

Form S-3

REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

ROSS STORES, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of  
incorporation or organization)

94-1390387

(I.R.S. Employer Identification No.)

5130 Hacienda Drive  
Dublin, California 94568  
(925) 965-4400

(Address, including zip code, and telephone number,  
including area code, of registrant's principal executive offices)

Michael J. Hartshorn  
Chief Financial Officer  
5130 Hacienda Drive  
Dublin, California 94568  
(925) 965-4400

(Name, address, including zip code, and telephone number,  
including area code, of agent for service)

Copies to:

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and

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New York, New York 10020  
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**Approximate date of commencement of proposed sale to the public:** From time to time after the effective date of this registration statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

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.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

(Do not check if a  
smaller reporting company)

## CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered(1)	Amount to be Registered	Proposed Maximum Offering Price per Unit	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common Stock, \$0.01 par value	(2)	(2)	(2)	(2)
Preferred Stock, \$0.01 par value	(2)	(2)	(2)	(2)
Debt Securities	(2)	(2)	(2)	(2)
Stock Purchase Contracts(3)	(2)	(2)	(2)	(2)
Stock Purchase Units(3)	(2)	(2)	(2)	(2)
Warrants(4)	(2)	(2)	(2)	(2)
<b>Total:</b>				<b>\$ (2)</b>

- (1) Additional securities (including securities to be issued by additional registrants) may be added by automatically effective post-effective amendments pursuant to Rule 413.
- (2) In reliance on Rules 456(b) and 457(r), an indeterminate aggregate initial offering price and an unspecified amount of securities of each identified class of securities is being registered, as may from time to time be sold at indeterminate prices. Separate consideration may or may not be received for securities that are issuable on exercise, conversion or exchange of other securities or that are issued in units. In accordance with Rules 456(b) and 457(r), the registrant is electing to defer payment of all of the registration fees, and will pay the registration fees subsequently in advance or on a pay-as-you-go basis.
- (3) Any registered securities may be sold separately or as Units with other registered securities. Units may consist of two or more securities in any combination, which may or may not be separable from one another. Each Unit will be issued under a unit agreement. Due to the fact that Units will consist of securities registered hereunder, no additional registration fee is required for the Units.
- (4) Stock Purchase Warrants will represent rights to purchase equity securities registered hereby. Due to the fact that the warrants will provide a right only to purchase the equity securities offered hereunder, no additional registration fee is required for the warrants.



## ROSS STORES, INC.

Common Stock  
Preferred Stock  
Debt Securities  
Stock Purchase Contracts  
Stock Purchase Units  
Warrants

We may from time to time, in one or more offerings, offer, issue and sell (i) shares of our common stock, \$0.01 par value per share ("*Common Stock*"), (ii) one or more series of our preferred stock, \$0.01 par value per share ("*Preferred Stock*," and together with the Common Stock, the "*Capital Stock*"), (iii) debt securities ("*Debt Securities*"), (iv) stock purchase contracts and stock purchase units (collectively, the "*Purchase Agreements*"), and (v) warrants ("*Warrants*") (collectively, the "*Securities*"). One or more of the Securities, including but not limited to the Preferred Stock, Debt Securities and Warrants, may be convertible into or exercisable or exchangeable for shares of Common Stock, Preferred Stock or our other Securities.

This prospectus describes some of the general terms that may apply to the Securities. When we decide to offer the Securities, we will prepare a prospectus supplement describing the offering and the particular terms of the Securities that we are selling, which terms will include, among other things, (i) in the case of Common Stock, any public offering price, (ii) in the case of Preferred Stock, the specific title and stated value, any distribution, liquidation, redemption, conversion, voting and other rights, and any initial public offering price, (iii) in the case of Debt Securities, the particular terms of the Debt Securities, which will include, among other things, the specific title of the Debt Securities, the aggregate amount of the offering and the offering price, and the denominations in which the Debt Securities may be offered, (iv) in the case of Purchase Agreements, the particular combination of Securities that will be subject to any Purchase Agreement, and (v) in the case of Warrants, the exercise price and other specific terms of the Warrants, including a description of the underlying Security. The prospectus supplements may also add, update or change information contained in this prospectus. You should read carefully this prospectus and the applicable prospectus supplement before you make your investment decision.

Our Common Stock is listed on the NASDAQ Global Select Market ("*NASDAQ*"), under the symbol "ROST." On September 11, 2014, the last reported sale price of the Common Stock on NASDAQ was \$75.48 per share.

The Securities may be offered directly by us, through agents designated from time to time by us, or to or through underwriters or dealers. If any agents or underwriters are involved in the sale of any of the Securities, their names, and any applicable purchase price, fee, commission or discount arrangement with, between or among them, will be set forth, or will be calculable from the information set forth, in an accompanying prospectus supplement. See "Plan of Distribution" beginning on page 19. No Securities may be sold without delivery of a prospectus supplement describing the method and terms of the offering of such Securities.

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**Investing in our Securities involves risks. See "Risk Factors" beginning on page 3 of this prospectus, in the documents incorporated by reference and in any applicable prospectus supplement or free writing prospectus.**

**This prospectus may not be used to offer or sell any Securities unless it is accompanied by a prospectus supplement.**

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**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.**

**The date of this prospectus is September 15, 2014**

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We have not authorized any person to give any information or to make any representations in connection with this offering other than those contained or incorporated by reference in this prospectus and any applicable prospectus supplement or free writing prospectus, and, if given or made, such information or representations must not be relied upon as having been so authorized. This prospectus does not constitute an offer to sell or a solicitation of an offer to buy by anyone in any jurisdiction in which such offer or solicitation is not authorized, or in which the person is not qualified to do so or to any person to whom it is unlawful to make such offer or solicitation. Neither the delivery of this prospectus nor any sale hereunder shall, under any circumstances, create any implication that there has been no change in our affairs since the date hereof, that the information contained herein is correct as of any time subsequent to its date, or that any information incorporated by reference herein is correct as of any time subsequent to its date.

#### ABOUT THIS PROSPECTUS

This prospectus is part of an automatic shelf registration statement that we filed with the Securities and Exchange Commission (the “SEC”) as a “well-known seasoned issuer” as defined in Rule 405 under the Securities Act of 1933, as amended (the “Securities Act”). By using a shelf registration statement, we may, at any time and from time to time, sell the Securities described in this prospectus or in any applicable prospectus supplement in one or more offerings. The exhibits to the registration statement contain the full text of certain contracts and other important documents we have summarized in this prospectus. Since these summaries may not contain all the information that you might find important in deciding whether to purchase the Securities we offer, you should review the full text of these documents. The registration statement and the exhibits can be obtained from the SEC as indicated under the heading “Where You Can Find More Information; Incorporation by Reference” beginning on page 2.

This prospectus only provides you with a general description of the Securities that we may offer. Each time we sell Securities, we will provide a prospectus supplement that will contain specific information about the terms of those Securities and the offering. The prospectus supplement may also add, update or change information contained in this prospectus. You should read both this prospectus, the applicable prospectus supplement and any related free writing prospectus together with the documents incorporated by reference in this prospectus and the additional information described under the heading “Where You Can Find More Information; Incorporation by Reference” beginning on page 2.

Unless the context otherwise requires or as otherwise specified, references in this prospectus to “Ross Stores,” the “Company,” “we,” “us,” or “our” refers to Ross Stores, Inc. and its consolidated subsidiaries and predecessors, unless otherwise specified.

#### FORWARD LOOKING STATEMENTS

This prospectus and the documents incorporated by reference as described under “Where You Can Find More Information; Incorporation by Reference” contain certain information that is based on current expectations, estimates, forecasts and projections about us, our future performance, our business, our beliefs and our management’s assumptions, and are to be considered “forward-looking statements” within the meaning of Section 27A of the Securities Act. These forward-looking statements relate to such things as general economic outlook, our overall corporate strategy, our estimated or future results of operations, our existing or future leverage and debt service obligations, our future prospects of growth, our future capital expenditure levels, our future financing transactions, and our plans to fund our future liquidity needs, and are generally identified by the words “believe,” “project,” “expect,” “anticipate,” “estimate,” “intend,” “strategy,” “plan,” “may,” “should,” “will,” “would,” “will be,” “will continue,” “will likely result,” and similar expressions. Actual results could differ materially from those contemplated by these forward-looking statements as a result of many factors.

The cautionary statements under the caption “Risk Factors” contained in our Annual Report on Form 10-K for the fiscal year ended February 1, 2014 filed with the SEC on April 1, 2014, and subsequent reports filed by us with the SEC, all of which are incorporated herein by reference, and other similar statements contained in this prospectus, any prospectus supplement or any related free writing prospectus, and the documents incorporated by reference herein and therein, identify important factors with respect to forward-looking statements, including certain risks and uncertainties, that could cause actual results to differ materially from those in such forward-looking statements. Additional risks and uncertainties not presently known to us or that we currently believe to be immaterial also may adversely affect us. Should any known or unknown risks and uncertainties develop into actual events, those developments could have a material adverse effect on our business, financial condition and results of operations.

In light of these risks and uncertainties, there can be no assurance that the results and events contemplated by the forward-looking information contained in this prospectus and the documents incorporated by reference herein will in fact transpire. Potential investors are cautioned not to place undue reliance on these forward-looking statements. We do not undertake any obligation to update or revise any forward-looking statements, except as required by law. All subsequent written or oral forward-looking statements attributable to us or persons acting on our behalf are expressly qualified in their entirety by these cautionary statements.

#### WHERE YOU CAN FIND MORE INFORMATION; INCORPORATION BY REFERENCE

We are subject to the information reporting requirements of the Securities Exchange Act of 1934, as amended (the “*Exchange Act*”), and in accordance with these requirements, we file annual, quarterly and current reports, proxy statements and other information with the SEC. Such reports, proxy statements and other information may be inspected and copied at the SEC’s Public Reference Room, 100 F Street, N.E., Washington, D.C. 20549. Information on the operation of the Public Reference Room may be obtained by calling 1-800-SEC-0330. Our filings with the SEC are available to the public at the SEC’s website at <http://www.sec.gov>. You may also inspect information that we file with NASDAQ at the offices of NASDAQ at One Liberty Plaza, 165 Broadway, 50th Floor, New York, New York 10006. We have filed this prospectus with the SEC as part of a registration statement on Form S-3. This prospectus does not contain all of the information set forth in the registration statement.

We “incorporate by reference” certain information from filings with the SEC, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is an important part of this prospectus, and any information contained in this prospectus or in any document incorporated by reference in this prospectus will be deemed to have been modified or superseded to the extent that a statement contained in this prospectus or, if applicable, the accompanying prospectus supplement or any related free writing prospectus, or in any other document we subsequently file with the SEC that also is incorporated by reference in this prospectus, modifies or supersedes the original statement. Any statement so modified or superseded will not be deemed to be a part of this prospectus except as so modified or superseded.

We incorporate by reference the documents listed below and any future filings made by us with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act between the date of this prospectus and the termination of the offering of Securities described in this prospectus; *provided, however*, that we are not incorporating by reference any documents, portions of documents, exhibits or other information that are deemed to have been “furnished” to and not “filed” with the SEC:

Ross Stores SEC Filings (File No. 001-14678)	Period and/or Date Filed
Annual Report of Ross Stores on Form 10-K	Fiscal Year ended February 1, 2014, filed with the SEC on April 1, 2014
Quarterly Reports of Ross Stores on Form 10-Q	Quarterly periods ended May 3, 2014 and August 2, 2014, filed with the SEC on June 6, 2014 and September 10, 2014, respectively
Current Reports on Form 8-K	May 7, 2014 and May 23, 2014
Definitive Proxy Statement on Schedule 14A (only as to the sections incorporated by reference into Items 10, 11, 12, 13 and 14 of Part III of our Annual Report on Form 10-K)	Filed on April 8, 2014
The description of our Common Stock contained in the Registration Statement on Form 8-B (No. 0-14678, effective September 1, 1989), including any amendment or report filed for the purpose of updating such description. This Form 8-B registration statement was filed by the registrant as successor to Ross Stores, Inc., a California corporation.	Filed on September 6, 1989

You may request a copy of any documents incorporated by reference in this prospectus and any accompanying prospectus supplement, at no cost, by writing or telephoning us at the following address and telephone number:

Ross Stores, Inc.  
Attention: Investor Relations  
5130 Hacienda Drive  
Dublin, California 94568  
Tel: (925) 965-4400

Exhibits to the filings will not be sent, however, unless those exhibits have specifically been incorporated by reference into the filing.

## THE COMPANY

Ross Stores, Inc. and its subsidiaries operate two brands of off-price retail apparel and home fashion stores—Ross Dress for Less® (“*Ross*”) and dd’s DISCOUNTS®.

Ross is the largest off-price apparel and home fashion chain in the United States, with 1,194 locations in 33 states, the District of Columbia and Guam, as of August 2, 2014. Ross offers first-quality, in-season, name brand and designer apparel, accessories, footwear, and home fashions for the entire family at everyday savings of 20% to 60% off department and specialty store regular prices. Ross target customers are primarily from middle income households.

We also operate 144 dd’s DISCOUNTS stores in 13 states as of August 2, 2014. dd’s DISCOUNTS features more moderately-priced first-quality, in-season, name brand apparel, accessories, footwear, and home fashions for the entire family at everyday savings of 20% to 70% off moderate department and discount store regular prices. The typical dd’s DISCOUNTS store is located in an established shopping center in a densely populated urban or suburban neighborhood and its target customers typically come from households with more moderate incomes than Ross customers.

The merchant, store, and distribution organizations for Ross and dd’s DISCOUNTS are separate and distinct. The two chains share certain other corporate and support services.

Both our Ross and dd’s DISCOUNTS brands target value-conscious women and men between the ages of 18 and 54. The decisions we make, from merchandising, purchasing, and pricing, to the locations of our stores, are based on these customer profiles. We believe that both brands derive a competitive advantage by offering a wide assortment of product within each of our merchandise categories in organized and easy-to-shop store environments.

Our mission is to offer competitive values to our target customers by focusing on the following key strategic objectives:

- Maintain an appropriate level of recognizable brands, labels, and fashions at strong discounts throughout the store.
- Meet customer needs on a local basis.
- Deliver an in-store shopping experience that reflects the expectations of the off-price customer.
- Manage real estate growth to compete effectively across all our markets.

## RISK FACTORS

Investing in our Securities involves risks. In evaluating an investment in our Securities, you should carefully consider the risk factors incorporated by reference to our most recent Annual Report on Form 10-K, any subsequent Quarterly Reports on Form 10-Q or Current Reports on Form 8-K, and all other information contained or incorporated by reference into this prospectus, as updated by our subsequent filings under the Exchange Act, and the risk factors and other information contained in the applicable prospectus supplement before acquiring any of such Securities. The occurrence of any of these risks might cause you to lose all or part of your investment in the offered Securities. Please also refer to the section above entitled “Forward Looking Statements.”

## USE OF PROCEEDS

Unless otherwise indicated in the applicable prospectus supplement, we intend to use the proceeds from the sale of the Securities for working capital and other general business purposes. Pending the application of the net proceeds, we may invest the proceeds in short-term, interest-bearing instruments or other investment-grade Securities.

### RATIO OF EARNINGS TO FIXED CHARGES

The following table sets forth information regarding our ratio of earnings to fixed charges for the fiscal years shown and for the six months ended August 2, 2014. For purposes of computing the ratios below, earnings consist of earnings before taxes, interest, amortization of capitalized interest, and one-third of rent expense related to operating leases, which is estimated by management to be representative of interest. Fixed charges consist of interest costs, including capitalized interest costs, plus the portion of rent expense representative of interest.

Six months ended	Fiscal year ended				
	February 1,	February 2,	January 28,	January 29,	January 30,
August 2, 2014	2014	2013	2012	2011	2010
10.54x	9.54x	9.59x	8.62x	7.85x	6.84x



## DESCRIPTION OF CAPITAL STOCK

### General

The following is a summary of the rights of our capital stock, certain provisions of our certificate of incorporation, as amended (our “*Certificate of Incorporation*”), and our amended and restated Bylaws (our “*Bylaws*”), and certain provisions of applicable law. For more detailed information, please see our Certificate of Incorporation and our Bylaws, which are incorporated by reference as exhibits to the registration statement of which this prospectus is a part.

Our authorized capital stock consists of 600 million shares of common stock, par value \$0.01 per share, and four million shares of preferred stock, par value \$0.01 per share, all of which shares of preferred stock are undesignated. Our board of directors may establish the rights and preferences of the preferred stock from time to time. As of August 21, 2014, there were 209,831,704 shares of our common stock issued and outstanding and no shares of our preferred stock issued and outstanding.

### Common Stock

Each holder of our common stock is entitled to one vote for each share on all matters to be voted upon by the common stockholders, and there are no cumulative voting rights. Subject to any preferential rights of any outstanding preferred stock, holders of our common stock are entitled to receive ratably the dividends, if any, as may be declared from time to time by our board of directors out of funds legally available for that purpose. If there is a liquidation, dissolution or winding up of our company, holders of our common stock would be entitled to ratable distribution of our assets remaining after the payment in full of liabilities and any preferential rights of any outstanding preferred stock.

Holders of our common stock have no preemptive or conversion rights or other subscription rights, and there are no redemption or sinking fund provisions applicable to the common stock. The rights, preferences and privileges of the holders of our common stock are subject to, and may be adversely affected by, the rights of the holders of shares of any series of preferred stock that we may designate and issue in the future. All of our outstanding shares of common stock are fully paid and non-assessable.

### Preferred Stock

Under the terms of our Certificate of Incorporation, our board of directors is authorized, subject to limitations prescribed by the Delaware General Corporation Law (the “DGCL”), and by our Certificate of Incorporation, to issue up to four million shares of preferred stock in one or more series without further action by the holders of our common stock. Our board of directors has discretion, subject to limitations prescribed by the DGCL and by our Certificate of Incorporation, to determine the rights, preferences, privileges and restrictions, including voting rights, dividend rights, conversion rights, redemption privileges and liquidation preferences, of each series of preferred stock.

All shares of preferred stock offered hereby will, when issued, be fully paid and non-assessable and, unless otherwise stated in a prospectus supplement relating to the series of preferred stock being offered, will not have any preemptive or similar rights. We will set forth in a prospectus supplement relating to the class or series of preferred stock being offered the specific terms of each series of our preferred stock, including the price at which the preferred stock may be purchased, the number of shares of preferred stock offered, and the terms, if any, on which the preferred stock may be convertible into common stock or exchangeable for other securities.

### Anti-Takeover Effects of Various Provisions of Delaware Law and our Certificate of Incorporation and Bylaws

Provisions of the DGCL and our Certificate of Incorporation and Bylaws could make it more difficult to acquire us by means of a tender offer, a proxy contest or otherwise, or to remove incumbent officers and directors. These provisions, summarized below, are expected to discourage certain types of coercive takeover practices and takeover bids that our board of directors may consider inadequate and to encourage persons seeking to acquire control of us to first negotiate with our board of directors. We believe that the benefits of increased protection of our ability to negotiate with the proponent of an unfriendly or unsolicited proposal to acquire or restructure us outweigh the disadvantages of discouraging takeover or acquisition proposals because, among other things, negotiation of these proposals could result in an improvement of their terms.

*Delaware Anti-Takeover Statute.* We are subject to Section 203 of the DGCL, an anti-takeover statute. In general, Section 203 of the DGCL prohibits a publicly-held Delaware corporation from engaging in a “business combination” with an “interested stockholder” for a period of three years following the time the person became an interested stockholder, unless the business combination or the acquisition of shares that resulted in a stockholder becoming an interested stockholder is approved

in a prescribed manner. Generally, a “business combination” includes a merger, asset or stock sale, or other transaction resulting in a financial benefit to the interested stockholder. Generally, an “interested stockholder” is a person who, together with affiliates and associates, owns (or within three years prior to the determination of interested stockholder status did own) 15% or more of a corporation’s voting stock. The existence of this provision would be expected to have an anti-takeover effect with respect to transactions not approved in advance by our board of directors, including discouraging attempts that might result in a premium over the market price for the shares of common stock held by our stockholders.

*Vote Required for Certain Business Combinations and Transactions.* In addition to any affirmative vote required by law, unless approved by a majority of the “disinterested directors” (as defined in our Certificate of Incorporation), specified types of business combination transactions (which may include our merger or consolidation or that of any material subsidiary, a sale, license or lease of significant assets or ours, the issuance or transfer by us or any of our subsidiaries (whether in one transaction or a series of transactions) of any securities in exchange for cash, securities or other property (or a combination thereof) having an aggregate fair market value of \$5,000,000 or more, the adoption of any plan or proposal for our liquidation or dissolution or that of any of our material subsidiaries, or a reclassification of any of our securities (including any reverse stock split), or any recapitalization) which involves an Interested Stockholder (as defined in our Certificate of Incorporation – in general, a beneficial owner of 5% or more of our outstanding voting stock) may not be consummated unless and until such transaction shall have been approved by (i) the affirmative vote of the holders of at least 66.67% of the combined voting power of our outstanding shares of stock of all classes and series entitled to vote generally in the election of directors (“Capital Stock”) and (ii) the affirmative vote of the holders of at least that percent of the Capital Stock equal to the sum of the percent of the Capital Stock held by an Interested Stockholder plus one share more than one half of the Capital Stock other than shares held by such Interested Stockholder.

*Amendment.* Our Certificate of Incorporation and Bylaws provide that the affirmative vote of the holders of at least sixty-six and two-thirds percent of our voting stock then outstanding is required to amend certain provisions relating to the number, term election and removal of our directors, the filling of our board vacancies, stockholder notice procedures and the calling of special meetings of stockholders.

*Size of Board and Vacancies.* Our Certificate of Incorporation and Bylaws provide that the number of directors on our board of directors will be fixed exclusively by our board of directors. Subject to the rights of the holders of any series of Preferred Stock then outstanding, newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board of Directors resulting from death, resignation, retirement, removal from office, disqualification or other cause may be filled only by a majority vote of the directors then in office, though less than a quorum, and directors so chosen shall hold office for a term expiring at the annual meeting of stockholders at which the term of office of the class to which they have been elected expires.

*Special Stockholder Meetings.* Our Certificate of Incorporation and Bylaws provide that special meetings of our stockholders may be called only (1) by the Board of Directors pursuant to a resolution adopted by a majority of the total number of authorized directors (whether or not there exist any vacancies in previously authorized directorships at the time any such resolution is presented to the Board for adoption) or (2) by the holders of not less than 10% of all of the shares entitled to cast votes at the meeting.

*No Stockholder Action by Written Consent.* Our Certificate of Incorporation expressly eliminates the right of our stockholders to act by written consent. Stockholder action must take place at the annual or a special meeting of our stockholders.

*Requirements for Advance Notification of Stockholder Nominations and Proposals.* Our Bylaws establish advance notice procedures with respect to stockholder proposals and nomination of candidates for election as directors other than nominations made by or at the direction of our board of directors or a committee of our board of directors.

*No Cumulative Voting.* The DGCL provides that stockholders are denied the right to cumulate votes in the election of directors unless our Certificate of Incorporation provides otherwise. Our Certificate of Incorporation does not provide for cumulative voting.

*Undesignated Preferred Stock.* The authority possessed by our board of directors to issue preferred stock could potentially be used to discourage attempts by third parties to obtain control of our company through a merger, tender offer, proxy contest or otherwise by making such attempts more difficult or more costly. Our board of directors may issue preferred stock with voting rights or conversion rights that, if exercised, could adversely affect the voting power of the holders of common stock.

**Authorized but Unissued Shares.**

Our authorized but unissued shares of common stock and preferred stock are available for future issuance without your approval. We may use additional shares for a variety of purposes, including future public offerings to raise additional capital, to fund acquisitions and as employee compensation. The existence of authorized but unissued shares of common stock and preferred stock could render more difficult or discourage an attempt to obtain control of us by means of a proxy contest, tender offer, merger or otherwise.

**Transfer Agent and Registrar**

The transfer agent and registrar for our common stock is Computershare.

## DESCRIPTION OF DEBT SECURITIES

The following is a general description of the debt securities that we may offer from time to time. The particular terms of the debt securities offered by us and the extent, if any, to which the general provisions described below may apply to those securities will be described in the applicable prospectus supplement. As you read this section, please remember that the specific terms of a debt security as described in the applicable prospectus supplement will supplement and may modify or replace the general terms described in this section. If there are any differences between the applicable prospectus supplement and this prospectus, the applicable prospectus supplement will control. As a result, the statements we make in this section may not apply to the debt security you purchase.

In this summary description of the debt securities, unless we state otherwise or the context clearly indicates otherwise, all references to “we,” “us,” and “our” refer to Ross Stores, Inc. only and not to any of its subsidiaries.

Our debt securities, consisting of notes, debentures and other evidences of indebtedness, may be issued from time to time in one or more series pursuant to an indenture to be entered into between us and U.S. Bank National Association, as trustee.

Because the following is only a summary of selected provisions of the indenture and the debt securities, it does not contain all information that may be important to you. This summary is not complete and is qualified in its entirety by reference to the base indenture and any supplemental indentures thereto or officer’s certificate or board resolution related thereto. We urge you to read the indenture because the indenture, not this description, define the rights of the holders of the debt securities. The indenture will be substantially in the form included as an exhibit to the registration statement of which this prospectus is a part. The terms of our debt securities will include those set forth in the indenture and those made a part of the indenture by the Trust Indenture Act of 1939, as amended (the “Trust Indenture Act”).

