prospectus contained therein, all exhibits thereto and all material incorporated by reference therein.

“Trustee” shall mean the trustee with respect to the Securities under the Indenture.

“underwriter” shall mean any underwriter of Securities in connection with an offering thereof under a Shelf Registration Statement.

2. Registered Exchange Offer.

(a) To the extent not prohibited by any applicable law or applicable interpretation of the Commission’s Staff and to the extent there are Registrable Securities outstanding on the Registration Trigger Date, the Company shall use its reasonable best efforts to (i) cause to be filed with the Commission an Exchange Offer Registration Statement and (ii) have such Registration Statement become effective under the Act by the Registration Trigger Date and remain effective until the closing of the Exchange Offer. The Company shall use its reasonable best efforts to consummate the Registered Exchange Offer not later than 45 days following the Effective Time of such Registration Statement (or, if such 45<sup>th</sup> day is not a Business Day, the next succeeding Business Day) (the “Exchange Date”). Notwithstanding anything to the contrary, the requirements to file an Exchange Offer Registration Statement, to cause such Exchange Offer Registration Statement to become and remain effective under the Act and to commence, conduct and consummate any Registered Exchange Offer shall terminate at such time as all of the Securities are Freely Tradeable.

(b) Upon the effectiveness of the Exchange Offer Registration Statement, the Company shall promptly commence the Registered Exchange Offer, it being the objective of such Registered Exchange Offer to enable each Holder electing to exchange Securities for New Securities (assuming that such Holder is not an Affiliate of the Company, acquires the New Securities in the ordinary course of such Holder’s business, has no arrangements with any Person to participate in the distribution of the New Securities and is not prohibited by any law or policy of the Commission from participating in the Registered Exchange Offer) to trade such New Securities from and after their receipt without any limitations or restrictions under the Act and without material restrictions under the securities laws of a substantial proportion of the several states of the United States. The Company shall use its reasonable best efforts to issue, on or prior to 45 days (or longer, if required by the Federal Securities laws) after the date on which the Exchange Offer Registration Statement becomes effective, such New Securities in exchange for all Securities tendered in accordance with section (c) below prior thereto in the Registered Exchange Offer.

(c) In connection with the Registered Exchange Offer, if an Exchange Offer Registration Statement is required to be filed and becomes effective pursuant to Section 2(a) above, the Company shall:

(i) mail to each Holder a copy of the Prospectus forming part of the Exchange Offer Registration Statement, together with an appropriate letter of transmittal and related documents;

(ii) keep the Registered Exchange Offer open for not less than 20 Business Days after the date notice thereof is mailed to the Holders (or, in each case, longer if required by applicable law);

(iii) use its reasonable best efforts to keep the Exchange Offer Registration Statement continuously effective under the Act, supplemented and amended as required, under the Act to ensure that it is available for sales of New Securities by Exchanging Dealers during the Exchange Offer Registration Period;

(iv) utilize the services of a depository for the Registered Exchange Offer with an address in the Borough of Manhattan in New York City, which may be the Trustee or an Affiliate of the Trustee;

(v) permit Holders to withdraw tendered Securities at any time prior to the close of business, New York time, on the last Business Day on which the Registered Exchange Offer is open; and

(vi) comply in all material respects with all applicable laws.

(d) As soon as practicable after the close of any Registered Exchange Offer, the Company shall:

(i) accept for exchange all Securities tendered and not validly withdrawn pursuant to the Registered Exchange Offer;

(ii) deliver to the Trustee for cancellation in accordance with Section 4(s) hereof all Securities so accepted for exchange; and

(iii) cause the Trustee promptly to authenticate and deliver to each Holder of Securities, New Securities in an amount equal to the principal amount of the Securities of such Holder so accepted for exchange.

(e) Each Holder participating in the Registered Exchange Offer shall be required to represent to the Company that at the time of consummation of the Registered Exchange Offer:

(i) any New Securities received by such Holder will be acquired in the ordinary course of business;

(ii) such Holder will have no arrangement or understanding with any Person to participate in the distribution of the Securities or the New Securities within the meaning of the Act; and

(iii) such Holder is not an Affiliate of the Company;

(iv) if such Holder is not a Broker-Dealer, that it is not engaged in, and does not intend to engage in, the distribution of the New Securities; and



(v) if such Holder is a Broker-Dealer, that it will receive New Securities for its own account in exchange for Securities that were acquired as a result of market-making activities or other trading activities and that it will be required to acknowledge that it will deliver a prospectus in connection with any resale of such New Securities.

(f) If any Purchaser determines that it is not eligible to participate in the Registered Exchange Offer with respect to the exchange of Securities constituting any portion of an unsold allotment, at the request of such Purchaser, the Company shall issue and deliver to such Purchaser or the Person purchasing New Securities registered under a Shelf Registration Statement as contemplated by Section 3 hereof from such Purchaser, in exchange for such Securities, a like principal amount of New Securities. The Company shall use its reasonable best efforts to cause the CUSIP Service Bureau to issue the same CUSIP number for such New Securities as for New Securities issued pursuant to the Registered Exchange Offer, which will be the same CUSIP number as the Existing Notes.

### 3. Shelf Registration.

(a) If (A) an Exchange Offer Registration Statement is required to be filed and become effective pursuant to Section 2(a) above, and: (i) due to any change in law or applicable interpretations thereof by the Commission's staff, the Company determines upon advice of its outside counsel that it is not permitted to effect the Registered Exchange Offer as contemplated by Section 2 hereof, or (ii) for any other reason the Registered Exchange Offer is not consummated by the 45<sup>th</sup> day after the Effective Time of the Exchange Offer Registration Statement (or such longer period as required by applicable law) (or, if such 45<sup>th</sup> day is not a Business Day, the next succeeding Business Day) or the Exchange Offer Registration Statement does not become effective by the Registration Trigger Date; or (B) any Holder of Securities notifies the Company prior to the 20<sup>th</sup> day following the consummation of any Registered Exchange Offer that: (i) it is prohibited by law or policy of the Commission from participating in the Registered Exchange Offer; (ii) it may not resell the New Securities acquired by it in the Registered Exchange Offer to the public without delivering a prospectus and the prospectus contained in the Registered Exchange Offer is not appropriate or available for such resales or (iii) that it is a Broker-Dealer and owns Securities acquired directly from the Company or an affiliate of the Company, the Company shall effect a Shelf Registration Statement in accordance with subsection (b) below. Notwithstanding anything to the contrary, the requirements to file a Shelf Registration Statement and to have such Shelf Registration Statement become effective and remain effective shall terminate at such time as all of the Securities are Freely Tradeable.

(b) If a Shelf Registration Statement is required to be filed and becomes effective pursuant to this Section 3,

(i) The Company shall as promptly as practicable file with the Commission and thereafter cause to become effective under the Act a Shelf Registration Statement relating to the offer and sale of the Securities or the New Securities, as applicable, by the Holders thereof from time to time in accordance with the methods of distribution elected by such Holders and set forth in such Shelf Registration Statement; provided, however, that no Holder (other than a Purchaser) shall be entitled to have the

Securities held by it covered by such Shelf Registration Statement unless such Holder agrees in writing to be bound by all of the provisions of this Agreement applicable to such Holder; and provided further, that with respect to New Securities received by a Purchaser in exchange for Securities constituting any portion of an unsold allotment, the Company may, if permitted by current interpretations by the Commission's staff, file a post-effective amendment to the Exchange Offer Registration Statement containing the information required by Item 507 or 508 of Regulation S-K, as applicable, in satisfaction of its obligations under this subsection with respect thereto, and any such Exchange Offer Registration Statement, as so amended, shall be referred to herein as, and governed by the provisions herein applicable to, a Shelf Registration Statement. Notwithstanding anything in this Section 3, Additional Interest shall accrue only in accordance with the provisions of Section 6 hereof.

