



---

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

FORM 8-K

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

Date of Report (Date of earliest event reported): **June 27, 2006**

**VECTOR GROUP LTD.**

(Exact Name of Registrant as Specified in Its Charter)

**Delaware**

(State or Other Jurisdiction of  
Incorporation)

**1-5759**

(Commission File Number)

**65-0949535**

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

**100 S.E. Second Street, Miami, Florida**

(Address of Principal Executive Offices)

**33131**

(Zip Code)

**(305) 579-8000**

(Registrant's Telephone Number, Including Area Code)

(Former Name or Former Address, if Changed Since Last Report)

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

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

## TABLE OF CONTENTS

### SIGNATURE

[Purchase Agreement](#)

[Press Release dated June 28, 2006](#)

[Press Release dated June 30, 2006](#)

[Ex-1.1 Purchase Agreement](#)

[Ex-99.1 Press Release dated June 28, 2006](#)

[Ex-99.2 Press Release dated June 30, 2006](#)

---

### **Item 1.01. Entry into a Material Definitive Agreement**

On June 27, 2006 (the "Pricing Date"), Vector Group Ltd. (the "Company") agreed to sell \$85.0 million of its 3 7/8% Variable Interest Senior Convertible Debentures due 2026 (the "Debentures"), pursuant to the terms of a Purchase Agreement, dated June 27, 2006 (the "Purchase Agreement"), between the Company and Jefferies & Company, Inc., as the initial purchaser ("Initial Purchaser"), a copy of which is attached hereto as Exhibit 1.1. Under the Purchase Agreement, the Initial Purchaser has an option to purchase an additional \$25.0 million of Debentures to cover over-allotments, which the Initial Purchaser exercised in full on June 29, 2006. The Initial Purchaser will purchase the Debentures from the Company at a purchase price equal to 96.5% of the principal amount thereof. The Debentures will be offered to qualified institutional buyers in accordance with Rule 144A under the Securities Act of 1933, as amended, and to non-U.S. persons in accordance with Regulation S under the Securities Act of 1933, as amended. The Debentures will be governed by the terms of an Indenture (the "Indenture") between the Company and Wells Fargo Bank, N.A., as trustee (the "Trustee"), to be negotiated with the Initial Purchaser. The Company intends to use the net proceeds of the issuance to redeem the remaining \$62.5 million principal amount of its 6.25% Convertible Subordinated Notes due July 15, 2008 and for general corporate purposes.

In connection with the issuance of the Debentures, the Company will also enter into a Registration Rights Agreement to be negotiated with the Initial Purchaser. The Company has agreed to file a shelf registration statement with the Securities and Exchange Commission covering resales of the Debentures and the Company's common stock issuable upon conversion of the Debentures.

The Debentures will be convertible, at the option of the holders at any time on or prior to maturity, into shares of the Company's common stock. The Debentures will be convertible at a conversion price of \$21.50 per share, which is equal to a conversion rate of approximately 46.512 shares of common stock per \$1,000 principal amount of Debentures, subject to adjustment.

Interest on the Debentures will be payable quarterly on March 15, June 15, September 15 and December 15 of each year, beginning September 15, 2006. The Debentures will accrue interest at 3 7/8% per annum, with an additional amount of interest payable on each interest payment date based on the amount of cash dividends paid by the Company on its common stock during the prior three-month period ending on the record date for such interest payment multiplied by the total number of shares of the Company's common stock into which the Debentures will be convertible on such record date (together, the "Total Interest"). Notwithstanding the foregoing, however, the interest payable on each interest payment date shall be the higher of (i) the Total Interest and (ii) 5 3/4% per annum.

The Debentures will mature on June 15, 2026, but the Company will be required to redeem 10% of the total aggregate principal amount of the Debentures outstanding on June 15, 2011. In addition to such redemption amount, the Company will also redeem on June 15, 2011 and at the end of each interest accrual period thereafter, such amounts on a pro-rata basis, if any, of the Debentures necessary to prevent the Debentures from being treated as an "Applicable High Yield Discount Obligation" within the meaning of the Internal Revenue Code of 1986, as amended. The holders of the Debentures will have the option on June 15, 2012, June 15, 2016 and June 15, 2021 to require the Company to repurchase some or all of their Debentures at a repurchase price equal to 100% of the principal amount of the Debentures plus accrued and unpaid interest, and registration default payments, if any.

The Debentures will be the Company's senior unsecured obligations and will rank on a parity in right of payment with all of the Company's existing and future senior unsecured indebtedness. In addition, the Debentures will effectively rank junior to any future secured indebtedness the Company may incur and junior to liabilities of the Company's subsidiaries.

## Table of Contents

In the event of a fundamental change (to be defined in the Indenture), each holder of the Debentures may require the Company to repurchase some or all of its Debentures at a repurchase price equal to 100% of the aggregate principal amount of the Debentures plus accrued and unpaid interest, if any, plus, in certain circumstances, a make-whole premium.

If an event of default (to be defined in the Indenture) occurs and is continuing, the Trustee or the holders of at least 25% in aggregate principal amount of the outstanding Debentures may declare the Debentures immediately due and payable at their principal amount together with accrued interest, except that an event of default resulting from a bankruptcy or similar proceeding will automatically cause the Debentures to become immediately due and payable without any declaration or other act on the part of the Trustee or any Debenture holders.

The summary of the foregoing transaction is qualified in its entirety by reference to the text of the Purchase Agreement, which is included as an exhibit hereto and is incorporated herein by reference.

### ***Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.***

See Item 1.01, which is incorporated herein by reference.

### ***Item 3.02. Unregistered Sales of Equity Securities.***

See Item 1.01, which is incorporated herein by reference.

### ***Item 9.01. Financial Statements and Exhibits.***

(c) Exhibits

The following Exhibits are filed herewith:

Exhibit 1.1	Purchase Agreement, dated as of June 27, 2006, between Vector Group Ltd. and Jefferies & Company, Inc.
Exhibit 99.1	Press Release dated June 28, 2006.
Exhibit 99.2	Press Release dated June 30, 2006.

**SIGNATURE**

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

VECTOR GROUP LTD.

By: /s/ J. Bryant Kirkland III

J. Bryant Kirkland III

Vice President and Chief Financial Officer

Date: June 27, 2006

\$85,000,000

VECTOR GROUP LTD.

3 7/8% VARIABLE INTEREST SENIOR CONVERTIBLE DEBENTURES DUE 2026

PURCHASE AGREEMENT

June 27, 2006

JEFFERIES & COMPANY, INC.  
11100 Santa Monica Boulevard, 10th Floor  
Los Angeles, California 90025

Ladies and Gentlemen:

Vector Group Ltd., a Delaware corporation (the "Issuer"), hereby agrees with you as follows:

**1. Issuance of Notes.** Subject to the terms and conditions set forth in this Purchase Agreement (this "Agreement"), the Issuer proposes to issue and sell to Jefferies & Company, Inc. (the "Initial Purchaser") an aggregate of \$85.0 million principal amount of its 3 7/8% Variable Interest Senior Convertible Debentures due 2026 (the "Firm Debentures"), and to grant the Initial Purchaser the option described below to purchase an additional \$25.0 million aggregate principal amount of the Issuer's 3 7/8% Variable Interest Senior Convertible Debentures due 2026 (the "Option Debentures" and, together with the Firm Debentures, the "Debentures"). The Debentures will be issued pursuant to an Indenture (the "Indenture") dated as of the Closing Date (as defined below) between the Issuer and Wells Fargo Bank, N.A., as trustee (the "Trustee"). The Debentures will be convertible into shares of the Issuer's common stock, par value \$0.10 per share (the "Conversion Stock" and, together with the Debentures, the "Securities"), in accordance with the terms of the Debentures and the Indenture. Capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Indenture.

The Debentures will be offered and sold to the Initial Purchaser pursuant to an exemption from the registration requirements under the Securities Act of 1933, as amended (the "Act"). Upon original issuance thereof, and until such time as the same is no longer required under applicable requirements of the Act, the Debentures shall bear the legends set forth in the Indenture. The Issuer has prepared (A) the preliminary offering circular dated June 27, 2006, including the documents incorporated therein by reference (the "Preliminary Offering Circular") related to the offer and sale of the Debentures and (B) the final offering circular, dated the date hereof, including the documents incorporated therein by reference (the "Final Offering Circular"). The Preliminary Offering Circular, together with the final term sheet attached as Schedule III hereto, is referred to herein as the "Disclosure Package." "Offering Circular" means, with respect to any date or time referred to in this Agreement, the Preliminary Offering Circular or the Final Offering Circular, together with any amendment or supplement thereto, including the documents incorporated therein by reference.

---

**2. Terms of Offering.** The Initial Purchaser has advised the Issuer, and the Issuer understands, that the Initial Purchaser will make offers (the “Exempt Resales”) of the Debentures purchased hereunder on the terms set forth in the Offering Circular solely to persons (the “Subsequent Purchasers”) whom the Initial Purchaser (i) reasonably believes to be “qualified institutional buyers” as defined in Rule 144A under the Act (“QIBs”) or (ii) reasonably believes to be non-U.S. persons in reliance upon Regulation S under the Act (together with QIBs, the “Eligible Purchasers”).

Holders of the Debentures (including Subsequent Purchasers) will have the registration rights set forth in the Registration Rights Agreement applicable to the Debentures (the “Registration Rights Agreement”) to be dated the Closing Date for so long as such Debentures constitute “Transfer Restricted Securities” (as defined in the Registration Rights Agreement). Pursuant to the Registration Rights Agreement, the Issuer will agree, among other things, to file with the Securities and Exchange Commission (“SEC”) under the circumstances set forth therein, a shelf registration statement relating to the Debentures and the Conversion Stock pursuant to Rule 415 under the Act (the “Registration Statement”), and to use its reasonable best efforts to cause such Registration Statement to be declared and remain effective and usable for the periods specified in the Registration Rights Agreement, subject to exceptions and qualifications set forth therein.

The following documents are hereinafter collectively referred to as “Operative Documents”: (i) this Agreement, (ii) the Indenture, (iii) the Debentures and (iv) the Registration Rights Agreement.

**3. Agreement to Sell and Purchase.** On the basis of the representations, warranties and covenants and subject to the terms and conditions contained in this Agreement, the Issuer agrees to issue and sell to the Initial Purchaser, and the Initial Purchaser agrees to purchase from the Issuer, the Firm Debentures at a purchase price equal to 96.5% of the principal amount thereof (the “Purchase Price”).