### General

The indenture does not limit the amount of debt securities that may be issued under that indenture, and the indenture does not limit the amount of other unsecured debt or securities that we may issue. We may issue debt securities under the indenture from time to time in one or more series.

We are not obligated to issue all debt securities of one series at the same time and, unless otherwise provided in the prospectus supplement, we may reopen a series, without the consent of the holders of the debt securities of that series, for the issuance of additional debt securities of that series. Additional debt securities of a particular series will have the same terms and conditions as outstanding debt securities of such series, except that the additional debt securities may have a different date of original issuance, offering price and first interest payment date, and will be consolidated with, and form a single series with, such outstanding debt securities.

When we refer to “debt securities” or a “series of debt securities,” we mean, respectively, debt securities or a series of debt securities issued under the applicable indenture. When we refer to a prospectus supplement, we mean the prospectus supplement describing the specific terms of the applicable debt security. The terms used in a prospectus supplement will have the meanings described in this prospectus, unless otherwise specified.

The debt securities will constitute our unsecured and unsubordinated indebtedness and will rank equally in right of payment with all of our other unsecured and unsubordinated indebtedness and senior in right of payment to all of our subordinated indebtedness outstanding from time to time. The debt securities will be effectively subordinated to, and thus have a junior position to, any secured indebtedness we may have with respect to the assets securing that indebtedness.

The debt securities will effectively rank junior to all liabilities of our subsidiaries. Claims of creditors of our subsidiaries generally will have priority with respect to the assets and earnings of such subsidiaries over the claims of our creditors, including holders of any debt securities. Accordingly, any debt securities will be effectively subordinated to creditors, including trade creditors and preferred stockholders, if any, of such subsidiaries.

Unless we inform you otherwise in the prospectus supplement, the indenture will not contain any covenants or other provisions designed to protect holders of the debt securities in the event we participate in a highly leveraged transaction or upon a change of control. In addition, unless we inform you otherwise in the prospectus supplement, the indenture will not contain provisions that give holders of the debt securities the right to require us to repurchase their securities in the event of a decline in our credit rating for any reason, including as a result of a takeover, recapitalization or similar restructuring or otherwise.

The prospectus supplement relating to any series of debt securities being offered will include specific terms relating to the offering. These terms will include some or all of the following:

- whether the debt securities will be guaranteed by any of our subsidiaries;
- the title of the debt securities;
- the total principal amount of the debt securities;
- whether we will issue the debt securities in individual certificates to each holder or in the form of temporary or permanent global securities held by a depository on behalf of holders and the name of the depository for the debt securities, if other than The Depository Trust Company (“DTC”), and any circumstances under which the holder may request securities in non-global form, if we choose not to issue the debt securities in book-entry form only;
- the date or dates on which the principal of and any premium on the debt securities will be payable;
- any interest rate, the date from which any such interest will accrue, the interest payment dates on which any such interest will be payable and the record dates for any such interest payments;
- whether and under what circumstances we will pay any additional amounts with respect to the debt securities;
- the place or places where payments on the debt securities will be payable;
- any provisions for optional redemption or early repayment;
- any sinking fund or other provisions that would obligate us to redeem, purchase or repay the debt securities;
- the denominations in which we will issue the debt securities if other than \$2,000 and integral multiples of \$1,000 in excess thereof;
- whether payments on the debt securities will be payable in foreign currency or another form and whether payments will be payable by reference to any index or formula;
- the portion of the principal amount of debt securities that will be payable if the maturity is accelerated, if other than the entire principal amount;
- whether the provisions described below under the heading “—Defeasance and Discharge” apply to the debt securities;
- any changes or additions to the events of default or covenants described in this prospectus;
- any restrictions or other provisions relating to the transfer or exchange of debt securities;
- any terms for the conversion or exchange of the debt securities for other securities; and
- any other terms of the debt securities, whether in addition to, or by modification or deletion of, the terms described herein.

We may sell the debt securities at a discount, which may be substantial, below their stated principal amount.

These debt securities may bear no interest or interest at a rate that at the time of issuance is below market rates. If we sell these debt securities, we will describe in the prospectus supplement any material U.S. federal income tax consequences and other special considerations.

If we sell any of the debt securities for any foreign currency or if payments on the debt securities are payable in any foreign currency, we will describe in the prospectus supplement the restrictions, elections, tax consequences, specific terms and other information relating to those debt securities and the foreign currency.

## Certain Covenants

### *Limitation on Liens*

The indenture contains a covenant that we will not, and we will not permit any of our restricted subsidiaries to, issue, assume or guarantee any indebtedness secured by any mortgage upon any operating property or operating asset of the Company or any restricted subsidiary without securing the debt securities (and, if we so determine, any other indebtedness ranking equally with the debt securities) equally and ratably with such indebtedness.

This covenant will not prevent us or any of our restricted subsidiaries from issuing, assuming or guaranteeing:

- any purchase money mortgage on such property simultaneously with or within 180 days after the later of (1) the acquisition or completion of construction or completion of substantial reconstruction, renovation, remodeling, expansion or improvement (each, a “substantial improvement”) of such property, or (2) the placing in operation of such property after the acquisition or completion of any such construction or substantial improvement;
- an existing mortgage on property not previously owned by us or a restricted subsidiary, including in each case indebtedness incurred for reimbursement of funds previously expended for any substantial improvements to or acquisitions of property. However:
  - the mortgage must be limited to any or all of (1) such acquired or constructed property or substantial improvement (including accretions thereto), (2) the real property on which any construction or substantial improvement occurs or (3) with respect to distribution centers, any equipment used directly in the operation of, or the business conducted on, the real property on which any construction or substantial improvement occurs; and
  - the total amount of the indebtedness secured by the mortgage, together with all other indebtedness to persons other than us or a restricted subsidiary secured by mortgages on such property, shall not exceed the lesser of (1) the total costs of such mortgaged property, including any costs of construction or substantial improvement, or (2) the fair market value of the property immediately following the acquisition, construction or substantial improvement;
- any mortgage on real property and, with respect to distribution centers, on equipment used directly in the operation of, or the business conducted on, such mortgaged real property, which is the sole security for indebtedness:
  - incurred within three years after the latest of (1) the date of issuance of the first series of debt securities under the indenture, (2) the date of the acquisition of the real property or (3) the date of the completion of construction or substantial improvement on such real property;
  - incurred for the purpose of reimbursing us or our restricted subsidiary for the cost of acquisition and/or the cost of improvement of such real property and equipment;
  - the amount of which does not exceed the lesser of the aggregate cost of the real property, improvements and equipment or the fair market value of that real property, improvements and equipment; and
  - the holder of which shall be entitled to enforce payment of such indebtedness solely by resorting to the security for such mortgage, without any liability on the part of us or a restricted subsidiary for any deficiency;
- mortgages existing on the date of the indenture, mortgages on assets of a restricted subsidiary existing on the date it became a subsidiary or mortgages on the assets of a subsidiary that is newly designated as a restricted subsidiary if the mortgage would have been permitted under the provisions of this paragraph if such mortgage was created while the subsidiary was a restricted subsidiary;
- mortgages in favor of us or a restricted subsidiary;
- mortgages securing only the indebtedness issued under the indenture; and
- mortgages to secure indebtedness incurred to extend, renew, refinance or replace indebtedness secured by any mortgages referred to above, provided that the principal amount of the extended, renewed, refinanced or replaced indebtedness does not exceed the principal amount of indebtedness so extended, renewed, refinanced or replaced, plus transaction costs and fees, and that any such mortgage applies only to the same property or assets subject to the prior permitted mortgage (and, in the case of real property, improvements).

### ***Restrictions on Sale and Leaseback Transactions***

The indenture contains a covenant that we will not, and will not permit our restricted subsidiaries to, enter into any arrangement with any person providing for the leasing by us or any restricted subsidiary of any operating property or operating asset that has been or is to be sold or transferred by us or such restricted subsidiary to such person with the intention of taking back a lease of such property (a “sale and leaseback transaction”) without equally and ratably securing the debt securities (and, if we shall so determine, any other indebtedness ranking equally with the debt securities), unless the terms of such sale or transfer have been determined by our board of directors to be fair and arm’s-length and either:

- within 180 days after the receipt of the proceeds of the sale or transfer, we or any restricted subsidiary applies an amount equal to the greater of the net proceeds of the sale or transfer or the fair value of such operating property or operating asset at the time of such sale or transfer to the prepayment or retirement (other than any mandatory prepayment or retirement) of our senior funded debt; or
- we or such restricted subsidiary would be entitled, at the effective date of the sale or transfer, to incur indebtedness secured by a mortgage on such operating property or operating assets, in an amount at least equal to the attributable debt in respect of the sale and leaseback transaction, without equally and ratably securing the debt securities pursuant to the “Limitation on Liens” described above.

The foregoing restriction will not apply to:

- any sale and leaseback transaction for a term of not more than three years including renewals;
- any sale and leaseback transaction with respect to operating property (and, with respect to distribution centers, equipment used directly in the operation of, or the business conducted on, such operating property) if a binding commitment with respect thereto is entered into within three years after the latest of (1) the date of issuance of the first series of debt securities under the indenture or (2) the date such operating property was acquired (as the term “acquired” is used in the definition of operating property);
- any sale and leaseback transaction with respect to operating assets if a binding commitment with respect thereto is entered into within 180 days after the later of the date such property was acquired and, if applicable, the date such property was first placed in operation; or
- any sale and leaseback transaction between us and a restricted subsidiary or between restricted subsidiaries provided that the lessor shall be us or a wholly owned restricted subsidiary.

### ***Exempted Debt***

Notwithstanding the limitations in the indenture on mortgages and sale and leaseback transactions, we or our restricted subsidiaries may, in addition to amounts permitted under such limitations, issue, assume or guarantee indebtedness secured by mortgages, or enter into sale and leaseback transactions, provided that, after giving effect thereto, the aggregate outstanding amount of all such indebtedness secured by mortgages plus attributable debt resulting from such sale and leaseback transactions does not exceed 15% of consolidated net tangible assets.

### ***Certain Definitions***

For purposes of the indenture:

“*Attributable debt*” in respect of a sale and leaseback transaction means, at the time of determination, the present value (discounted at the imputed rate of interest of such transaction determined in accordance with generally accepted accounting principles) of the obligation of the lessee for net rental payments during the remaining term of the lease included in such sale and leaseback transaction (including any period for which such lease has been extended or may, at the option of the lessor, be extended).

“*Capitalized lease obligations*” means obligations created pursuant to leases which are required to be shown on the liability side of a balance sheet in accordance with generally accepted accounting principles.

“*Consolidated net tangible assets*” means the total amounts of assets (less depreciation and valuation reserves and other reserves and items deductible from gross book value of specific asset accounts under generally accepted accounting principles) which under generally accepted accounting principles would be included on a consolidated balance sheet of the Company and its restricted subsidiaries after deducting (i) all current liabilities (excluding any amounts that constitute Funded Debt by reason of being extendible or renewable), and (ii) all goodwill, trade names, trademarks, patents, unamortized debt discount and

expense and other like intangibles, all as computed in accordance with generally accepted accounting principles and as shown in the latest quarterly consolidated balance sheet of the Company contained in the Company's then most recent annual report to stockholders or quarterly report filed with the SEC, as the case may be.

*"Funded debt"* means indebtedness which matures more than one year from the date of creation, or which is extendable or renewable at the sole option of the obligor so that it may become payable more than one year from such date. Funded debt does not include (1) obligations created pursuant to leases, (2) any indebtedness or portion thereof maturing by its terms within one year from the time of any computation of the amount of outstanding funded debt unless such indebtedness shall be extendable or renewable at the sole option of the obligor in such manner that it may become payable more than one year from such time, or (3) any indebtedness for the payment or redemption of which money in the necessary amount shall have been deposited in trust either at or before the maturity date thereof.

*"Indebtedness"* means (i) the principal of and any premium and interest on (a) indebtedness for money borrowed and (b) indebtedness evidenced by notes, debentures, bonds or other similar instruments, (ii) capitalized lease obligations, (iii) obligations for the deferred purchase price of property, conditional sale obligations and obligations under any title retention agreement (but excluding trade accounts payable arising in the ordinary course of business), (iv) obligations for the reimbursement of any obligor on any letter of credit, banker's acceptance or similar credit transaction (subject to certain exceptions), (v) obligations of the type referred to in clauses (i) through (iv) of third-parties and all dividends of third-parties for the payment of which, in either case, such person is responsible or liable as obligor, guarantor or otherwise, (vi) obligations of the type referred to in clauses (i) through (v) of third-parties secured by any Lien on any property or asset of such person (whether or not such obligation is assumed by such person), the amount of such obligation being deemed to be the lesser of the value of such property or assets or the amount of the obligation so secured, and (vii) any amendments, modifications, refundings, renewals or extensions of any indebtedness or obligation described as Indebtedness in clauses (i) through (vi) above

*"Mortgage"* means any mortgage, security interest, pledge, lien or other encumbrance.

*"Operating assets"* means all merchandise inventories, furniture and equipment (including all transportation and warehousing equipment, store racks and showcases but excluding office equipment and data processing equipment) owned by us or a restricted subsidiary.

*"Operating property"* means all real property and improvements thereon owned by us or a restricted subsidiary and constituting, without limitation, any store, warehouse, service center or distribution center wherever located. This term does not include any store, warehouse, service center or distribution center that our board of directors declares by resolution not to be of material importance to the business of the Company and its restricted subsidiaries. Operating property is treated as having been "acquired" on the day the operating property is placed in operation by us or a restricted subsidiary after the later of (a) its acquisition from a third party, including an unrestricted subsidiary, (b) completion of its original construction or (c) completion of its substantial reconstruction, renovation, remodeling, expansion or improvement (whether or not constituting an operating property prior to such reconstruction, renovation, remodeling, expansion or improvement).

*"Restricted subsidiary"* means any Subsidiary which at the time of determination is not an Unrestricted Subsidiary. As of the date of this prospectus, Ross Procurement, Inc., Ross Merchandising, Inc. and Ross Dress for Less, Inc. are our only restricted subsidiaries.

*"Senior funded debt"* means all funded debt of the Company or any person (except funded debt, the payment of which is subordinated to the payment of the debt securities).

*"Subsidiary"* means any corporation of which the outstanding capital stock having at least a majority of the votes entitled to be cast in the election of directors under ordinary circumstances shall at the time be owned, directly or indirectly, by such person or any other person of which at least a majority of the voting interest under ordinary circumstances is at the time, directly or indirectly, owned by such person.

*"Unrestricted subsidiary"* means any Subsidiary of the Company that at the time of determination is or continues to be designated an Unrestricted Subsidiary by the board of directors of the Company and any Subsidiary of an Unrestricted Subsidiary.



## Events of Default

Unless we inform you otherwise in the prospectus supplement, the following are events of default with respect to a series of debt securities:

- our failure to pay any installment of interest on or any additional amounts with respect to any debt security of that series when due and payable and such default continues for 30 days or longer;
- our failure to pay the principal of or any premium on any debt security of that series when due and payable;
- our failure to comply with any covenant or agreement in that series of debt securities or the applicable indenture for 60 days after written notice by the trustee or by the holders of at least 25% in principal amount of the outstanding debt securities of that series issued under that indenture (except for our failure to comply with the covenant prohibiting certain consolidations, mergers and sales of assets);
- the failure to pay at final maturity (giving effect to any applicable grace periods and any extensions thereof) the stated principal amount of any of our or any restricted subsidiary's indebtedness, or the acceleration of the final stated maturity of any such Indebtedness (which acceleration is not rescinded, annulled or otherwise cured within 30 days of receipt of notice of any such acceleration) if the aggregate principal amount of such indebtedness, together with the principal amount of any other such indebtedness in default for failure to pay principal at final stated maturity or which has been accelerated (in each case with respect to which the 30-day period described above has elapsed), aggregates \$25.0 million or more at any time; one or more judgments in an aggregate amount in excess of \$25.0 million remain undischarged, unpaid or unstayed for a period of 60 days after the judgment or judgments become final and non-appealable;
- specified events involving bankruptcy, insolvency or reorganization of the Company or any subsidiary;
- our failure to deposit any sinking fund payment, when due, in respect of any debt security of that series; and
- any other event of default provided for in that series of debt securities.

We may change, eliminate or add to the events of default with respect to any particular series or any particular debt security or debt securities within a series, as indicated in the applicable prospectus supplement. A default under one series of debt securities will not necessarily be a default under any other series.

If an event of default relating to certain events of our bankruptcy or insolvency occurs, all then outstanding debt securities of that series will become due and payable immediately without further action or notice. If any other event of default for any series of debt securities occurs and is continuing, the trustee may and, at the direction of the holders of at least 25% in aggregate principal amount of the outstanding debt securities of that series shall, declare all of those debt securities to be due and payable immediately by notice in writing to us and, in case of a notice by holders, also to the trustee specifying the respective event of default and that it is a notice of acceleration.

Subject to certain limitations, holders of a majority in aggregate principal amount of the outstanding debt securities of any series may direct the trustee in its exercise of any trust or power with respect to that series. The trustee may withhold from holders of the debt securities of any series notice of any continuing default or event of default for such series if it determines that withholding notice is in their interest, except a default or event of default relating to the payment of principal, interest, premium or additional amounts, if any.

Subject to the provisions of the applicable indenture relating to the duties of the trustee, in case an event of default for any series occurs and is continuing, the trustee will be under no obligation to exercise any of the rights or powers under the indenture at the request or direction of any holders of debt securities of that series unless such holders have offered to the trustee indemnity or security satisfactory to it against any loss, liability or expense. Except to enforce the right to receive payment of principal, premium or additional amounts, if any, or interest when due, no holder of debt securities of a series may pursue any remedy with respect to the indenture or the debt securities unless:

- such holder has previously given the trustee notice that an event of default is continuing with respect to that series;
- holders of at least 25% in aggregate principal amount of the debt securities of that series have requested the trustee to pursue the remedy;
- such holders have offered the trustee security or indemnity satisfactory to it against any loss, liability or expense;
- the trustee has not complied with such request within 60 days after the receipt of the request and the offer of security or indemnity; and

- holders of a majority in aggregate principal amount of the debt securities of that series have not given the trustee a direction inconsistent with such request within such 60-day period.

Holders of a debt security are entitled at any time, however, to bring a lawsuit for the payment of money due on a debt security on or after its stated maturity (or, if a debt security is redeemable, on or after its redemption date).

The holders of a majority in aggregate principal amount of the debt securities of any series by notice to the trustee may, on behalf of the holders of all of the debt securities of that series, rescind an acceleration or waive any existing default or event of default for such series and its consequences under the indenture except a continuing default or event of default in the payment of interest, additional amounts or premium on, or the principal of, the debt securities.

Book-entry and other indirect owners should consult their banks or brokers for information on how to give notice or direction to or make a request for the trustee and how to declare or cancel an acceleration of the maturity.

We are required to deliver to the trustee annually a statement regarding compliance with the indenture. Upon our becoming aware of any default or event of default, we are required within five business days to deliver to the trustee a statement specifying such default or event of default.

#### **Modification and Waiver**

Except as provided in the next four succeeding paragraphs, each indenture and the debt securities issued under each indenture may be amended or supplemented with the consent of the holders of at least a majority in aggregate principal amount of the then outstanding debt securities of each series affected by the change, voting as separate classes for this purpose, and any existing default or event of default or compliance with any provision of the indenture or the debt securities may be waived with the consent of the holders of a majority in aggregate principal amount of the then outstanding debt securities of each series affected by the waiver, voting as separate classes for this purpose, in each case, except as may otherwise be provided pursuant to such indenture for all or any particular debt securities of any series.

Without the consent of each holder of debt securities of the series affected, an amendment, supplement or waiver may not (with respect to any debt securities of such series held by a non-consenting holder):

- reduce the principal amount of debt securities whose holders must consent to an amendment, supplement or waiver;
- reduce the principal of any debt security or change its stated maturity, or alter the provisions relating to the redemption or repurchase of any debt securities;
- reduce the rate of or change the time for payment of interest on any debt security;
- waive a default or event of default in the payment of principal of, or interest or premium, or any additional amounts, if any, on, the debt securities (except a rescission of acceleration of the debt securities by the holders of at least a majority in aggregate principal amount of the then outstanding debt securities of that series and a waiver of the payment default that resulted from such acceleration);
- make payments on any debt security payable in currency other than as originally stated in the debt security;
- make any change in the provisions of the indenture relating to waivers of past defaults or the rights of holders of debt securities to receive payments of principal of, or interest or premium, if any, on the debt securities;
- waive a redemption payment with respect to any debt securities;
- impair a holder's right to sue for payment of any amount due on its debt security; or
- make any change in the preceding amendment, supplement and waiver provisions.

Book-entry and other indirect owners should consult their banks or brokers for information on how approval may be granted or denied if we seek to change an indenture or any debt securities or request a waiver.

We and the trustee may supplement or amend each indenture or the debt securities without notice to or the consent of any holders of debt securities issued under that indenture in certain circumstances, including:

- to cure any ambiguity, defect or inconsistency;
- to provide for uncertificated debt securities in addition to or in place of certificated debt securities;
- to establish the form or terms of debt securities of any series as permitted by the indenture;

- to provide for the assumption of our obligations to holders of debt securities in the case of a merger or consolidation or sale of all or substantially all of our properties or assets, as applicable;
- to make any change that would provide any additional rights or benefits to the holders of debt securities or that does not adversely affect the legal rights under the indenture of any such holder;
- to comply with requirements of the SEC in order to maintain the qualification of the indenture under the Trust Indenture Act;
- to add to our covenants for the benefit of the holders of all or any series of debt securities, or to surrender any right or power herein conferred upon us;
- to add additional events of default with respect to all or any series of debt securities;
- to change or eliminate any of the provisions of the indenture; provided that any such change or elimination will become effective only when there is no outstanding debt security of any series created prior to the execution of such amendment or supplemental indenture that is adversely affected in any material respect by such change in or elimination of such provision;
- to supplement any provision of the indenture to permit or facilitate the defeasance and discharge of any series of debt securities so long as any action does not adversely affect the interest of holders of securities of that or any other series in any material respect;
- to secure the debt securities;
- to evidence and provide for the acceptance under the indenture of a successor trustee, each as permitted under the indenture; or
- to conform the text of the indenture or any debt securities to the description thereof in any prospectus or prospectus supplement of us with respect to the offer and sale of such debt securities, to the extent that such provision is inconsistent with a provision of the indenture or the debt securities, in each case, except as may otherwise be provided pursuant to such indenture for all or any particular debt securities of any series, as set forth in an officer's certificate.

## **Defeasance and Discharge**

### ***Defeasance***

When we use the term defeasance, we mean discharge from some or all of our obligations under an indenture.

If we deposit with the trustee under an indenture any combination of money or government securities sufficient, in the opinion of an independent firm of certified public accountants, to make payments on the debt securities of a series issued under that indenture on the dates those payments are due, then, at our option, either of the following will occur:

- we will be discharged from our obligations with respect to the debt securities of that series (“legal defeasance”); or
- we will no longer have any obligation to comply with specified restrictive covenants with respect to the debt securities of that series and other specified covenants under the applicable indenture, and the related events of default will no longer apply (“covenant defeasance”).

If a series of debt securities is defeased, the holders of the debt securities of that series will not be entitled to the benefits of the applicable indenture, except for obligations to register the transfer or exchange of debt securities, replace stolen, lost or mutilated debt securities, maintain paying agencies and hold money for payment in trust. In the case of covenant defeasance, our obligation to pay principal, premium and interest on the debt securities will also survive.

Unless we inform you otherwise in the prospectus supplement, we will be required to deliver to the trustee an opinion of counsel that the deposit and related defeasance would not cause the holders of the debt securities to recognize income, gain or loss for federal income tax purposes and that the holders would 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 the deposit and related defeasance had not occurred. If we elect legal defeasance, that opinion of counsel must be based upon a ruling from the U.S. Internal Revenue Service or a change in law to that effect.

## **Satisfaction and Discharge**

An indenture will be discharged and will cease to be of further effect with respect to the debt securities of a series issued under that indenture, except for our obligation to register the transfer of and exchange debt securities of that series, when:

- either:
  - all debt securities of that series that have been authenticated, except lost, stolen or destroyed debt securities that have been replaced or paid and debt securities for whose payment money has been deposited in trust and thereafter repaid to us, have been delivered to the trustee for cancellation; or
  - all debt securities of that series 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 we have 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 debt securities of that series not delivered to the trustee for cancellation for principal, premium and accrued interest to the date of maturity or redemption;
- no default or event of default has occurred and is continuing on the date of the deposit (other than a default or event of default resulting from the borrowing of funds to be applied to such deposit) and the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which we or any subsidiary is a party or by which we or any subsidiary is bound;
- we have paid or caused to be paid all sums payable by it under the indenture; and
- we have delivered irrevocable instructions to the trustee under the indenture to apply the deposited money toward the payment of the debt securities at maturity or on the redemption date, as the case may be.