(ii) The Company shall use its reasonable best efforts to keep the Shelf Registration Statement continuously effective, supplemented and amended as required by the Act, in order to permit the Prospectus forming part thereof to be usable by Holders for a period of two years from the Issue Date or such shorter period that will terminate on: (i) such date as all the Registrable Securities covered by the Shelf Registration Statement have been sold, or (ii) the date that all the Registrable Securities covered by the Shelf Registration Statement are Freely Tradeable (such period being called the "Shelf Registration Period"). The Company shall be deemed not to have used its reasonable best efforts to keep the Shelf Registration Statement effective during the requisite period if it voluntarily takes any action that would result in Holders of Securities covered thereby not being able to offer and sell such Securities during that period, unless (A) such action is required by applicable law; or (B) such action is taken by the Company in good faith and for valid business reasons (not including avoidance of the Company's obligations hereunder), including the acquisition or divestiture of assets, a merger or financing so long as the Company promptly thereafter complies with the requirements of Section 4(k) hereof, if applicable.

(c) Not less than 30 days prior to the Effective Time of any Shelf Registration Statement that may be required under this Agreement, the Company shall mail the Notice and Questionnaire (the "Notice and Questionnaire") substantially in the form attached as Annex E hereto to the Holders of Registrable Securities; no Holder shall be entitled to be named as a selling securityholder in the Shelf Registration Statement as of the Effective Time, and no Holder shall be entitled to use the prospectus forming a part thereof for resales of Securities at any time, unless such Holder has returned a completed and signed Notice and Questionnaire to the Company by the deadline for response set forth therein; provided, however, that Holders of Registrable Securities shall have at least 28 days from the date on which the Notice and Questionnaire is first mailed to such Holders to return a completed and signed Notice and Questionnaire to the Company.

(d) After the Effective Time of any Shelf Registration Statement that may be required to be filed under this Agreement, Holders of Registrable Securities who did not timely return a Notice and Questionnaire to the Company may return a Notice and Questionnaire at any time and may request to be included in such Shelf Registration Statement. If:

(i) the Company can include such Holder with respect to its Registrable Securities by means of a prospectus supplement filed pursuant to Rule 424(b) of the Act or by means of a registration statement filed pursuant to Rule 462(b) of the Act, then the Company shall file such Rule 424(b) supplement or Rule 462(b) registration statement with the Commission within 10 Business Days of its receipt of the Notice and Questionnaire;

(ii) the Company, in the opinion of its counsel, cannot include such Holder with respect to its Registrable Securities by means of a prospectus supplement to the prospectus contained as part of such effective Shelf Registration Statement or by means of a related registration statement filed pursuant to Rule 462(b) of the Act, the Company shall promptly take any action reasonably necessary to enable such a Holder to use a registration statement for resale of Registrable Securities, including, without limitation, any action necessary to identify such Holders or selling securityholder in a post-effective amendment to the Shelf Registration Statement or new Shelf Registration Statement which the Company shall promptly file and cause to become effective to cover the resale of the Registrable Securities that are the subject of such request. If the Company is required to file such post-effective amendment to the Shelf Registration Statement or a new Shelf Registration Statement for the sole purpose of adding Holders to the Shelf Registration Statement, the Company shall not be required to file such post-effective amendment or new Shelf Registration Statement more frequently than once every calendar quarter.

(e) In the event of a Shelf Registration Statement, in addition to the information required to be provided in the Notice and Questionnaire, the Company may require Holders to furnish to the Company additional information regarding such Holder and such Holder's intended method of distribution of Securities as may be required in order to comply with the Securities Act. Each Holder agrees to notify the Company as promptly as practicable of any inaccuracy or change in information previously furnished by such Holder to the Company or of the occurrence of any event in either case as a result of which any prospectus relating to the Shelf Registration Statement contains or would contain an untrue statement of a material fact regarding such Holder or such Holder's intended method of disposition of such Securities or omits to state any material fact regarding such Holder or such Holder's intended method of disposition of such Securities required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances then existing, and promptly to furnish to the Company any such required additional information so that such prospectus shall not contain, with respect to such Holder or the disposition of such Securities, an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances then existing.

4. Additional Registration Procedures. In connection with any Shelf Registration Statement and any Exchange Offer Registration Statement, in either case to the extent applicable, the following provisions shall apply.

(a) The Company shall:

(i) furnish to the Representatives and to counsel for the Holders (if any), not less than five Business Days prior to the filing thereof with the Commission, a copy of any Exchange Offer Registration Statement and any Shelf Registration Statement, and each amendment thereof and each amendment or supplement, if any, to the Prospectus included therein (including all documents incorporated by reference therein after the initial filing) and shall use its reasonable best efforts to reflect in each such document, when so filed with the Commission, such comments as the Representatives or such counsel for the Holders (if any) reasonably proposes;

(ii) include the information in substantially the form set forth in Annex A hereto on the facing page of the Exchange Offer Registration Statement, in Annex B hereto in the forepart of the Exchange Offer Registration Statement in a section setting forth details of the Registered Exchange Offer, in Annex C hereto in the underwriting or plan of distribution section of the Prospectus contained in the Exchange Offer Registration Statement, and in Annex D hereto in the letter of transmittal delivered pursuant to the Registered Exchange Offer;

(iii) if requested by a Purchaser, include the information required by Item 507 or 508 of Regulation S-K, as applicable, in the Prospectus contained in the Exchange Offer Registration Statement; and

(iv) in the case of a Shelf Registration Statement, include the names of the Holders that propose to sell Securities pursuant to the Shelf Registration Statement as selling security holders.

(b) The Company shall ensure that:

(i) any Registration Statement and any amendment thereto and any Prospectus forming part thereof and any amendment or supplement thereto complies in all material respects with the Act and the rules and regulations thereunder; and

(ii) any Registration Statement and any amendment thereto does not, when it becomes effective, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; it being understood that, with respect to the information about Holders in any Shelf Registration Statement, the Company will be relying solely on responses provided by Holders to the Notice and Questionnaire.

(c) The Company shall advise the Representatives, and, to the extent the Company has been provided a telephone or facsimile number and address for notices (and their respective designated counsel, if any), the Holders of Securities covered by any Shelf Registration Statement and any Exchanging Dealer under any Exchange Offer Registration Statement and, if requested by you or any such Holder or Exchanging Dealer, shall confirm such advice in writing (which notice pursuant to clauses (ii)-(v) hereof shall be accompanied by an instruction to suspend the use of the Prospectus until the Company shall have remedied the basis for such suspension):

(i) when a Registration Statement and any amendment thereto has been filed with the Commission and when the Registration Statement or any post-effective amendment thereto has become effective;

(ii) of any request by the Commission for any amendment or supplement to the Registration Statement or the Prospectus or for additional information;

(iii) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or the initiation of any proceedings for that purpose, of the issuance by the Commission of any notification of objection to the use of the form on which the Registration Statement has been filed, and of the happening of any event that causes the Company to become an “ineligible issuer,” as defined in Commission Rule 405;

(iv) of the receipt by the Company of any notification with respect to the suspension of the qualification of the securities included therein for sale in any jurisdiction or the initiation of any proceeding for such purpose; and

(v) of the happening of any event that requires any change in the Registration Statement or the Prospectus so that, as of such date, the statements therein are not misleading and do not omit to state a material fact required to be stated therein or necessary to make the statements therein (in the case of the Prospectus, in the light of the circumstances under which they were made) not misleading.