In addition, the Issuer grants an option to the Initial Purchaser to purchase any or all of the Option Debentures at the Purchase Price. The option granted hereby may be exercised in whole or in part by giving written notice (i) at any time before the Closing Date and (ii) only once after the Closing Date by the Initial Purchaser to the Issuer setting forth the aggregate principal amount of Option Debentures as to which the Initial Purchaser is exercising the option and the address and date at which such Option Debentures are to be delivered; *provided, however*, that the Option Debentures may not be issued in whole or in part after the period which ends 12 days after the date of the original issuance of the Firm Debentures. The time and date at which Option Debentures in definitive global form are to be delivered shall be determined by the Initial Purchaser but shall not be earlier than two nor later than seven full business days after the exercise of such option, nor in any event prior to the Closing Date (such time and date being herein referred to as the “Option Closing Date”). If the date of exercise of the option is two or more business days before the Closing Date, the notice of exercise shall set the Closing Date as the Option Closing Date. The Initial Purchaser may cancel such option at any time prior to its expiration by giving written notice of such cancellation to the Issuer. To the extent, if any, that the option is exercised, payment for the Option Debentures shall be made on the Option Closing

Date in same day funds via wire transfer to the order of the Issuer for the Option Debentures against delivery of Option Debentures therefor.

**4. Delivery and Payment.** Delivery of, and payment of the Purchase Price for, the Firm Debentures and the Option Debentures, if the option is exercised prior to the Closing Date (the “Closing”), shall be made at 7:00 a.m., Pacific time, on July 12, 2006 (the “Closing Date”), at the offices of Latham & Watkins LLP, 633 W. Fifth Street, Suite 4000, Los Angeles, California 90071, or such other time or place as the Initial Purchaser and the Issuer shall designate.

One or more of the Firm Debentures and the Option Debentures, if applicable, in definitive global form, registered in the name of Cede & Co., as nominee of, and deposited with the Trustee as custodian for, The Depository Trust Company (“DTC”), having an aggregate principal amount corresponding to the aggregate principal amount of the Firm Debentures and the Option Debentures, if applicable (collectively, the “Global Debenture”), shall be delivered by the Issuer to the Initial Purchaser (or as the Initial Purchaser directs) in each case with any transfer taxes thereon duly paid by the Issuer against payment by the Initial Purchaser of the Purchase Price therefor by wire transfer in same day funds to the order of the Issuer, *provided* that the Issuer shall give at least two business days’ prior written notice of the information required to effect such wire transfer. The Global Debenture shall be made available to the Initial Purchaser for inspection not later than 10:00 a.m., Pacific time, on the business day immediately preceding the Closing Date.

**5. Agreements of the Issuer.** The Issuer hereby agrees with the Initial Purchaser as follows:

(a) To advise the Initial Purchaser promptly after obtaining knowledge (and, if requested by the Initial Purchaser, confirm such advice in writing) of (i) the issuance by any state securities commission of any stop order suspending the qualification or exemption from qualification of any Debentures for offering or sale in any jurisdiction designated by the Initial Purchaser pursuant to Section 5(e) hereof, or the initiation of any proceeding by any state securities commission or other federal or state regulatory authority for such purpose or (ii) the happening of any event during the period referred to in Section 5(c) hereof as a result of which the Preliminary Offering Circular or the Offering Circular would include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The Issuer shall use its commercially reasonable efforts to prevent the issuance of any stop order or order suspending the qualification or exemption of any of the Debentures under any state securities or Blue Sky laws, and if at any time any state securities commission or other federal or state regulatory authority shall issue an order suspending the qualification or exemption of any Debentures under any state securities or Blue Sky laws, the Issuer shall use its commercially reasonable efforts to obtain the withdrawal or lifting of such order at the earliest possible time.

(b) To furnish the Initial Purchaser and those persons identified by the Initial Purchaser to the Issuer as many copies of the Preliminary Offering Circular and the Final Offering Circular, and any amendments or supplements thereto, as the Initial Purchaser may



reasonably request during the time period referred to in Section 5(c) hereof. Subject to the Initial Purchaser's compliance with its representations and warranties and agreements set forth in Section 7 hereof, the Issuer consents to the use of the Disclosure Package and the Final Offering Circular, and any amendments and supplements thereto required pursuant hereto, by the Initial Purchaser in connection with Exempt Resales.

(c) During such period as in the reasonable opinion of counsel for the Initial Purchaser a Final Offering Circular is required by law to be delivered in connection with Exempt Resales by the Initial Purchaser and in connection with market-making activities of the Initial Purchaser permitted under the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (the "Exchange Act") for so long as any Debentures are outstanding (i) not to make any amendment or supplement to the Final Offering Circular of which the Initial Purchaser shall not previously have been advised or to which the Initial Purchaser shall reasonably object after being so advised and (ii) to prepare promptly upon the Initial Purchaser's reasonable request, any amendment or supplement to the Final Offering Circular which may be necessary or advisable in connection with such Exempt Resales or such market-making activities.

(d) If, during the period referred to in Section 5(c) above, any event shall occur or condition shall exist the result of which, in the reasonable judgment of counsel to the Initial Purchaser, the Disclosure Package or the Final Offering Circular, would include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, or if, in the reasonable judgment of counsel to the Initial Purchaser, it is necessary to amend or supplement the Disclosure Package or the Final Offering Circular to comply with any applicable law, forthwith to notify the Initial Purchaser and to prepare an appropriate amendment or supplement so that, as so amended or supplemented, the Disclosure Package and the Final Offering Circular will not include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, or so that such Disclosure Package or the Final Offering Circular will comply with applicable law, and to furnish to the Initial Purchaser and such other persons as the Initial Purchaser may designate such number of copies thereof as the Initial Purchaser may reasonably request.

(e) Prior to the sale of all Debentures pursuant to Exempt Resales as contemplated hereby, to cooperate with the Initial Purchaser and counsel to the Initial Purchaser in connection with the registration or qualification of the Debentures for offer and sale to the Initial Purchaser and pursuant to Exempt Resales under the securities or Blue Sky laws of such jurisdictions as the Initial Purchaser may request and to continue such registration or qualification in effect so long as required for Exempt Resales and to file such consents to service of process or other documents as may be necessary in order to effect such registration or qualification; *provided, however*, that the Issuer shall not be required in connection therewith to register or qualify as a foreign corporation in any jurisdiction in which it is not now so qualified or to take any action that would subject it to general consent to service of process or taxation in any jurisdiction in which it is not now so subject.

(f) To apply the proceeds from the sale of the Debentures as set forth under the caption “Use of Proceeds” in the Final Offering Circular.

(g) So long as any Debentures are outstanding, (i) to mail and make generally available as soon as practicable after the end of each fiscal year to the record holders of the Debentures a financial report of the Issuer on a consolidated basis, all such financial reports to include a consolidated balance sheet, a consolidated statement of operations, a consolidated statement of cash flows and a consolidated statement of shareholders’ equity as of the end of and for such fiscal year, together with comparable information as of the end of and for the preceding year, certified by the Issuer’s independent public accountants and (ii) to make generally available as soon as practicable after the end of each quarterly period (except for the last quarterly period of each fiscal year) to such holders, a consolidated balance sheet, a consolidated statement of operations and a consolidated statement of cash flows (and similar financial reports of all unconsolidated subsidiaries, if any) as of the end of and for such period, and for the period from the beginning of such year to the close of such quarterly period, together with comparable information for the corresponding periods of the preceding year. Notwithstanding the foregoing, the filing of information required herein with the SEC on its EDGAR database system within prescribed time periods (taking into account allowable extensions) shall satisfy the requirements of this Section 5(g).

(h) So long as the Debentures are outstanding, to furnish to the Initial Purchaser as soon as reasonably practicable, copies of all reports or other communications (A) furnished by the Issuer to its security holders, (B) furnished to or filed with the SEC or any national securities exchange on which any class of securities of the Issuer is listed or (C) delivered pursuant to the Indenture and such other publicly available information concerning the Issuer as the Initial Purchaser may reasonably request; *provided, however*, that any such report, communication or information available on the SEC’s EDGAR database system need not be furnished pursuant to this Section 5(h).

(i) So long as any of the Debentures remain outstanding and during any period in which the Issuer is not subject to Section 13 or 15(d) of the Exchange Act to make available to any holder of Debentures in connection with any sale thereof and any prospective purchaser of such Debentures from such holder, the information (“Rule 144A Information”) required by Rule 144A(d)(4) under the Act.

(j) To reserve and keep available at all times, free of preemptive rights, a sufficient number of shares of its capital stock for the purpose of enabling the Issuer to satisfy its obligations to issue such capital stock as Conversion Stock upon conversion of the Debentures.

(k) To use commercially reasonable efforts to cause all shares of Conversion Stock issuable upon conversion of the Debentures to be listed on The New York Stock Exchange or on such other national securities exchange or automated quotation system on which the Issuer’s capital stock may then be traded or listed so long as such Conversion Stock remains registered under the Exchange Act.

(l) To continue to maintain a transfer agent and, if necessary under the jurisdiction of incorporation of the Issuer, a registrar for the Conversion Stock.

(m) Whether or not the transactions contemplated by this Agreement are consummated or this Agreement is terminated, to pay or cause to be paid all expenses incident to the performance of the obligations of the Issuer under this Agreement, including: (i) the fees, disbursements and expenses of counsel to the Issuer and accountants of the Issuer in connection with the sale and delivery of the Debentures to the Initial Purchaser and pursuant to Exempt Resales, and all other fees or expenses of the Issuer incurred in connection with the preparation, printing, filing and distribution of, the Disclosure Package and the Final Offering Circular and all amendments and supplements to any of the foregoing (including financial statements) specified in Section 5(a) and 5(b) prior to or during the period specified in Section 5(c), including the mailing and delivering of copies thereof to the Initial Purchaser and persons designated by it in the quantities specified herein, (ii) all costs and expenses related to the transfer and delivery of the Debentures to the Initial Purchaser and pursuant to Exempt Resales, including any transfer or other taxes payable thereon, (iii) all costs of printing or producing this Agreement, the other Operative Documents and any other agreements or documents in connection with the offering, purchase, sale or delivery of the Debentures, (iv) all expenses in connection with the registration or qualification of the Debentures for offer and sale under the securities or Blue Sky laws of the several states and all costs of printing or producing any preliminary and supplemental Blue Sky memoranda in connection therewith (including the filing fees and fees and disbursements of counsel for the Initial Purchaser in connection with such registration or qualification and memoranda relating thereto), (v) the cost of printing certificates representing the Debentures, (vi) all expenses and listing fees in connection with the application for quotation of the Debentures on the Private Offerings, Resales and Trading through Automated Linkages ("PORTAL") system of the NASD, Inc. ("NASD"), (vii) the listing fee of The New York Stock Exchange or such other national securities exchange or automated quotation system on which the Issuer's capital stock may be traded with respect to any Conversion Stock issued upon conversion of the Debentures, (viii) the fees and expenses of the Trustee and the Trustee's counsel in connection with the Indenture and the Debentures, (ix) the costs and charges of any transfer agent, registrar or depository (including DTC), (x) any reasonable fees charged by rating agencies for the rating of the Debentures, (xi) all costs and expenses of the Registration Statement, as set forth in the Registration Rights Agreement and (xii) all other costs and expenses incident to the performance of the obligations of the Issuer under this Agreement and the other Operative Documents for which provision is not otherwise made in this Section 5(m). At the Closing, the Issuer will pay the Initial Purchaser an advisory fee of \$750,000. On the Option Closing Date, if the Initial Purchaser exercises its option to purchase all of the Option Debentures in the aggregate principal amount of \$25.0 million, the Issuer will pay the Initial Purchaser an advisory fee of \$250,000; *provided, however*, that no advisory fee shall be payable to the Initial Purchaser if less than all of the Option Debentures are purchased by the Initial Purchaser.