In addition, we must deliver an officers' certificate and an opinion of counsel to the trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

## **Governing Law**

New York law will govern the indentures and the debt securities, without regard to conflicts of laws principles thereof.

## **The Trustee**

U.S. Bank National Association will be the trustee under the indenture. We have banking relationships with U.S. Bank National Association or its affiliates in the ordinary course of business.

**DESCRIPTION OF STOCK PURCHASE CONTRACTS  
AND STOCK PURCHASE UNITS**

The following summarizes the general terms of stock purchase contracts and stock purchase units that we may issue. The particular terms of any stock purchase contracts or stock purchase units that we offer will be described in the prospectus supplement. This description is subject to the stock purchase contracts, and any collateral arrangements and depositary arrangements, relating to the stock purchase contracts or stock purchase units.

We may issue stock purchase contracts, including contracts obligating holders to purchase from us, and obligating us to sell to the holders, a specified number of shares of Common Stock or Preferred Stock at a future date or dates. We may fix the consideration per share of our Common Stock or Preferred Stock at the time we issue the stock purchase contracts, or the consideration may be determined by referring to a specific formula stated in the stock purchase contracts. We may issue the stock purchase contracts separately or as a part of stock purchase units consisting of a stock purchase contract and Debt Securities, preferred securities, Warrants or debt obligations of third parties, including U.S. Treasury securities, which secure the holders' obligations to purchase the Common Stock or Preferred Stock under the stock purchase contracts. The stock purchase contracts may require us to make periodic payments to the holders of the stock purchase units or vice versa. These payments may be unsecured or prefunded on some basis. The stock purchase contracts may require holders to secure their obligations in a specified manner.

In a prospectus supplement, we will describe the particular combination of Securities constituting any Purchase Agreement and any other specific terms.

## DESCRIPTION OF WARRANTS

We may issue separately, or together with shares of our Preferred Stock or Common Stock offered by any prospectus supplement, Warrants for the purchase of additional shares of Preferred Stock or Common Stock. The Warrants may be issued under warrant agreements to be entered into between us and a bank or trust company, as warrant agent, and may be represented by certificates evidencing the Warrants, all as set forth in the prospectus supplement relating to the particular series of Warrants.

The following summaries of certain provisions of the Warrants are not complete and are subject to, and are qualified in their entirety by reference to, all the provisions of any related Warrant agreement and Warrant certificate, respectively, which will be filed with the SEC as an exhibit to, or incorporated by reference in, the registration statement of which this prospectus is a part. A prospectus supplement will describe the terms of the Warrants in respect of which this prospectus is being delivered including, where applicable, the following:

- the title of the Warrants;
- the aggregate number of the Warrants;
- the price or prices at which the Warrants will be issued;
- the designation, terms and number of shares of our Common Stock or Preferred Stock that may be purchased upon exercise of the Warrants;
- the designation and terms of the securities, if any, with which the Warrants are issued and the number of the Warrants issued with each such offered security;
- the date, if any, on and after which the Warrants and related shares of our Common Stock or Preferred Stock with which the Warrants are issued will be separately transferable;
- the price (or manner of calculation of the price) at which each share of our Common Stock or Preferred Stock may be purchased upon exercise of the Warrant;
- the date on which the right to exercise the Warrants will commence and the date on which the right will expire;
- the minimum or maximum amount of the Warrants that may be exercised at any one time;
- information with respect to book-entry procedures, if any;
- a discussion of material federal income tax considerations; and
- any other terms of the Warrants, including terms, procedures and limitations relating to the exchange and exercise of the Warrants.

We may sell Warrants to purchase our Common Stock or Preferred Stock. In a prospectus supplement, we will inform you of the exercise price and other specific terms of the Warrants, including whether our or your obligations, if any, under any Warrants may be satisfied by delivering or purchasing the underlying securities or their cash value.

## PLAN OF DISTRIBUTION

We may sell the Securities offered pursuant to this prospectus to or through one or more underwriters, dealers or agents, or we may sell the Securities to investors directly on our own behalf in those jurisdictions where we are authorized to do. Any such underwriter, dealer or agent involved in the offer and sale of the Securities will be named in the applicable prospectus supplement.

Underwriters may offer and sell the Securities at a fixed price or prices that may be changed, at market prices prevailing at the time of sale, at prices related to such prevailing market prices, or at negotiated prices. We also may, from time to time, authorize dealers or agents to offer and sell the Securities upon such terms and conditions as may be set forth in the applicable prospectus supplement. In connection with the sale of any of the Securities, underwriters may receive compensation from us in the form of underwriting discounts or commissions, and may also receive commissions from purchasers of the Securities for whom they may act. Underwriters may sell the Securities to or through dealers, and such dealers may receive compensation in the form of discounts, concessions or commissions from the underwriters or commissions from the purchasers for whom they may act.

Shares of our Common Stock may also be sold in one or more of the following transactions: (a) block transactions (which may involve crosses) in which a broker-dealer may sell all or a portion of such shares as agent, but may position and resell all or a portion of the block as principal to facilitate the transaction; (b) purchases by any such broker-dealer as principal, and resale by such broker-dealer for its own account pursuant to a prospectus supplement; (c) a special offering, an exchange distribution or a secondary distribution in accordance with applicable NASDAQ or other stock exchange, quotation system or over-the-counter market rules; (d) ordinary brokerage transactions and transactions in which any such broker-dealer solicits purchasers; (e) sales "at the market" to or through a market maker or into an existing trading market, on an exchange or otherwise, for such shares; and (f) sales in other ways not involving market makers or established trading markets, including direct sales to purchasers.

Any underwriting compensation paid by us to underwriters or agents in connection with the offering of the Securities, and any discounts or concessions or commissions allowed by underwriters to participating dealers, will be set forth in the applicable prospectus supplement. Dealers and agents participating in the distribution of the Securities may be deemed to be underwriters, and any discounts and commissions received by them and any profit realized by them on resale of the Securities may be deemed to be underwriting discounts and commissions.

Underwriters, dealers and agents may be entitled, under agreements entered into with us, to indemnification against and contribution toward certain civil liabilities, including liabilities under the Securities Act. Unless otherwise set forth in an accompanying prospectus supplement, the obligations of any underwriters to purchase any of the Securities will be subject to certain conditions precedent, and the underwriters will be obligated to purchase all of such Securities, if any are purchased.

Underwriters, dealers and agents may engage in transactions with, or perform services for, us and our affiliates in the ordinary course of business.

If indicated in the prospectus supplement, we may authorize underwriters or other agents to solicit offers by institutions to purchase Securities from us pursuant to contracts providing for payment and delivery on a future date. Institutions with which we may make these delayed delivery contracts include commercial and savings banks, insurance companies, pension funds, investment companies, educational and charitable institutions and others. The obligations of any purchaser under any such delayed delivery contract will be subject to the condition that the purchase of the Securities shall not at the time of delivery be prohibited under the laws of the jurisdiction to which the purchaser is subject. The underwriters and other agents will not have any responsibility with regard to the validity or performance of these delayed delivery contracts.

In connection with the offering of the Securities hereby, certain underwriters and selling group members and their respective affiliates may engage in transactions that stabilize, maintain or otherwise affect the market price of the applicable Securities. Such transactions may include stabilization transactions effected in accordance with Rule 104 of Regulation M promulgated by the SEC, pursuant to which such persons may bid for or purchase Securities for the purpose of stabilizing their market price. The underwriters in an offering of Securities may also create a "short position" for their account by selling more Securities in connection with the offering than they are committed to purchase from us. In such case, the underwriters could cover all or a portion of such short position by either purchasing Securities in the open market following completion of the offering of such Securities or by exercising any over-allotment option granted to them by us. In addition, the managing underwriter may impose "penalty bids" under contractual arrangements with other underwriters, which means that they can reclaim from an underwriter (or any selling group member participating in the offering), for the account of the other underwriters, the selling concession with respect to Securities that are distributed in the offering but subsequently purchased for the account of the underwriters in the open market. Any of the transactions described in this paragraph or comparable transactions that are described in any accompanying prospectus supplement may result in the maintenance of the price of

the Securities at a level above that which might otherwise prevail in the open market. None of such transactions described in this paragraph or in an accompanying prospectus supplement are required to be taken by any underwriters and, if they are undertaken, may be discontinued at any time.

Shares of our Common Stock are listed on NASDAQ under the symbol "ROST." Any Debt Securities, series of Preferred Stock or Warrants we offer will be new issues of Securities with no established trading market and may or may not be listed on a national securities exchange, quotation system or over-the-counter market. Any underwriters or agents to or through which securities are sold by us may make a market in such securities, but such underwriters or agents will not be obligated to do so and any of them may discontinue any market making at any time without notice. No assurance can be given as to the liquidity of or trading market for any Securities sold by us.

#### **EXPERTS**

The consolidated financial statements incorporated in this Prospectus by reference from the Annual Report on Form 10-K of Ross Stores, Inc. for the fiscal year ended February 1, 2014, and the effectiveness of Ross Stores, Inc.'s internal control over financial reporting have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report, which is incorporated herein by reference. Such consolidated financial statements have been so incorporated in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.

#### **LEGAL MATTERS**

The legality of the Securities offered hereby by Ross Stores is being passed upon for Ross Stores by DLA Piper LLP (US). Certain legal matters will be passed upon for any of the underwriters, dealers or agents by counsel named in the applicable prospectus supplement.



**PART II.**  
**INFORMATION NOT REQUIRED IN PROSPECTUS**

**Item 14. Other Expenses of Issuance and Distribution.**

The following table sets forth an estimate of costs and expenses, other than underwriting discounts or commissions, to be paid by us in connection with the registration of the securities being registered by this registration statement. All of the amounts shown are estimates. All other costs and expenses will be calculated based on the securities offered and accordingly cannot be estimated at this time.

Securities and Exchange Commission registration fee	\$ *
Printing expenses	**
Trustee fees and expenses	**
Legal fees and expenses	**
Accounting fees and expenses	**
Rating agency fees	**
Miscellaneous	**
Total	\$ **

\* Under Rules 456(b) and 457(r) under the Securities Act, the registration fee will be paid at the time of any particular offering of Securities under this registration statement.

\*\* An estimate of the aggregate amount of these expenses will be reflected in the applicable prospectus supplement.

**Item 15. Indemnification of Directors and Officers.**

Delaware law provides that directors of a corporation will not be personally liable to the corporation or its stockholders for monetary damages for breach of their fiduciary duties as directors, except for liability:

- for any breach of their duty of loyalty to the corporation or its stockholders;
- for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;
- under Section 174 of the DGCL relating to unlawful payments of dividends or unlawful stock repurchases or redemptions; or
- for any transaction from which the director derived an improper personal benefit.

The limitation of liability does not apply to liabilities arising under the federal or state securities laws and does not affect the availability of equitable remedies, such as injunctive relief or rescission.

Article VIII of the Company's Amended and Restated Bylaws (the "Bylaws") states that the Company shall indemnify, to the fullest extent permitted by applicable law, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding authorized by the Company's board of directors by reason of the fact that such person is or was a director or officer of the Company or is or was serving at the request of the Company.

Article VIII of the Bylaws requires the Company to purchase and maintain director or officer liability insurance.

The Company has entered into indemnification agreements with its directors and officers. Subject to certain limited exceptions, under these agreements, the registrant will be obligated, to the fullest extent not prohibited by the DGCL, to indemnify such directors and officers against all expenses, judgments, fines and penalties incurred in connection with the defense or settlement of any actions brought against them by reason of the fact that they were directors or officers of the registrant. The Company also maintains liability insurance for its directors and officers in order to limit its exposure to liability for indemnification of such persons.

**Item 16. Exhibits.**

Exhibit No.	Description	Method of Filing
1.1	Underwriting Agreement	*
3.1	Amendment of Certificate of Incorporation dated May 21, 2004 and Amendment of Certificate of Incorporation dated June 5, 2002 and Corrected First Restated Certificate of Incorporation dated March 17, 1999.	Incorporated by reference to Exhibit 3.1 to the Form 10-Q filed by Ross Stores, Inc. for its quarter ended July 31, 2004
3.2	Amendment of Certificate of Incorporation dated July 18, 2011.	Incorporated by reference to Exhibit 3.3 to the Form 10-Q filed by Ross Stores, Inc. for its quarter ended July 30, 2011
3.3	Amended and Restated Bylaws of Ross Stores, Inc. as amended, January 23, 2013.	Incorporated by reference to Exhibit 3.3 to the Form 10-K filed by Ross Stores, Inc. for its fiscal year ended February 2, 2013
4.1	Form of Common Stock Certificate	*
4.2	Form of Indenture between Ross Stores, Inc. and U.S. Bank, National Association	Filed herewith
4.3	Form of Debt Security	*
4.4	Form of Certificate of Designations establishing the terms of a series of Preferred Stock	*
4.5	Form of Preferred Stock Certificate	*
4.6	Form of Warrant Agreement (Including Form of Warrant Certificate)	*
4.7	Form of Unit Agreement	*
4.8	Form of Purchase Contract	*
5.1	Opinion of DLA Piper LLP (US)	Filed herewith
12.1	Ratio of earnings to fixed charges for Ross Stores, Inc.	Filed herewith
23.1	Consent of DLA Piper LLP (US)	Filed as part of Exhibit 5.1 and incorporated by reference herein
23.2	Consent of Deloitte & Touche LLP	Filed herewith
24.1	Powers of Attorney	Contained in the signature page hereto
25.1	Statement of Eligibility of Trustee on Form T-1	Filed herewith

\* To be filed by amendment or as an exhibit to a Current Report on Form 8-K or other document incorporated by reference herein in connection with an offering of the applicable Securities.

**Item 17. Undertakings.**

a) The undersigned registrant hereby undertakes:

1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Securities and Exchange Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

*Provided, however,* that paragraphs (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) of this section do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Securities and Exchange Commission by the registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

- 2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- 3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- 4) That, for the purpose of determining liability under the Securities Act to any purchaser:

i) Each prospectus filed by the registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

ii) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5) or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii), or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

- 5) That, for the purpose of determining liability of the registrant under the Securities Act to any purchaser in the initial distribution of the securities, the undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

- b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that

is incorporated by reference in this registration statement shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

- c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

## SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirement for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Dublin, state of California on September 15, 2014.

### Ross Stores, Inc.

Date: September 15, 2014

By: /s/ MICHAEL J. HARTSHORN

MICHAEL J. HARTSHORN

Senior Vice President, Chief Financial Officer, and Principal Accounting Officer

### ROSS STORES, INC. POWER OF ATTORNEY

KNOW ALL MEN/WOMEN BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Michael O'Sullivan, John G. Call and Michael J. Hartshorn and each of them, his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments to this Registration Statement (including post-effective amendments to the registration statement), and to file the same, with all exhibits thereto, and any other documents in connection therewith, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed below by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ BARBARA RENTLER</u> BARBARA RENTLER	<i>CEO and Director</i> <i>(Principal Executive Officer)</i>	September 15, 2014
<u>/s/ MICHAEL J. HARTSHORN</u> MICHAEL J. HARTSHORN	<i>Senior Vice President and Chief Financial Officer</i> <i>(Principal Financial Officer, Principal Accounting Officer)</i>	September 15, 2014
<u>/s/ MICHAEL O'SULLIVAN</u> MICHAEL O'SULLIVAN	<i>President, Chief Operating Officer and Director</i>	September 15, 2014
<u>/s/ MICHAEL BALMUTH</u> MICHAEL BALMUTH	<i>Executive Chairman and Director</i>	September 15, 2014
<u>/s/ NORMAN A. FERBER</u> NORMAN A. FERBER	<i>Chairman Emeritus, Director</i>	September 15, 2014
<u>/s/ K. GUNNAR BJORKLUND</u> K. GUNNAR BJORKLUND	<i>Director</i>	September 15, 2014
<u>/s/ MICHAEL J. BUSH</u> MICHAEL J. BUSH	<i>Director</i>	September 15, 2014
<u>/s/ SHARON D. GARRETT</u> SHARON D. GARRETT	<i>Director</i>	September 15, 2014
<u>/s/ GEORGE P. ORBAN</u> GEORGE P. ORBAN	<i>Director</i>	September 15, 2014
<u>/s/ LAWRENCE S. PEIROS</u> LAWRENCE S. PEIROS	<i>Director</i>	September 15, 2014
<u>/s/ GREGORY L. QUESNEL</u> GREGORY L. QUESNEL	<i>Director</i>	September 15, 2014

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5.1	Opinion of DLA Piper LLP (US)
12.1	Ratio of earnings to fixed charges for Ross Stores, Inc.
23.2	Consent of Deloitte & Touche LLP
25.1	Statement of Eligibility of Trustee on Form T-1

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**ROSS STORES, INC.**

and

**U.S. BANK NATIONAL ASSOCIATION**  
as Trustee

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**INDENTURE**

Dated as of •, 2014

**SENIOR DEBT SECURITIES**

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(a)(2)	7.10
(a)(3)	N.A.
(a)(4)	N.A.
(b)	7.8; 7.10
311(a)	7.11
(b)	7.11
312(a)	2.7
(b)	11.3
(c)	11.3
313(a)	7.6
(b)(1)	7.6
(b)(2)	7.6
(c)	7.6
(d)	7.6
314(a)	3.2; 3.5; 11.2
(b)	N.A.
(c)(1)	11.4
(c)(2)	11.4
(c)(3)	N.A.
(d)	N.A.
(e)	11.5
315(a)	7.1
(b)	7.5; 11.2
(c)	7.1
(d)	7.1
(e)	6.11
316(a)(last sentence)	12.6
(a)(1)(A)	6.5
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(a)(2)	N.A.
(b)	6.7
317(a)(1)	6.8
(a)(2)	6.9
(b)	2.6
318(a)	11.1

N.A. means Not Applicable.

Note: This Cross-Reference Table shall not, for any purpose, be deemed to be part of this Indenture.

THIS INDENTURE, dated as of •, 2014, is entered into by and between ROSS STORES, INC. a Delaware corporation (the “Company”), and U.S. BANK NATIONAL ASSOCIATION, a national banking association organized under the laws of the United States (the “Trustee”).

WITNESSETH:

WHEREAS, the Company may from time to time duly authorize the issue of its unsecured debentures, notes or other evidences of indebtedness to be issued in one or more series (the “Securities”) up to such principal amount or amounts as may from time to time be authorized in accordance with the terms of this Indenture;

WHEREAS, the Company has duly authorized the execution and delivery of this Indenture to provide, among other things, for the authentication, delivery and administration of the Securities; and

WHEREAS, all things necessary to make this Indenture a valid indenture and agreement in accordance with its terms have been done;

NOW, THEREFORE:

In consideration of the premises and the purchases of the Securities by the holders thereof, the Company and the Trustee mutually covenant and agree for the equal and proportionate benefit of the respective holders from time to time of the Securities as follows:

## ARTICLE I

### Definitions and Incorporation by Reference

#### Section 1.1. Definitions.

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

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control,” 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. For purposes of this definition, the terms “controlling,” “controlled by” and “under common control with” have correlative meanings.

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“Attributable Debt” in respect of a Sale and Leaseback Transaction referred to in Section 3.8 means, at the time of determination, the present value (discounted at the imputed rate of interest of such transaction determined in accordance with generally accepted accounting principles) of the obligation of the lessee for net rental payments during the remaining term of the lease included in such Sale and Leaseback Transaction (including any period for which such lease has been extended or may, at the option of the lessor, be extended). The term “net rental payments” under any lease for any period shall mean the sum of the rental and other payments required to be paid in such period by the lessee thereunder, not including any amounts required to be paid by such lessee (whether or not designated as rental or additional rental) on account of maintenance and repairs, insurance, taxes, assessments, water rates or similar charges required to be paid by such lessee thereunder or any amounts required to be paid by such lessee thereunder contingent upon the amount of sales, maintenance and repairs, insurance, taxes, assessments, water rates or similar charges.

“Bankruptcy Law” means Title 11, United States Code or any similar Federal or state law for the relief of debtors.

“Board of Directors” means:

- (1) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board;
- (2) with respect to a partnership, the board of directors of the general partner of the partnership;
- (3) with respect to a limited liability company, the manager, managers, managing member or members or any controlling committee of managers or managing members thereof, as the case may be; and
- (4) with respect to any other Person, the board or committee of such Person serving a similar function.

“Board Resolution” means a copy of a resolution certified by a Vice President, the Secretary or an Assistant Secretary of the applicable Person to have been duly adopted by the Board of Directors of such Person and to be in full force and effect on the date of such certification, and delivered to the Trustee.

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

“Capital Stock” means:

- (1) with respect to any Person that is a corporation, any and all shares, interests, participations or other equivalents (however designated and whether or not voting) of corporate stock, including each class of Common Stock and Preferred Stock of such Person, and all options, warrants or other rights to purchase or acquire any of the foregoing; and
- (2) with respect to any Person that is not a corporation, any and all partnership, membership or other equity interests of such Person, and all options, warrants or other rights to purchase or acquire any of the foregoing.

“Capitalized Lease Obligation” means, as to any Person, the obligations of such Person under a lease that are required to be classified and accounted for as capital lease obligations under GAAP and, for purposes of this definition, the amount of such obligations at any date shall be the capitalized amount of such obligations at such date, determined in accordance with GAAP, and the stated maturity thereof shall be the date of the last payment of rent or any other amount due under such lease.

“Code” means the Internal Revenue Code of 1986, as amended.

“Company” has the meaning ascribed to it in the first introductory paragraph of this Indenture.

“Company Order” and “Company Request” mean, respectively, a written order or request signed in the name of the Company by two Officers of the Company, and delivered to the Trustee.

“Consolidated” when used with respect to, any of the terms defined herein refers to such terms as reflected in a consolidation of the accounts of the Company and its Restricted Subsidiaries in accordance with generally accepted accounting principles.

“Consolidated Net Tangible Assets” means the total amount of assets (less depreciation and valuation reserves and other reserves and items deductible from the gross book value of specific asset accounts under generally accepted accounting principles) which under generally accepted accounting principles would be included on a consolidated balance sheet of the Company and its Restricted Subsidiaries, after deducting therefrom (i) all current liabilities (excluding any amounts that constitute Funded Debt by reason of being extendible or renewable), and (ii) all goodwill, trade names, trademarks, patents, unamortized Debt discount and expense and other like intangibles, all as computed in accordance with generally accepted accounting principles and as shown in the latest quarterly consolidated balance sheet of the Company contained in the Company’s then most recent annual report to stockholders or quarterly report filed with the SEC, as the case may be.

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

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

“Depository” means, with respect to the Securities of any series issuable or issued in whole or in part in global form, the Person specified pursuant to Section 2.1 hereof as the initial Depository with respect to the Securities of that series, until a successor shall have been appointed and become such pursuant to the applicable provision of this Indenture, and thereafter “Depository” shall mean or include that successor.

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

“DTC” means The Depository Trust Company, its nominees and their respective successors and assigns, or such other depository institution hereinafter appointed by the Company.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

“Exempted Debt” means the sum of the following items outstanding as of the date Exempted Debt is being determined: (i) Indebtedness of the Company and its Restricted Subsidiaries secured by a Mortgage and not permitted to exist pursuant to Section 3.7(a), and (ii) Attributable Debt of the Company and its Restricted Subsidiaries in respect of all Sale and Leaseback Transactions not permitted pursuant to Section 3.8(a).

“Funded Debt” of any Person means Indebtedness, whether incurred, assumed or guaranteed, maturing by its terms more than one year from the date of creation thereof or that is extendable or renewable at the sole option of the obligor in such manner that it may become payable more than one year from the date of creation thereof; provided, however, that Funded Debt shall not include (i) obligations created pursuant to leases, (ii) any Indebtedness or portion thereof maturing by its terms within one year from the time of any computation of the amount of outstanding Funded Debt unless such Indebtedness shall be extendable or renewable at the sole option of the obligor in such manner that it may become payable more than one year from such time, or (iii) any Indebtedness for the payment or redemption of which money in the necessary amount shall have been deposited in trust either at or before the maturity date thereof.

“GAAP” means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time in the United States.

“Global Securities” of any series means a Security of that series that is issued in global form in the name of the Depository with respect thereto or its nominee.

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

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



“Indebtedness” means, with respect to any Person, (i) the principal of and any premium and interest on (a) indebtedness of such Person for money borrowed and (b) indebtedness evidenced by notes, debentures, bonds or other similar instruments for the payment of which such Person is responsible or liable; (ii) all Capitalized Lease Obligations of such Person; (iii) all obligations of such Person issued or assumed as the deferred purchase price of property, all conditional sale obligations and all obligations under any title retention agreement (but excluding trade accounts payable arising in the ordinary course of business); (iv) all obligations of such Person for the reimbursement of any obligor on any letter of credit, banker’s acceptance or similar credit transaction (other than obligations with respect to letters of credit securing obligations (other than obligations described in (i) through (iii) above) entered into in the ordinary course of business of such Person to the extent such letters of credit are not drawn upon or, if and to the extent drawn upon, such drawing is reimbursed no later than the third Business Day following receipt by such Person of a demand for reimbursement following payment on the letter of credit); (v) all obligations of the type referred to in clauses (i) through (iv) of other Persons and all dividends of other Persons for the payment of which, in either case, such Person is responsible or liable as obligor, guarantor or otherwise, (vi) all obligations of the type referred to in clauses (i) through (v) of other Persons secured by any Lien on any property or asset of such Person (whether or not such obligation is assumed by such Person), the amount of such obligation being deemed to be the lesser of the value of such property or assets or the amount of the obligation so secured; and (vii) any amendments, modifications, refundings, renewals or extensions of any indebtedness or obligation described as Indebtedness in clauses (i) through (vi) above.