Each Holder of Securities agrees by acquisition of such Securities that, upon actual receipt of any notice from the Company of the happening of any event of the kind described in Section 4(c)(ii), (iii), (iv), and (v) hereof, such Holder will forthwith discontinue any and all dispositions of such Securities by means of the Registration Statement or Prospectus until such Holder’s receipt of the copies of the supplemented or amended Prospectus contemplated by Section 4(b), or until it is advised in writing (the “Advice”) by the Company that the use of the applicable Prospectus may be resumed, and has received copies of any amendments or supplements thereto; provided, however, that this paragraph shall not prohibit any Holder from engaging in dispositions of the Securities through means other than pursuant to the Registration Statement or Prospectus, as long as such dispositions comply with applicable laws.

(d) The Company shall use its reasonable best efforts to obtain the withdrawal of any order suspending the effectiveness of any Registration Statement or the qualification of the securities therein for sale in any jurisdiction at the earliest possible time.

(e) The Company shall furnish, upon written request, to each Holder of Securities covered by any Shelf Registration Statement, without charge, at least one copy of such Shelf Registration Statement and any post-effective amendment thereto, including all material incorporated therein by reference and, if requested, all exhibits thereto (including exhibits incorporated by reference therein).

(f) The Company shall, during the Shelf Registration Period, deliver to each Holder of Securities covered by any Shelf Registration Statement and its respective counsel,

without charge, as many copies of the Prospectus (including each preliminary Prospectus) included in such Shelf Registration Statement and any amendment or supplement thereto as such Holder may reasonably request. The Company consents to the use of the Prospectus or any amendment or supplement thereto by each of the selling Holders of securities in connection with the offering and sale of the securities covered by the Prospectus, or any amendment or supplement thereto, included in the Shelf Registration Statement.

(g) The Company shall furnish to each Exchanging Dealer which so requests, without charge, at least one copy of the Exchange Offer Registration Statement and any post-effective amendment thereto, including all material incorporated by reference therein, and, if the Exchanging Dealer so requests in writing, all exhibits thereto (including exhibits incorporated by reference therein).

(h) The Company shall promptly deliver to each Purchaser, each Exchanging Dealer and each other Person required to deliver a Prospectus during any Exchange Offer Registration Period, without charge, as many copies of the Prospectus included in such Exchange Offer Registration Statement and any amendment or supplement thereto as any such Person may reasonably request. The Company consents to the use of the Prospectus or any amendment or supplement thereto by any Purchaser, any Exchanging Dealer and any such other Person that may be required to deliver a Prospectus following any Registered Exchange Offer in connection with the offering and sale of the New Securities covered by the Prospectus, or any amendment or supplement thereto, included in any Exchange Offer Registration Statement.

(i) Prior to any Registered Exchange Offer or any other offering of Securities pursuant to any Registration Statement, the Company shall arrange, if necessary, for the qualification of the Securities or the New Securities for sale under the laws of such jurisdictions as any Holder shall reasonably request and will maintain such qualification in effect so long as required; provided that in no event shall the Company be obligated to qualify to do business in any jurisdiction where it is not then so qualified or to take any action that would subject it to service of process in suits, other than those arising out of the Initial Placement, any Registered Exchange Offer or any offering pursuant to a Shelf Registration Statement, in any such jurisdiction where it is not then so subject or otherwise subject itself to taxation in any such jurisdiction.

(j) The Company shall cooperate with the Holders of Securities to facilitate the timely preparation and delivery of certificates representing New Securities or Securities to be issued or sold pursuant to any Registration Statement free of any restrictive legends and in such denominations and registered in such names as Holders may request.

(k) Upon the occurrence of any event contemplated by subsections (c)(ii) through (v) above, the Company shall promptly prepare a post-effective amendment to the applicable Registration Statement or an amendment or supplement to the related Prospectus or file any other required document so that, as thereafter delivered to Purchasers of the securities included therein, the Prospectus will not include an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that the

Company may delay preparing, filing and distributing any such supplements or amendments (and continue the suspension of the use of the prospectus) if the Company determines in good faith that such supplement or amendment would, in the reasonable judgment of the Company, (i) interfere with or affect the negotiation or completion of a transaction that is being contemplated by the Company (whether or not a final decision has been made to undertake such transaction) or (ii) involve initial or continuing disclosure obligations that are not in the best interests of the Company's shareholders at such time; provided, further, that neither such delay nor such suspension with respect to all matters in clause (i) or (ii) shall extend for a period of more than 30 days in any three-month period or more than 90 days for all such periods in any twelve-month period and shall not affect the Company's obligations to pay Additional Interest as contemplated by Section 6 hereof.

(l) In such circumstances, the period of effectiveness of any Exchange Offer Registration Statement provided for in Section 2 and any Shelf Registration Statement provided for in Section 3(b) shall each be extended by the number of days from and including the date of the giving of a notice of suspension pursuant to Section 4(c) to and including the date when the Purchasers, the Holders of the Securities and any known Exchanging Dealer shall have received such amended or supplemented Prospectus pursuant to this Section.

(m) Not later than the effective date of any Registration Statement, the Company shall provide CUSIP numbers for the Securities or the New Securities, as the case may be, registered under such Registration Statement and provide the Trustee with printed certificates for such Securities or New Securities, in a form eligible for deposit with The Depository Trust Company.

(n) The Company shall comply with all applicable rules and regulations of the Commission and shall make generally available to its security holders no later than 45 days after the end of any 12-month period (or 90 days after the end of any 12-month period if such period is a fiscal year), an earnings statement satisfying the provisions of Section 11(a) of the Act and Rule 158 thereunder (or any similar rule under the Act) for a period of at least 12 months beginning on the first day of the first fiscal quarter after the effective date of the applicable Registration Statement.

(o) The Company shall cause the Indenture, to be qualified under the Trust Indenture Act in a timely manner;

(p) The Company may require each Holder of securities to be sold pursuant to any Shelf Registration Statement to furnish to the Company such information regarding the Holder and the distribution of such securities as the Company may from time to time reasonably require for inclusion in such Registration Statement. The Company may exclude from such Shelf Registration Statement the Securities of any Holder that fails to furnish such information within a reasonable time after receiving such request.

(q) In the case of any Shelf Registration Statement, the Company shall enter into such agreements and take all other appropriate actions (including if requested an underwriting agreement in customary form) in order to expedite or facilitate the registration or the disposition of the Securities, and in connection therewith, if an underwriting agreement is

entered into, cause the same to contain indemnification provisions and procedures no less favorable than those set forth in Section 7 (or such other provisions and procedures acceptable to the Majority Holders and the Managing Underwriters, if any, with respect to all parties to be indemnified pursuant to Section 7).

(r) In the case of any Shelf Registration Statement, the Company shall:

(i) make reasonably available for inspection by the representatives or agents of the Holders of Securities designated by the Majority Holders to be registered thereunder, any underwriter participating in any disposition pursuant to such Registration Statement, and any attorney, accountant or other agent retained by the Holders or any such underwriter all relevant and reasonably requested financial and other records, pertinent corporate documents and properties of the Company and its subsidiaries;

(ii) cause the Company's officers, directors and employees to supply all relevant information reasonably requested by the representatives or agents of the Holders of Securities designated by the Majority Holders or any such underwriter, attorney, accountant or agent in connection with any such Registration Statement as is customary for similar due diligence examinations; provided, however, that any information that is designated in writing by the Company, in good faith, as confidential at the time of delivery of such information shall be kept confidential by such representatives or agents or any such underwriter, attorney, accountant or agent, unless such disclosure is made in connection with a court proceeding or required by law, or such information becomes available to the public generally or through a third party without an accompanying obligation of confidentiality;

(iii) make such representations and warranties to the Holders of Securities registered thereunder and the underwriters, if any, in form, substance and scope as are customarily made by issuers to underwriters in primary underwritten offerings and covering matters including, but not limited to, those set forth in the Purchase Agreement;

(iv) obtain opinions of counsel to the Company and updates thereof (which counsel and opinions (in form, scope and substance) shall be reasonably satisfactory to the Managing Underwriters, if any) addressed to each selling Holder and the underwriters, if any, covering such matters as are customarily covered in opinions requested in underwritten offerings and such other matters as may be reasonably requested by such Holders and underwriters;