(n) To use commercially reasonable efforts to effect the inclusion of the Debentures on PORTAL and to maintain the listing of the Debentures on PORTAL for so long as any Debentures are outstanding.

(o) To obtain the approval of DTC for “book-entry” transfer of the Debentures, and to comply with all of its agreements set forth in the representation letters of the Issuer to DTC relating to the approval of the Debentures by DTC for “book-entry” transfer.

(p) During the period beginning on the date hereof and continuing to and including the Closing Date, not to offer, sell, contract to sell, grant any option to purchase or otherwise transfer or dispose of any debt securities of the Issuer or any warrants, rights or options to purchase or otherwise acquire debt securities of the Issuer substantially similar to the Debentures (other than the Debentures), without the prior written consent of the Initial Purchaser.

(q) To not, and to ensure that no affiliate (as defined in Rule 501(b) of the Act) of the Issuer will, sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any “security” (as defined in the Act) that would be integrated with the sale of the Debentures in a manner that would require the registration under the Act of the sale of the Debentures to the Initial Purchaser or the Subsequent Purchasers.

(r) To the extent it may lawfully do so, not to voluntarily claim, and to actively resist any attempts to claim, the benefit of any usury laws against the holders of any Debentures.

(s) To not (i) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise transfer or dispose of, directly or indirectly, any shares of its common stock, par value \$0.10 per share (the “Common Stock”), or any securities convertible into or exercisable or exchangeable for Common Stock or (ii) enter into any swap or other arrangement that transfers all or a portion of the economic consequences associated with the ownership of any of Common Stock (regardless of whether any of the transactions described in clause (i) or (ii) is to be settled by the delivery of Common Stock, or such other securities, in cash or otherwise), except to the Initial Purchaser pursuant to this Agreement, for a period of 90 days after the date hereof without the prior written consent of the Initial Purchaser. Notwithstanding the foregoing, during such period (A) the Issuer may issue shares of equity securities pursuant to the Issuer’s existing employee and director equity incentive plans, and (B) the Issuer may issue shares of Common Stock upon the conversion of the Debentures or any other convertible securities outstanding on the date hereof and the exercise of options or warrants outstanding on the date hereof. The Issuer also agrees not to file any registration statement with respect to any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock for a period of 90 days after the date hereof without the prior written consent of the Initial Purchaser other than (x) any registration statement on Form S-8, (y) except as provided in the Operative Documents and (z) any registration statement filed by the Issuer in connection with certain registration rights granted to entities affiliated with Carl C. Icahn and Dr. Phillip Frost with respect to certain unregistered shares of Common Stock issued to compensate such entities for the early conversion of \$70.0 million aggregate principal amount of the Issuer’s 6.25% Convertible Subordinated Notes due July 15, 2008 into the Issuer’s Common Stock. The foregoing notwithstanding, nothing herein shall prohibit the Issuer from amending or supplementing any registration statement that has been filed prior to the date hereof pursuant to the Exchange Act. The Issuer shall, concurrently with the Closing, deliver to the Initial Purchaser an agreement executed by each of the directors and executive officers of the Issuer to the effect that such

person will not, without the prior written consent of the Initial Purchaser, during the period commencing on the date of the Offering Circular and ending 30 days thereafter (1) engage in any of the transactions described in the first sentence of this paragraph or (2) make any request or demand for the registration of any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock, such agreement to be substantially in the form attached hereto as Exhibit A.

(t) To comply with all of its agreements set forth in the Registration Rights Agreement.

(u) To validly execute and deliver the Indenture, the Debentures and the Registration Rights Agreement, such Operative Documents to conform to the descriptions thereof contained in the Disclosure Package and the Final Offering Circular.

(v) To not be or become, at any time prior to the expiration of three years after the Closing Date, an open-end investment company, unit investment trust, closed-end investment company or face-amount certificate company that is or is required to be registered under Section 10 of the Investment Company Act of 1940, as amended.

(w) During the period for two years after the Closing Date (or such shorter period as may be provided for in Rule 144(k) under the Act, as the same may be in effect from time to time), to not, and not permit any of its “affiliates” (as defined in Rule 144 under the Act) to, resell any of the Debentures which constitute “restricted securities” under Rule 144 that have been reacquired by any of them except pursuant to an effective registration statement under the Act.

(x) To not, and to not authorize or permit any person acting on its behalf to (i) distribute any offering material in connection with the offer and sale of the Debentures, other than the Disclosure Package and the Final Offering Circular and any amendments and supplements thereto prepared in compliance with this Agreement, (ii) solicit any offer to buy or offer to sell the Debentures by means of any form of general solicitation or general advertising (including, without limitation, as such terms are used in Regulation D under the Act) or in any manner involving a public offering within the meaning of Section 4(2) of the Act or (iii) make any offer relating to the Debentures by means of any “written communication” (within the meaning of the Act) prepared by or on behalf of the Issuer, or used or referred to by the Issuer, that constitutes an offer to sell or a solicitation of an offer to buy the Debentures, other than the Disclosure Package and the Final Offering Circular and any amendments or supplements thereto, including, without limitation, any road show relating to the Debentures that constitutes such a written communication.

(y) The Issuer shall pay all stamp, documentary and transfer taxes and other duties, if any, which may be imposed by the United States or any political subdivision thereof or taxing authority thereof or therein with respect to the issuance of the Debentures or the sale thereof to the Initial Purchaser.

(z) To use its commercially reasonable efforts to do and perform all things required or necessary to be done and performed under this Agreement thereby prior to the Closing Date and to satisfy all conditions precedent to the delivery of the Debentures.

**6. Representations and Warranties of the Issuer.** Certain of the provisions contained in this Agreement refer to the “knowledge of the Issuer.” For purposes of this Agreement “knowledge of the Issuer” and similar phrases shall mean the actual knowledge of the individuals identified as executive officers or directors of the Issuer in the Final Offering Circular.

As of the date hereof and as of the Closing Date, the Issuer represents and warrants to, and agrees with, the Initial Purchaser that:

(a) **Offering Circular.** The Disclosure Package, as of 6:00 p.m. (New York Time) on the date hereof, did not contain any untrue statement of material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; the Offering Circular, as of its date and as of the Closing Date did not and will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, that the Issuer makes no representations or warranties as to information contained in or omitted from the Disclosure Package or the Offering Circular or any amendment or supplement thereto, in reliance upon, and in conformity with, written information furnished to the Issuer by or on behalf of the Initial Purchaser, specifically for use in the preparation thereof. The documents incorporated or deemed to be incorporated by reference in the Disclosure Package and the Final Offering Circular at the time they were or hereafter are filed with the SEC complied and will comply in all material respects with the requirements of the Exchange Act and the rules and regulations of the SEC thereunder. No injunction or order has been issued that either (i) asserts that any of the transactions contemplated by the Operative Documents is subject to the registration requirements of the Act or (ii) would prevent or suspend the issuance or sale of any of the Debentures or the use of the Disclosure Package or the Offering Circular, or any amendment or supplement thereto, in any jurisdiction.

(b) **Organization and Qualification.** The Issuer and its “Subsidiaries” (which for purposes of this Agreement means any entity in which the Issuer, directly or indirectly, owns capital stock or holds an equity or similar interest that exceeds 50% of the aggregate outstanding equity or similar interests of such entity) are entities duly organized and validly existing in good standing under the laws of the jurisdiction in which they are formed, and have the requisite power and authorization to own their material properties and to carry on their business as now being conducted in all material respects. Each of the Issuer and its Subsidiaries is duly qualified as a foreign entity to do business and is in good standing in every jurisdiction in which its ownership of property or the nature of the business conducted by it makes such qualification necessary, except to the extent that the failure to be so qualified or be in good standing would not reasonably be expected to have a Material Adverse Effect. As used in this Agreement, “Material Adverse Effect” means any material adverse effect on the business, assets, results of operations, or condition (financial or otherwise) of the Issuer and its Subsidiaries, taken as a whole, or on the

transactions contemplated hereby and the other Operative Documents taken as a whole or by the agreements and instruments to be entered into in connection herewith or therewith, or on the authority or ability of the Issuer to perform its obligations under the Operative Documents. The Issuer has no Subsidiaries except as set forth on Schedule I.

(c) Authorization; Enforcement; Validity. The Issuer has the requisite corporate power and authority to enter into and perform its obligations under each of the Operative Documents and to issue the Debentures in accordance with the terms hereof and thereof. The execution and delivery of the Operative Documents by the Issuer and the consummation by the Issuer of the transactions contemplated hereby and thereby, including, without limitation, the issuance of the Debentures, the reservation for issuance and the issuance of the Conversion Stock issuable upon conversion of the Debentures, have been duly authorized by the Issuer's Board of Directors and (other than the filing with the SEC of one or more Registration Statements as may be required by federal and state securities laws with respect to the Issuer's obligations under the Registration Rights Agreement and such filings as may be required by The New York Stock Exchange Inc. (the "Principal Market") with respect to the transactions contemplated hereby) no further consent or authorization is required by the Issuer, its Board of Directors or its stockholders. This Agreement has been duly executed and delivered by the Issuer and is, and upon execution and delivery of the Operative Documents by the Issuer, each of the Operative Documents will be, a legal, valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies. As of the date of issuance of any Option Debentures, such Option Debentures shall have been duly executed and delivered by the Issuer, and shall constitute the legal, valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally, the enforcement of applicable creditor's rights and remedies.