“Indenture” means this Indenture as amended or supplemented from time to time by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof, including, for all purposes of this instrument and any such supplemental indenture, the provisions of the Trust Indenture Act that are deemed to be a part of and govern this instrument and any such supplemental indenture, respectively. The term “Indenture” shall also include the terms of any particular series of Securities established as contemplated by Section 2.1.

“Interest Payment Date,” when used with respect to any Security, shall have the meaning assigned to that term in the Security as contemplated by Section 2.1.

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

“Non-U.S. Person” means a person who is not a U.S. person, as defined in Regulation S.

“Obligations” means any principal, premium, if any, interest, penalties, fees, indemnifications, reimbursements, charges, damages and other liabilities payable under the documentation governing any indebtedness.

“Officer” means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, any Executive Vice President, Senior Vice President, or Vice President, the Treasurer, any Assistant Treasurer, the Secretary or any Assistant Secretary of such Person.

“Officers’ Certificate” means, with respect to any Person, a certificate signed by two Officers of the Person, at least one of whom shall be the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer or the Treasurer.

“Operating Assets” means all merchandise inventories, furniture and equipment (including all transportation and warehousing equipment and store racks and showcases but excluding office equipment and data processing equipment) owned by the Company or a Restricted Subsidiary.

“Operating Property” means all real property and improvements thereon owned by the Company or a Restricted Subsidiary constituting, without limitation, any store, warehouse, service center or distribution center wherever located, provided that such term shall not include any store, warehouse, service center or distribution center that the Board of Directors declares by resolution not to be of material importance to the business of the Company and its Restricted Subsidiaries. Operating Property is treated as having been “acquired” on the day the Operating Property is placed in operation by the Company or a Restricted Subsidiary after the later of (a) its acquisition from a third party, including an Unrestricted Subsidiary, (b) completion of its original construction or (c) completion of its substantial reconstruction, renovation, remodeling, expansion or improvement (whether or not constituting an Operating Property prior to such reconstruction, renovation, remodeling, expansion or improvement).

“Opinion of Counsel” means a written opinion from legal counsel who is reasonably acceptable to the Trustee. The counsel may be an employee of or counsel to the Company or any Subsidiary of the Company.

“Original Issue Discount Security” means any Security that provides for an amount less than the principal amount thereof to be due and payable on a declaration of acceleration of the Maturity thereof pursuant to Section 6.2.

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

“Principal” of a Security means the principal of the Security plus, when appropriate, the premium, if any, on the Security.

“Redemption Date” when used with respect to any Security to be redeemed, in whole or in part, means the date fixed for such redemption by or pursuant to this Indenture.

“Redemption Price” means, with respect to any Security to be redeemed, the price at which it is to be redeemed pursuant to this Indenture.

“Restricted Subsidiary” of any Person means any Subsidiary of such Person which at the time of determination is not an Unrestricted Subsidiary.

“SEC” means the Securities and Exchange Commission.

“Securities” has the meaning ascribed to it in the second introductory paragraph of this Indenture.

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

“Securities Register” means the register of Securities, maintained by the Registrar, pursuant to Section 2.5.

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

“Senior Funded Debt” means all Funded Debt of the Company or any other Person, except Subordinated Funded Debt.

“Stated Maturity” means, with respect to any installment of interest or principal on any series of indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the documentation governing such indebtedness as of the date of this Indenture, and will not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

“Subordinated Funded Debt” means any unsecured Indebtedness of the Company that is expressly made subordinate and junior in rank and right of payment to the Securities of any Series and such other Indebtedness of the Company as may be specified or characterized in the instruments evidencing the Subordinated Funded Debt or the indenture or other similar instrument under which it is issued (which indenture or other instrument shall be binding on all holders of such Subordinated Funded Debt) (the Securities and any other Indebtedness of the Company to which the Subordinated Funded Debt is subordinate and junior being hereinafter in this paragraph called “Superior Debt”), by provisions not substantially more favorable to the holders of the Subordinated Funded Debt than the following:

(1) in the event of any insolvency or bankruptcy proceedings, any receivership, liquidation, reorganization or other similar proceedings in connection therewith, relative to the Company or to its creditors, as such, or to its property, and in the event of any proceedings for voluntary liquidation, dissolution or other winding up of the Company, whether or not involving insolvency or bankruptcy, then the holders of Superior Debt shall be entitled to receive payment in full of all Principal and interest on all Superior Debt before the holders of the Subordinated Funded Debt are entitled to receive any payment on account of Principal or interest upon the Subordinated Funded Debt, and to that end (but subject to the power of a court of competent jurisdiction to make other equitable provision reflecting the rights conferred by the provisions of the Subordinated Funded Debt upon the Superior Debt and the holders thereof with respect to the Subordinated Funded Debt and the holders thereof by a lawful plan or reorganization under applicable bankruptcy or insolvency law) the holders of Superior Debt shall be entitled to receive for application in payment thereof any payment or distribution of any kind or character, whether in cash or property or securities, which may be payable or deliverable in any such proceedings in respect of the Subordinated Funded Debt, except securities which are subordinate and junior in right of payment to the same extent as the Subordinated Funded Debt to the payment of all Superior Debt (and any securities issued in exchange therefor) then outstanding;

(2) in the event that any Subordinated Funded Debt is declared due and payable before its expressed maturity because of the occurrence of an event of default with respect to such Subordinated Funded Debt (under circumstances when the provisions of the foregoing clause (i) shall not be applicable), the holders of the Superior Debt outstanding at the time such Subordinated Funded Debt became so due and payable because of such occurrence of such an event of default shall be entitled to receive payment in full of all Principal and interest on all Superior Debt before the holders of such Subordinated Funded Debt are entitled to receive any payments on account of the Principal or interest upon such Subordinated Funded Debt except payments at the expressed maturity of such Subordinated Funded Debt, current interest payments as provided in such Subordinated Funded Debt, payments pursuant to any mandatory sinking fund (or analogous provision) in respect of such Subordinated Funded Debt, and payments for the purpose of curing any such event of default;

(3) in the event that (x) there shall have occurred a default in the payment of the principal of or interest on any Superior Debt, or (y) there shall have occurred any other event of default with respect to any Superior Debt permitting the holders thereof to accelerate the maturity thereof and if written notice thereof shall have been given to the Company by a holder or holders of such Superior Debt or their representative or representatives or trustee or trustees under any indenture pursuant to which any instruments evidencing any such Superior Debt may have been issued, or (z) the payment hereinafter referred to would itself constitute an event of default with respect to any Superior Debt, then, in any such case, unless or until such event of default shall have been cured or waived or shall have ceased to exist, no payment shall be made by the Company on account of Principal of, interest on or Additional Amounts with respect to, any Subordinated Funded Debt (whether pursuant to any sinking fund or otherwise) or on account of the purchase or other acquisition of any Subordinated Funded Debt; and

(4) no holder of Superior Debt or trustee for such holder shall be prejudiced in his or her right to enforce subordination of the Subordinated Funded Debt by any act or failure to act on the part of the Company;

provided, however, that the Subordinated Funded Debt may provide that the foregoing provisions are solely for the purposes of defining the relative rights of the holders of Superior Debt on the one hand, and the holders of the Subordinated Funded Debt on the other hand, and that nothing therein shall impair, as between the Company and the holders of the Subordinated Funded Debt, the obligation of the Company, which is unconditional and absolute, to pay to the holders thereof the Principal thereof and interest thereon in accordance with its terms, nor shall anything therein prevent the holders of the Subordinated Funded Debt from exercising all remedies otherwise permitted by applicable law or thereunder upon default thereunder, subject to the rights under clauses (i), (ii) and (iii) above of holders of Superior Debt to receive cash, property or securities otherwise payable or deliverable to the holders of the Subordinated Funded Debt; and provided, further, that the Subordinated Funded Debt may provide that, insofar as a trustee or paying agent for such Subordinated Funded Debt is concerned, the foregoing provisions shall not prevent the application by such trustee or paying agent of any moneys deposited with such trustee or paying agent for the purpose of the payment of or on account of the principal and interest on such Subordinated Funded Debt if such trustee or paying agent did not have knowledge at the time of such application that such payment was prohibited by the foregoing provisions.

“Subsidiary” with respect to any Person, means:

- (1) any corporation of which the outstanding Capital Stock having at least a majority of the votes entitled to be cast in the election of directors under ordinary circumstances shall at the time be owned, directly or indirectly, by such Person; or
- (2) any other Person of which at least a majority of the voting interest under ordinary circumstances is at the time, directly or indirectly, owned by such Person.

“TIA” or “Trust Indenture Act,” except as otherwise provided in Section 9.3, means the Trust Indenture Act of 1939 (15 U.S.C. §§ 77aaa 77bbbb), as in effect on the date hereof.

“Trust Officer” shall mean, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person’s knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

“Trustee” means the Person named as such above until a successor replaces it in accordance with the applicable provisions of this Indenture, and thereafter “Trustee” means each Person who is then a Trustee hereunder, and if at any time there is more than one such Person, “Trustee” as used with respect to the Securities of any series means the Trustee with respect to Securities of that series.

“Unrestricted Subsidiary” of any Person means:

- (1) any Subsidiary of the Company that at the time of determination shall be or continue to be designated an Unrestricted Subsidiary by the Board of Directors of the Company in the manner provided below; and
- (2) any Subsidiary of an Unrestricted Subsidiary.

“Voting Stock” of any specified Person as of any date means the Capital Stock of such Person that is at the time entitled to vote generally in the election of the Board of Directors of such Person.

“Wholly Owned Restricted Subsidiary” means any Restricted Subsidiary all of the outstanding Funded Debt and capital stock of which, other than directors’ qualifying shares, is owned by the Company and its other Wholly Owned Restricted Subsidiaries.

Section 1.2. Other Definitions.

Term	Defined in Section
“Agent Members”	2.16
“Corporate Trust Office”	3.3
“Covenant Defeasance”	8.3
“Defaulted Interest”	2.12
“Event of Default”	6.1
“Exchange Rate”	2.18
“Legal Defeasance”	8.2
“Legal Holiday”	11.8
“Mortgage”	3.7
“Paying Agent”	2.5
“protected purchaser”	2.9
“Registrar”	2.5
“Sale and Leaseback Transaction”	3.8
“Special Interest Payment Date”	2.12(a)
“Special Record Date”	2.12(a)
“substantial improvement”	3.7
“Surviving Entity”	4.1

Section 1.3. Incorporation by Reference of Trust Indenture Act. This Indenture is subject to the mandatory provisions of the TIA which are incorporated by reference in and made a part of this Indenture. The following TIA terms have the following meanings:

“Commission” means the SEC.

“indenture securities” means the Securities.

“indenture security holder” means a Holder of a Security.

“indenture to be qualified” means this Indenture.

“indenture trustee” or “institutional trustee” means the Trustee.

“obligor” on any series of Securities means the Company and any other obligor on such series of Securities.

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

Section 1.4. Rules of Construction. Unless the context otherwise requires:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (3) “or” is not exclusive;
- (4) “including” means including without limitation;
- (5) words in the singular include the plural and words in the plural include the singular;
- (6) the principal amount of any noninterest bearing or other discount security at any date shall be the principal amount thereof that would be shown on a balance sheet of the Company dated such date prepared in accordance with GAAP; and
- (7) provisions apply to successive events and transactions.

## ARTICLE II

### The Securities

Section 2.1. Form, Dating and Terms.

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

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

- (1) the title of the Securities of the series (which shall distinguish the Securities of the series from the Securities of all other series);
- (2) if there is to be a limit, the limit upon the aggregate principal amount of the Securities of the series that may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of the series pursuant to Section 2.8, 2.9, 2.13, 2.16, 5.7 or 9.5 and except for any Securities that, pursuant to Section 2.4 or 2.16, are deemed never to have been authenticated and delivered hereunder); *provided, however*, that unless otherwise provided in the terms of the series, the authorized aggregate principal amount of such series may be increased before or after the issuance of any Securities of the series by a Board Resolution (or action pursuant to a Board Resolution) to such effect;

(3) whether any Securities of the series are to be issuable initially in temporary global form and whether any Securities of the series are to be issuable in permanent global form, as Global Securities or otherwise, and, if so, whether beneficial owners of interests in any such Global Security may exchange such interests for Securities of such series and of like tenor of any authorized form and denomination and the circumstances under which any such exchanges may occur, if other than in the manner provided in Section 2.16, and the initial Depository and Security Custodian, if any, for any Global Security or Securities of such series;

(4) the manner in which any interest payable on a temporary Global Security on any Interest Payment Date will be paid if other than in the manner provided in Section 2.12;

(5) the date or dates on which the principal of and premium (if any) on the Securities of the series is payable or the method of determination thereof;

(6) the rate or rates, or the method of determination thereof, at which the Securities of the series shall bear interest, if any, whether and under what circumstances Additional Amounts with respect to such Securities shall be payable, the date or dates from which such interest shall accrue, the Interest Payment Dates on which such interest shall be payable and the record date for the interest payable on any Securities on any Interest Payment Date, or if other than provided herein, the Person to whom any interest on Securities of the series shall be payable;

(7) the place or places where, subject to the provisions of Section 3.3, the principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities of the series shall be payable;

(8) the period or periods within which, the price or prices (whether denominated in cash, securities or otherwise) at which and the terms and conditions upon which Securities of the series may be redeemed, in whole or in part, at the option of the Company, if the Company is to have that option, and the manner in which the Company must exercise any such option, if different from those set forth herein;

(9) [Reserved]

(10) the obligation, if any, of the Company to redeem, purchase or repay Securities of the series pursuant to any sinking fund or analogous provisions or at the option of a Holder thereof and the period or periods within which, the price or prices (whether denominated in cash, securities or otherwise) at which and the terms and conditions upon which Securities of the series shall be redeemed, purchased or repaid in whole or in part pursuant to such obligation;



(11) if other than denominations of \$2,000 and any integral multiple of \$1,000 in excess thereof, the denomination in which any Securities of that series shall be issuable;

(12) if other than Dollars, the currency or currencies (including composite currencies) or the form, including equity securities, other debt securities (including Securities), warrants or any other securities or property of the Company, or any other Person, in which payment of the principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities of the series shall be payable;

(13) if the principal of, premium (if any) or interest on or any Additional Amounts with respect to the Securities of the series are to be payable, at the election of the Company or a Holder thereof, in a currency or currencies (including composite currencies) other than that in which the Securities are stated to be payable, the currency or currencies (including composite currencies) in which payment of the principal of, premium (if any) and interest on and any Additional Amounts with respect to Securities of such series as to which such election is made shall be payable, and the periods within which and the terms and conditions upon which such election is to be made;

(14) if the amount of payments of principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities of the series may be determined with reference to any commodities, currencies or indices, values, rates or prices or any other index or formula, the manner in which such amounts shall be determined;

(15) if other than the entire principal amount thereof, the portion of the principal amount of Securities of the series that shall be payable upon declaration of acceleration of the Maturity thereof pursuant to Section 6.2;

(16) any additional means of satisfaction and discharge of this Indenture and any additional conditions or limitations to discharge with respect to Securities of the series pursuant to Article VIII or any modifications of or deletions from such conditions or limitations;

(17) any deletions or modifications of or additions to the Events of Default set forth in Section 6.1 or covenants of the Company set forth in Article III pertaining to the Securities of the series;

(18) any restrictions or other provisions with respect to the transfer or exchange of Securities of the series, which may amend, supplement, modify or supersede those contained in this Article II;

(19) if the Securities of the series are to be convertible into or exchangeable for capital stock, other debt securities (including Securities), warrants, other equity securities or any other securities or property of the Company, or any other Person, at the option of the Company or the Holder or upon the occurrence of any condition or event, the terms and conditions for such conversion or exchange;

(20) if applicable, that the Securities of the series, in whole or any specified part, shall not be defeasible pursuant to Section 8.2 or Section 8.3 or both such Sections, and, if such Securities may be defeased, in whole or in part, pursuant to either or both such Sections, any provisions to permit a pledge of obligations other than Government Securities (or the establishment of other arrangements) to satisfy the requirements of Section 8.4(1) for defeasance of such Securities and, if other than by a Board Resolution of the Company, the manner in which any election by the Company to defease such Securities shall be evidenced; and

(21) any other terms of the series (which terms shall not be prohibited by the provisions of this Indenture).

All Securities of any one series shall be substantially identical except as to denomination and except as may otherwise be provided in or pursuant to the Board Resolution referred to above and (subject to Section 2.3) set forth, or determined in the manner provided, in the Officers' Certificate or Company Order referred to above or in any such indenture supplemental hereto.

If any of the terms of the series are established by action taken pursuant to a Board Resolution, a copy of an appropriate record of such action, together with such Board Resolution, shall be set forth in an Officers' Certificate or certified by the Secretary or an Assistant Secretary of the Company and delivered to the Trustee at or prior to the delivery of the Officers' Certificate or Company Order setting forth the terms of the series.

Section 2.2. Denominations. The Securities of each series shall be issuable in such denominations as shall be specified as contemplated by Section 2.1. In the absence of any such provisions with respect to the Securities of any series, the Securities of such series denominated in Dollars shall be issuable in denominations of \$2,000 and any integral multiples of \$1,000 thereof.

Section 2.3. Forms Generally. The Securities of each series shall be in fully registered form and in substantially such form or forms (including temporary or permanent global form) established by or pursuant to a Board Resolution or in one or more indentures supplemental hereto. The Securities may have notations, legends or endorsements required by law, securities exchange rule, the Company's certificate of incorporation, bylaws or other similar governing documents, agreements to which the Company is subject, if any, or usage (provided that any such notation, legend or endorsement is in a form acceptable to the Company). A copy of the Board Resolution establishing the form or forms of Securities of any series shall be delivered to the Trustee at or prior to the delivery of the Officers' Certificate or Company Order contemplated by Section 2.4 for the authentication and delivery of such Securities.

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

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

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

U.S. BANK, NATIONAL ASSOCIATION, as  
Trustee

By: \_\_\_\_\_  
Authorized Signatory"

Section 2.4. Execution, Authentication, Delivery and Dating. Two Officers of the Company shall sign the Securities on behalf of the Company by manual or facsimile signature.

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

A Security shall not be entitled to any benefit under this Indenture or be valid or obligatory for any purpose until authenticated by the manual signature of an authorized signatory of the Trustee, which signature shall be conclusive evidence that the Security has been authenticated under this Indenture. Notwithstanding the foregoing, if any Security has been authenticated and delivered hereunder but never issued and sold by the Company, and the Company delivers such Security to the Trustee for cancellation as provided in Section 2.11, together with a written statement (which need not comply with Section 11.5 and need not be accompanied by an Opinion of Counsel) stating that such Security has never been issued and sold by the Company, for all purposes of this Indenture such Security shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities of any series executed by the Company to the Trustee for authentication, and the Trustee shall authenticate and deliver such Securities for original issue upon a Company Order for the authentication and delivery of such Securities or pursuant to such procedures acceptable to the Trustee as may be specified from time to time by Company Order. Such order shall specify the amount of the Securities to be authenticated, the date on which the original issue of Securities is to be authenticated, the name or names of the initial Holder or Holders and any other terms of the Securities of such series not otherwise determined. If provided for in such procedures, such Company Order may authorize (1) authentication and delivery of Securities of such series for original issue from time to time, with certain terms (including, without limitation, the Maturity dates or dates, original issue date or dates and interest rate or rates) that differ from Security to Security and (2) may authorize authentication and delivery pursuant to oral or electronic instructions from the Company or its duly authorized agent, which instructions shall be promptly confirmed in writing.

If the form or terms of the Securities of the series have been established in or pursuant to one or more Board Resolutions as permitted by Section 2.1, in authenticating such Securities, and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall receive (in addition to the Company Order referred to above and the other documents required by Section 11.4), and (subject to Section 7.1) shall be fully protected in conclusively relying upon:

(a) an Officers' Certificate of the Company setting forth the Board Resolution and, if applicable, an appropriate record of any action taken pursuant thereto, as contemplated by the last paragraph of Section 2.1; and

(b) an Opinion of Counsel to the effect that:

(i) the form of such Securities has been established in conformity with the provisions of this Indenture;

(ii) the terms of such Securities have been established in conformity with the provisions of this Indenture;

(iii) that such Securities, when authenticated and delivered by the Trustee and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and binding obligations of the Company enforceable against the Company in accordance with their respective terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or transfer or other similar laws in effect from time to time affecting the rights of creditors generally, and the application of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law); and

(iv) that all laws and requirements in respect of the execution and delivery by the Company of such Securities have been complied with.

If all the Securities of any series are not to be issued at one time, it shall not be necessary to deliver an Officers' Certificate and Opinion of Counsel at the time of issuance of each such Security, but such Officers' Certificate and Opinion of Counsel shall be delivered at or before the time of issuance of the first Security of the series to be issued.

The Trustee shall not be required to authenticate such Securities if the Trustee, being advised by counsel, determines that such action may not lawfully be taken or if the issuance of such Securities pursuant to this Indenture would affect the Trustee's own rights, duties or immunities under the Securities and this Indenture or otherwise in a manner not reasonably acceptable to the Trustee.

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

Each Security shall be dated the date of its authentication.

Section 2.5. Registrar and Paying Agent. The Company shall maintain an office or agency for each series of Securities where Securities of such series may be presented for registration of transfer or for exchange (the “Registrar”) and an office or agency where Securities of such series may be presented for payment (the “Paying Agent”). The Company shall cause each of the Registrar and the Paying Agent to maintain an office or agency in the United States of America. The Registrar shall keep a register of the Securities and of their transfer and exchange (the “Securities Register”). The Company may have one or more co-registrars and one or more additional paying agents. The term “Paying Agent” includes any additional paying agent.

The Company shall enter into an appropriate agency agreement with any Registrar, Paying Agent or co-registrar not a party to this Indenture, which shall incorporate the terms of the TIA. The agreement shall implement the provisions of this Indenture that relate to such agent. The Company shall notify the Trustee of the name and address of each such agent. If the Company fails to maintain a Registrar or Paying Agent, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to Section 7.7. The Company or any of its Subsidiaries may act as Paying Agent, Registrar, co-registrar or transfer agent.

The Company initially appoints the Trustee as Registrar and Paying Agent for the Securities.

Section 2.6. Paying Agent to Hold Money in Trust. By no later than 11:00 a.m. (New York City time) on the date on which any amount or Additional Amounts, if any, in respect of any Security is due and payable, the Company shall deposit with the Paying Agent a sum sufficient in immediately available funds to pay such amount or Additional Amounts, if any, when due. The Company shall require each Paying Agent (other than the Trustee) to agree in writing that such Paying Agent shall hold in trust for the benefit of the applicable Holders or the Trustee all money held by such Paying Agent for the payment of such amount and Additional Amounts, if any, on the applicable Securities and shall notify the Trustee in writing of any default by the Company in making any such payment. If the Company or a Subsidiary acts as Paying Agent, it shall segregate the money held by it as Paying Agent and hold it as a separate trust fund. The Company at any time may require a Paying Agent (other than the Trustee) to pay all money held by it to the Trustee and to account for any funds disbursed by such Paying Agent. Upon complying with this Section 2.6, the Paying Agent (if other than the Company or a Subsidiary) shall have no further liability for the money delivered to the Trustee. Upon any bankruptcy, reorganization or similar proceeding with respect to the Company, the Trustee shall serve as Paying Agent for the Securities.

Section 2.7. Holder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders. If the Trustee is not the Registrar with respect to a series of Securities, or to the extent otherwise required under the TIA, the Company shall furnish to the Trustee, in writing at least five Business Days before each interest payment date with respect to such series of Securities and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Holders of such series.

Section 2.8. Transfer and Exchange. Except as set forth in Section 2.16 or as may be provided pursuant to Section 2.1, when Securities of any series are presented to the Registrar with the request to register the transfer of those Securities or to exchange those Securities for an equal principal amount of Securities of the same series of like tenor and of other authorized denominations, the Registrar shall register the transfer or make the exchange as requested if its requirements and the requirements of this Indenture for those transactions are met; *provided, however*, that the Securities presented or surrendered for registration of transfer or exchange shall be duly endorsed or accompanied by a written instruction of transfer in form reasonably satisfactory to the Registrar duly executed by the Holder thereof or by his attorney, duly authorized in writing, on which instruction the Registrar can conclusively rely.

To permit registrations of transfers and exchanges, the Company shall execute Securities and the Trustee shall authenticate such Securities at the Registrar's written request and submission of the Securities (other than Global Securities). No service charge shall be made to a Holder for any registration of transfer or exchange (except as otherwise expressly permitted herein), 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 such transfer tax or similar governmental charge payable on exchanges pursuant to Section 2.13, 5.7 or 9.5). The Trustee shall authenticate Securities in accordance with the provisions of Section 2.4. Notwithstanding any other provisions of this Indenture to the contrary, the Company shall not be required to register the transfer or exchange of (a) any Security selected for redemption in whole or in part pursuant to Article V, except the unredeemed portion of any Security being redeemed in part or (b) any Security during the period beginning 15 Business Days before the mailing of notice of any offer to repurchase Securities of the series required pursuant to the terms thereof or of redemption of Securities of a series to be redeemed and ending at the close of business on the date of mailing.