(v) obtain "cold comfort" letters and updates thereof from the independent certified public accountants of the Company (and, if necessary, any other independent certified public accountants of any subsidiary of the Company or of any business acquired by the Company for which financial statements and financial data are, or are required to be, included in the Registration Statement), addressed to each selling Holder of Securities registered thereunder and the underwriters, if any, who have provided such accountants with a representation letter if required to do so under Statement on Auditing Standards No. 72 in customary form and covering matters of the type customarily covered in "cold comfort" letters in connection with primary underwritten offerings;



(vi) deliver such documents and certificates as may be reasonably requested by the Majority Holders and the Managing Underwriters, if any, including those to evidence compliance with Section 4(k) and with any customary conditions contained in the underwriting agreement or other agreement entered into by the Company; and

(vii) after the Effective Time of the Shelf Registration Statement, upon the request of any Holder, promptly send a Notice and Questionnaire to such Holder; provided that the Company shall not be required to take any action to name such Holder as a selling securityholder in the Shelf Registration Statement or to enable such holder to use the prospectus forming a part thereof for resales of Securities except in accordance with Section 3(c) hereof.

The actions set forth in clauses (iii), (iv), (v) and (vi) of this Section shall be performed at (A) the effectiveness of such Registration Statement and each post-effective amendment thereto; and (B) each closing under any underwriting or similar agreement as and to the extent required thereunder.

(s) In the case of any Exchange Offer Registration Statement, the Company shall, if requested by the Purchasers:

(i) make reasonably available for inspection by each Purchaser, and any attorney, accountant or other agent retained by such Purchaser, all relevant financial and other records, pertinent corporate documents and properties of the Company and its subsidiaries;

(ii) cause the Company's officers, directors and employees to supply all relevant information reasonably requested by such Purchaser or any such attorney, accountant or agent in connection with any such Registration Statement as is customary for similar due diligence examinations; provided, however, that any information that is designated in writing by the Company, in good faith, as confidential at the time of delivery of such information shall be kept confidential by such Purchaser or any such attorney, accountant or agent, unless such disclosure is made in connection with a court proceeding or required by law, or such information becomes available to the public generally or through a third party without an accompanying obligation of confidentiality;

(iii) make such representations and warranties to such Purchaser, in form, substance and scope as are customarily made by issuers to underwriters in primary underwritten offerings and covering matters including, but not limited to, those set forth in the Purchase Agreement;

(iv) obtain opinions of counsel to the Company and updates thereof (which counsel and opinions (in form, scope and substance) shall be reasonably satisfactory to such Purchaser and its counsel) addressed to such Purchaser, covering such matters as are customarily covered in opinions requested in underwritten offerings and such other matters as may be reasonably requested by such Purchaser or its counsel;

(v) obtain “cold comfort” letters and updates thereof from the independent certified public accountants of the Company (and, if necessary, any other independent certified public accountants of any subsidiary of the Company or of any business acquired by the Company for which financial statements and financial data are, or are required to be, included in the Registration Statement), addressed to such Purchaser, in customary form and covering matters of the type customarily covered in “cold comfort” letters in connection with primary underwritten offerings as permitted by Statement on Auditing Standards No. 72, or if requested by such Purchaser or its counsel in lieu of a “cold comfort” letter, an agreed-upon procedures letter under Statement on Auditing Standards No. 35, covering matters requested by such Purchaser or its counsel; and

(vi) deliver such documents and certificates as may be reasonably requested by such Purchaser or its counsel, including those to evidence compliance with Section 4(k) and with conditions customarily contained in underwriting agreements.

The foregoing actions set forth in clauses (iii), (iv), (v) and (vi) of this Section shall be performed at the close of the Registered Exchange Offer and the effective date of any post-effective amendment to the Exchange Offer Registration Statement.

(t) If a Registered Exchange Offer is to be consummated, upon delivery of the Securities by Holders to the Company (or to such other Person as directed by the Company) in exchange for the New Securities, the Company shall mark, or caused to be marked, on the Securities so exchanged that such Securities are being canceled in exchange for the New Securities. In no event shall the Securities be marked as paid or otherwise satisfied.

(u) The Company will use its reasonable best efforts (i) if the Securities have been rated prior to the initial sale of such Securities, to confirm such ratings will apply to the Securities or the New Securities, as the case may be, covered by a Registration Statement; or (ii) if the Securities were not previously rated, to cause the Securities covered by a Registration Statement to be rated with at least one nationally recognized statistical rating agency, if so requested by Majority Holders with respect to the related Registration Statement or by any Managing Underwriters.

(v) In the event that any Broker-Dealer shall underwrite any Securities or participate as a member of an underwriting syndicate or selling group or “assist in the distribution” (within the meaning of the Rules of Fair Practice and the By-Laws of the Financial Industry Regulatory Authority) thereof, whether as a Holder of such Securities or as an underwriter, a placement or sales agent or a broker or dealer in respect thereof, or otherwise, assist such Broker-Dealer in complying with the requirements of such Rules and By-Laws, including, without limitation, by:

(i) if such Rules or By-Laws shall so require, engaging a “qualified independent underwriter” (as defined in such Rules) to participate in the preparation of

the Registration Statement, to exercise usual standards of due diligence with respect thereto and, if any portion of the offering contemplated by such Registration Statement is an underwritten offering or is made through a placement or sales agent, to recommend the yield of such Securities;

(ii) indemnifying any such qualified independent underwriter to the extent of the indemnification of underwriters provided in Section 7 hereof; and

(iii) providing such information to such Broker-Dealer as may be required in order for such Broker-Dealer to comply with the requirements of such Rules.

(w) Prior to any public offering of the Securities or New Securities, pursuant to any Registration Statement, the Company shall register or qualify or cooperate with the Holders of the Securities included therein and their respective counsel in connection with the registration or qualification of the Securities for offer and sale under the securities or "blue sky" laws of such states of the United States as any Holder of the Securities reasonably requests in writing and do any and all other acts or things necessary or advisable to enable the offer and sale in such jurisdictions of the Securities covered by such Registration Statement; provided, however, that the Company shall not be required to (i) qualify generally to do business in any jurisdiction where it is not then so qualified or (ii) take any action which would subject it to general service of process or to taxation in any jurisdiction where it is not then so subject.

(x) The Company shall use its reasonable best efforts to take all other steps necessary to effect the registration of the Securities or the New Securities, as the case may be, covered by a Registration Statement.

5. Registration Expenses. The Company shall bear all expenses incurred in connection with the performance of its obligations under Sections 2, 3 and 4 hereof and, in the event of any Shelf Registration Statement, will reimburse the Holders for the reasonable fees and disbursements of one firm or counsel designated by the Majority Holders to act as counsel for the Holders in connection therewith, and, in the case of any Exchange Offer Registration Statement, will reimburse the Purchasers for the reasonable fees and disbursements of one firm or counsel acting in connection therewith. Notwithstanding the foregoing, the Holders shall pay all agency fees and commissions and underwriting discounts and commissions and the fees and disbursements of any counsel or other advisors or experts retained by such Holders (severally or jointly), other than the counsel specifically referred to above.

6. Additional Interest Under Certain Circumstances. The Company, the Purchasers and each Holder of Registrable Securities agree by acquisition of such Securities that the Holders of Registrable Securities will suffer damages if a Registration Default (as defined below) occurs and that it would not be feasible to ascertain the extent of such damages with precision. Accordingly, the Company, the Purchasers and each Holder of Registrable Securities agree that the following additional interest provisions shall constitute liquidated damages in the event of a "Registration Default" (as defined below) and shall constitute the sole remedy of the Purchasers and each Holder of Registrable Securities for any Registration Defaults.