(d) Issuance of Debentures. The Debentures are duly authorized and upon issuance, shall be free from all taxes, liens and charges with respect to the issue thereof. As of the Closing, a number of shares of Common Stock shall have been duly authorized and reserved for issuance, free of pre-emptive rights, and sufficient for the purpose of enabling the Issuer to satisfy all obligations to issue the Conversion Stock upon conversion of all of the Debentures. Upon conversion in accordance with the Indenture, the Conversion Stock will be validly issued, fully paid and nonassessable and free from all preemptive or similar rights, taxes, liens and charges with respect to the issue thereof, with the holders being entitled to all rights accorded to a holder of Common Stock.

(e) No Conflicts. The execution, delivery and performance of this Agreement and the other Operative Documents by the Issuer and the consummation by the Issuer of the transactions contemplated hereby and thereby (including, without limitation, the issuance of the Debentures and reservation for issuance and issuance of the Conversion Stock) will not (i) result in a violation of the Certificate of Incorporation (as defined in Section 6(t)) or the Bylaws (as defined

in Section 6(t)), (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Issuer or any of its Subsidiaries is a party, or (iii) (so long as the Issuer obtains all consents, authorizations and orders and makes all filings and registrations specified in Section 6(f) below) result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws and regulations and the rules and regulations of the Principal Market) applicable to the Issuer or any of its Subsidiaries or by which any property or asset of the Issuer or any of its Subsidiaries is bound or affected, except, in the case of clauses (ii) and (iii), such conflicts, defaults, rights, or violations that would not reasonably be expected to have a Material Adverse Effect.

(f) Consents. The Issuer is not required to obtain any consent, authorization or order of, or make any filing or registration with, any court, governmental agency or any regulatory or self-regulatory agency or any other Person in order for it to execute, deliver or perform any of its obligations under or contemplated by the Operative Documents, in each case in accordance with the terms hereof or thereof, other than as may be required by federal and state securities laws and the rules and regulations of the Principal Market with respect to the Issuer's obligations under the Registration Rights Agreement. All consents, authorizations, orders, filings and registrations which the Issuer is required to obtain or make pursuant to the preceding sentence have been obtained or made on or prior to the Closing Date.

(g) No General Solicitation. Neither of the Issuer nor any of its respective affiliates or other person acting on behalf of the Issuer has offered or sold the Debentures by means of any general solicitation or general advertising within the meaning of Rule 502(c) under the Act or, with respect to Debentures sold outside the United States to non-U.S. persons (as defined in Rule 902 under the Act), by means of any directed selling efforts within the meaning of Rule 902 under the Act, and the Issuer, any affiliate of the Issuer and any person acting on behalf of the Issuer have complied with and will implement the "offering restrictions" within the meaning of such Rule 902; *provided* that no representation is made in this subsection with respect to the actions of the Initial Purchaser.

(h) No Broker's Fees. The Issuer has not engaged any broker, finder, commission agent or other person (other than the Initial Purchaser) in connection with the Offering or any of the transactions contemplated in the Operative Documents, and the Issuer is not under any obligation to pay any broker's fee or commission in connection with such transactions (other than commissions or fees to the Initial Purchaser).

(i) Trust Indenture Act. On the Closing Date, the Indenture will conform in all material respects to the requirements of the Trust Indenture Act of 1939, as amended (the "TIA"), and the rules and regulations of the SEC applicable to an indenture which is required to be qualified thereunder.

(j) Application of Takeover Protections; Rights Agreement. The Issuer and its Board of Directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights



agreement) or other similar anti-takeover provision under the Certificate of Incorporation or the laws of the State of Delaware which is or could become applicable as a result of the transactions contemplated by this Agreement, including, without limitation, the Issuer's issuance of the Debentures and the Conversion Stock. The Issuer has not adopted a stockholder rights plan or similar arrangement relating to accumulations of beneficial ownership of Common Stock or a change in control of the Issuer.

(k) SEC Documents; Financial Statements. During the two (2) years prior to the date hereof, the Issuer has filed all reports, schedules, forms, statements and other documents required to be filed by it with the SEC pursuant to the reporting requirements of the Exchange Act (all of the foregoing filed prior to the date hereof and all exhibits included therein and financial statements, notes and schedules thereto and documents incorporated by reference therein being hereinafter referred to as the "SEC Documents"). As of their respective dates, the SEC Documents, as they may have been subsequently amended by filings made by the Issuer with the SEC prior to the date hereof, complied in all material respects with the requirements of the Exchange Act and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents. As of their respective dates, the financial statements of the Issuer included in the SEC Documents complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto. Such financial statements have been prepared in accordance with generally accepted accounting principles, consistently applied, during the periods involved (except (i) as may be otherwise indicated in such financial statements or the notes thereto, or (ii) in the case of unaudited interim statements, to the extent they may exclude footnotes or may be condensed or summary statements) and fairly present in all material respects the financial position of the Issuer as of the dates thereof and the results of its operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments).

(l) Absence of Certain Changes. Except as disclosed in the Disclosure Package and the Final Offering Circular, since December 31, 2005, (i) there has been no change or development that has had a Material Adverse Effect, (ii) the Issuer has not declared or paid any dividends, other than the dividends to be paid on June 29, 2006 to be the stockholders of record as of June 20, 2006, (iii) neither the Issuer nor any of its Subsidiaries has sold any assets, individually or in the aggregate, in excess of \$1,000,000 outside of the ordinary course of business or (iv) neither the Issuer nor any of its Subsidiaries has made any capital expenditures, individually or in the aggregate, in excess of \$5,000,000. Neither the Issuer nor any of its Subsidiaries has taken any steps to seek protection pursuant to any bankruptcy law nor does the Issuer have knowledge that either its or its Subsidiaries respective creditors intend to initiate involuntary bankruptcy proceedings or knowledge of any fact which would reasonably lead a creditor to do so. The Issuer is not as of the date hereof, and after giving effect to the transactions contemplated hereby to occur at the Closing, will not be Insolvent (as defined below). For purposes of this Section 6(l), "Insolvent" means (i) the present fair saleable value of the Issuer's assets is less than the amount required to pay the Issuer's total Indebtedness, (ii) the Issuer is unable to pay its debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured or (iii) the Issuer has unreasonably small capital with which to conduct the business in which it is engaged as such business is now conducted. "Indebtedness" of any Person means, without duplication (A) all indebtedness for

borrowed money, (B) all obligations issued, undertaken or assumed as the deferred purchase price of property or services (other than trade payables entered into in the ordinary course of business), (C) all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments, (D) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of property, assets or businesses, (E) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to any property or assets acquired with the proceeds of such indebtedness (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of such property), (F) all monetary obligations under any leasing or similar arrangement which, in connection with generally accepted accounting principles, consistently applied for the periods covered thereby, is classified as a capital lease, (G) all indebtedness referred to in clauses (A) through (F) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any mortgage, lien, pledge, charge, security interest or other encumbrance upon or in any property or assets (including accounts and contract rights) owned by any Person, even though the Person which owns such assets or property has not assumed or become liable for the payment of such indebtedness, and (H) all Contingent Obligations in respect of indebtedness or obligations of others of the kinds referred to in clauses (A) through (G) above; and (y) "Contingent Obligation" means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to any indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto.

(m) No Undisclosed Events, Liabilities, Developments or Circumstances. No event, liability, development or circumstance has occurred or exists with respect to the Issuer or its Subsidiaries or their respective business, properties, operations or condition (financial or otherwise), that would be required to be disclosed by the Issuer under applicable securities laws on a registration statement on Form S-1 filed with the SEC relating to an issuance and sale by the Issuer of its Common Stock and which has not been publicly announced.

(n) Conduct of Business; Regulatory Permits. Neither the Issuer nor its Subsidiaries is in violation of (x) any term of or in default under its Certificate of Incorporation or Bylaws or their organizational charter or certificate of incorporation or bylaws, respectively or (y) any judgment, decree or order or any statute, ordinance, rule or regulation applicable to the Issuer or its Subsidiaries, except in either of the foregoing cases, for possible violations which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Without limiting the generality of the foregoing, the Issuer is not in violation of any of the rules, regulations or requirements of the Principal Market which would reasonably be expected to lead to delisting or suspension of the Common Stock by the Principal Market. Since December 31, 2005, (i) the Common Stock has been designated for quotation on the Principal Market, (ii) trading in the Common Stock has not been suspended by the SEC or the Principal Market and (iii) no executive officer of the Issuer has received any communication, written or oral, from the SEC or the Principal Market threatening the suspension or delisting of the Common Stock from

the Principal Market. The Issuer and its Subsidiaries possess all certificates, authorizations and permits issued by the appropriate regulatory authorities necessary to conduct their respective businesses, except where the failure to possess such certificates, authorizations or permits would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, and neither the Issuer nor any such Subsidiary has received any written notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit.

(o) Foreign Corrupt Practices. Neither the Issuer, nor any of its Subsidiaries, nor any director, officer, agent, employee or other Person acting on behalf of the Issuer or any of its Subsidiaries has, in the course of its actions for, or on behalf of, the Issuer (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expenses relating to political activity; (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; (iii) violated or is in violation of any provision of the U.S. Foreign Corrupt Practices Act of 1977, as amended; or (iv) made any unlawful bribe, rebate, payoff, influence payment, kickback or other unlawful payment to any foreign or domestic government official or employee.

(p) Sarbanes-Oxley Act. There is and has been no failure on the part of the Issuer or any of the Issuer's directors or executive officers, in their capacities as such, to comply in all material respects with any provision of the Sarbanes-Oxley Act of 2002, as in effect at the applicable time, and the rules and regulations promulgated in connection therewith (the "Sarbanes-Oxley Act"), including Section 402 related to loans and Sections 302 and 906 related to certifications.