Section 2.9. Mutilated, Destroyed, Lost or Wrongfully Taken Securities. If a mutilated Security is surrendered to the Registrar or if the Holder of a Security claims that the Security has been lost, destroyed or wrongfully taken, the Company shall issue and the Trustee shall authenticate a replacement Security with respect to such series if the requirements of Section 8-405 of the Uniform Commercial Code are met, such that the Holder (a) satisfies the Company or the Trustee within a reasonable time after such Holder has notice of such loss, destruction or wrongful taking and the Registrar does not register a transfer prior to receiving such notification, (b) makes such request to the Company or Trustee prior to the Security being acquired by a protected purchaser as defined in Section 8-303 of the Uniform Commercial Code (a "protected purchaser") and (c) satisfies any other reasonable requirements of the Trustee. Such Holder shall furnish an indemnity bond sufficient in the judgment of the Company and the Trustee to protect the Company, the Trustee, the Paying Agent, the Registrar and any co-registrar from any loss which any of them may suffer if a Security is replaced, and, in the absence of notice to the Company or the Trustee that such Security has been acquired by a protected purchaser, the Company shall execute and, upon a Company Order, the Trustee shall authenticate and make available for delivery, in exchange for any such mutilated Security or in lieu of any such destroyed, lost or wrongfully taken Security, a new Security of like tenor and principal amount, bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or wrongfully taken Security has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Security of such series, pay such Security.

Upon the issuance of any new Security under this Section 2.9, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) in connection therewith.

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

The provisions of this Section 2.9 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or wrongfully taken Securities.

Section 2.10. Outstanding Securities. Securities outstanding at any time are all Securities authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those paid pursuant to Section 2.9 and those described in this Section 2.10 as not outstanding. A Security ceases to be outstanding in the event the Company or a Subsidiary of the Company holds the Security, *provided, however*, that (i) for purposes of determining which are outstanding for consent or voting purposes hereunder, the provisions of Section 11.6 shall apply and (ii) in determining whether the Trustee shall be protected in making a determination whether the Holders of the requisite principal amount of outstanding Securities are present at a meeting of Holders of Securities for quorum purposes or have consented to or voted in favor of any request, demand, authorization, direction, notice, consent, waiver, amendment or modification hereunder, or relying upon any such quorum, consent or vote, only Securities which a Trust Officer of the Trustee actually knows to be held by the Company or an Affiliate of the Company shall not be considered outstanding.

If a Security is replaced pursuant to Section 2.9, it ceases to be outstanding unless the Trustee and the Company receive proof satisfactory to them that the replaced Security is held by a protected purchaser.

If the Paying Agent segregates and holds in trust, in accordance with this Indenture, on a Redemption Date or maturity date money sufficient to pay all amounts and Additional Amounts, if any, payable on that date with respect to the Securities (or portions thereof) to be redeemed or maturing, as the case may be, and the Paying Agent is not prohibited from paying such money to the Holders on that date pursuant to the terms of this Indenture, then on and after that date such Securities (or portions thereof) cease to be outstanding and interest on them ceases to accrue.

Section 2.11. Cancellation. The Company at any time may deliver Securities to the Trustee for cancellation. The Registrar and the Paying Agent shall forward to the Trustee any Securities surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall cancel all Securities surrendered for registration of transfer, exchange, payment or cancellation and dispose of such Securities in accordance with its internal policies (subject to the record retention requirements of the Exchange Act), and certification of their cancellation shall be delivered to the Company promptly upon receipt by the Trustee of a Company Request. The Company may not issue new Securities to replace Securities it has paid or delivered to the Trustee for cancellation for any reason other than in connection with a transfer or exchange.

Section 2.12. Payment of Interest: Defaulted Interest. Unless otherwise provided as contemplated by Section 2.1 with respect to the Securities of any series, interest and Additional Amounts, if any, on any Security of such series which is payable, and is punctually paid or duly provided for, on any interest payment date shall be paid to the Person in whose name such Security (or one or more predecessor Securities) is registered at the close of business on the regular record date for such interest at the office or agency of the Company maintained for such purpose pursuant to Section 2.8.

Unless otherwise provided as contemplated by Section 2.1 with respect to the Securities of any series, any interest and Additional Amounts, if any, on any Security of such series which is payable, but is not paid when the same becomes due and payable and such nonpayment continues for a period of 30 days shall forthwith cease to be payable to the Holder on the regular record date, and such defaulted interest and (to the extent lawful) interest on such defaulted interest at the rate provided for in the Securities therefor (such defaulted interest and interest thereon herein collectively called "Defaulted Interest") shall be paid by the Company, at its election in each case, as provided in clause (a) or (b) below:

(a) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Securities (or their respective predecessor Securities) are registered at the close of business on a Special Record Date (as defined below) for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Security and the date (not less than 30 days after such notice) of the proposed payment (the "Special Interest Payment Date"), and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause provided. Thereupon the Trustee shall fix a record date (the "Special Record Date") for the payment of such Defaulted Interest, which date shall be not more than 15 days and not less than 10 days prior to the Special Interest Payment Date and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date, and in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date and Special Interest Payment Date therefor to be given in the manner provided for in Section 11.2, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date and Special Interest Payment Date therefor having been so given, such Defaulted Interest shall be paid on the Special Interest Payment Date to the Persons in whose names the Securities (or their respective predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following clause (b).



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

(c) The Trustee shall not at any time be under any duty or responsibility to any Holder to determine the Defaulted Interest, or with respect to the nature, extent, or calculation of the amount of Defaulted Interest owed, or with respect to the method employed in such calculation of the Defaulted Interest.

Subject to the foregoing provisions of this Section 2.12, each Security delivered under this Indenture upon registration of, transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest and Additional Amounts, if any, each as accrued and unpaid, and to accrue, which were carried by such other Security.

Section 2.13. Temporary Securities. Until definitive Securities of any series are ready for delivery, the Company may prepare and the Trustee shall authenticate temporary Securities of such series. Temporary Securities shall be substantially in the form of definitive Securities, but may have variations that the Company considers appropriate for temporary Securities. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate definitive Securities in exchange for temporary Securities. Until so exchanged, the temporary Securities shall in all respects be entitled to the same benefits under this Indenture as definitive Securities.

Section 2.14. Persons Deemed Owners. The Company, the Trustee, any Agent and any authenticating agent may treat the Person in whose name any Security is registered as the owner of that Security for the purpose of receiving payments of principal of, premium (if any) or interest on, or any Additional Amounts with respect to, that Security and for all other purposes. None of the Company, the Trustee, any Agent or any authenticating agent shall be affected by any notice to the contrary.

Section 2.15. Computation of Interest. Except as otherwise provided as contemplated by Section 2.1 with respect to the Securities of any series, interest on the Securities shall be computed on the basis of a 360-day year of twelve 30-day months.

Section 2.16. Global Securities; Book-Entry Provisions. If Securities of a series are issuable in global form as a Global Security, as contemplated by Section 2.1, then, notwithstanding clause (11) of Section 2.1 and the provisions of Section 2.2, any such Global Security shall represent those of the outstanding Securities of that series as shall be specified therein and may provide that it shall represent the aggregate amount of outstanding Securities of that series from time to time endorsed thereon and that the aggregate amount of outstanding Securities of that series represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges, transfers or redemptions. Any endorsement of a Global Security to reflect the amount, or any increase or decrease in the amount, of outstanding Securities of that series represented thereby shall be made by the Trustee (i) in such manner and upon instructions given by such Person or Persons as shall be specified in that Security or in a Company Order to be delivered to the Trustee pursuant to Section 2.4 or (ii) otherwise in accordance with written instructions or such other written form of instructions as is customary for the Depository for that Security, from that Depository or its nominee on behalf of any Person having a beneficial interest in that Global Security. Subject to the provisions of Section 2.4 and, if applicable, Section 2.13, the Trustee shall deliver and redeliver any Security in permanent global form in the manner and upon written instructions given by the Person or Persons specified in that Security or in the applicable Company Order. With respect to the Securities of any series that are represented by a Global Security, the Company authorizes the execution and delivery by the Depository appointed with respect to that Global Security. Any Global Security may be deposited with the Depository or its nominee, or may remain in the custody of the Trustee or the Security Custodian therefor pursuant to a FAST Balance Certificate Agreement or similar agreement between the Trustee and the Depository. If a Company Order has been, or simultaneously is, delivered, any instructions by the Company with respect to endorsement or delivery or redelivery of a Security in global form shall be in writing but need not comply with Section 11.5 and need not be accompanied by an Opinion of Counsel.

Members of, or participants in, the Depository (“Agent Members”) shall have no rights under this Indenture with respect to any Global Security held on their behalf by the Depository, or the Trustee or the Security Custodian as its custodian, or under that Global Security, and the Depository may be treated by the Company, the Trustee or the Security Custodian and any agent of the Company, the Trustee or the Security Custodian as the absolute owner of that Global Security for all purposes whatsoever. Notwithstanding the foregoing, (i) the registered holder of a Global Security of any series may grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action that a Holder of Securities of that series is entitled to take under this Indenture or the Securities of that series and (ii) nothing herein shall prevent the Company, the Trustee or the Security Custodian or any agent of the Company, the Trustee, or the Security Custodian from giving effect to any written certification, proxy or other authorization furnished by the Depository or shall impair, as between the Depository and its Agent Members, the operation of customary practices governing the exercise of the rights of a beneficial owner of any Security.

Notwithstanding Section 2.8, and except as otherwise provided pursuant to Section 2.1, transfers of a Global Security shall be limited to transfers of that Global Security in whole, but not in part, to the Depository, its successors or their respective nominees. Interests of beneficial owners in a Global Security may be transferred in accordance with the rules and procedures of the Depository. Securities of any series shall be transferred to all beneficial owners of a Global Security of that series in exchange for their beneficial interests in that Global Security if, and only if, either (1) the Depository notifies the Company that it is unwilling or unable to continue as depository for such Global Security or the Depository ceases to be a clearing agency registered under the Exchange Act, at a time when the Depository is required to be so registered in order to act as depository, and, in either case, a successor depository is not appointed by the Company within 90 days of such notice, (2) the Company, at its option, notifies the Trustee in writing that it elects to cause the issuance of definitive Securities or (3) a Default or Event of Default has occurred and is continuing with respect to the Securities.

In connection with any transfer of a portion of the beneficial interests in a Global Security to beneficial owners pursuant to this Section 2.16, the Registrar shall reflect on its books and records the date and a decrease in the principal amount of the Global Security in an amount equal to the principal amount of the beneficial interest in the Global Security to be transferred, and the Company shall execute and the Trustee on receipt of a Company Order for the authentication and delivery of Securities shall authenticate and deliver, one or more Securities of the same series of like tenor and amount.

In connection with the transfer of all the beneficial interests in a Global Security of any series to beneficial owners pursuant to this Section 2.16, the Global Security shall be deemed to be surrendered to the Trustee for cancellation, and the Company shall execute, and the Trustee shall authenticate and deliver, to each beneficial owner identified by the Depository in exchange for its beneficial interest in the Global Security, an equal aggregate principal amount of Securities of that series of authorized denominations.

Neither the Company, nor the Trustee will have any responsibility or liability for any aspect of the records relating to, or payments made on account of, Securities by the Depository, or for maintaining, supervising or reviewing any records of the Depository relating to those Securities, or for any other actions taken or not taken by the Depository. Neither the Company nor the Trustee shall be liable for any delay by the related Global Security Holder or the Depository in identifying the beneficial owners, and each such Person may conclusively rely on, and shall be protected in conclusively relying on, instructions from that Global Security Holder or the Depository for all purposes (including with respect to the registration and delivery, and the respective principal amounts, of the Securities to be issued).

The provisions of the last sentence of the third paragraph of Section 2.4 shall apply to any Global Security if that Global Security was never issued and sold by the Company and the Company delivers to the Trustee the Global Security together with written instructions (which need not comply with Section 11.5 and need not be accompanied by an Opinion of Counsel) with regard to the cancellation or reduction in the principal amount of Securities represented thereby, together with the written statement contemplated by the last sentence of the third paragraph of Section 2.4.

Notwithstanding the provisions of Sections 2.3 and 2.12, unless otherwise specified as contemplated by Section 2.1 with respect to Securities of any series, payment of principal of and premium (if any) and interest on and any Additional Amounts with respect to any Global Security shall be made to the Person or Persons specified therein.

Section 2.17. CUSIP Numbers, Etc. The Company in issuing the Securities of any series may use CUSIP numbers (if then generally in use) and, if so, the Trustee shall use CUSIP, ISIN and Common Code numbers in notices of redemption as a convenience to Holders of Securities of such series; *provided, however,* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities of such series or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Securities of such series, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company shall promptly notify the Trustee in writing of any change in the CUSIP, ISIN and Common Code numbers.

Section 2.18. Original Issue Discount and Foreign-Currency Denominated Securities. In determining whether the Holders of the required principal amount of outstanding Securities have concurred in any direction, amendment, supplement, waiver or consent, unless otherwise provided as contemplated by Section 2.1 with respect to the Securities of any series, (a) the principal amount of an Original Issue Discount Security of such series shall be the principal amount thereof that would be due and payable as of the date of that determination upon acceleration of the Maturity thereof pursuant to Section 6.2, and (b) the principal amount of a Security of such series denominated in a foreign currency shall be the Dollar equivalent, as determined by the Company by reference to the noon buying rate in The City of New York for cable transfers for that currency, as that rate is certified for customs purposes by the Federal Reserve Bank of New York (the "Exchange Rate") on the date of original issuance of that Security, of the principal amount (or, in the case of an Original Issue Discount Security, the Dollar equivalent, as determined by the Company by reference to the Exchange Rate on the date of original issuance of that Security, of the amount determined as provided in (a) above), of that Security.

### ARTICLE III

#### Covenants

Section 3.1. Payment of Securities. The Company shall promptly pay no later than 10:00 a.m. New York City time the principal of, premium, if any, on, and interest and Additional Amounts, if any, on the Securities on the dates and in the manner provided in the Securities and in this Indenture. Principal, premium, if any, interest and Additional Amounts, if any, shall be considered paid on the date due if on such date the Trustee or the Paying Agent holds in accordance with this Indenture immediately available funds sufficient to pay all principal, premium and interest and Additional Amounts, if any, then due and the Trustee or Paying Agent, as the case may be, is not prohibited from paying money to the Holders on that date pursuant to the terms of this Indenture.

The Company shall pay interest on overdue principal at the rate specified therefor in the Securities, and it shall pay interest on overdue installments of interest at the same rate to the extent lawful.

Notwithstanding anything to the contrary contained in this Indenture, the Company may, to the extent it is required to do so by law, deduct or withhold income or other similar taxes imposed by the United States of America from principal or interest payments hereunder.

Section 3.2. Reports. So long as the Securities of any series are outstanding, the Company shall:

(1) furnish to the Trustee, within 15 days after the Company files 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) which the Company files with the SEC pursuant to Section 13 or Section 15(d) of the Exchange Act; provided, however, that any such information, document or report filed with the SEC pursuant to its Electronic Data Gathering, Analysis and Retrieval (or EDGAR) system or any successor thereto shall be deemed to be filed with the Trustee; provided, however, that the Trustee shall have no responsibility whatsoever to determine whether such filing has occurred; and

(2) comply with the other provisions of TIA § 314(a).

Provided that, the 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 3.3. Maintenance of Office or Agency. The Company will maintain in the United States of America an office or agency for any series of Securities where such Securities may be presented or surrendered for payment, where, if applicable, the Securities of that series may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company in respect of the Securities of that series and this Indenture may be served. The designated corporate trust office of the Trustee at the address of the Trustee specified in Section 11.2 hereof, or such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the designated 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 (the "Corporate Trust Office") shall be such office or agency of the Company, unless the Company shall designate and maintain some other office or agency for one or more of such purposes. The Company will give prompt written notice to the Trustee of any change in the location of any 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 of the Trustee, and the Company hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

The Company may also from time to time designate one or more other offices or agencies where the Securities of one or more series may be presented or surrendered for any or all such purposes and may from time to time rescind any such designation; *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 United States of America for such purposes. The Company will give prompt written notice to the Trustee of any such designation or rescission and any change in the location of any such other office or agency.

Section 3.4. Corporate Existence. Subject to Article IV, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence. This Section 3.4 shall not prohibit or restrict the Company from converting into a different form of legal entity.

Section 3.5. Maintenance of Properties. The Company will cause all properties used or useful in the conduct of its business or the business of any Subsidiary to be maintained and kept in good condition, repair and working order and supplied with all necessary equipment and will cause to be made all necessary repairs, renewals, replacements, betterments and improvements thereof, all as in the judgment of the Company may be necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times; provided, however, that nothing in this Section shall prevent the Company from discontinuing the operation or maintenance of any of such properties if such discontinuance is, in the judgment of the Company, desirable in the conduct of its business or the business of any Subsidiary and not disadvantageous in any material respect to the Holders.

Section 3.6. Payment of Taxes and Other Claims. The Company will pay or discharge or cause to be paid or discharged, before the same shall become delinquent, (1) all taxes, assessments and governmental charges in excess of \$250,000 levied or imposed upon the Company or any Subsidiary or upon the income, profits or property of the Company or any Subsidiary, and (2) all lawful claims for labor, materials and supplies in excess of \$250,000 which, if unpaid, might by law become a lien upon the property of the Company or any Subsidiary; provided, however, that the Company shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate proceedings.

Section 3.7. Limitation on Liens. (a) The Company will not, and will not permit any Restricted Subsidiary to, issue, assume or guarantee any Indebtedness secured by any mortgage, security interest, pledge, lien or other encumbrance (such mortgages, security interests, pledges, liens and other encumbrances being hereinafter called a "Mortgage" or "Mortgages") upon any Operating Property or Operating Asset of the Company or any Restricted Subsidiary, whether such Operating Property or Operating Asset is now owned or hereafter acquired, without in any such case effectively providing concurrently with the issuance, assumption or guarantee of any such Indebtedness that the Securities (together with, if the Company shall so determine, any other Indebtedness ranking equally with such Securities other than Securities not having the benefit of this provision) shall be secured equally and ratably with such Indebtedness; provided, however, that the foregoing restrictions shall not prevent, restrict or apply to:

(a) (A) the giving, simultaneous with or within 180 days after the later of (1) the acquisition or completion of construction or completion of substantial reconstruction, renovation, remodeling, expansion or improvement (each a "substantial improvement") of such property, or (2) the placing in operation of such property after the acquisition or completion of any such construction or substantial improvement, of any purchase money Mortgage on such property (including security for inventory financing in the ordinary course of business and vendors' rights under purchase contracts under an agreement whereby title is retained for the purpose of securing the purchase price thereof) whether occurring prior to or after the date of this Indenture, or (B) the acquiring hereafter of property not theretofore owned by the Company or such Restricted Subsidiary subject to any then existing Mortgage securing Indebtedness (whether or not assumed), including, in each case, Indebtedness incurred for reimbursement of funds previously expended for any such purpose; provided, however, that, in each case, (y) such Mortgage is limited to any or all of (1) such acquired or constructed property or substantial improvement (including accretions thereto), (2) the real property on which any construction or substantial improvement occurs or (3) with respect to distribution centers, any equipment used directly in the operation of, or the business conducted on, the real property on which any construction or substantial improvement occurs, and (z) the total amount of the Indebtedness secured by such Mortgage, together with all other Indebtedness to Persons other than the Company or a Restricted Subsidiary secured by Mortgages on such Mortgaged property, shall not exceed the lesser of (A) the total cost of such Mortgaged property, including any such construction or substantial improvement, to the Company or a Restricted Subsidiary or (B) the fair market value thereof immediately following the acquisition, construction or substantial improvement thereof by the Company or a Restricted Subsidiary;

(b) the giving by the Company or a Restricted Subsidiary of a Mortgage on real property or, with respect to distribution centers, on equipment used directly in the operation of, or the business conducted on, such real property which is the sole security for Indebtedness (1) incurred within three years after the latest of (A) the date of issuance of the first Series of Securities hereunder, (B) the date of acquisition of such real property or (C) the date of completion of construction or substantial improvement made thereon, (2) incurred for the purpose of reimbursing itself for the cost of acquisition and/or cost of improvement of such real property and equipment, (3) the amount of which does not exceed the lesser of the aggregate cost of such real property, improvements and equipment or the fair market value thereof, and (4) the holder of which shall be entitled to enforce payment of such Indebtedness solely by resorting to the security therefor, without any liability on the part of the Company or such Restricted Subsidiary for any deficiency;

(c) Any Mortgage (1) existing on the date of this Indenture, (2) on the assets of a Restricted Subsidiary existing on the date it became a Subsidiary or (3) on the assets of a Subsidiary that is newly designated as a Restricted Subsidiary, if such Mortgage would have been permitted under this Section 3.7(a) if such Mortgage was created while such Subsidiary was a Restricted Subsidiary;

(d) Any Mortgage given in favor of the Company or any Restricted Subsidiary;

(e) Any Mortgage given as security for the Indebtedness issued hereunder; or

(f) Any Mortgage incurred in connection with any refinancing, extension, renewal or replacement of Indebtedness secured by a Mortgage permitted under clauses (i) to (v) above; provided, that the principal amount of the extended, renewed, refinanced or replaced Indebtedness does not exceed the principal amount of the Indebtedness so refinanced, extended, renewed or replaced, plus transaction costs and fees, and that such Mortgage applies only to the same property or assets subject to the prior permitted Mortgage (and, in the case of real property improvements).

(b) Notwithstanding the provisions of subsection (a) of this Section 3.7, the Company or any Restricted Subsidiary may, in addition to Mortgages permitted by subsection (a) of this Section 3.7, create or assume and renew, extend or replace Mortgages which would otherwise be subject to such subsection (a), provided that at the time of such creation, assumption, renewal, extension or replacement, and after giving effect thereto, Exempted Debt does not exceed 15% of Consolidated Net Tangible Assets.

Section 3.8. Limitation on Sale and Leaseback Transactions.

(a) Without equally and ratably securing the Securities (together with, if the Company so determines, any other Indebtedness ranking equally with the Securities), the Company will not, nor will it permit any Restricted Subsidiary to, enter into any arrangement with any Person providing for the leasing by the Company or any Restricted Subsidiary of any Operating Property or Operating Asset now owned or hereafter acquired that has been or is to be sold or transferred by the Company or such Restricted Subsidiary to such Person with the intention of taking back a lease of such property (a "Sale and Leaseback Transaction") unless the terms of such sale or transfer have been determined by the Board of Directors to be fair and arms' length and (i) within 180 days after the receipt of the proceeds of such sale or transfer, the Company or such Restricted Subsidiary applies an amount equal to the greater of the net proceeds of such sale or transfer or the fair value of such Operating Property or Operating Asset at the time of such sale or transfer to the prepayment or retirement (other than any mandatory prepayment or retirement) of Senior Funded Debt of the Company or any Restricted Subsidiary, or (ii) the Company or such Restricted Subsidiary would be entitled, at the effective date of such sale or transfer, to incur Indebtedness secured by a Mortgage on such Operating Property or Operating Asset, in an amount at least equal to the Attributable Debt in respect thereof, without equally and ratably securing the Securities pursuant to the provisions of Section 3.7, above. The foregoing restriction shall not apply to any Sale and Leaseback Transaction for a term of not more than three years including renewals, (x) any Sale and Leaseback Transaction with respect to Operating Property and, with respect to distribution centers, equipment used directly in the operation of, or the business conducted on, such Operating Property) if a binding commitment is entered into with respect to said Sale and Leaseback Transaction within three years after the latest of (1) the date of issuance of the first Series of Securities hereunder or (2) the date when such Operating Property was acquired (as the term "acquired" is used in the definition of Operating Property), any Sale and Leaseback Transaction with respect to Operating Assets if a binding commitment with respect thereto is entered into within 180 days after the later of the date such property was acquired and, if applicable, the date such property was first placed in operation, or (z) any Sale and Leaseback Transaction between the Company and any Restricted Subsidiary or between Restricted Subsidiaries provided that the lessor shall be the Company or a Wholly Owned Restricted Subsidiary.



(b) Notwithstanding the provisions of subsection (a) of this Section 3.8, the Company or any Restricted Subsidiary may, in addition to Sale and Leaseback Transactions permitted by subsection (a) of this Section 3.8, enter into Sale and Leaseback Transactions without any obligation to retire any Senior Funded Debt of the Company or a Restricted Subsidiary; provided that, at the time of entering into such Sale and Leaseback Transactions, and after giving effect thereto, Exempted Debt does not exceed 10% of Consolidated Net Tangible Assets.

Section 3.9. Limitations Upon Permitting Restricted Subsidiaries to become Unrestricted Subsidiaries and Unrestricted Subsidiaries to become Restricted Subsidiaries.