(a) In accordance with the terms of the Securities, if as of the Registration Trigger Date, any of the Securities are Registrable Securities, additional interest (“Additional Interest”) with respect to such Registrable Securities shall be assessed as follows if any of the following events occur (each such event in clauses (i) through (iii) below being herein called a “Registration Default”):

(i) on or prior to the Registration Trigger Date, neither the Exchange Offer Registration Statement nor the Shelf Registration Statement has become effective;

(ii) on or prior to the 45<sup>th</sup> day following Effective Time of the Exchange Offer Registration Statement, the Registered Exchange Offer has not been consummated; or

(iii) any Registration Statement required by this Agreement has become effective but (A) such Registration Statement thereafter ceases to be effective or (B) such Registration Statement or the related prospectus ceases to be usable in connection with resales of Registrable Securities during the periods specified herein.

Each of the foregoing shall constitute a Registration Default whatever the reason for any such event and whether it is voluntary or involuntary or is beyond the control of the Company or pursuant to operation of law or as a result of any action or inaction by the Commission; provided, however, that the Company shall in no event be required to pay Additional Interest for more than one Registration Default at any given time.

Additional Interest shall accrue on the Registrable Securities, from and including the date on which any such Registration Default shall occur to but excluding the date on which all such Registration Defaults shall have been cured or they cease to be Registrable Securities (whichever is earlier), at a rate of 0.25% per annum (the “Additional Interest Amount”) for the first 90-day period immediately following the occurrence of such Registration Default. The Additional Interest Amount will increase by 0.25% per annum at the end of such first 90-day period immediately following the date on which the first Registration Default shall occur until all such Registration Defaults have been cured, up to a maximum amount of Additional Interest for all Registration Defaults of 0.50% per annum.

(b) Any amounts of Additional Interest due pursuant to Section 6(a) shall be paid to the Holders entitled thereto on May 15 and November 15 of any given year as more fully set forth in the Indenture and the Notes.

**7. Indemnification and Contribution.** (a) The Company agrees to indemnify and hold harmless each Holder of Securities or New Securities, as the case may be, covered by any Registration Statement (including each Purchaser and, with respect to any Prospectus delivery as contemplated in Section 4(h) hereof, each Exchanging Dealer), the directors, officers, employees and agents of each such Holder, Purchaser or Exchanging Dealer and each Person who controls any such Holder, Purchaser or Exchanging Dealer within the meaning of either the Act or the Exchange Act against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject under the Act, the Exchange Act or other Federal or state statutory law or regulation, at common law or otherwise, insofar as such losses, claims,

damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement as originally filed or in any amendment thereof, or in any preliminary Prospectus or the Prospectus, or in any amendment thereof or supplement thereto, or “issuer free writing prospectus,” as defined in Commission Rule 433 (“Issuer FWP”), or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and agrees to reimburse each such indemnified party, as incurred, for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that the Company will not be liable in any case to the extent that any such loss, claim, damage or liability arises out of or is based upon any such untrue statement or alleged untrue statement or omission or alleged omission made therein in reliance upon and in conformity with written information furnished to the Company by or on behalf of the party claiming indemnification specifically for inclusion therein and provided, further, that the Company shall not be liable for any loss, claim, damage or expense (1) arising from any offer or sale of Securities or New Securities, as the case may be, covered by any Registration Statement, during a 30-day or 90 day period referenced in Section 5(k) hereof, of which the Holder has received written notice, or (2) if the Holder fails to deliver, within the time required by the Securities Act, a Prospectus that is amended or supplemented, or, if permitted by Section 4(e), an Issuer FWP, and such Prospectus, as amended or supplemented, or Issuer FWP, as the case may be, would have corrected the untrue statement or omission or alleged untrue statement or omission of a material fact contained in the Prospectus delivered by the Holder, so long as the Prospectus, as amended or supplemented, or Issuer FWP, as the case may be, has been delivered to such Holder prior to such time. This indemnity agreement will be in addition to any liability which the Company may otherwise have.

The Company also agrees to indemnify or contribute as provided in Section 7(d) to Losses of any underwriter of Securities or New Securities, as the case may be, registered under a Shelf Registration Statement, their directors, officers, employees or agents and each Person who controls such underwriter on substantially the same basis as that of the indemnification of the Purchasers and the selling Holders provided in this Section 7(a) and shall, if requested by any Holder, enter into an underwriting agreement reflecting such agreement, as provided in Section 4(p) hereof.

(b) Each Holder of securities covered by a Registration Statement (including each Purchaser and, with respect to any Prospectus delivery as contemplated in Section 4(h) hereof, each Exchanging Dealer) severally, but not jointly, agrees to indemnify and hold harmless the Company, each of its directors, each of its officers who signs such Registration Statement and each Person who controls the Company within the meaning of either the Act or the Exchange Act, to the same extent as the foregoing indemnity from the Company to each such Holder, but only with reference to written information relating to such Holder furnished to the Company by or on behalf of such Holder specifically for inclusion in the documents referred to in the foregoing indemnity. This indemnity agreement will be in addition to any liability which any such Holder may otherwise have.

(c) Promptly after receipt by an indemnified party under this Section 7 of notice of the commencement of any action, such indemnified party will, if a claim in respect

thereof is to be made against the indemnifying party under this Section, notify the indemnifying party in writing of the commencement thereof; but the omission to so notify the indemnifying party will not relieve it from any liability which it may have to any indemnified party under subsection (a) or (b) above except to the extent it has been materially prejudiced (through the forfeiture of substantive rights and defenses) by such failure and the omission to so notify the indemnifying party will not relieve it from any liability which it may have to an indemnified party otherwise than under subsection (a) or (b) above. The indemnifying party shall be entitled to appoint counsel of the indemnifying party's choice at the indemnifying party's expense to represent the indemnified party in any action for which indemnification is sought (in which case the indemnifying party shall not thereafter be responsible for the fees and expenses of any separate counsel retained by the indemnified party or parties except as set forth below); provided, however, that such counsel shall be reasonably satisfactory to the indemnified party. Notwithstanding the indemnifying party's election to appoint counsel to represent the indemnified party in an action, the indemnified party shall have the right to employ separate counsel (including local counsel), and the indemnifying party shall bear the reasonable fees, costs and expenses of such separate counsel if (i) the use of counsel chosen by the indemnifying party to represent the indemnified party would present such counsel with a conflict of interest; (ii) the actual or potential defendants in, or targets of, any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that there may be legal defenses available to it and/or other indemnified parties which are different from or additional to those available to the indemnifying party; (iii) the indemnifying party shall not have employed counsel satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of the institution of such action; or (iv) the indemnifying party shall authorize the indemnified party to employ separate counsel at the expense of the indemnifying party. An indemnifying party will not, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent includes (i) an unconditional release of each indemnified party from all liability arising out of such claim, action, suit or proceeding and (ii) does not include a statement as to or an admission of fault or failure to act by or on behalf of any indemnified party. No indemnifying party shall be liable under subsections (a), (b) or (c) of this Section for any settlement of any claim or action effected without its consent, which consent will not be unreasonably withheld; provided, however, that such indemnifying party has notified in writing the indemnified party of its refusal to accept such settlement within 30 days of its receipt of a notice from the indemnified party outlining the terms of such settlement.