(q) Disclosure Controls and Procedures. The chief executive officer and chief financial officer of the Issuer are responsible for establishing and maintaining disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) of the rules and regulations of the SEC under the Exchange Act) for the Issuer and have (i) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under their supervision, to ensure that material information relating to the Issuer and its Subsidiaries is made known to the chief executive officer and chief financial officer by others within the Issuer and its Subsidiaries, particularly during the end of the period (the "Evaluation Date") covered by each of the most recent annual and quarterly report of the Issuer (each a "Report"), (ii) evaluated the effectiveness of the Issuer's disclosure controls and procedures and presented in each Report their conclusions about the effectiveness of the disclosure controls and procedures as of the Evaluation Date covered by each Report based on such evaluation and (iii) disclosed in each Report any change in the Issuer's internal control over financial reporting that occurred during the period covered by the Report that has materially affected, or is reasonably likely to materially affect, the Issuer's internal controls over financial reporting. The chief executive officer and chief financial officer of the Issuer have disclosed, based upon their most recent evaluation of the internal controls over financial reporting, to the Issuer's auditors and the Audit Committee of the Issuer's Board of Directors (x) all material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the Issuer's ability to record, process, summarize and report financial information, and (y) any fraud, whether or not material, that involves management or other employees who have a significant role in the Issuer's internal controls.

(r) Internal Accounting Controls. The Issuer and each of its Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain asset and liability accountability, (iii) access to assets or incurrence of liabilities is permitted only in accordance with management's general or specific authorization and (iv) the recorded accountability for assets and liabilities is compared with the existing assets and liabilities at reasonable intervals and appropriate action is taken with respect to any difference.

(s) Transactions With Affiliates. Except as disclosed in the Disclosure Package and the Final Offering Circular, none of the officers, directors or employees of the Issuer is presently a party to any transaction with the Issuer or any of its Subsidiaries (other than for ordinary course services as employees, officers or directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, or otherwise requiring payments to or from any such officer, director or employee or, to the knowledge of the Issuer, any corporation, partnership, trust or other entity in which any such officer, director, or employee has a substantial interest or is an officer, director, trustee or partner, which is required by the rules and regulations of the SEC under the Exchange Act to be so disclosed in the SEC Documents.

(t) Equity Capitalization. The authorized and outstanding capital stock of the Issuer is as set forth in the Preliminary Offering Circular and the Final Offering Circular under "Description of Capital Stock," except for subsequent issuances, if any, pursuant to this Agreement, pursuant to warrants or options outstanding on such date or pursuant to the Issuer's existing equity incentive plans. All outstanding shares of capital stock of the Issuer have been duly authorized and validly issued and are fully paid, non-assessable and not subject to any preemptive or similar rights. There are no outstanding subscriptions, rights, warrants, options, calls, convertible securities, commitments of sale or liens granted or issued by the Issuer or any of its subsidiaries relating to or entitling any person to purchase or otherwise to acquire any shares of the capital stock of the Issuer or any of the Subsidiaries, except as otherwise disclosed in the Preliminary Offering Circular and the Final Offering Circular. The Issuer has furnished to the Initial Purchaser correct and complete copies of the Issuer's Certificate of Incorporation, as amended and as in effect on the date hereof (the "Certificate of Incorporation"), and the Issuer's Bylaws, as amended and as in effect on the date hereof (the "Bylaws").

(u) Absence of Litigation. Except as set forth in the Preliminary Offering Circular and the Final Offering Circular, there is no action, suit or proceeding before or by the Principal Market, any court, public board, government agency, self-regulatory organization or body pending or, to the knowledge of the Issuer, threatened against or affecting the Issuer or any of the Issuer's Subsidiaries or any of the Issuer's or the Issuer's Subsidiaries' officers or directors in their capacities as such that would reasonably be expected to have a Material Adverse Effect. The SEC Documents set forth all litigation matters which are required to be disclosed in such SEC Documents.

(v) Insurance. The Issuer and each of its Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as management of the Issuer believes to be prudent and customary for the businesses in which the Issuer and its Subsidiaries are engaged, except where the failure to be so adequately insured would not reasonably be expected to have a Material Adverse Effect. Neither the Issuer nor any such Subsidiary believes that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not reasonably be expected to have a Material Adverse Effect.

(w) Employee Relations. (i) The Issuer and its Subsidiaries believe that their relations with their employees are satisfactory. Except as disclosed in the SEC Documents, since December 31, 2005, no “executive officer” (as defined in Rule 501(f) of the Act) of the Issuer has notified the Issuer of such officer’s intent to leave the Issuer in the foreseeable future or otherwise terminate such officer’s employment with the Issuer in the foreseeable future. No labor dispute with the employees of the Issuer or any of its Subsidiaries is pending or, to the knowledge of the Issuer, imminent that would reasonably be expected to have a Material Adverse Effect.

(ii) The Issuer and its Subsidiaries are in compliance with all federal, state, local and foreign laws and regulations respecting labor, employment and employment practices and benefits, terms and conditions of employment and wages and hours, except where failure to be in compliance would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(x) Title. The Issuer and its Subsidiaries have good and valid title in fee simple to all real property and good and valid title to all personal property owned by them which is material to the business of the Issuer and its Subsidiaries, in each case free and clear of all liens, encumbrances and defects except such as (a) is described in the Preliminary Offering Circular and the Final Offering Circular or arise from indebtedness reflected therein or (b) do not materially affect the value of such property and do not interfere with the use made of such property by the Issuer and any of its Subsidiaries in a manner that would reasonably be expected to have a Material Adverse Effect. Any real property and facilities held under lease by the Issuer and any of its Subsidiaries and material to the business of the Issuer and its Subsidiaries taken as a whole are, with respect to the Issuer and its Subsidiaries, in full force and effect, with such exceptions as do not materially interfere with the use made of such property and buildings by the Issuer and its Subsidiaries.

(y) Intellectual Property Rights. The Issuer and its Subsidiaries own or possess adequate rights or licenses to use all trademarks, trade names, service marks, service mark registrations, service names, patents, patent rights, copyrights, inventions, licenses, approvals, trade secrets and other intellectual property rights (“Intellectual Property Rights”) necessary to conduct their respective businesses as now conducted and which failure to so have would reasonably be expected to have a Material Adverse Effect. None of the Issuer’s or its Subsidiaries’ Intellectual Property Rights necessary to conduct their respective businesses as now conducted have expired or terminated, or are expected to expire or terminate, within two

years from the date of this Agreement, except where the expiration or termination would not reasonably be expected to have a Material Adverse Effect. The Issuer has not received written notice and has no knowledge of any infringement by the Issuer or its Subsidiaries on the Intellectual Property Rights of other Persons. There is no claim, action or proceeding being made or brought, or to the knowledge of the Issuer, being threatened, by or against the Issuer or its Subsidiaries regarding its Intellectual Property Rights. The Issuer and its Subsidiaries have taken reasonable security measures to protect the secrecy, confidentiality and value of all of their intellectual properties, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect.

(z) Environmental Laws. The Issuer and its Subsidiaries (i) are in compliance with any and all Environmental Laws (as hereinafter defined), (ii) have received all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses and (iii) are in compliance with all terms and conditions of any such permit, license or approval where, in each of the foregoing clauses (i), (ii) and (iii), the failure to so comply would be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect. As used in this Agreement, "Environmental Laws" means all federal, state, local or foreign laws relating to pollution or protection of human health or the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata), including, without limitation, laws relating to emissions, discharges, or releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "Hazardous Materials") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, injunctions, judgments, licenses, orders, permits, or regulations issued, entered, promulgated or approved thereunder.

(aa) Tax Status. The Issuer and each of its Subsidiaries (i) has made or filed all foreign, federal and state income and all other tax returns, reports and declarations required by any jurisdiction to which it is subject, (ii) has paid all taxes and other governmental assessments and charges that are material in amount, shown or determined to be due on such returns, reports and declarations, except those being contested in good faith and (iii) has set aside on its books provision reasonably adequate for the payment of all taxes for the periods to which such returns, reports or declarations apply. Except as disclosed in the Preliminary Offering Circular and the Final Offering Circular, there are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and the officers of the Issuer know of no basis for any such claim.

(bb) Ranking of Debentures. No Indebtedness of the Issuer is senior to the Debentures in right of payment, whether with respect of payment of interest or upon liquidation or dissolution or otherwise.

(cc) Independent Accountants. PricewaterhouseCoopers LLP, who have certified the consolidated financial statements of the Issuer as of December 31, 2005, are independent public accountants within the meaning of the Act.

(dd) Investment Company. Neither the Issuer nor its Subsidiaries is and, after giving effect to the offering and sale of the Securities and the application of the proceeds thereof, will become required to register as an “investment company” or an entity “controlled” by an investment company, within the meaning of the Investment Company Act of 1940, as amended.

(ee) Manipulation of Price. The Issuer has not, and to its knowledge no one acting on its behalf has within the preceding 12 months, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Issuer to facilitate the sale or resale of any of the Debentures or (ii) sold, bid for, purchased, or paid any compensation for soliciting purchases of, any of the Debentures.

(ff) Rule 144A Eligibility. The Debentures are eligible for resale pursuant to Rule 144A under the Act and no other securities of the Issuer are of the same class (within the meaning of Rule 144A under the Act) as the Debentures and listed on a national securities exchange registered under Section 6 of the Exchange Act, or quoted in a U.S. automated inter-dealer quotation system. No securities of the Issuer of the same class as the Debentures have been offered, issued or sold by the Issuer or any of its respective Affiliates within the six-month period immediately prior to the date hereof.

(gg) No Registration. Without limiting any provision herein, no registration under the Act and no qualification of the Indenture under the TIA is required for the sale of the Debentures to the Initial Purchaser as contemplated hereby or for the Exempt Resales, assuming (i) that the Debentures are issued, sold and delivered under the circumstances contemplated by the Disclosure Package, the Final Offering Circular and this Agreement, (ii) that the Initial Purchaser’s representations and warranties in Section 7 hereof are true, (iii) compliance by the Initial Purchaser with its covenants set forth in Section 7 hereof and (iv) that each of the Eligible Purchasers is a QIB or a non-U.S. person (as defined under Regulation S of the Act).

(hh) No Violation of Regulations T, U and X. None of the transactions contemplated in the Operative Documents or the application of the proceeds by the Issuer or any of the Subsidiaries of the proceeds of the Debentures as set forth in the Final Offering Circular will violate or result in a violation of Section 7 of the Exchange Act, (including, without limitation, Regulation T (12 C.F.R. Part 220), Regulation U (12 C.F.R. Part 221) or Regulation X (12 C.F.R. Part 224) of the Board of Governors of the Federal Reserve System).

(ii) Delivery of Certificates. Each certificate signed by any officer of the Issuer delivered to the Initial Purchaser shall be deemed a representation and warranty by the Issuer (and not individually by such officer) to the Initial Purchaser with respect to the matters covered thereby.

The Issuer acknowledges that the Initial Purchaser and, for purposes of the opinions to be delivered to the Initial Purchaser pursuant to Section 9 hereof, counsel to the Issuer and counsel to the Initial Purchaser, will rely upon the accuracy and truth of the foregoing representations and hereby consents to such reliance.