(a) The Company will not permit any Restricted Subsidiary to be designated as or otherwise to become an Unrestricted Subsidiary unless immediately after such Restricted Subsidiary becomes an Unrestricted Subsidiary, such Unrestricted Subsidiary will not own, directly or indirectly, any capital stock of any other Restricted Subsidiary or any Mortgage on property of any other Restricted Subsidiary.

(b) The Company will not permit any Unrestricted Subsidiary that has previously been a Restricted Subsidiary to be designated as a Restricted Subsidiary unless such Unrestricted Subsidiary shall not, at any time after it ceased to be a Restricted Subsidiary, have participated in any Sale and Leaseback Transaction involving any Operating Property or Operating Asset owned by such Subsidiary, the Company or any Restricted Subsidiary (other than in a transaction permitted under Section 3.8 for such Subsidiary if it had been a Restricted Subsidiary at the time), unless the Operating Property or Operating Asset involved in such transaction shall no longer be leased by the Company or any Restricted Subsidiary or such Subsidiary or shall be owned by the Company or a Wholly Owned Restricted Subsidiary;

(c) Promptly after the adoption of any Board Resolution designating a Restricted Subsidiary as an Unrestricted Subsidiary or an Unrestricted Subsidiary as a Restricted Subsidiary, or the making of an election by duly authorized Officers of the Company to effect any such designation, a copy of such Board Resolution or a written statement as to such designation signed by such Officers shall be filed with the Trustee, together with an Officers' Certificate stating that the provisions of this Section 3.9 have been complied with in connection with such designation, and, in case of the designation of a Restricted Subsidiary as an Unrestricted Subsidiary, setting forth the name of each other Subsidiary (if any) that has become an Unrestricted Subsidiary as a result of such designation.

Section 3.10. Compliance Certificate. The Company shall deliver to the Trustee within 120 days after the end of each fiscal year of the Company an Officers' Certificate, one of the signatories of which shall be the principal executive officer, the principal financial officer or the principal accounting officer of the Company, stating that in the course of the performance by the signers of their duties as Officers of the Company they would normally have knowledge of any Default or Event of Default and whether or not the signers know of any Default or Event of Default that occurred during such period. If they do, the certificate shall describe the Default or Event of Default, its status and what action the Company is taking or proposes to take with respect thereto. The Company also shall comply with TIA § 314(a)(4).

Section 3.11. Statement by Officers as to Default. So long as Securities of any series are outstanding, the Company shall deliver to the Trustee, as soon as possible and in any event within 5 Business Days after the Company becomes aware of the occurrence of any Event of Default or Default with respect to that series an Officers' Certificate setting forth the details of such Event of Default or Default and the action which the Company is taking or proposes to take in respect thereof.

Section 3.12. Additional Amounts. If the Securities of a series expressly provide for the payment of Additional Amounts, the Company will pay to the Holder of any Security of that series Additional Amounts as expressly provided therein. Whenever in this Indenture there is mentioned, in any context, the payment of the principal of or any premium or interest on, or in respect of, any Security of any series or the net proceeds received from the sale or exchange of any Security of any series, that mention shall be deemed to include mention of the payment of Additional Amounts provided for in this Section 3.7 to the extent that, in that context, Additional Amounts are, were or would be payable in respect thereof pursuant to the provisions of this Section 3.7, and express mention of the payment of Additional Amounts (if applicable) in any provisions hereof shall not be construed as excluding Additional Amounts in those provisions hereof where that express mention is not made.

Unless otherwise provided pursuant to Section 2.1 with respect to Securities of any series, if the Securities of a series provide for the payment of Additional Amounts, at least ten days prior to the first Interest Payment Date with respect to that series of Securities (or if the Securities of that series will not bear interest prior to Maturity, the first day on which a payment of principal and any premium is made), and at least ten days prior to each date of payment of principal and any premium or interest if there has been any change with respect to the matters set forth in the below-mentioned Officers' Certificate, the Company shall furnish the Trustee and the Company's principal Paying Agent or Paying Agents, if other than the Trustee, with an Officers' Certificate instructing the Trustee and such Paying Agent or Paying Agents whether that payment of principal of and any premium or interest on the Securities of that series shall be made to Holders of Securities of that series who are United States Aliens without withholding for or on account of any tax, assessment or other governmental charge described in the Securities of that series. If any such withholding shall be required, then that Officers' Certificate shall specify by country the amount, if any, required to be withheld on those payments to those Holders of Securities, and the Company will pay to that Paying Agent the Additional Amounts required by this Section. The Company covenants to indemnify the Trustee and any Paying Agent for and to hold them harmless against any loss, liability or expense reasonably incurred without negligence or bad faith on their part arising out of or in connection with actions taken or omitted by any of them in reliance on any Officers' Certificate furnished pursuant to this Section 3.7.

Section 3.13. Calculation of Original Issue Discount. If the Securities are issued with original issue discount, the Company shall file with the Trustee promptly at the end of each calendar year (i) a written notice specifying the amount of original issue discount (including daily rates and accrual periods) accrued on Outstanding Securities as of the end of such year and (ii) such other specific information relating to such original issue discount as may then be relevant under the Internal Revenue Code of 1986, as amended from time to time.

## ARTICLE IV

### Successors

Section 4.1. Merger, Consolidation or Sale of Assets. The Company shall not consolidate or combine with or merge with or into or, directly or indirectly, sell, assign (excluding any assignment solely as collateral for security purposes under a credit facility but not any outright assignment upon the foreclosure of any such collateral), convey, lease, transfer or otherwise dispose of all or substantially all of its assets to any Person or Persons in a single transaction or through a series of related transactions, unless:

(1) the Company shall be the successor or continuing Person or, if the Company is not the successor or continuing Person, the resulting, surviving or transferee Person (the "Surviving Entity") is a company organized and existing under the laws of the United States, any State thereof or the District of Columbia that expressly assumes all of the Company's obligations under the Securities and this Indenture pursuant to a supplement hereto executed and delivered to the Trustee;

(2) immediately after giving effect to such transaction or series of related transactions, no Event of Default has occurred and is continuing; and

(3) the Company or the Surviving Entity shall have delivered to the Trustee an Officers' Certificate and Opinion of Counsel stating that the transaction or series of related transactions and any supplement hereto complies with the terms of this Indenture and constitutes the legal, valid and binding obligation of the Company or the Surviving Entity, enforceable against it in accordance with its terms.

If any consolidation or merger or any sale, assignment, conveyance, lease, transfer or other disposition of all or substantially all of its assets occurs in accordance with the terms hereof, the Surviving Entity shall succeed to, and be substituted for, and may exercise every right and power of the Company under this Indenture with the same effect as if such Surviving Entity had been named as the Company. The Company shall (except in the case of a lease) be discharged from all obligations and covenants under this Indenture and any Securities issued hereunder, and may be liquidated and dissolved.

## ARTICLE V

### Redemption of Securities

Section 5.1. Applicability of Article. Redemption of Securities at the election of the Company or otherwise, as permitted or required by any provision of this Indenture, shall be made in accordance with such provision and (except as otherwise provided as contemplated by Section 2.1 with respect to the Securities of any series) this Article V.

Section 5.2. Election to Redeem; Notice to Trustee. In case of any redemption of any series of Securities at the election of the Company, the Company shall notify the Trustee in writing at least 45 days prior to such Redemption Date (unless a shorter notice shall be satisfactory to the Trustee) and of the principal amount of Securities to be redeemed and shall deliver to the Trustee such documentation and records as shall enable the Trustee to select the Securities of such series to be redeemed pursuant to Section 5.3.

Section 5.3. Selection by Trustee of Securities to Be Redeemed. If fewer than all of the Securities of any series are to be redeemed at any time, the Trustee will, subject to applicable law, select Securities of any series for redemption as follows:

- (1) if the Securities are listed on any national securities exchange, in compliance with the requirements of the principal national securities exchange on which the Securities are listed; or
- (2) if the Securities are not listed on any national securities exchange, in accordance with the procedures of DTC.

Section 5.4. Notice of Redemption. Notice of redemption shall be given in the manner provided for in Section 11.2 not less than 30 nor more than 60 days prior to the Redemption Date, to each Holder of Securities to be redeemed, except that redemption notices may be given more than 60 days prior to a Redemption Date if such notice is issued in connection with a defeasance of the Securities or a satisfaction and discharge of this Indenture. Notice of any redemption may, at the Company's discretion, be subject to one or more conditions precedent. The Trustee shall give notice of redemption in the Company's name and at the Company's expense; *provided, however*, that the Company shall deliver to the Trustee, at least 45 days prior to the Redemption Date (unless a shorter notice shall be satisfactory to the Trustee), an Officers' Certificate requesting that the Trustee give such notice at the Company's expense and setting forth the information to be stated in such notice as provided in the following items.

All notices of redemption shall state:

- (1) the Redemption Date;
- (2) the redemption price and the amount of accrued interest and Additional Amounts, if any, to the Redemption Date payable as provided in Section 5.6;
- (3) if less than all outstanding Securities are to be redeemed, the identification of the particular Securities (or portion thereof) to be redeemed, as well as the aggregate principal amount of Securities to be redeemed and the aggregate principal amount of Securities to be outstanding after such partial redemption;
- (4) in case any Securities are to be redeemed in part only, the notice which relates to such Securities shall state that on and after the Redemption Date, upon surrender of such Securities, the Holder will receive, without charge, a new Security or Securities of authorized denominations for the principal amount thereof remaining unredeemed;

(5) that on the Redemption Date the redemption price (and accrued interest, if any, to the Redemption Date payable as provided in Section 5.6) will become due and payable upon each such Security, or the portion thereof, to be redeemed, and, unless the Company defaults in making the redemption payment, that interest and Additional Amounts, if any, on Securities (or the portions thereof) called for redemption will cease to accrue on and after said date;

(6) the place or places where such Securities are to be surrendered for payment of the Redemption Price and accrued interest, if any;

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

(8) that Securities called for redemption (other than a Global Security) must be surrendered to the Paying Agent to collect the redemption price;

(9) the CUSIP, ISIN or Common Code number, and may state that no representation is made as to the accuracy or correctness of the CUSIP, ISIN or Common Code number, if any, listed in such notice or printed on the Securities; and

(10) the section of this Indenture and the paragraph of the Securities pursuant to which the Securities are to be redeemed.

Any redemption and notice thereof pursuant to this Indenture may, in the Company's discretion, be subject to the satisfaction of one or more conditions.

Section 5.5. Deposit of Redemption Price. Not later than 10:00 a.m. New York City time on the Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 2.6) an amount of money sufficient to pay the redemption price of, and accrued interest and Additional Amounts, if any, on, all the Securities which are to be redeemed on that date.

Section 5.6. Securities Payable on Redemption Date. Notice of redemption having been given as aforesaid, unless the notice of redemption is subject to one or more conditions precedent which have not been satisfied, the Securities so to be redeemed shall, on the Redemption Date, become due and payable at the redemption price therein specified (together with accrued and unpaid interest and Additional Amounts, if any, to the Redemption Date), and from and after such date (unless the Company shall default in the payment of the redemption price and accrued interest and Additional Amounts, if any) such Securities shall cease to bear interest and Additional Amounts, if any. Upon surrender of any such Security for redemption in accordance with said notice, such Security shall be paid by the Company at the redemption price, together with accrued and unpaid interest and Additional Amounts, if any, to the Redemption Date (subject to the rights of Holders of record on the relevant record date to receive interest and Additional Amounts, if any, due on an interest payment date that is on or prior to the Redemption Date).

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal (and premium, if any) shall, until paid, bear interest and Additional Amounts, if any, from the Redemption Date at the rate borne by the Securities.

Section 5.7. Securities Redeemed in Part. Any Security which is to be redeemed only in part (pursuant to the provisions of this Article V) shall be surrendered at the office or agency of the Company maintained for such purpose pursuant to Section 2.5 (with, if the Company or the Trustee so require, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or such Holder's attorney duly authorized in writing), and the Company shall execute, and the Trustee shall authenticate and make available for delivery to the Holder of such Security at the expense of the Company, a new Security or Securities, of any authorized denomination as requested by such Holder, in an aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Security so surrendered, *provided* that each such new Security will be in a principal amount of \$1,000 or integral multiple thereof. No Securities of \$1,000 or less may be redeemed in part.

## ARTICLE VI

### Defaults and Remedies

Section 6.1. Events of Default. Unless either inapplicable to a particular series or specifically deleted or modified in or pursuant to the supplemental indenture, Board Resolution, Officers' Certificate or Company Order establishing such series of Securities or in the form of Security for such series, each of the following constitutes an "Event of Default," wherever used herein with respect to Securities of any series:

- (1) the failure to pay any installment of interest or any Additional Amounts on any Security of that series when the same becomes due and payable and the default continues for a period of 30 days;
- (2) the failure to pay the principal of or any premium on any Security of that series, when such principal becomes due and payable, at maturity, upon redemption or otherwise;
- (3) a default in the observance or performance of any other covenant or agreement contained in this Indenture applicable to the Securities of that series or in the Securities of that series which default continues for a period of 60 days after the Company receives written notice specifying the default (and demanding that such default be remedied) from the Trustee or the Holders of at least 25% of the outstanding principal amount of the Securities of that series (except in the case of a default with respect to Section 4.1, which will constitute an Event of Default with such notice requirement but without such passage of time requirement);

(4) the failure to pay at final maturity (giving effect to any applicable grace periods and any extensions thereof) the stated principal amount of any Indebtedness of the Company or any Restricted Subsidiary of the Company, or the acceleration of the final stated maturity of any such Indebtedness (which acceleration is not rescinded, annulled or otherwise cured within 30 days of receipt by the Company or such Restricted Subsidiary of notice of any such acceleration) if the aggregate principal amount of such Indebtedness, together with the principal amount of any other such Indebtedness in default for failure to pay principal at final stated maturity or which has been accelerated (in each case with respect to which the 30-day period described above has elapsed), aggregates \$25.0 million or more at any time;

(5) one or more judgments in an aggregate amount in excess of \$25.0 million shall have been rendered against the Company or any of its Restricted Subsidiaries and such judgments remain undischarged, unpaid or unstayed for a period of 30 days after such judgment or judgments become final and non-appealable;

(6) the Company or any Subsidiary of the Company:

- (i) commences a voluntary case under any Bankruptcy Law,
- (ii) consents to the entry of an order for relief against it in an involuntary case,
- (iii) consents to the appointment of a custodian or receiver of it or for all or substantially all of its property,
- (iv) makes a general assignment for the benefit of its creditors, or
- (v) admits in writing its inability to pay its debts as they become due; or

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

- (i) is for relief in an involuntary case against the Company or any Subsidiary of the Company;
- (ii) appoints a custodian or receiver of the Company or any Subsidiary or for all or substantially all of the property of any of the foregoing;
- (iii) orders the liquidation of the Company or any of its Subsidiaries; and the order or decree remains unstayed and in effect for 60 consecutive days;

(8) the Company fails to deposit any sinking fund payment, when due, in respect of any Security of that series; or

(9) any other Event of Default provided in or pursuant to this Indenture with respect to Securities of that series.

Section 6.2. Acceleration. Except as otherwise provided as contemplated by Section 2.1 with respect to the Securities of such series, if any Event of Default with respect to any Securities of such series at the time outstanding (other than those of the type described in clause (6) or (7) of Section 6.1) occurs and is continuing, the Trustee may, and at the written direction of the Holders of at least 25% in aggregate principal amount of outstanding Securities of such series shall, declare the principal of all the Securities of that series, together with all accrued and unpaid interest and Additional Amounts, if any, and premium, if any, to be due and payable immediately by notice in writing to the Company and the Trustee specifying the respective Event of Default and that such notice is a notice of acceleration, and the same shall become immediately due and payable.

Except as otherwise provided as contemplated by Section 2.1 with respect to the Securities of any series, in the case of an Event of Default with respect to such series specified in clause (6) or (7) of Section 6.1 hereof, all outstanding Securities of such series shall become due and payable immediately without further action or notice by the Trustee or the Holders. Holders may not enforce this Indenture or the Securities except as provided in this Indenture.

Except as otherwise provided as contemplated by Section 2.1 with respect to the Securities of any series, at any time after a declaration of acceleration with respect to the Securities of such series, the Holders of a majority in principal amount of the Securities of that series then outstanding (by written notice to the Trustee) may, on behalf of the Holders of all the Securities of that series, rescind and cancel such declaration and its consequences if:

(1) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction;

(2) all existing Defaults and Events of Default with respect to Securities of that series have been cured or waived except nonpayment of principal of or interest on the Securities of that series that has become due solely by reason of such declaration of acceleration;

(3) to the extent the payment of such interest is lawful, interest (at the same rate specified in the Securities of such series) on overdue installments of interest and Additional Amounts, if any, and overdue payments of principal which has become due otherwise than by such declaration of acceleration has been paid;

(4) the Company has paid the Trustee its compensation and reimbursed the Trustee for its expenses, disbursements and advances; and

(5) in the event of the cure or waiver of an Event of Default of the type described in clause (6) or (7) of Section 6.1, the Trustee has received an Officers' Certificate and Opinion of Counsel that such Event of Default has been cured or waived.



Section 6.3. Other Remedies. If an Event of Default with respect to any series occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of (or premium, if any) or interest or Additional Amounts, if any, on the Securities of such series or to enforce the performance of any provision of the Securities of such series or this Indenture with respect to such series.

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

Section 6.4. Waiver of Past Defaults. Except as otherwise provided as contemplated by Section 2.1 with respect to the Securities of any series, the Holders of a majority in principal amount of the then outstanding Securities of such series by written notice to the Trustee may, on behalf of the Holders of all the Securities of such series, (a) waive, by their consent (including, without limitation consents obtained in connection with a purchase of, or tender offer or exchange offer for, Securities of such series), an existing Default or Event of Default, with respect to such series and its consequences or compliance with any provisions except (i) a Default or Event of Default in the payment of the principal of, or premium, if any, or interest or Additional Amounts, if any, on a Security of such series or (ii) a Default or Event of Default in respect of a provision that under Section 9.2 cannot be amended without the consent of each Holder affected and (b) rescind any such acceleration with respect to the Securities of such series and its consequences if rescission would not conflict with any judgment or decree of a court of competent jurisdiction. When a Default or Event of Default is waived, it is deemed cured, but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any consequent right.

Section 6.5. Control by Majority. With respect to Securities of any series, the Holders of a majority in principal amount of the outstanding Securities of such series may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture or, subject to Sections 7.1 and 7.2, that the Trustee determines is unduly prejudicial to the rights of the other Holders or would involve the Trustee in personal liability. Prior to taking any action hereunder, the Trustee shall be entitled to indemnification satisfactory to it in its sole discretion against all losses and expenses caused by taking or not taking such action.

Section 6.6. Limitation on Suits. Subject to Section 6.7, a Holder of a Security of any series may not pursue any remedy with respect to this Indenture or the Securities of such series unless:

- (1) such Holder has previously given to the Trustee written notice stating that an Event of Default is continuing with respect to such series;
- (2) Holders of at least 25% in aggregate principal amount of the outstanding Securities of such series have requested in writing that the Trustee pursue the remedy;
- (3) such Holders have offered to the Trustee security or indemnity satisfactory to it against any loss, liability or expense;
- (4) the Trustee has not complied with such request within 60 days after receipt of the request and the offer of security or indemnity; and
- (5) the Holders of a majority in principal amount of the outstanding Securities of such series have not given the Trustee a direction that, in the opinion of the Trustee, is inconsistent with such request within such 60-day period.

A Holder may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Holders).

Section 6.7. Rights of Holders to Receive Payment. Notwithstanding any other provision of this Indenture (including, without limitation, Section 6.6), the right of any Holder to receive payment of principal of, premium (if any) or interest or Additional Amounts, if any, when due on the Securities held by such Holder, on or after the respective due dates expressed in the Securities, 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 6.8. Collection Suit by Trustee. If an Event of Default specified in clauses (1) or (2) of Section 6.1 occurs and is continuing with respect to Securities of any series, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company for the whole amount then due and owing (together with interest on any unpaid interest to the extent lawful) with respect to such series and the amounts provided for in Section 7.7.

Section 6.9. Trustee May File Proofs of Claim. The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Company, its Subsidiaries or its or their respective creditors or properties and, unless prohibited by law or applicable regulations, may vote on behalf of the Holders in any election of a trustee in bankruptcy or other Person performing similar functions, and any Custodian in any such judicial proceeding is hereby authorized by each Holder to make payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the compensation, expenses, disbursements and advances of the Trustee, its agents and its counsel, and any other amounts due the Trustee under Section 7.7. 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 7.7 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 on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Securities 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 or property pursuant to this Article VI, it shall pay out the money or property in the following order:

*FIRST*: to the Trustee and its counsel for amounts due under this Indenture, including payment of all compensation, expenses and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

*SECOND*: to Holders for amounts due and unpaid on the Securities in respect of which or for the benefit of which such money has been collected, for principal, premium, if any, and interest and Additional Amounts, if any, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for principal, premium, if any, and interest and Additional Amounts, if any, respectively; and

*THIRD*: to the Company or to such other party as a court of competent jurisdiction may direct.

The Trustee may fix a record date and payment date for any payment to Holders pursuant to this Section 6.10. At least 15 days before such record date, the Company shall mail to each Holder and the Trustee a notice that states the record date, the payment date and amount to be paid.

Section 6.11. Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by the Company, a suit by a Holder pursuant to Section 6.7 or a suit by Holders of more than 10% in outstanding principal amount of the Securities of any series.

## ARTICLE VII

### Trustee

Section 7.1. Duties of Trustee. (a) If an Event of Default has occurred and is continuing, the Trustee shall exercise the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent Person would exercise or use under the circumstances in the conduct of such Person's own affairs; provided that if an Event of Default occurs and is continuing, the Trustee will be under no obligation to exercise the rights or powers under this Indenture at the request or direction of any of the Holders unless such Holders have offered to the Trustee indemnity or security against loss, liability or expense satisfactory to the Trustee in its sole discretion.

(b) Except during the continuance of an Event of Default with respect to the Securities of any series:

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in 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

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

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

(1) this paragraph does not limit the effect of paragraph (b) of this Section 7.1;

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

(3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.5.

(d) Every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b) and (c) of this Section 7.1.

(e) 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.

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

(g) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers.

(h) Every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section 7.1 and to the provisions of the TIA.

(i) 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.

(j) 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 satisfactory to it against the costs, expenses (including reasonable attorneys' fees and expenses) and liabilities that might be incurred by it in compliance with such request or direction.

(k) In the absence of written investment direction from the Company, all cash received by the Trustee shall be placed in a non-interest bearing account and in no event shall Trustee be liable for the selection of investments or for investment losses incurred thereon or for losses incurred as a result of the liquidation of any such investment prior to its maturity date or the failure of the party directing such investments prior to its maturity date or the failure of the party directing such investment to provide timely written investment direction, and the Trustee shall have no obligation to invest or reinvest any amount held hereunder in the abase of such written investment direction from the Company.

(l) In the event Trustee is also acting as Registrar, Paying Agent, or transfer agent hereunder, the rights and protections afforded to the Trustee under this Indenture shall also be afforded to such Registrar, Paying Agent or transfer agent.

Section 7.2. Rights of Trustee. Subject to Section 7.1:

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

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

(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 which it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

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

(f) The Trustee is not required to make any inquiry or investigation into facts or matters stated in any document but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit and, if the Trustee determines to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company personally or by agent, in which case the Company shall be responsible for the reasonable expenses of such investigation, or if paid by Trustee then the Trustee shall be reimbursed by the Company upon demand.

(g) The Trustee is not required to take notice and shall not be deemed to have notice of any Default or Event of Default hereunder with respect to any series of Securities, unless a Trust Officer of the Trustee has actual knowledge thereof or has received notice in writing of such Default or Event of Default from the Company or the Holders of at least 25% in aggregate principal amount of the Securities of such series then outstanding and such notice references the Securities and this Indenture, and in the absence of any such notice, the Trustee may conclusively assume that no such Default or Event of Default exists.

(h) The Trustee is not required to give any bond or surety with respect to the performance of its duties or the exercise of its powers under this Indenture.

(i) In the event the Trustee receives inconsistent or conflicting requests and indemnity from two or more groups of Holders of Securities, each representing less than the aggregate principal amount of Securities outstanding required to take any action thereunder, the Trustee, in its sole discretion may determine what action, if any, shall be taken.

(j) The Trustee's immunities and protections from liability and its right to indemnification in connection with the performance of its duties under this Indenture shall extend to the Trustee's officers, directors, agents, attorneys and employees and to the Trustee in each of its capacities hereunder. Such immunities and protections and right to indemnification, together with the Trustee's right to compensation, shall survive the Trustee's resignation or removal, the discharge of this Indenture and final payments of the Securities.

(k) The permissive right of the Trustee to take actions permitted by this Indenture shall not be construed as an obligation or duty to do so.

(l) The Trustee shall have no duty to inquire as to the performance of the Company's covenants herein.

(m) Any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution.

(n) In no event shall the Trustee be responsible or liable for special, indirect, punitive 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.

(o) 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 7.3. Individual Rights of Trustee. The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee. Any Paying Agent, Registrar, co-registrar or co-paying agent may do the same with like rights. However, the Trustee must comply with Sections 7.10 and 7.11.