(d) In the event that the indemnity provided in paragraph (a) or (b) of this Section is unavailable to or insufficient to hold harmless an indemnified party for any reason, then each applicable indemnifying party shall have a joint and several obligation to contribute to the aggregate losses, claims, damages and liabilities (including legal or other expenses reasonably incurred in connection with investigating or defending same) (collectively "Losses") to which such indemnified party may be subject in such proportion as is appropriate to reflect the relative benefits received by such indemnifying party, on the one hand, and such indemnified party, on the other hand, from the Initial Placement and the Registration Statement

which resulted in such Losses; provided, however, that in no case shall any Purchaser of any Security or New Security be responsible, in the aggregate, for any amount in excess of the purchase discount or commission applicable to such Security, or in the case of a New Security, applicable to the Security that was exchangeable into such New Security, as set forth in the Final Offering Circular, nor shall any underwriter be responsible for any amount in excess of the underwriting discount or commission applicable to the securities purchased by such underwriter under the Registration Statement which resulted in such Losses, nor shall any subsequent Holder of any Security or New Security be responsible, in the aggregate, for any amount in excess of the net proceeds received by such Holder from the resale of such securities under the Registration Statement which resulted in such Losses. If the allocation provided by the immediately preceding sentence is unavailable for any reason, the indemnifying party and the indemnified party shall contribute in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of such indemnifying party, on the one hand, and such indemnified party, on the other hand, in connection with the statements or omissions which resulted in such Losses as well as any other relevant equitable considerations. Relative fault shall be determined by reference to, among other things, whether any alleged untrue statement or omission relates to information provided by the indemnifying party, on the one hand, or by the indemnified party, on the other hand, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such untrue statement or omission. The parties agree that it would not be just and equitable if contribution were determined by pro rata allocation (even if the Holders were treated as one entity for such purpose) or any other method of allocation which does not take account of the equitable considerations referred to above. Notwithstanding the provisions of this paragraph (d), no Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. For purposes of this Section, each Person who controls a Holder within the meaning of either the Act or the Exchange Act and each director, officer, employee and agent of such Holder shall have the same rights to contribution as such Holder, and each Person who controls the Company within the meaning of either the Act or the Exchange Act, each officer of the Company who shall have signed the Registration Statement and each director of the Company shall have the same rights to contribution as the Company, subject in each case to the applicable terms and conditions of this paragraph (d).

(e) The provisions of this Section will remain in full force and effect, regardless of any investigation made by or on behalf of any Holder or the Company or any of the officers, directors or controlling Persons referred to in this Section hereof, and will survive the sale by a Holder of securities covered by a Registration Statement.

8. Underwritten Registrations. In connection with any Shelf Registration Statement required under this Agreement, the Company may enter into one or more underwriting agreements, engagement letters, agency agreements, “best efforts” underwriting agreements or similar agreements, as appropriate, including customary provisions relating to indemnification and contribution, and take such other actions in connection therewith as the Majority Holders shall request in order to expedite or facilitate the disposition of such Securities.

(a) If any of the Securities or New Securities, as the case may be, covered by any Shelf Registration Statement are to be sold in an underwritten offering, the Managing Underwriters shall be selected by the Majority Holders provided that such Managing Underwriters shall be reasonably satisfactory to the Company.

(b) No Person may participate in any underwritten offering pursuant to any Shelf Registration Statement, unless such Person (i) agrees to sell such Person's Securities or New Securities, as the case may be, on the basis reasonably provided in any underwriting arrangements approved by the Persons entitled hereunder to approve such arrangements; and (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting arrangements.

9. No Inconsistent Agreements. The Company has not, as of the date hereof, entered into, nor shall it, on or after the date hereof, enter into, any agreement with respect to its securities that is inconsistent with the rights granted to the Holders herein or otherwise conflicts with the provisions hereof.

10. Amendments and Waivers. The provisions of this Agreement, including the provisions of this sentence, may not be amended, qualified, modified or supplemented, and waivers or consents to departures from the provisions hereof may not be given, unless the Company has obtained the written consent of the Majority Holders (or, after the consummation of any Registered Exchange Offer in accordance with Section 2 hereof, of New Securities); provided that, with respect to any matter that directly or indirectly affects the rights of any Purchaser hereunder, the Company shall obtain the written consent of each such Purchaser against which such amendment, qualification, supplement, waiver or consent is to be effective. Notwithstanding the foregoing (except the foregoing proviso), a waiver or consent to departure from the provisions hereof with respect to a matter that relates exclusively to the rights of Holders whose Securities or New Securities, as the case may be, are being sold pursuant to a Registration Statement and that does not directly or indirectly affect the rights of other Holders may be given by the Majority Holders, determined on the basis of Securities or New Securities, as the case may be, being sold rather than registered under such Registration Statement.

11. Notices. All notices and other communications provided for or permitted hereunder shall be made in writing by hand-delivery, first-class mail, telex, telecopier or air courier guaranteeing overnight delivery:

(a) if to a Holder, at the most current address given by such holder to the Company in accordance with the provisions of this Section, which address initially is, with respect to each Holder, the address of such Holder maintained by the Registrar under the Indenture, with copies in like manner to the Representatives.

(b) if to the Representatives (for itself or on behalf of any or all of the Purchasers), initially at the address set forth in the Purchase Agreement; and



(c) if to the Company, initially at the address set forth in the Purchase Agreement with a copy to Company counsel at the following address:

Cleary Gottlieb Steen & Hamilton LLP  
One Liberty Plaza  
New York, NY 10006  
Attn: Craig B. Brod  
Tel: (212) 225-2000  
Facsimile: (212) 225-3999

All such notices and communications shall be deemed to have been duly given when received.

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

12. Successors. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties, including, without the need for an express assignment or any consent by the Company thereto, subsequent Holders of Securities and the New Securities. The Company hereby agrees to extend the benefits of this Agreement to any Holder of Securities and the New Securities, and any such Holder may specifically enforce the provisions of this Agreement as if an original party hereto.

13. Counterparts. This agreement may be in signed counterparts, each of which shall an original and all of which together shall constitute one and the same agreement.

14. Headings. The headings used herein are for convenience only and shall not affect the construction hereof.

15. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed in the State of New York.

16. Severability. In the event that any one of more of the provisions contained herein, or the application thereof in any circumstances, is held invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions hereof shall not be in any way impaired or affected thereby, it being intended that all of the rights and privileges of the parties shall be enforceable to the fullest extent permitted by law.

17. Securities Held by the Company, Etc. Whenever the consent or approval of Holders of a specified percentage of the principal amount of Securities or New Securities is required hereunder, Securities or New Securities, as applicable, held by the Company or its Affiliates (other than subsequent Holders of Securities or New Securities if such subsequent Holders are deemed to be Affiliates solely by reason of their holdings of such Securities or New Securities) shall not be counted in determining whether such consent or approval was given by the Holders of such required percentage.

If the foregoing is in accordance with your understanding of our agreement, please sign and return to us the enclosed duplicate hereof, whereupon this letter and your acceptance shall represent a binding agreement among the Company and the several Purchasers.

Very truly yours,

AMERICAN TOWER CORPORATION

By: /s/ Thomas A. Bartlett

Name: Thomas A. Bartlett

Title: Executive Vice President and Chief Financial Officer

The foregoing Agreement is hereby confirmed and accepted as of the date first above written.

CREDIT SUISSE SECURITIES (USA) LLC  
J.P. MORGAN SECURITIES INC.

as Representatives of the several Purchasers

By: CREDIT SUISSE SECURITIES (USA) LLC

By: /s/ Jonathan Singer  
Name: Jonathan Singer  
Title: Director

J.P. MORGAN SECURITIES INC.

By: /s/ Jessica Kearns  
Name: Jessica Kearns  
Title: Managing Director

For itself and the other several  
Purchasers named in Schedule A to the Purchase Agreement.

Each Broker-Dealer that receives New Securities for its own account pursuant to the Registered Exchange Offer must acknowledge that it will deliver a prospectus in connection with any resale of such New Securities. The Letter of Transmittal states that by so acknowledging and by delivering a prospectus, a Broker-Dealer will not be deemed to admit that it is an “underwriter” within the meaning of the Act. This Prospectus, as it may be amended or supplemented from time to time, may be used by a Broker-Dealer in connection with resales of New Securities received in exchange for Securities where such Securities were acquired by such Broker-Dealer as a result of market-making activities or other trading activities. The Company has agreed that, starting on the Expiration Date (as defined herein) and ending on the close of business 180 days after the Expiration Date, it will make this Prospectus available to any Broker-Dealer for use in connection with any such resale. See “Plan of Distribution”.