**7. Representations and Warranties of the Initial Purchaser**. The Initial Purchaser represents and warrants to, and agrees with, the Issuer that:

(a) The Initial Purchaser is a QIB with such knowledge and experience in financial and business matters as are necessary in order to evaluate the merits and risks of an investment in the Debentures.

(b) The Initial Purchaser (i) is not acquiring the Debentures with a view to any distribution thereof or with any present intention of offering or selling any of the Debentures in a transaction that would violate the Act or the securities laws of any State of the United States or any other applicable jurisdiction and (ii) will be reoffering and reselling the Debentures only to QIBs in reliance on the exemption from the registration requirements of the Act provided by Rule 144A under the Act or to non-U.S. persons in reliance upon Regulation S under the Act.

(c) The Initial Purchaser agrees that no form of general solicitation or general advertising (within the meaning of Regulation D under the Act) has been or will be used by the Initial Purchaser or any of its representatives in connection with the offer and sale of any of the Debentures pursuant hereto, including, but not limited to, articles, notices or other communications published in any newspaper, magazine or similar medium, or broadcast over television or radio, or transmitted over the internet, or communications in any seminar or meeting whose attendees have been invited by any general solicitation or general advertising.

(d) The Initial Purchaser agrees that, in connection with Exempt Resales, it will solicit offers to buy the Debentures only from, and will offer to sell the Debentures only to Eligible Purchasers. The Initial Purchaser further agrees that it will offer to sell the Debentures only to, and will solicit offers to buy the Debentures only from Eligible Purchasers that the Initial Purchaser reasonably believes are QIBs or non-U.S. persons that agree that (i) the Debentures purchased by them may be resold, pledged or otherwise transferred within the time period referred to under Rule 144(k) (taking into account the provisions of Rule 144(d) under the Act, if applicable) under the Act, as in effect on the date of the transfer of such Debentures, only (A) to the Issuer, (B) to a person whom the seller reasonably believes is a QIB purchasing for its own account or for the account of a QIB in a transaction meeting the requirements of Rule 144A under the Act, (C) in an offshore transaction (as defined in Rule 902 under the Act) meeting the requirements of Rule 904 of the Act, (D) in a transaction meeting the requirements of Rule 144 under the Act, (E) in accordance with another exemption from the registration requirements of the Act (and based upon an opinion of counsel acceptable to the Issuer) or (F) pursuant to an effective registration statement and, in each case, in accordance with the applicable securities laws of any state of the United States or any other applicable jurisdiction and (ii) they will deliver to each person to whom such Debentures or an interest therein is transferred a notice substantially to the effect of the foregoing. In connection with sales of the Debentures by the Initial Purchaser to non-U.S. persons outside the United States to whom the Initial Purchaser reasonably believes offers and sales of the Debentures may be made in reliance upon Regulation S, the Initial Purchaser agrees (i) to comply with the offering restrictions requirement of Regulation S, (ii) at or prior to confirmation of the sale of such Debentures made in reliance on Regulation S, it will have sent to each distributor, dealer or person receiving a selling concession, fee or other remuneration to which it sells Debentures a confirmation or other notice as required by Rule 903 of Regulation S, and (iii) not to engage in hedging transactions with respect to the Debentures and the Common Stock prior to the date one year following the Closing Date except in compliance with the Securities Act.



The Initial Purchaser acknowledges that the Issuer and, for purposes of the opinions to be delivered to the Initial Purchaser pursuant to Section 9 hereof, counsel to the Issuer and counsel to the Initial Purchaser will rely upon the accuracy and truth of the foregoing representations and the Initial Purchaser hereby consents to such reliance.

**8. Indemnification and Contribution.** (a) The Issuer agrees to indemnify and hold harmless the Initial Purchaser, its directors, its officers and each person, if any, who controls the Initial Purchaser within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, from and against any and all losses, claims, damages, liabilities and judgments (including, without limitation, any legal or other expenses incurred in connection with investigating or defending any matter, including any action, that could give rise to any such losses, claims, damages, liabilities or judgments) caused by any untrue statement or alleged untrue statement of a material fact contained in the Disclosure Package or the Final Offering Circular (or any amendment or supplement thereto) caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except insofar as such losses, claims, damages, liabilities or judgments are caused by any such untrue statement or omission or alleged untrue statement or omission based upon information relating to the Initial Purchaser furnished in writing to the Issuer by, or on behalf of, the Initial Purchaser expressly for use therein.

(b) The Initial Purchaser agrees to indemnify and hold harmless the Issuer, its directors, its officers and each person, if any, who controls the Issuer within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, to the same extent as the foregoing indemnity from the Issuer to the Initial Purchaser but only insofar as such losses, liabilities, claims, damages or expenses (or actions in respect thereof) arise out of or are based upon (i) any untrue statement or alleged untrue statement of a material fact contained in the Disclosure Package or the Final Offering Circular, or in any amendment thereof or supplement thereto, or (ii) the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, but, in each case, only to the extent that the untrue statement or alleged untrue statement or omission or alleged omission was made in reliance upon and in conformity with written information relating to the Initial Purchaser furnished to the Issuer by or on behalf of the Initial Purchaser in writing expressly for use therein, it being expressly understood that such information relating to the Initial Purchaser includes only the third paragraph, the first two sentences of the fourth paragraph, the first two sentences of the tenth paragraph, the eleventh paragraph, the second and third sentences of the fifteenth paragraph and the last paragraph, in each case, contained in the Offering Circular under the caption "Plan of Distribution"; *provided, however*, that in no case shall the Initial Purchaser be liable or responsible for any amount in excess of the discounts and commissions received by the Initial Purchaser.

(c) In case any action shall be commenced involving any person in respect of which indemnity may be sought pursuant to Section 8(a) or 8(b) (the "indemnified party"), the indemnified party shall promptly notify the person against whom such indemnity may be sought (the "indemnifying party") in writing and the indemnifying party shall assume the defense of

such action, including the employment of counsel reasonably satisfactory to the indemnified party and the payment of all fees and expenses of such counsel, as incurred (except that in the case of any action in respect of which indemnity may be sought pursuant to both Sections 8(a) and 8(b), the Initial Purchaser shall not be required to assume the defense of such action pursuant to this Section 8(c), but may employ separate counsel and participate in the defense thereof, but the fees and expenses of such counsel, except as provided below, shall be at the expense of the Initial Purchaser). Any indemnified party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of the indemnified party unless (i) the employment of such counsel shall have been specifically authorized in writing by the indemnifying party, (ii) the indemnifying party shall, within a reasonable period after notice of such action, have failed to assume the defense of such action or employ counsel reasonably satisfactory to the indemnified party or (iii) the named parties in any such action (including any impleaded parties) include both the indemnified party and the indemnifying party, and the indemnified party shall have been advised by such counsel that there may be one or more legal defenses available to it which are different from or additional to those available to the indemnifying party (in which case the indemnifying party shall not have the right to assume the defense of such action on behalf of the indemnified party). In any such case, the indemnifying party shall not, in connection with any one action or separate but substantially similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the fees and expenses of more than one separate firm of attorneys (in addition to any local counsel) for all indemnified parties and all such fees and expenses shall be reimbursed as they are incurred. Such firm shall be designated in writing by the Initial Purchaser, in the case of the parties indemnified pursuant to Section 8(a), and by the Issuer, in the case of parties indemnified pursuant to Section 8(b). The indemnifying party shall indemnify and hold harmless the indemnified party from and against any and all losses, claims, damages, liabilities and judgments by reason of any settlement of any action (i) effected with its written consent or (ii) effected without its written consent if the settlement is entered into more than twenty business days after the indemnifying party shall have received a request from the indemnified party for reimbursement for the fees and expenses of counsel (in any case where such fees and expenses are at the expense of the indemnifying party) and, prior to the date of such settlement, the indemnifying party shall have failed to comply with such reimbursement request. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement or compromise of, or consent to the entry of judgment with respect to, any pending or threatened action in respect of which the indemnified party is or could have been a party and indemnity or contribution may be or could have been sought hereunder by the indemnified party, unless such settlement, compromise or judgment (i) includes an unconditional release of the indemnified party from all liability on claims that are or could have been the subject matter of such action and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of the indemnified party.

(d) To the extent the indemnification provided for in this Section 8 is unavailable to an indemnified party or insufficient in respect of any losses, claims, damages, liabilities or judgments referred to therein, then each indemnifying party, in lieu of indemnifying such indemnified party, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages, liabilities and judgments (i) in such proportion as is appropriate to reflect the relative benefits received by the Issuer, on the one hand, and the Initial

Purchaser on the other hand from the offering of the Debentures or (ii) if the allocation provided by clause 8(d)(i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause 8(d)(i) above but also the relative fault of the Issuer, on the one hand, and the Initial Purchaser, on the other hand, in connection with the statements or omissions which resulted in such losses, claims, damages, liabilities or judgments, as well as any other relevant equitable considerations. The relative benefits received by the Issuer, on the one hand and the Initial Purchaser, on the other hand, shall be deemed to be in the same proportion as the total net proceeds from the offering of the Debentures (after Initial Purchaser's discounts and commissions, but before deducting expenses) received by the Issuer, and that the total discounts and commissions received by the Initial Purchaser bear to the total price to investors of the Debentures. The relative fault of the Issuer, on the one hand, and the Initial Purchaser, on the other hand, shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Issuer, on the one hand, or the Initial Purchaser, on the other hand, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(e) The Issuer and the Initial Purchaser agree that it would not be just and equitable if contribution pursuant to Section 8(d) were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to in the immediately preceding paragraph. The amount paid or payable by an indemnified party as a result of the losses, claims, damages, liabilities or judgments referred to in the immediately preceding paragraph shall be deemed to include, subject to the limitations set forth above, any legal or other expenses incurred by such indemnified party in connection with investigating or defending any matter, including any action, that could have given rise to such losses, claims, damages, liabilities or judgments. Notwithstanding the provisions of this Section 8, the Initial Purchaser shall not be required to contribute any amount in excess of the amount by which the total discounts and commissions received by such Initial Purchaser exceeds the amount of any damages which the Initial Purchaser has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

(f) The remedies provided for in this Section 8 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any indemnified party at law or in equity.