Section 7.4. 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 Securities, it shall not be accountable for the Company's use of the proceeds from the Securities, and it shall not be responsible for any statement of the Company in this Indenture or in any document issued in connection with the sale of the Securities or in the Securities other than the Trustee's certificate of authentication.

Section 7.5. Notice of Defaults. If a Default or Event of Default with respect to the Securities of any series occurs and is continuing and if a Trust Officer has actual knowledge thereof, the Trustee shall mail to each Holder of a Security of such series notice of the Default or Event of Default within the later of 30 days after obtaining such knowledge and 90 days after it occurs, unless the Default was already cured or waived. Except in the case of a Default or Event of Default in payment of principal of, premium, if any, or interest or Additional Amounts, if any, on any Security of any series, the Trustee may withhold the notice if it in good faith determines that withholding the notice is in the interests of Holders of such series.

Section 7.6. Reports by Trustee to Holders. Within 60 days after each May 15 beginning with the May 15 following the date of this Indenture and for so long as the Securities of any series remain outstanding, the Trustee shall mail to each Holder of Securities of such series a brief report dated as of such reporting date that complies with TIA § 313(a). The Trustee also shall comply with TIA § 313(b). The Trustee shall also transmit by mail all reports required by TIA § 313(c).

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

Section 7.7. Compensation and Indemnity. The Company shall pay to the Trustee from time to time such compensation for its acceptance of this Indenture and services hereunder as the Company and the Trustee shall from time to time agree in writing. 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 upon request for all reasonable out-of-pocket expenses incurred or made by it, including costs of collection, costs of preparing and reviewing reports, certificates and other documents, costs of mailing of notices to Holders, in addition to the compensation for its services. Such expenses shall include the reasonable compensation and expenses, disbursements and advances of the Trustee's agents, counsel, accountants and experts. The Company shall indemnify the Trustee (and its agents, officers and employees) against any and all losses, liabilities, damages, claims, penalties, fines or expenses (including reasonable attorneys' and agents' fees and expenses) (for purposes of this Section 7.7, "losses") incurred by it in connection with the administration of this trust and the performance of its duties hereunder, including the costs and expenses of enforcing this Indenture (including this Section 7.7) and of defending itself against any claims (whether asserted by any Holder, the Company or otherwise), except to the extent such losses may be attributable to its negligence or willful misconduct as determined by a court of competent jurisdiction. The indemnification herein shall extend to settlements. 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 provide reasonable cooperation at the Company's expense in the defense. The Trustee may have separate counsel and the Company shall pay the reasonable fees and expenses of such counsel provided that the Company shall not be required to pay such fees and expenses if it assumes the Trustee's defense, and, in the reasonable judgment of outside counsel to the Trustee, there is no conflict of interest between the Company and the Trustee in connection with such defense. The Company shall not be under any obligation to pay for any written settlement without its consent, which consent shall not be unreasonably delayed, conditioned or withheld. The Company need not reimburse any expense incurred by the Trustee through the Trustee's own willful misconduct or gross negligence.

To secure the Company's payment obligations in this Section 7.7, the Trustee shall have a lien prior to the Securities on all money or property held or collected by the Trustee other than money or property held in trust to pay principal of, interest and Additional Amounts, if any, on particular Securities.

The Company's payment obligations pursuant to this Section 7.7 shall survive the discharge of this Indenture, the resignation or removal of the Trustee and payment in full of the Securities. When the Trustee incurs expenses after the occurrence of a Default specified in clauses (6) or (7) of Section 6.1 with respect to the Company, the expenses are intended to constitute expenses of administration under any Bankruptcy Law.

Section 7.8. Replacement of Trustee. The Trustee may resign at any time by so notifying the Company. The Holders of a majority in principal amount of the then outstanding Securities of any series may remove the Trustee with respect to the Securities of such series by so notifying the Trustee and may appoint a successor Trustee. The Company shall remove the Trustee if:

- (1) the Trustee fails to comply with Section 7.10;
- (2) the Trustee is adjudged bankrupt or insolvent;
- (3) a receiver or other public officer takes charge of the Trustee or its property; or
- (4) the Trustee otherwise becomes incapable of acting.



If the Trustee resigns or is removed by the Company or by the Holders of a majority in principal amount of the then outstanding Securities of any series and such Holders of such series do not reasonably promptly appoint a successor Trustee, or if a vacancy exists in the office of the Trustee for any reason (the Trustee in such event being referred to herein as the retiring Trustee), the Company shall promptly appoint a successor Trustee with respect to such series.

If a successor Trustee with respect to Securities of any series does not take office within 30 days after the retiring Trustee resigns or is removed, the retiring Trustee or the Holders of at least 10% in principal amount of the then outstanding Securities of such series may petition, at the Company's expense, any court of competent jurisdiction for the appointment of a successor Trustee with respect to Securities of such series.

If the Trustee with respect to the Securities of a series fails to comply with Section 7.10, unless the Trustee's duty to resign is stayed as provided in TIA § 310(b), any Holder who has been a bona fide Holder of a Security of such series for at least six months may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee with respect to such series.

In case of the appointment of a successor Trustee with respect to all Securities, each such successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee, to the Company. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, power and duties of the retiring 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, subject to the lien provided for in Section 7.7.

In case of the appointment of a successor Trustee with respect to the Securities of one or more (but not all) series, the Company, the retiring Trustee and each successor Trustee with respect to the Securities of one or more (but not all) series shall execute and deliver an indenture supplemental hereto in which each successor Trustee shall accept such appointment and that (1) shall confer to each successor Trustee all the rights, powers and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates, (2) if the retiring Trustee is not retiring with respect to all Securities, shall confirm that all the rights, powers and duties of the retiring Trustee with respect to the Securities of that or those series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee and (3) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee. Nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust, and each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee. Upon the execution and delivery of such supplemental indenture, the resignation or removal of the retiring Trustee shall become effective to the extent provided therein and each such successor Trustee shall have all the rights, powers and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates. On request of the Company or any successor Trustee, such retiring Trustee shall transfer to such successor Trustee all property held by such retiring Trustee as Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates. Such retiring Trustees shall, however, have the right to deduct its unpaid fees and expenses, including, without limitation, reasonable attorneys' fees and expenses.

Notwithstanding the replacement of the Trustee pursuant to this Section 7.8, the Company's obligations under Section 7.7 shall continue for the benefit of the retiring Trustee.

So long as no Event of Default, or no event which is, or after notice or lapse of time, or both, would become, an Event of Default, shall have occurred and be continuing, and except with respect to a Trustee appointed by the act of the Holders of a majority in principal amount of then outstanding Securities of any series, if the Company shall have delivered to the Trustee (1) a Board Resolution appointing a successor Trustee, effective as of a date specified therein, and (2) an instrument of acceptance of such appointment, effective as of such date, by such successor Trustee, then the Trustee shall be deemed removed, the successor Trustee shall be deemed to have been appointed by the Company and such appointment shall be deemed to have been accepted as contemplated, all as of such date, and all other provisions of this Section 7.8 shall be applicable to such removal, appointment and acceptance except to the extent inconsistent with this subsection.

Section 7.9. Successor Trustee by Merger. If the Trustee consolidates with, merges or converts into, or transfers all or substantially all its corporate trust business or assets to, another corporation or banking association, the resulting, surviving or transferee corporation without any further act shall be the successor Trustee. The predecessor Trustee shall have no liability for any action or inaction by any successor Trustee.

In case at the time such successor or successors by merger, conversion or consolidation to the Trustee shall succeed to the trusts created by this Indenture, any of the Securities shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee, and deliver such Securities so authenticated; and in case at that time any of the Securities shall not have been authenticated, any successor to the Trustee may authenticate such Securities either in the name of any predecessor hereunder or in the name of the successor to the Trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Securities or in this Indenture.

Section 7.10. Eligibility; Disqualification. The Trustee shall at all times satisfy the requirements of TIA § 310(a). The Trustee shall have a combined capital and surplus of at least \$50.0 million as set forth in its most recent published annual report of condition. The Trustee shall comply with TIA § 310(b); *provided, however*, that there shall be excluded from the operation of TIA § 310(b)(1) any indenture or indentures under which other securities or certificates of interest or participation in other securities of the Company are outstanding if the requirements for such exclusion set forth in TIA § 310(b)(1) are met.

Section 7.11. Preferential Collection of Claims Against Company. The Trustee shall comply with 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.

## ARTICLE VIII

### Legal Defeasance and Covenant Defeasance

Section 8.1. Option to Effect Legal Defeasance or Covenant Defeasance. Unless otherwise designated pursuant to Section 2.1(20), the Securities of any series shall be subject to defeasance or covenant defeasance pursuant to Section 8.2 or 8.3, in accordance with any applicable requirements provided pursuant to Section 2.1 and upon compliance with the conditions set forth in this Article VIII. The Company may, at its option and at any time, elect to have either Section 8.2 or 8.3 hereof be applied to all outstanding Securities of any series so subject to defeasance or covenant defeasance. Any such election shall be evidenced by a Board Resolution of the Company or in another manner specified as contemplated by Section 2.1 for such Securities.

Section 8.2. Legal Defeasance and Discharge. Upon the Company's exercise under Section 8.1 hereof of the option applicable to this Section 8.2 with respect to Securities of any series, the Company shall, subject to the satisfaction of the conditions set forth in Section 8.4 hereof, be deemed to have been discharged from its Obligations with respect to all outstanding Securities of such series 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 Securities with respect to such series, which shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.5 hereof and the other Sections of this Indenture referred to in clauses (a) through (e) below, and to have satisfied all its other obligations under the Securities with respect to such series and this Indenture (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following provisions which shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of outstanding Securities with respect to such series to receive, solely from the trust fund described in Sections 8.4 and 8.5 hereof, and as more fully set forth in such Section, payments in respect of the principal of, premium, if any, and interest and Additional Amounts, if any, on such Securities when such payments are due, (b) the Company's Obligations with respect to such Securities under Article II and Sections 3.1 hereof, (c) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Company's obligations in connection therewith, (d) the optional redemption provisions, if any, with respect to such Securities, and (e) this Article VIII. If the Company exercises under Section 8.1 hereof the option applicable to this Section 8.2, subject to the satisfaction of the conditions set forth in Section 8.4 hereof, payment of the Securities with respect to such series may not be accelerated because of an Event of Default. Subject to compliance with this Article VIII, the Company may exercise its option under this Section 8.2 notwithstanding the prior exercise of its option under Section 8.3 hereof.

Section 8.3. Covenant Defeasance. Upon the Company's exercise under Section 8.1 hereof of the option applicable to this Section 8.3 with respect to Securities of any series, the Company shall, with respect to such series of Securities, subject to the satisfaction of the conditions set forth in Section 8.4 hereof, be released from its obligations under the covenants contained in Sections 3.2 and 3.3, with respect to the outstanding Securities of such series on and after the date the conditions set forth in Section 8.4 hereof are satisfied (hereinafter, "Covenant Defeasance"), and the Securities of such series shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders of such series (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 Securities shall not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Securities of such series, 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 6.1 hereof, but, except as specified above, the remainder of this Indenture and such Securities shall be unaffected thereby. If the Company exercises under Section 8.1 hereof the option applicable to this Section 8.3, subject to the satisfaction of the conditions set forth in Section 8.4 hereof, payment of the Securities of such series may not be accelerated because of an Event of Default specified in clauses (4) (with respect to Sections 3.2 and 3.3), (6) and (7) of such Section 6.1.

Section 8.4. Conditions to Legal or Covenant Defeasance. The following shall be the conditions to the application of either Section 8.2 or 8.3 hereof to the outstanding Securities of any series.

In order to exercise Legal Defeasance or Covenant Defeasance with respect to the Securities of any series:

(1) the Company must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders of the Securities of such series, 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, in the written opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants, to pay the principal of, and interest and Additional Amounts, if any, and premium, if any, on the outstanding Securities of such series on the stated date for payment or on the applicable Redemption Date, as the case may be, and the Company must specify whether the Securities of such series are being defeased to such stated date for payment or to a particular Redemption Date;

(2) in the case of Legal Defeasance, the Company must deliver 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 date of this Indenture, 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 Securities of such series will not recognize income, gain or loss for federal income tax law purposes as a result of such Legal Defeasance and shall be subject to federal income tax law in 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 Covenant Defeasance, the Company must deliver to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that Holders of the outstanding Securities of such series shall not recognize income, gain or loss for federal income tax law purposes as a result of such Covenant Defeasance and shall be subject to federal income tax in 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 be continuing with respect to the Securities of such series 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 will 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 must deliver to the Trustee an Officers' Certificate stating that such deposit was not made by the Company with the intent of preferring the Holders of Securities of such series over the other creditors of the Company with the intent of defeating, hindering, delaying or defrauding creditors of the Company or others; and

(7) the Company must deliver to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

Section 8.5. Deposited Cash and Government Securities to be Held in Trust; Other Miscellaneous Provisions. Subject to Section 8.6 hereof, all cash and non-callable Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee), collectively for purposes of this Section 8.5, the "Trustee") pursuant to Section 8.4 hereof in respect of the outstanding Securities of such series shall be held in trust and applied by the Trustee, in accordance with the provisions of such Securities of such series 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 Securities of such series of all sums due and to become due thereon in respect of principal, premium, if any, interest and Additional Amounts, if any, but such cash and securities 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 8.4 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 Securities of such series.

Anything in this Article VIII to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon the request of the Company any cash or non-callable Government Securities held by it as provided in Section 8.4 hereof which, in the opinion of a nationally recognized independent registered public accounting firm expressed in a written certification thereof delivered to the Trustee (which may be the certification delivered under clause (1) of Section 8.4 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 8.6. Repayment to Company. Any cash or non-callable Government Securities 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, on, or interest or Additional Amounts, if any, on, any Security of any series and remaining unclaimed for one year after such principal, premium, if any, or interest or Additional Amounts, if any, has become due and payable shall be paid to the Company on its request (unless an abandoned property law designates another Person) or (if then held by the Company) shall be discharged from such trust; and such Holder shall thereafter, as an unsecured creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such cash and securities, and all liability of the Company as Trustee thereof, shall thereupon cease.

Section 8.7. Reinstatement. If the Trustee or Paying Agent is unable to apply any cash or non-callable Government Securities in accordance with Section 8.2, 8.3 or 8.5 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 Securities of such series shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.4 hereof until such time as the Trustee or Paying Agent is permitted to apply all such cash and securities in accordance with Section 8.2, 8.3 or 8.5 hereof, as the case may be; *provided, however*, that, if the Company makes any payment of principal of, premium, if any, on, or interest or Additional Amounts, if any, on, any Security of such series following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such series to receive such payment from the cash and securities held by the Trustee or Paying Agent.

## ARTICLE IX

### Amendments

Section 9.1. Without Consent of Holders. Except as otherwise provided as contemplated by Section 2.1 with respect to the Securities of any series, the Company and the Trustee may amend or supplement this Indenture or the Securities without notice to or consent of any Holder:

- (1) to cure any ambiguity, defect or inconsistency;
- (2) to provide for uncertificated Securities in addition to or in place of certificated Securities;

- (3) to establish the form or terms of Securities of any series as permitted by Section 2.1;
- (4) to provide for the assumption of the Company's obligations to Holders of Securities of any series in the case of a merger or consolidation or sale of all or substantially all of the Company's properties or assets, as applicable;
- (5) to comply with requirements of the SEC in order to maintain the qualification of this Indenture under the Trust Indenture Act;
- (6) to make any change that would provide any additional rights or benefits to the Holders of Securities of any series or that does not materially adversely affect the legal rights under this Indenture of any such Holder;
- (7) to add to the covenants of the Company for the benefit of the Holders of all or any series of Securities (and if such covenants are to be for the benefit of less than all series of Securities, stating that such covenants are expressly being included solely for the benefit of such series), or to surrender any right or power herein conferred upon the Company;
- (8) to add any additional Events of Default with respect to all or any series of the Securities (and, if any such Event of Default is applicable to less than all series of Securities, specifying the series to which such Event of Default is applicable);
- (9) to change or eliminate any of the provisions of this Indenture; *provided* that any such change or elimination shall become effective only when there is no outstanding Security of any series created prior to the execution of such amendment or supplemental indenture that is adversely affected in any material respect by such change in or elimination of such provision;
- (10) to supplement any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the defeasance and discharge of any series of Securities pursuant to Section 8.1; *provided, however*, that any such action shall not adversely affect the interest of the Holders of Securities of such series or any other series of Securities in any material respect;
- (11) to secure the Securities of any series;
- (12) to evidence and provide for the acceptance under this Indenture of a successor trustee; or
- (13) to conform the text of this Indenture or any Securities to the description thereof in any prospectus or prospectus supplement of the Company with respect to the offer and sale of Securities of any series, to the extent that such provision is inconsistent with a provision of this Indenture or the Securities, as provided in an Officers' Certificate.

After an amendment under this Indenture becomes effective, the Company is required to mail to the Holders of each Security affected thereby a notice briefly describing such amendment. However, the failure to give such notice to all the Holders of each Security affected thereof, or any defect therein, will not impair or affect the validity of the amendment or supplemental indenture under this Section 9.1.

Section 9.2. With Consent of Holders. Except as otherwise provided as contemplated by Section 2.1 with respect to the Securities of any series, except as provided below in this Section 9.2, the Company, and the Trustee may amend or supplement this Indenture with the consent (including consents obtained in connection with a purchase of, or a tender offer or exchange offer for, Securities) of the Holders of a majority in principal amount of the then outstanding Securities of each series affected by such amendment or supplement (acting as separate classes).

Upon the request of the Company, accompanied by a Board Resolution, and upon the filing with the Trustee of evidence of the consent of the Holders as aforesaid, and upon receipt by the Trustee of the documents described in Section 9.5, the Trustee shall, subject to Section 9.6, join with the Company in the execution of such amendment or supplemental indenture.

Except as otherwise provided as contemplated by Section 2.1 with respect to the Securities of any series, the Holders of a majority in principal amount of the then outstanding Securities of one or more series or of all series affected by such waiver (acting as separate classes) may waive compliance in a particular instance by the Company with any provision of this Indenture with respect to Securities of such series (including waivers obtained in connection with a purchase of, or a tender offer or exchange offer for, Securities of such series).

However, except as otherwise provided as contemplated by Section 2.1 with respect to the Securities of any series, without the consent of each Holder affected, an amendment, supplement or waiver may not (with respect to any Securities held by a non-consenting Holder):

- (1) reduce the principal amount of Securities whose Holders must consent to an amendment, supplement or waiver;
- (2) reduce the principal of or change the fixed maturity of any Security or alter the provisions with respect to the redemption or repurchase of the Securities;
- (3) reduce the rate of or change the time for payment of interest, including default interest on any Security;
- (4) waive a Default or Event of Default in the payment of principal of, or interest or premium, or Additional Amounts, if any, on the Securities (except a rescission of acceleration of the Securities by the Holders of at least a majority in aggregate principal amount of the then outstanding Securities and a waiver of the payment default that resulted from such acceleration);
- (5) make any Security payable in currency other than that stated in the Securities;



(6) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders of Securities to receive payments of principal of, or interest or premium, if any, on the Securities (other than as permitted in clause (7) below);

(7) waive a redemption payment with respect to any Security;

(8) impair the right of a Holder of Securities to institute suit for the enforcement of any payment on the Securities; or

(9) make any change in the preceding amendment, supplement and waiver provisions.

It shall not be necessary for the consent of the Holders under this Section 9.2 to approve the particular form of any proposed amendment, but it shall be sufficient if such consent approves the substance of the proposed amendment.

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

A consent to any amendment or waiver under this Indenture by any Holder of the Securities given in connection with a tender of such Holder's Securities will not be rendered invalid by such tender. After an amendment under this Section becomes effective, the Company shall promptly mail to Holders of each Security affected thereby a notice briefly describing such amendment. The failure to give such notice to all Holders of each Security affected thereby, or any defect therein, shall not impair or affect the validity of an amendment, supplemental indenture or waiver under this Section 9.2.

Section 9.3. Compliance with Trust Indenture Act. Every amendment or supplement to this Indenture or the Securities shall comply with the Trust Indenture Act of 1939 as then in effect.

Section 9.4. Revocation and Effect of Consents and Waivers. A consent to an amendment or a waiver by a Holder of a Security shall be in writing and bind the Holder and every subsequent Holder of that Security or portion of the Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent or waiver is not made on the Security. However, any such Holder or subsequent Holder may revoke the consent or waiver as to such Holder's Security or portion of the Security if the Trustee receives the notice of revocation before the date the amendment or waiver becomes effective. After an amendment or waiver becomes effective with respect to a series of Securities, it shall bind every Holder of Securities of such series.

For purposes of this Indenture, the written consent of the Holder of a Global Security shall be deemed to include any consent delivered by an Agent Member by electronic means in accordance with the Automated Tender Offer Procedures system or other customary procedures of, and pursuant to authorization by, DTC.

The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to give their consent or take any other action described above or required or permitted to be taken pursuant to this Indenture. The Trustee may, but shall not be obligated to, fix a record date for the purpose of determining the Holders of Securities of any series entitled to join in the giving, making or taking of (i) any notice permit to Section 6.1(4) or otherwise of any Default, (ii) any declaration of acceleration pursuant to Section 6.2, (iii) any request to institute proceedings pursuant to Section 6.6(2), or (iv) any direction referred to in Section 6.5, in each case with respect to such series. If a record date is so fixed, then notwithstanding the second preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to give such consent or to revoke any consent previously given or to take any such action, whether or not such Persons continue to be Holders after such record date. No such consent shall become valid or effective more than 180 days after such record date.

Section 9.5. Notation on or Exchange of Securities. If an amendment changes the terms of a Security, the Trustee may require the Holder of the Security to deliver it to the Trustee. The Trustee may place an appropriate notation on the Security regarding the changed terms and return it to the Holder. Alternatively, if the Company so determines, the Company in exchange for the Security shall issue and the Trustee shall authenticate a new Security that reflects the changed terms. Failure to make the appropriate notation or to issue a new Security shall not affect the validity of such amendment.

Section 9.6. Trustee To Sign Amendments. The Trustee shall sign any amendment authorized pursuant to this Article IX if the amendment does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee may but need not sign it. In signing such amendment the Trustee shall receive indemnity satisfactory to it and shall receive, and (subject to Sections 7.1 and 7.2) shall be fully protected in conclusively relying upon an Officers' Certificate and an Opinion of Counsel stating that the execution of such amendment is authorized or permitted by this Indenture, that such amendment is the legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, subject to customary exceptions, and that such amendment complies with the provisions hereof (including Section 9.3).

## ARTICLE X

### Satisfaction and Discharge

Section 10.1. Satisfaction and Discharge. This Indenture will be discharged and will cease to be of further effect as to all Securities of any series issued hereunder (except as to surviving rights of registration of transfer or exchange of such Securities and as otherwise specified hereunder), when:

(1) either:

(a) all Securities of such series that have been authenticated, except lost, stolen or destroyed Securities that have been replaced or paid and Securities of such series 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 Securities of such series that have not been delivered to the Trustee for cancellation have become due and payable or will become due and payable within one year by reason of the mailing of a notice of redemption or otherwise 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 of Securities of such series, 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 such Securities not delivered to the Trustee for cancellation for principal, premium, if any, and accrued interest and Additional Amounts, if any, to the date of maturity or redemption;

(2) no Default or Event of Default with respect to such series has occurred and is continuing on the date of the deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit) and the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound;

(3) the Company has paid or caused to be paid all sums payable by it hereunder with respect to such series and pursuant to Section 7.7;

(4) the Company has delivered irrevocable instructions to the Trustee hereunder to apply the deposited money toward the payment of such Securities at fixed maturity or the Redemption Date, as the case may be; and

(5) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, which state that all conditions precedent under this Indenture relating to the satisfaction and discharge of this Indenture with respect to such series have been satisfied.

#### ARTICLE XI

##### Miscellaneous

Section 11.1. Trust Indenture Act Controls. If any provision of this Indenture limits, qualifies or conflicts with another provision which is required to be included in this Indenture by the TIA, the provision required by the TIA shall control.

Section 11.2. Notices. Any notice or communication shall be in writing (including facsimile and electronic transmission in PDF format) and delivered in person, by telecopier or overnight air courier guaranteeing next day delivery or mailed by first-class mail addressed as follows:

if to the Company:

Ross Stores, Inc.  
5130 Hacienda Drive  
Dublin, California 94568  
Attn:  
Fax No.:  
Email:

if to the Trustee:

U.S. Bank National Association  
Global Corporate Trust Services  
One California Street, Suite 1000  
San Francisco, CA 94111  
Attn: Myrna Presto-Choroski  
Fax No: (415) 677-3768

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

Any notice or communication mailed to a registered Holder shall be mailed to the Holder at the Holder's address as it appears on the registration books of the Registrar and shall be sufficiently given if so mailed within the time prescribed. The Registrar shall provide the Company with address information with respect to the Holders as promptly as practicable following the Company's request therefor. Any notice or communication shall also be mailed to any Person described in TIA § 3.13(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, it is duly given, whether or not the addressee receives it.

Section 11.3. Communication by Holders with other Holders. Holders may communicate pursuant to TIA § 312(b) with other Holders with respect to their rights under this Indenture or the Securities. The Company, the Trustee, the Registrar and anyone else shall have the protection of TIA § 312(c).