Each Broker-Dealer that receives New Securities for its own account in exchange for Securities, where such Securities were acquired by such Broker-Dealer as a result of market-making activities or other trading activities, must acknowledge that it will deliver a prospectus in connection with any resale of such New Securities. See “Plan of Distribution”.

**PLAN OF DISTRIBUTION**

Each Broker-Dealer that receives New Securities for its own account pursuant to the Registered Exchange Offer must acknowledge that it will deliver a prospectus in connection with any resale of such New Securities. This Prospectus, as it may be amended or supplemented from time to time, may be used by a Broker-Dealer in connection with resales of New Securities received in exchange for Securities where such Securities were acquired as a result of market-making activities or other trading activities. The Company has agreed that, starting on the Expiration Date and ending on the close of business 180 days after the Expiration Date, it will make this Prospectus, as amended or supplemented, available to any Broker-Dealer for use in connection with any such resale. In addition, until the date that is 180 days from Issue Date, all dealers effecting transactions in the New Securities may be required to deliver a prospectus.

The Company will not receive any proceeds from any sale of New Securities by brokers-dealers. New Securities received by Broker-Dealers for their own account pursuant to the Registered Exchange Offer may be sold from time to time in one or more transactions in the over-the-counter market, in negotiated transactions, through the writing of options on the New Securities or a combination of such methods of resale, at market prices prevailing at the time of resale, at prices related to such prevailing market prices or negotiated prices. Any such resale may be made directly to purchasers or to or through brokers or dealers who may receive compensation in the form of commissions or concessions from any such Broker-Dealer and/or the purchasers of any such New Securities. Any Broker-Dealer that resells New Securities that were received by it for its own account pursuant to the Registered Exchange Offer and any broker or dealer that participates in a distribution of such New Securities may be deemed to be an “underwriter” within the meaning of the Act and any profit of any such resale of New Securities and any commissions or concessions received by any such Persons may be deemed to be underwriting compensation under the Act. The Letter of Transmittal states that by acknowledging that it will deliver and by delivering a prospectus, a Broker-Dealer will not be deemed to admit that it is an “underwriter” within the meaning of the Act.

For a period of 180 days after the Expiration Date, the Company will promptly send additional copies of this Prospectus and any amendment or supplement to this Prospectus to any Broker-Dealer that requests such documents in the Letter of Transmittal. The Company has agreed to pay all expenses incident to the Registered Exchange Offer (including the expenses of one counsel for the holder of the Securities) other than commissions or concessions of any brokers or dealers and will indemnify the holders of the Securities (including any Broker-Dealers) against certain liabilities, including liabilities under the Act.

Rider A

CHECK HERE IF YOU ARE A BROKER-DEALER AND WISH TO RECEIVE 10 ADDITIONAL COPIES OF THE PROSPECTUS AND 10 COPIES OF ANY AMENDMENTS OR SUPPLEMENTS THERETO.

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

Rider B

If the undersigned is not a Broker-Dealer, the undersigned represents that it acquired the New Securities in the ordinary course of its business, it is not engaged in, and does not intend to engage in, a distribution of New Securities and it has not made arrangements or understandings with any Person to participate in a distribution of the New Securities. If the undersigned is a Broker-Dealer that will receive New Securities for its own account in exchange for Securities, it represents that the Securities to be exchanged for New Securities were acquired by it as a result of market-making activities or other trading activities and acknowledges that it will deliver a prospectus in connection with any resale of such New Securities; however, by so acknowledging and by delivering a prospectus, the undersigned will not be deemed to admit that it is an “underwriter” within the meaning of the Act.

**AMERICAN TOWER CORPORATION**  
**INSTRUCTION TO DTC PARTICIPANTS**

(Date of Mailing)  
URGENT — IMMEDIATE ATTENTION REQUESTED  
DEADLINE FOR RESPONSE: [DATE]

The Depository Trust Company (“DTC”) has identified you as a DTC Participant through which beneficial interests in the American Tower Corporation (the “Company”) 7.25% Senior Notes due 2019 issued on June 10, 2009 (the “Securities”) are held.

The Company is in the process of registering the Securities under the Securities Act of 1933 for resale by the beneficial owners thereof. In order to have their Securities included in the registration statement, beneficial owners must complete and return the enclosed Notice of Registration Statement and Selling Securityholder Questionnaire.

It is important that beneficial owners of the Securities receive a copy of the enclosed materials as soon as possible as their rights to have the Securities included in the registration statement depend upon their returning the Notice and Questionnaire by [DEADLINE FOR RESPONSE]. Please forward a copy of the enclosed documents to each beneficial owner that holds interest in the Securities through you. If you require more copies of the enclosed materials or have any questions pertaining to this matter, please contact American Tower Corporation, 116 Huntington Avenue, 11<sup>th</sup> Floor, Boston, MA 02116, Attention: General Counsel.



**AMERICAN TOWER CORPORATION**

(Notice of Registration Statement and Selling  
Securityholder Questionnaire

(Date)

Pursuant to the American Tower Corporation Registration Rights Agreement, the Company has filed with the United States Securities and Exchange Commission (the "Commission") a registration statement on Form (the "Shelf Registration Statement") for the registration and resale under Rule 415 of the Securities Act of 1933, as amended (the "Securities Act"), of the Company's 7.25% Senior Notes due 2019 issued on June 10, 2009 (the "Securities"). A copy of the Registration Rights Agreement is attached hereto. All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Registration Rights Agreement.

Each beneficial owner of Registrable Securities (as defined below) is entitled to have the Registrable Securities beneficially owned by it included in the Shelf Registration Statement. In order to have Registrable Securities included in the Shelf Registration Statement, this Notice of Registration Statement and Selling Securityholder Questionnaire ("Notice and Questionnaire") must be completed, executed and delivered to the Company's counsel of the address set forth herein for receipt ON OR BEFORE [DEADLINE FOR RESPONSE]. Beneficial owners of Registrable Securities who do not complete, execute and return this Notice and Questionnaire by such date (i) will not be named as selling securityholders in the Shelf and Registration Statement and (ii) may not use the Prospectus forming a part thereof for resales of Transfer Securities.

Certain legal consequences arise from being named as a selling securityholder in the Shelf Registration Statement and related Prospectus. Accordingly, holders and beneficial owners of Registrable Securities are advised to consult their own securities law counsel regarding the consequence of being named or not being named as a selling securityholder in the Shelf Registration Statement and related Prospectus.

The term "REGISTRABLE SECURITIES" is defined in the Registration Rights Agreement.

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## ELECTION

The undersigned holder (the “Selling Securityholder”) of Registrable Securities hereby elects to include in the Shelf Registration Statement the Registrable Securities beneficially owned by it and listed below in Item (3). The undersigned, by signing and returning this Notice and Questionnaire, agrees to be bound with respect to such Registrable Securities by the terms and conditions of this Notice and Questionnaire and the Registration Rights Agreement, as if the undersigned Selling Securityholder were an original party thereto.