**9. Conditions of Initial Purchaser's Obligations.** The obligations of the Initial Purchaser to purchase the Firm Debentures and the Option Debentures, if applicable, under this Agreement on the Closing Date and the Option Closing Date are subject to the satisfaction of each of the following conditions:

(a) All the representations and warranties of the Issuer contained in this Agreement and in each of the Operative Documents that are not modified by materiality or Material Adverse Effect shall be true and correct in all material respects, and all of the representations and warranties of the Issuer contained in this Agreement that are modified by materiality or Material

Adverse Effect shall be true and correct, in each case, as of the date hereof, on the Closing Date and the Option Closing Date with the same force and effect as if made on and as of the Closing Date or the Option Closing Date. The Issuer and each other party to the Operative Documents (other than the Initial Purchaser) shall have performed all covenants and agreements, in all material respects, and satisfied all conditions, in all material respects, on its part to be performed or satisfied at or prior to the Closing Date or the Option Closing Date.

(b) On or after the date hereof, (i) there shall not have occurred any downgrading, suspension or withdrawal of, nor shall any notice have been given of any potential or intended downgrading, suspension or withdrawal of, or of any review (or of any potential or intended review) for a possible change that does not indicate the direction of the possible change in, any rating of the Issuer or any of its Subsidiaries or any of its or their respective securities (including, without limitation, the placing of any of the foregoing ratings on credit watch with negative or developing implications or under review with an uncertain direction) by any “nationally recognized statistical rating organization” as such term is defined for purposes of Rule 436(g)(2) under the Act, (ii) there shall not have occurred any change, nor shall notice have been given of any potential or intended change, in the outlook for any rating of the Issuer or any of its Subsidiaries by any such rating organization and (iii) no such rating organization shall have given notice that it has assigned (or is considering assigning) a lower rating to the Debentures than that on which the Debentures were marketed.

(c) Since the respective dates as of which information is given in the Disclosure Package and the Final Offering Circular other than as disclosed in the Disclosure Package and the Final Offering Circular (exclusive of any amendments or supplements thereto subsequent to the date of this Agreement), (i) there shall not have occurred any change or any development involving a prospective change in the properties, condition (financial or otherwise), earnings, business, management or operations of the Issuer or any of its Subsidiaries, (ii) there shall not have been any change or any development involving a prospective change in the equity interests or in the long-term debt of the Issuer or any of its Subsidiaries and (iii) neither the Issuer nor any of its Subsidiaries shall have incurred any liability or obligation, direct or contingent, the effect of which, in any such case described in clause 9(c)(i), 9(c)(ii) or 9(c)(iii), in the reasonable judgment of the Initial Purchaser, is material and adverse and, in the reasonable judgment of the Initial Purchaser, makes it impracticable to market the Debentures on the terms and in the manner contemplated in the Disclosure Package and the Offering Circular.

(d) You shall have received on each of the Closing Date and the Option Closing Date, if applicable, a certificate dated as of that date signed by the Chairman, the President or the Executive Vice President and the Chief Financial Officer of the Issuer

(i) stating that the representations and warranties of the Issuer contained in this Agreement that are not modified by materiality or Material Adverse Effect are true and correct, in all material respects, and all representations and warranties of the Issuer contained in this Agreement that are modified by materiality or Material Adverse Effect are true and correct, with the same force and effect as if made on and as of the Closing Date or the Option Closing Date;

(ii) confirming the matters set forth in clauses 9(b) and 9(c) hereof;

(iii) stating that the Issuer has complied with all agreements and satisfied all conditions on its part to be performed or satisfied at or prior to the Closing Date or the Option Closing Date; and

(iv) stating that they have carefully examined the Disclosure Package and the Final Offering Circular and, in their opinion, since the date of the Disclosure Package and the Final Offering Circular no event has occurred which should, under applicable securities laws, have been set forth in a supplement or amendment to the Disclosure Package and the Final Offering Circular.

(e) You shall have received on each of the Closing Date and the Option Closing Date, if applicable, a certificate dated as of such date signed by the Secretary of the Issuer certifying (i) the Certificate of Incorporation and Bylaws of the Issuer, (ii) the resolutions adopted by the Board of Directors of the Issuer approving the transactions contemplated by this Agreement, the Disclosure Package, the Offering Circular and the Operative Documents and (iii) as to the incumbency of the officers of the Issuer executing the Operative Documents on behalf of the Issuer.

(f) You shall have received on each of the Closing Date and the Option Closing Date, if applicable, an opinion (subject to customary qualifications, limitations and exceptions and reasonably satisfactory to you and counsel for the Initial Purchaser), dated as of such date of McDermott Will & Emery LLP, counsel for the Issuer, substantially to the effect set forth in Exhibit B attached hereto.

(g) You shall have received on each of the Closing Date and the Option Closing Date an opinion (satisfactory to you and counsel for the Initial Purchaser), dated as of such date of Kasowitz, Benson, Torres & Friedman LLP, special litigation counsel for the Issuer, to the effect that the statements under the caption “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Recent Developments—Tobacco Settlement Agreements” in the Issuer’s Form 10-Q for the quarterly period ended March 31, 2006 (the “Form 10-Q”), under the caption “Business—Legislation, Regulation and Litigation” in the Issuer’s Form 10-K for the fiscal year ended December 31, 2005 and under the caption “Risk Factors— Risks Related to the Business— Litigation and regulation will continue to harm the tobacco industry,” and “Risk Factors— Risks Related to the Business— Liggett may have additional payment obligations under the Master Settlement Agreement and its other settlement agreements with the states” in the Disclosure Package and the Offering Circular, insofar as such statements constitute a summary of the legal matters, documents or proceedings referred to therein, when taken together with the updated disclosure and other statements in Note 8 of the Notes to the Consolidated Financial Statements of the Form 10-Q, in light of the circumstances under which they were made, are accurate and complete and fairly present in all material respects such legal matters, documents and proceedings and do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, not misleading.

(h) You shall have received on each of the Closing Date and the Option Closing Date an opinion, dated as of such date, of Latham & Watkins LLP, counsel for the Initial Purchaser, reasonably satisfactory to you.

(i) You shall have received at each of the Closing Date and the Option Closing Date letters dated the date hereof and dated the Closing Date or the Option Closing Date in form and substance satisfactory to you and counsel for the Initial Purchaser from PricewaterhouseCoopers LLP, independent public accountants, with respect to the Issuer and Douglas Elliman Realty, LLC and Weiser LLP with respect to Koa Investors, LLC (i) confirming that they are independent public accountants within the meaning of the Act and are in compliance with the applicable requirements relating to the qualification of accountants under Rule 2-01 of Regulation S-X of the SEC and (ii) containing the information and statements of the type ordinarily included in accountants' "comfort letters" to you with respect to the financial statements and certain financial information contained in or incorporated by reference into the Final Offering Circular.

(j) The Debentures shall have been designated as PORTAL-eligible securities in accordance with the rules and regulations of the NASD related to trading in the PORTAL market.

(k) The Issuer and each other party to the Operative Documents (other than the Initial Purchaser) shall have executed and delivered the Operative Documents and you shall have received fully executed copies thereof. The Operative Documents shall be in full force and effect as of the Closing Date and shall conform to the descriptions thereof contained in the Disclosure Package and the Final Offering Circular. The Issuer shall have received the requisite governmental and regulatory approval in connection with each of the Operative Documents and transactions contemplated by the Disclosure Package and the Final Offering Circular to be completed on or before the Closing Date.

(l) The Conversion Stock shall have been duly listed, subject to notice of issuance, on The New York Stock Exchange.

(m) The Issuer shall not have failed in any material respect at or prior to the Closing Date or the Option Closing Date to perform or comply with any of the agreements herein contained and required to be performed or complied with by the Issuer at or prior to the Closing Date or the Option Closing Date.

(n) No action shall have been taken and no statute, rule, regulation or order shall have been enacted, adopted or issued by any Governmental Authority which would, as of the Closing Date or the Option Closing Date, prevent the issuance of the Debentures or the consummation of any of the other transactions contemplated by the Operative Documents; no action, suit or proceeding shall have been commenced and be pending against or affecting or, to the knowledge of the Issuer, threatened against, the Issuer before any court or arbitrator or any Governmental Authority or an official thereof that, if adversely determined, would be expected to result in a Material Adverse Effect; and no stop order shall have been issued preventing the use of the

Disclosure Package or the Offering Circular, or any amendment or supplement thereto, or which would be expected to have a Material Adverse Effect.

(o) The Issuer shall have delivered to the Initial Purchaser executed lock-up agreements from each of the directors and executive officers of the Issuer set forth on Schedule II in substantially the form attached hereto as Exhibit A.

(p) The Issuer shall have furnished to the Initial Purchaser and counsel to the Initial Purchaser with such other certificates, opinions or other documents as they may have reasonably requested and as are customary in the transactions contemplated by this Agreement.

**10. Effective Date of Agreement and Termination.** This Agreement shall become effective upon the execution and delivery of this Agreement by the parties hereto.

This Agreement may be terminated at any time prior to the Closing Date by the Initial Purchaser by written notice to the Issuer if any of the following has occurred:

(a) the Issuer shall have failed, refused or been unable to perform in any material respect any agreement on its part to be performed hereunder;

(b) any other condition to the obligations of the Initial Purchaser hereunder as provided in Section 9 of this Agreement is not fulfilled when and as required;

(c) any outbreak or escalation of hostilities, any declaration of war by the United States, any other substantial national or international calamity, emergency or crisis (including acts of terrorism), any material adverse change in economic conditions in, or the financial markets of, the United States or any change in national or international political, financial or economic conditions, in each case, the effect of which could make it, in the Initial Purchaser's sole judgment, impracticable or inadvisable to market or proceed with the offering or delivery of the Debentures on the terms and in the manner contemplated in the Disclosure Package and the Final Offering Circular or to enforce contracts for the sale of any of the Debentures;

(d) the suspension or material limitation of trading in securities or other instruments on the New York Stock Exchange, the American Stock Exchange, the Chicago Board of Options Exchange, the Chicago Mercantile Exchange, the Chicago Board of Trade or the Nasdaq National Market or limitation on prices for securities or other instruments on any such exchange or the Nasdaq National Market;

(e) the suspension of trading of any securities of the Issuer on any exchange or in the over-the-counter market;

(f) the enactment, publication, decree or other promulgation of any federal or state statute, regulation, rule or order of any court or other Governmental Authority which in the Initial Purchaser's reasonable opinion materially and adversely affects, or will materially and adversely affect, the properties, business, prospects, operations, earnings, assets, liabilities or condition (financial or otherwise) of the Issuer and the Subsidiaries, taken as a whole;

(g) the declaration of a banking moratorium by either federal or New York State authorities; or

(h) the taking of any action by any federal, state or local government or agency in respect of its monetary or fiscal affairs which in the Initial Purchaser's reasonable opinion has a material adverse effect on the financial markets in the United States.