Section 11.4. Certificate and Opinion as to Conditions Precedent. Upon any request or application by the Company to the Trustee to take or refrain from taking any action under this Indenture, the Company shall furnish to the Trustee:

(1) an Officers' Certificate in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 11.5 hereof) stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been fully complied with and satisfied; and

(2) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 11.5 hereof) stating that, in the opinion of such counsel, all such conditions precedent have been fully complied with and satisfied.

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

Any certificate or opinion of an Officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such Officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate or Opinion of Counsel may be based, and may state that it is so based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an Officer or Officers of the Company stating that the information with respect to such factual matters known to the Company, unless such counsel knows that the certificate or opinion or representations with respect to such matters are erroneous.

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

Section 11.5. Statements Required in Certificate or Opinion. Each certificate or opinion with respect to compliance with a covenant or condition provided for in this Indenture (except for the Certificate specified in Section 3.5) shall include:

- (1) a statement that the individual making such certificate or opinion has read such covenant or condition;
- (2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;
- (3) a statement that, in the opinion of such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (4) a statement as to whether or not, in the opinion of such individual, such covenant or condition has been complied with.

Section 11.6. When Securities Disregarded. In determining whether the Holders of the required principal amount of Securities of any series have concurred in any direction, waiver or consent, Securities 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 disregarded and deemed not to be outstanding, except that, for the purpose of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Securities which a Trust Officer of the Trustee actually knows are so owned shall be so disregarded. Also, subject to the foregoing, only Securities outstanding at the time shall be considered in any such determination.

Section 11.7. Rules by Trustee, Paying Agent and Registrar. The Trustee may make reasonable rules for action by, or a meeting of, Holders. The Registrar and the Paying Agent may make reasonable rules for their functions.

Section 11.8. Legal Holidays. A “Legal Holiday” is a Saturday, a Sunday or other day on which commercial banking institutions are authorized or required to be closed in New York, New York and Los Angeles, California. If a payment date is a Legal Holiday, payment shall be made on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period. If a regular record date is a Legal Holiday, the record date shall not be affected.

Section 11.9. GOVERNING LAW; WAIVER OF JURY TRIAL.

THIS INDENTURE AND THE SECURITIES SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. EACH OF THE COMPANY, THE TRUSTEE AND THE HOLDERS HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE SECURITIES OR THE TRANSACTION CONTEMPLATED HEREBY.

Section 11.10. No Recourse Against Others. No director, manager, officer, employee, incorporator, member, partner, stockholder or other owner of Capital Stock of the Company, as such, will have any liability for any obligations of the Company under the Securities or this Indenture or for any claim based on, in respect of, or by reason of such obligations or their creation. Each Holder of Securities by accepting a Security waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Securities.

Section 11.11. Successors. All agreements of the Company in this Indenture and the Securities shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors.

Section 11.12. Multiple Originals. The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. One signed copy is enough to prove this Indenture. The exchange of copies of this Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

Section 11.13. Severability. In case any provision in this Indenture or in the Securities shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 11.14. 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 any Subsidiary or any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 11.15. Table of Contents; Headings. The table of contents, cross-reference sheet and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions hereof.

Section 11.16. 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 control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 11.17. U.S.A. Patriot Act. The parties hereto acknowledge that in accordance with Section 326 of the U.S.A. Patriot Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the U.S.A. Patriot Act.

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

ROSS STORES, INC., as Issuer

By:

\_\_\_\_\_

Name:

Title:

U.S. BANK, NATIONAL ASSOCIATION, as  
Trustee

By:

\_\_\_\_\_

Name:

Title:

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**DLA Piper LLP (US)**  
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September 15, 2014

Ross Stores, Inc.  
5130 Hacienda Drive  
Dublin, California 94568

Re: Registration Statement on Form S-3

Ladies and Gentlemen:

We serve as counsel to Ross Stores, Inc., a Delaware corporation (the "Company"), and have been requested to render this opinion in connection with the Registration Statement on Form S-3 of the Company (the "Registration Statement"), filed with the Securities and Exchange Commission (the "Commission") on September 15, 2014, including the preliminary prospectus included therein at the time the Registration Statement becomes effective (the "Prospectus"), under the Securities Act of 1933, as amended (the "Securities Act"), for registration by the Company of an unlimited amount of Securities (as defined below).

As used herein, the term "Securities" includes (i) shares of the Company's common stock, \$0.01 par value per share (the "Common Stock"), (ii) one or more series of the Company's preferred stock, \$0.01 par value per share (the "Preferred Stock"), (iii) debt securities (the "Debt Securities") issued in one or more series under a senior indenture (the "Senior Indenture") to be entered into by the Company and U.S. Bank National Association, pursuant to a resolution duly adopted by the Company's board of directors or a duly authorized committee thereof, (iv) stock purchase contracts and stock purchase units to purchase a particular combination of Securities as designated by the Company at the time of the offering (collectively, the "Purchase Agreements"), and (v) warrants to purchase shares of Common Stock or Preferred Stock as designated by the Company at the time of the offering (collectively, the "Warrants"). The Registration Statement provides that the Securities may be offered separately or together, in separate series, in amounts, at prices and on terms to be set forth in one or more supplements to the Prospectus (each, a "Prospectus Supplement") or any related free writing prospectus (each, a "Free Writing Prospectus").

In rendering the opinion expressed herein, we have reviewed originals or copies, certified or otherwise identified to our satisfaction, of the following documents (collectively, the "Documents"):

(a) The Registration Statement;

(b) The Corrected First Restated Certificate of Incorporation of Ross Stores, Inc., as amended by the Amendment of Certificate of Incorporation dated July 18, 2011, as in effect as of the date hereof (in the form attached to the Certificate (as defined below) (the "Charter");

(c) The Amended and Restated By-Laws of Ross Stores, Inc., as in effect on the date hereof (in the form attached to the Certificate) (the "Bylaws");

(d) The Senior Indenture;

(e) Resolutions adopted by the Company's Board of Directors relating to the authorization of the filing of the Registration Statement and to the issuance of the Securities, adopted by the Board of Directors at a meeting on May 21, 2014 (in the form attached to the Certificate);

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(f) A good standing certificate for the Company, dated as of a recent date, issued by the Secretary of State of the State of Delaware; and

(g) A certificate executed by the Assistant Secretary of the Company (the "Certificate"), dated as of the date hereof, as to certain factual matters.

In examining the Documents, we have assumed, without independent investigation, the genuineness of all signatures, the legal capacity of all individuals who have executed any of the aforesaid documents, the completeness and authenticity of all documents submitted to us as originals, and the conformity with originals of all documents submitted to us as copies (and the completeness and authenticity of the originals of such copies), the absence of other agreements or understandings among the parties that would modify the terms of the proposed transactions or the respective rights or obligations of the parties thereunder and the accuracy and completeness of all public records reviewed by us. In making our examination of documents executed by parties other than the Company, we have assumed that such parties had the power and authority (corporate, trust, partnership or other) to enter into and perform all obligations thereunder, and we have also assumed the due authorization by all requisite action (corporate, trust, partnership or other) and the valid execution and delivery by such parties of such documents and the validity, binding effect and enforceability thereof with respect to such parties. As to all factual matters relevant to the opinions set forth below, we have relied on the Certificate, which we assume to be truthful, accurate and complete, and on the oral and written statements and representations of officers of the Company, of public officials and others.

We further assume that:

(a) The issuance, sale, amount and terms of the Securities to be offered from time to time by the Company will be authorized and determined by proper action of the Board of Directors (or where permitted, a committee of the Board of Directors or designated officers) of the Company (each, a "Board Action") in accordance with the Charter, Bylaws and applicable law, in each case so as not to result in a default under or breach of any instrument, document or agreement binding upon the Company and so as to comply with any requirement or restriction imposed by any court or governmental or regulatory body having jurisdiction over the Company.

(b) The Company will not issue any Securities in excess of the number or amount authorized by a Board Action.

(c) Prior to the issuance of any Preferred Stock (including Preferred Stock that is issuable upon the exercise or conversion, as applicable, of Warrants), or Common Stock (including Common Stock that is issuable upon the exercise or conversion, as applicable, of Warrants or convertible Preferred Stock), there will exist, under the Charter, the requisite number of authorized but unissued Preferred Stock (and securities of any class into which any of the Preferred Stock may be convertible), or Common Stock, as the case may be, and that all actions necessary to the creation of any such Preferred Stock (and securities of any class into which any Preferred Stock may be convertible), whether by classification or reclassification of existing capital stock or share designation, will have been taken.

(d) For Common Stock or Preferred Stock represented by certificates ("Certificates"), appropriate Certificates representing Common Stock or Preferred Stock will be executed and delivered upon issuance and sale of any such Common Stock or Preferred Stock, as the case may be, and will comply with the Charter and Bylaws and applicable law. For Common Stock or Preferred Stock not represented by certificates, the applicable Board Action shall have been taken and, upon request of a stockholder of the Company, appropriate written statements ("Written Statements") will be prepared and delivered to such stockholder upon issuance and sale of any such Common Stock or Preferred Stock, as the case may be, and will comply with the Charter and Bylaws and applicable law.

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(e) Any Debt Securities will be issued under the Senior Indenture, accompanied by an officer's certificate, that conforms to the description thereof set forth in the Prospectus, the applicable Prospectus Supplement and any related Free Writing Prospectus.

(f) To the extent that the obligations of the Company under the Senior Indenture may be dependent upon such matters, the financial institution to be identified in such Senior Indenture as trustee or in any other specified capacity (the "Financial Institution") will be duly organized, validly existing, and in good standing under the laws of its jurisdiction of organization; the Financial Institution will be duly qualified to engage in the activities contemplated by such agreement; such agreement will have been duly authorized, executed, and delivered by the Financial Institution and will constitute the legally, valid and binding obligation of the Financial Institution enforceable against the Financial Institution in accordance with its terms; the Financial Institution will be in compliance, generally, with respect to acting under such agreement, with applicable laws and regulations; and the Financial Institution will have the requisite organizational and legal power and authority to perform its obligations under such agreement.

(g) Appropriate debentures, notes, bonds and/or other evidences of indebtedness evidencing the Debt Securities will be executed and authenticated in accordance with the Senior Indenture, and accompanied by an officer's certificate, will be delivered upon the issuance and sale of the Debt Securities and will comply with the Senior Indenture and any accompanying officer's certificate, the Charter and Bylaws and applicable law.

(h) Prior to the issuance of any stock purchase units or stock purchase contracts pursuant to a Purchase Agreement, there will exist, under the Charter, the requisite number of authorized but unissued shares of Preferred Stock (and securities of any class into which any of the Preferred Stock may be convertible), or Common Stock, as the case may be, and that all actions necessary to the creation of any such Purchase Agreements and securities offered thereunder, whether by classification or reclassification of existing capital stock or share designation, will have been taken.

(i) Any Purchase Agreements will be duly authorized, executed and delivered by the Company and a third party in accordance with the provisions of the Purchase Agreements, and the Securities issued in connection with the Purchase Agreements will be duly authorized, executed and delivered by the Company in accordance with the provisions of the Purchase Agreements.

(j) Any Warrants will be issued under a valid and legally binding warrant agreement (a "Warrant Agreement") that conforms to the description thereof set forth in the Prospectus, the applicable Prospectus Supplement and any related Free Writing Prospectus and will comply with the Charter and Bylaws and applicable law.

(k) To the extent that the obligations of the Company under any Warrant Agreement may be dependent upon such matters, the financial institution to be identified in such Warrant Agreement as warrant agent (the "Warrant Agent") will be duly organized, validly existing and in good standing under the laws of its jurisdiction of organization; the Warrant Agent will be duly qualified to engage in the activities contemplated by such Warrant Agreement; such Warrant Agreement will have been duly authorized, executed and delivered by the Warrant Agent and will constitute the legally valid and binding obligation of the Warrant Agent enforceable against the Warrant Agent in accordance with its terms; the Warrant Agent will be in compliance, generally, with respect to acting as Warrant Agent under such Warrant Agreement, with applicable laws and regulations; and the Warrant Agent will have the requisite organizational and legal power and authority to perform its obligations under such Warrant Agreement.

(l) The underwriting or other agreements for offerings of the Securities (each, an "Underwriting Agreement," and collectively, the "Underwriting Agreements") will be valid and legally binding contracts that conform to the description thereof set forth in the Prospectus, the applicable Prospectus Supplement and any related Free Writing Prospectus.

(m) At the time of the offer, sale and issuance of any Securities, the Registration Statement will remain effective under the Securities Act.

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Based upon the foregoing, and subject to the assumptions, limitations and qualifications stated herein, it is our opinion that:

(1) Upon an issuance of Certificates or Written Statements, if any, as the case may be, representing Common Stock, against payment therefor in accordance with the terms and provisions of the applicable Board Action, the terms of the Charter, Bylaws and applicable law, the Registration Statement, the Prospectus, the applicable Prospectus Supplement and any related Free Writing Prospectus, and, if applicable, an Underwriting Agreement, or upon issuance and delivery of Certificates or Written Statements, if any, for Common Stock pursuant to the exercise of one or more Warrants or the conversion of one or more series of the Debt Securities or Preferred Stock convertible into Common Stock, such Common Stock will be duly authorized, validly issued, fully paid and non-assessable.

(2) Upon an issuance of Certificates or Written Statements, if any, as the case may be, representing Preferred Stock, against payment therefor in accordance with the terms and provisions of the applicable Board Action, the terms of the Charter, Bylaws and applicable law, the Registration Statement, the Prospectus, the applicable Prospectus Supplement and any related Free Writing Prospectus, and, if applicable, an Underwriting Agreement, or upon issuance and delivery of Certificates or Written Statements, if any, for Preferred Stock pursuant to the exercise of one or more Warrants or the conversion of one or more series of the Debt Securities, such Preferred Stock will be duly authorized, validly issued, fully paid and non-assessable.

(3) Upon issuance and delivery of certificates for such Debt Securities against payment therefor in accordance with the terms and provisions of the applicable Board Action, the Debt Securities and the Base Indenture, any Supplemental Indenture (and/or an officer's certificate, if any), the Registration Statement, the Prospectus, the applicable Prospectus Supplement and any related Free Writing Prospectus, and, if applicable, an Underwriting Agreement, or upon issuance and delivery of such Debt Securities pursuant to the conversion or exercise of one or more series of Securities convertible into or exercisable for Debt Securities, the Debt Securities represented by such certificates will be duly authorized and, when duly authenticated in accordance with the terms of the Base Indenture and any Supplemental Indenture, will be valid and legally binding obligations of the Company.

(4) Upon execution, issuance, and delivery of any Purchase Agreements against payment therefor in accordance with the terms and provisions of the applicable Board Action, the Charter, Bylaws and applicable law, the Purchase Agreement, the Registration Statement, the Prospectus, the applicable Prospectus Supplement, and any related Free Writing Prospectus, and, if applicable, an Underwriting Agreement, such stock purchase units or stock purchase contracts, as applicable, will be duly authorized and constitute valid and legally binding obligations of the Company.

(5) Upon execution, issuance, and delivery of the Warrants against payment therefor in accordance with the terms and provisions of the applicable Board Action, the Charter, Bylaws and applicable law, the Warrant Agreement, the Registration Statement, the Prospectus, the applicable Prospectus Supplement and any related Free Writing Prospectus, and, if applicable, an Underwriting Agreement, the Warrants will be duly authorized and constitute valid and legally binding obligations of the Company.

In addition to the qualifications set forth above, the foregoing opinion is further qualified as follows:

(a) The foregoing opinion is rendered as of the date hereof. We assume no obligation to update such opinion to reflect any facts or circumstances that may hereafter come to our attention or changes in the law which may hereafter occur.

(b) We do not express any opinion herein concerning any law other than the Delaware General Corporation Law and the law of the State of New York (including the statutory provisions, all applicable provisions of the Constitution of Delaware and the New York Constitution and the reported judicial decisions interpreting the foregoing). The opinion expressed herein is subject to the effect of judicial decisions which may permit the introduction of parol evidence to modify the terms or the interpretation of agreements.

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(c) We express no opinion as to compliance with the securities (or “blue sky”) laws of any jurisdiction.

(d) The opinion stated herein relating to the validity and binding nature of obligations of the Company is subject to (i) the effect of any applicable bankruptcy, insolvency (including, without limitation, all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting creditors’ rights generally and (ii) the effect of general principles of equity (regardless of whether considered in a proceeding in equity or at law).

(e) This opinion is limited to the matters set forth herein, and no other opinion should be inferred beyond the matters expressly stated.

We hereby consent to the filing of this opinion with the Commission as Exhibit 5.1 to the Registration Statement and to the reference to our firm under the heading “Legal Matters” in the Registration Statement. In giving our consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ DLA Piper LLP (US)

**DLA PIPER LLP (US)**

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**Ross Stores, Inc.**  
**Computation of Ratio of Earnings to Fixed Charges**

(\$000)	Six Months Ended	Fiscal Year Ended				
	August 2, 2014	February 1, 2014	February 2, 2013	January 28, 2012	January 29, 2011	January 30, 2010
<b>Earnings:</b>						
Earnings before taxes	\$ 783,130	\$ 1,343,310	\$ 1,264,844	\$ 1,053,144	\$ 897,021	\$ 718,529
Interest expense	2	268	7,526	11,036	10,738	8,826
Amortization of capitalized interest	238	398	474	437	403	326
Portion of rent expense representative of interest	76,056	144,958	135,542	126,677	120,132	112,146
Adjusted earnings	<u>\$ 859,426</u>	<u>\$ 1,488,934</u>	<u>\$ 1,408,386</u>	<u>\$ 1,191,294</u>	<u>\$ 1,028,294</u>	<u>\$ 839,827</u>
<b>Fixed charges:</b>						
Interest expense	\$ 2	\$ 268	\$ 7,526	\$ 11,036	\$ 10,738	\$ 8,826
Capitalized interest	5,502	10,768	3,851	445	80	1,842
Portion of rent expense representative of interest	76,056	144,958	135,542	126,677	120,132	112,146
Total fixed charges	<u>\$ 81,560</u>	<u>\$ 155,994</u>	<u>\$ 146,919</u>	<u>\$ 138,158</u>	<u>\$ 130,950</u>	<u>\$ 122,814</u>
Ratio of earnings to fixed charges	10.54x	9.54x	9.59x	8.62x	7.85x	6.84x

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in this Registration Statement on Form S-3 of our report dated April 1, 2014 relating to the consolidated financial statements of Ross Stores, Inc. and subsidiaries (the "Company") and the effectiveness of the Company's internal control over financial reporting, appearing in the Annual Report on Form 10-K of Ross Stores, Inc. for the fiscal year ended February 1, 2014, and to the reference to us under the heading "Experts" in the Prospectus, which is part of this Registration Statement.

/s/ Deloitte & Touche LLP

San Francisco, California  
September 15, 2014

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SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

**FORM T-1**

**STATEMENT OF ELIGIBILITY UNDER  
THE TRUST INDENTURE ACT OF 1939 OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**  
Check if an Application to Determine Eligibility of  
a Trustee Pursuant to Section 305(b)(2)

**U.S. BANK NATIONAL ASSOCIATION**

(Exact name of Trustee as specified in its charter)

**31-0841368**

I.R.S. Employer Identification No.

800 Nicollet Mall Minneapolis, Minnesota	55402
(Address of principal executive offices)	(Zip Code)

John R. Collins  
U.S. Bank National Association  
1 California Street  
San Francisco, CA 94111  
(415) 677-3611

(Name, address and telephone number of agent for service)

**Ross Stores, Inc.**

(Issuer with respect to the Securities)

Delaware	94-1390387
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

5130 Hacienda Drive Dublin, California	94568
(Address of Principal Executive Offices)	(Zip Code)

**Debt Securities**

(Title of the Indenture Securities)



**FORM T-1**

**Item 1. GENERAL INFORMATION.** Furnish the following information as to the Trustee.

- a) *Name and address of each examining or supervising authority to which it is subject.*  
Comptroller of the Currency  
Washington, D.C.
- b) *Whether it is authorized to exercise corporate trust powers.*  
Yes

**Item 2. AFFILIATIONS WITH OBLIGOR.** *If the obligor is an affiliate of the Trustee, describe each such affiliation.*  
None

**Items 3-15** *Items 3-15 are not applicable because to the best of the Trustee's knowledge, the obligor is not in default under any Indenture for which the Trustee acts as Trustee.*

**Item 16. LIST OF EXHIBITS:** *List below all exhibits filed as a part of this statement of eligibility and qualification.*

- 1. A copy of the Articles of Association of the Trustee.\*
- 2. A copy of the certificate of authority of the Trustee to commence business, attached as Exhibit 2.
- 3. A copy of the certificate of authority of the Trustee to exercise corporate trust powers, attached as Exhibit 3.
- 4. A copy of the existing bylaws of the Trustee.\*\*
- 5. A copy of each Indenture referred to in Item 4. Not applicable.
- 6. The consent of the Trustee required by Section 321(b) of the Trust Indenture Act of 1939, attached as Exhibit 6.
- 7. Report of Condition of the Trustee as of June 30, 2014 published pursuant to law or the requirements of its supervising or examining authority, attached as Exhibit 7.

\* Incorporated by reference to Exhibit 25.1 to Amendment No. 2 to registration statement on S-4, Registration Number 333-128217 filed on November 15, 2005.

\*\* Incorporated by reference to Exhibit 25.1 to registration statement on S-4, Registration Number 333-166527 filed on May 5, 2010.

**SIGNATURE**

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the Trustee, U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City and County of San Francisco, State of California on the 15<sup>th</sup> of September, 2014.

By: /s/ John R. Collins

John R. Collins  
Trust Officer

Exhibit 2



Office of the Comptroller of the Currency

Washington, DC 20219

**CERTIFICATE OF CORPORATE EXISTENCE**

I, Thomas J. Curry, Comptroller of the Currency, do hereby certify that:

1. The Comptroller of the Currency, pursuant to Revised Statutes 324, et seq, as amended, and 12 USC 1, et seq, as amended, has possession, custody, and control of all records pertaining to the chartering, regulation, and supervision of all national banking associations.
2. "U.S. Bank National Association," Cincinnati, Ohio (Charter No. 24), is a national banking association formed under the laws of the United States and is authorized thereunder to transact the business of banking on the date of this certificate.

IN TESTIMONY WHEREOF, today, May

1, 2014, I have hereunto subscribed my

name and caused my seal of office to be

affixed to these presents at the U.S.

Department of the Treasury, in the City of

Washington, District of Columbia.



Comptroller of the Currency

Exhibit 3



Office of the Comptroller of the Currency

Washington, DC 20219

**CERTIFICATION OF FIDUCIARY POWERS**

I, Thomas J. Curry, Comptroller of the Currency, do hereby certify that:

1. The Office of the Comptroller of the Currency, pursuant to Revised Statutes 324, et seq, as amended, and 12 USC 1, et seq, as amended, has possession, custody, and control of all records pertaining to the chartering, regulation, and supervision of all national banking associations.
2. "U.S. Bank National Association," Cincinnati, Ohio (Charter No. 24), was granted, under the hand and seal of the Comptroller, the right to act in all fiduciary capacities authorized under the provisions of the Act of Congress approved September 28, 1962, 76 Stat. 668, 12 USC 92a, and that the authority so granted remains in full force and effect on the date of this certificate.

IN TESTIMONY WHEREOF, today, May

1, 2014, I have hereunto subscribed my  
name and caused my seal of office to be

affixed to these presents at the U.S.

Department of the Treasury, in the City of

Washington, District of Columbia.



A handwritten signature in black ink, appearing to read 'Thomas J. Curry', written over a horizontal line.

Comptroller of the Currency

**Exhibit 6**

**CONSENT**

In accordance with Section 321(b) of the Trust Indenture Act of 1939, the undersigned, U.S. BANK NATIONAL ASSOCIATION hereby consents that reports of examination of the undersigned by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon its request therefor.

Dated: September 15, 2014

By: /s/ John R. Collins

John R. Collins

Trust Officer

**Exhibit 7**  
**U.S. Bank National Association**  
**Statement of Financial Condition**  
**As of 6/30/2014**

(\$000's)

	<b>6/30/2014</b>
<b>Assets</b>	
Cash and Balances Due From Depository Institutions	\$ 12,591,901
Securities	89,882,232
Federal Funds	109,925
Loans & Lease Financing Receivables	241,450,255
Fixed Assets	4,561,715
Intangible Assets	13,335,806
Other Assets	22,261,774
<b>Total Assets</b>	<b>\$ 384,193,608</b>
<b>Liabilities</b>	
Deposits	\$ 286,193,358
Fed Funds	1,264,138
Treasury Demand Notes	0
Trading Liabilities	382,290
Other Borrowed Money	37,760,161
Acceptances	0
Subordinated Notes and Debentures	5,023,000
Other Liabilities	12,274,098
<b>Total Liabilities</b>	<b>\$ 342,897,045</b>
<b>Equity</b>	
Common and Preferred Stock	18,200
Surplus	14,266,407
Undivided Profits	26,159,120
Minority Interest in Subsidiaries	\$ 852,836
<b>Total Equity Capital</b>	<b>\$ 41,296,563</b>
<b>Total Liabilities and Equity Capital</b>	<b>\$ 384,193,608</b>