Upon any sale of Registrable Securities pursuant to the Shelf Registration Statement, the Selling Securityholder will be required to deliver to the Company and Trustee the Notice of Transfer set forth as Annex F to the Registration Rights Agreement. The Selling Securityholder hereby provides the following information to the Company and represents and warrants that such information is accurate and complete:

QUESTIONNAIRE

- (1) (a) Full Legal Name of Selling Securityholder:  
(b) Full Legal Name of Holder (if not the same as in (a) above) of Registrable Securities Listed in Item (3) below:  
(c) Full Legal Name of DTC Participant (if applicable and if not the same as (b) above) Through Which Registrable Securities Listed in Item (3) below are Held:
- (2) Address for Notices to Selling Securityholder:  
Telephone:  
Fax:  
Contact Person:
- (3) Beneficial Ownership of Securities:  
Except as set forth below in this Item (3), the undersigned does not beneficially own any Securities.  
(a) Principal Amount of Registrable Securities beneficially owned: CUSIP No(s). of such Registrable Securities\_\_\_\_\_  
(b) Principal Amount of Securities other than Registrable Securities beneficially owned: CUSIP No(s). of such other Securities\_\_\_\_\_  
(c) Principal Amount of Registrable Securities which the undersigned wishes to be included in the Shelf Registration Statement: CUSIP No(s). of such Registrable Securities to be included in the Shelf Registration Statement\_\_\_\_\_
- (4) Beneficial Ownership of other Securities of the Company:  
Except as set forth below in this Item (4), the undersigned Selling Securityholder is not the beneficial or registered owner of any other securities of the Company, other than the Securities listed above in Item (3).  
State any exceptions here:
- (5) Relationships with the Company:  
Except as set forth below, neither the Selling Securityholder nor any of its affiliates, officers, directors or principal equity holders (5% or more) has held any position or office or has had any other material relationship with the Company (or its predecessors or affiliates) during the past three years.

(6) Nature of the Selling Securityholder:

- (a) Is the selling Securityholder a reporting company under the Securities Exchange Act, a majority owned subsidiary of a reporting company under the Securities Exchange Act or a registered investment company under the Investment Company Act? If so, please state which one.

If the entity is a majority owned subsidiary of a reporting company, identify the majority stockholder that is a reporting company.

If the entity is not any of the above, identify the natural person or persons having voting and investment control over the Company's securities that the entity owns.

- (b) Is the Selling Securityholder a registered broker-dealer? Yes \_\_\_\_\_ No \_\_\_\_\_

State whether the Selling Securityholder received the Registrable Securities as compensation for underwriting activities and, if so, provide a brief description of the transaction(s) involved.

State whether the Selling Securityholder is an affiliate of a broker-dealer and if so, list the name(s) of the broker-dealer affiliate(s).

Yes \_\_\_\_\_ No \_\_\_\_\_

**If the answer is "Yes," you must answer the following:**

If the Selling Securityholder is an affiliate of a registered broker-dealer, the Selling Securityholder purchased, the Registrable Securities (i) in the ordinary course of business and (ii) at the time of the purchase of the Registrable Securities, had no agreements or understandings, directly or indirectly, with any person to distribute the Registrable Securities.

Yes \_\_\_\_\_ No \_\_\_\_\_

*If the answer is "No", state any exceptions here:*

**If the answer is "No," this may affect your ability to be included in the registration statement.**

(7) Plan of Distribution:

State any exceptions here:

Except as set forth below, the undersigned Selling Securityholder intends to distribute the Registrable Securities listed above in Item (3) only as follows (if at all): Such Registrable Securities may be sold from time to time directly by the undersigned Selling Securityholder or, alternatively, through underwriters, broker-dealers or agents. Such Registrable Securities may be sold in one or more transactions at fixed prices, at prevailing market prices at the time of sale, at varying prices determined at the time of sale, or at negotiated prices. Such sales may be effected in transactions (which may involve crosses or block transactions) (i) on any national securities exchange or quotation service on which the Registered Securities may be listed or quoted at the time of sale, (ii) in the over-the-counter market, (iii) in transactions otherwise than on such exchanges or services or in the over-the-counter market, or (iv) through the writing of options. In connection with sales of the Registrable Securities or otherwise, the Selling Securityholder may enter into hedging transactions with broker-dealers, which may in turn engage in short sales of the Registrable Securities in the course of hedging the positions they assume. The Selling Securityholder may also sell Registrable Securities short and deliver Registrable Securities to close out such short positions, or loan or pledge Registrable Securities to broker-dealers that in turn may sell such securities

State any exceptions here:

By signing below, the Selling Securityholder acknowledges that it understands its obligation to comply, and agrees that it will comply, with the provisions of the Exchange Act and the rules and regulations thereunder, particularly Regulation M.

In the event that the Selling Securityholder transfers all or any portion of the Registrable Securities listed in Item (3) above after the date on which such information is provided to the Company, the Selling Securityholder agrees to notify the transferee(s) at the time of the transfer of its rights and obligations under this Notice and Questionnaire and the Exchange and Registration Rights Agreement.

By signing below, the Selling Securityholder consents to the disclosure of the information contained herein in its answers to Items (1) through (6) above and the inclusion of such information in the Shelf Registration Statement and related Prospectus. The Selling Securityholder understands that such information will be relied upon by the Company in connection with the preparation of the Shelf Registration Statement and related Prospectus. In accordance with the Selling Securityholder's obligation under Section 3(e) of the Exchange and Registration Rights Agreement to provide such information as may be required by law for

inclusion in the Shelf Registration Statement, the Selling Securityholder agrees to promptly notify the Company of any inaccuracies or changes in the information provided herein which may occur subsequent to the date hereof at any time while the Shelf Registration Statement remains in effect. All notices hereunder and pursuant to the Registration Rights Agreement shall be made in writing, by hand-delivery, or air courier guaranteeing overnight delivery as follows:

(i) To the Company:

American Tower Corporation  
116 Huntington Avenue  
Boston, Massachusetts 02116  
Attention: Vice President of Finance, Investor Relations

(ii) With a copy to:

Cleary Gottlieb Steen & Hamilton LLP  
One Liberty Plaza  
New York, NY 10006  
Attn: Craig B. Brod

Once this Notice and Questionnaire is executed by the Selling Securityholder and received by the Company's counsel, the terms of this Notice and Questionnaire, and the representations and warranties contained herein, shall be binding on, shall inure to the benefit of and shall be enforceable by the respective successors, heirs, personal representatives, and assigns of the Company and the Selling Securityholder (with respect to the Registrable Securities beneficially owned by such Selling Securityholder and listed in Item (3) above. This Agreement shall be governed in all respects by the laws of the State of New York.

IN WITNESS WHEREOF, the undersigned, by authority duly given, has caused this Notice and Questionnaire to be executed and delivered either in person or by its duly authorized agent.

Dated:

Selling Securityholder  
(Print/type full legal name of beneficial owner of Registrable Securities)

By:  
Name:  
Title:

PLEASE RETURN THE COMPLETED AND EXECUTED NOTICE AND QUESTIONNAIRE FOR RECEIPT ON OR BEFORE [DEADLINE FOR RESPONSE] TO THE COMPANY'S COUNSEL AT:

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## Notice of Transfer Pursuant to Registration Statement

America Tower Corporation  
The Bank of New York Mellon Trust Company, N.A.  
Trustee Services  
222 Berkeley Street, 2<sup>nd</sup> Floor  
Boston, MA 02116

Attention: Trust Officer

Re: 7.25% Senior Notes due 2019 issued on June 10, 2009

Dear Sirs:

Please be advised that \_\_\_\_\_ has transferred \$ \_\_\_\_\_ aggregate principal amount of the above-referenced Notes pursuant to an effective Registration Statement on Form [ ] (File No. 333- ) filed by the Company.

We hereby certify that the prospectus delivery requirements, if any, of the Securities Act of 1933, as amended, have been satisfied and that the above-named beneficial owner of the Notes is named as a "Selling Holder" in the Prospectus dated [DATE] or in supplements thereto, and that the aggregate principal amount of the Notes transferred are the Notes listed in such Prospectus opposite such owner's name.

Dated:

Very truly yours,

\_\_\_\_\_  
(Name)

By: (Authorized Signature)