**11. Representations and Indemnities to Survive.** The respective indemnities, contribution agreements, representations, warranties and other statements of the Issuer and the Initial Purchaser set forth in or made pursuant to this Agreement shall remain operative and in full force and effect, and will survive delivery of and payment for the Debentures, regardless of (i) any investigation, or statement as to the results thereof, made by or on behalf of the Initial Purchaser, the officers or directors of the Initial Purchaser, any person controlling the Initial Purchaser, the Issuer, the officers or directors of the Issuer, or any person controlling the Issuer, (ii) acceptance of the Debentures and payment for them hereunder and (iii) termination of this Agreement.

**12. Notices.** All statements, requests, notices and agreements (each a "Notice") hereunder shall be in writing, and:

(a) If to the Initial Purchaser, Notices shall be delivered or sent by mail or facsimile transmission to the Initial Purchaser as follows:

Jefferies & Company, Inc.  
11100 Santa Monica Boulevard, 10th Floor  
Los Angeles, California 90025  
Attention: Andrew Whittaker  
Fax: (310) 575-5166

with a copy to:

Latham & Watkins LLP  
633 West Fifth Street, Suite 4000  
Los Angeles, California 90071  
Attention: Mary Ellen Kanoff & Cynthia A. Rotell  
Fax: (213) 891-8763

(b) If to the Issuer, Notices shall be delivered or sent by mail or facsimile transmission to the address of the Issuer as follows:

Vector Group Ltd.  
100 S. E. 2<sup>nd</sup> Street, 32<sup>nd</sup> Floor  
Miami, Florida 33131  
Attention: Richard J. Lampen  
Fax: (305) 579-8009

or to such other address as the Issuer may designate in writing,



with a copy to:

McDermott Will & Emery LLP  
2049 Century Park East, 34th Floor  
Los Angeles, California 90067  
Attention: Mark J. Mihanovic  
Fax: (310) 277-4730

Any such statements, requests, notices or agreements shall take effect upon receipt thereof.

**13. Applicable Law. THE VALIDITY AND INTERPRETATION OF THIS AGREEMENT, AND THE TERMS AND CONDITIONS SET FORTH HEREIN, SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED WHOLLY THEREIN, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW.**

**14. Submission to Jurisdiction. EACH PARTY HEREBY EXPRESSLY AND IRREVOCABLY (I) SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF THE FEDERAL AND STATE COURTS SITTING IN THE BOROUGH OF MANHATTAN IN THE CITY OF NEW YORK IN ANY SUIT OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY; AND (II) WAIVES (A) ITS RIGHT TO A TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREBY, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF THE INITIAL PURCHASER AND FOR ANY COUNTERCLAIM RELATED TO ANY OF THE FOREGOING AND (B) ANY OBLIGATION WHICH IT MAY HAVE OR HEREAFTER MAY HAVE TO THE LAYING OF VENUE OF ANY SUCH LITIGATION BROUGHT IN ANY SUCH COURT REFERRED TO ABOVE AND ANY CLAIM THAT ANY SUCH LITIGATION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.**

**15. Counterparts. This Agreement may be signed in various counterparts, which together shall constitute one and the same instrument.**

**16. Headings. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.**

**17. Third Parties. This Agreement shall inure to the benefit of and be binding upon the Initial Purchaser and the Issuer and their respective successors and legal representatives, and nothing expressed or mentioned in this Agreement is intended or shall be construed to give any other person any legal or equitable right, remedy or claim under or in respect of this Agreement, or any provisions herein contained; this Agreement and all conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of such persons and for the benefit of no other person except that (i) the indemnities of the Issuer contained in Section 8 of this Agreement shall also be for the benefit of the directors and officers of the Initial Purchaser and any person who controls the Initial Purchaser within the meaning of Section 15 of the Act or**

Section 20 of the Exchange Act and (ii) the indemnities of the Initial Purchaser contained in Section 8 of this Agreement shall also be for the benefit of the directors and officers of the Issuer and any person who controls the Issuer within the meaning of Section 15 of the Act or Section 20 of the Exchange Act. No purchaser of the Debentures from the Initial Purchaser will be deemed a successor because of such purchase.

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

**19. Amendments, Modifications, Waivers, etc.** This Agreement may be amended, modified or supplemented, and waivers or consents to departures from the provisions hereof may be given, provided that the same are in writing and signed by all of the signatories hereto.

**20. Other Fees and Expenses.** If for any reason the Debentures are not delivered by or on behalf of the Issuer as provided herein (other than as a result of any termination of this Agreement pursuant to Section 10 hereof, or the breach, delay or default of the Initial Purchaser), the Issuer agrees to reimburse the Initial Purchaser for all out-of-pocket expenses (including the fees and disbursements of counsel) incurred by it. Notwithstanding any termination of this Agreement, the Issuer shall be liable for all expenses which they have agreed to pay pursuant to Section 5(m) hereof. The Issuer also agrees to reimburse the Initial Purchaser and its officers, directors and each person, if any, who controls such Initial Purchaser within the meaning of Section 15 of the Act or Section 20 of the Exchange Act for any and all fees and expenses (including without limitation the fees and expenses of counsel) incurred by them in connection with enforcing their rights under this Agreement (including, without limitation, its rights under Section 8 hereof).

*(Signature Page Follows)*

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

Very truly yours,

**VECTOR GROUP LTD.**

By: /s/ Howard M. Lorber  
Name: Howard M. Lorber  
Title: President and Chief Executive Officer

Accepted and Agreed to:

**JEFFERIES & COMPANY, INC.**

By: /s/ Brian Wolfe  
Name: Brian Wolfe  
Title: Managing Director

**LIST OF SUBSIDIARIES**

The Issuer’s Subsidiaries, including the jurisdiction of incorporation of each and the names under which such Subsidiaries conduct business is set forth below. In the case of each Subsidiary which is indented, its immediate parent owns beneficially all of the voting securities.

VGR Holding LLC	Delaware
Liggett Group LLC	Delaware
New Valley LLC	Delaware
Vector Tobacco Inc.	Virginia
Liggett Vector Brands Inc.	Delaware

Not included above are other Subsidiaries which, if considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary, as such term is defined by Rule 1-02(w) of Regulation S-X.

**OFFICERS AND DIRECTORS OF ISSUER**

1. Bennett S. LeBow
2. Howard M. Lorber
3. Richard J. Lampen
4. J. Bryant Kirkland III
5. Marc N. Bell
6. Ronald J. Bernstein
7. Henry C. Beinstein
8. Robert J. Eide
9. Jeffrey S. Podell
10. Jean E. Sharpe

## FINAL TERM SHEET

**Vector Group Ltd.**  
**\$85,000,000**  
**3 7/8% Variable Interest Senior Convertible Debentures due 2026**

Issuer:	Vector Group Ltd. (“VGR”).
Common Stock Symbol:	VGR.
Title of Securities:	3 7/8% Variable Interest Senior Convertible Debentures due 2026 (the “Debentures”).
Aggregate Principal Amount:	\$85.0 million.
Deal Type:	144A with registration rights.
Principal Amount Per Bond:	\$1,000.
Issue Price:	100% of the principal amount of the Debentures.
Initial Purchaser Option:	\$25.0 million principal amount.
Annual Interest Rate:	3 7/8% per year, with an additional amount payable based on the amount of cash dividends per share paid by VGR on its common stock during the prior three-month period multiplied by the total shares of common stock into which the Debentures are convertible (together, the “Total Interest”). Notwithstanding the foregoing, interest payable on each interest payment date shall be the higher of (i) the Total Interest and (ii) 5 3/4% per year.
Conversion Premium:	32.226%.
Reference Price:	\$16.26 closing price per common share on June 27, 2006.
Conversion Price:	\$21.50 per share of common stock.
Conversion Rate:	46.512 shares of common stock per \$1,000 aggregate principal amount of Debentures.
Interest Payment Dates:	March 15th, June 15th, September 15th and December 15th, beginning on September 15, 2006.
Record Dates:	March 1st, June 1st, September 1st and December 1st.
Maturity:	June 15, 2026.
Mandatory Redemption:	10.0% of outstanding principal amount on June 15, 2011 and any additional amount, if any, of the Debentures necessary to prevent the Debentures from being treated as an “Applicable High Yield Discount Obligation”.
Call Feature:	VGR may redeem the Debentures on or after June 15, 2012.
Put Dates:	The holders of the Debentures may require the Company to repurchase all or any portion of their Debentures on June 15, 2012, June 15, 2016 and June 15, 2021.
Use of Proceeds:	Redeem the 6 1/4% Convertible Subordinated Notes due 2008 and for general corporate purposes.
Trade Date:	June 27, 2006.
Settlement date:	July 12, 2006 (T+10).
CUSIP:	144A — 92240MAJ7; Reg S — U92279AB1.
Initial Purchaser:	Jefferies & Company, Inc.
Fundamental Change Put:	100% plus a make-whole premium.
Adjustment to Conversion Rate Upon a Specified Fundamental Change:	The following table shows what the make-whole premium would be for the various stock prices and effective dates set forth, expressed as a percentage of the principal amount of the Debentures:

**MAKE-WHOLE PREMIUM TABLE (% OF PRINCIPAL AMOUNT)**

<b>Stock Price:</b>	<b>\$16.26</b>	<b>\$17.89</b>	<b>\$19.51</b>	<b>\$21.14</b>	<b>\$21.50</b>	<b>\$22.76</b>	<b>\$24.39</b>	<b>\$26.02</b>	<b>\$27.64</b>	<b>\$29.27</b>	<b>\$30.89</b>	<b>\$32.52</b>	<b>\$40.65</b>	<b>\$48.78</b>	<b>\$56.91</b>	<b>\$65.04</b>
6/27/06	2.41%	8.37%	14.61%	21.10%	22.41%	21.91%	21.16%	20.51%	19.96%	19.48%	19.04%	18.64%	17.04%	15.65%	14.38%	13.14%
6/15/07	0.55%	6.16%	12.14%	18.43%	19.70%	19.06%	18.20%	17.48%	16.87%	16.34%	15.87%	15.45%	13.79%	12.42%	11.16%	9.92%
6/15/08	0.00%	3.73%	9.36%	15.38%	16.60%	15.81%	14.80%	13.98%	13.30%	12.72%	12.22%	11.78%	10.09%	8.75%	7.49%	6.26%
6/15/09	0.00%	1.20%	6.33%	11.98%	13.14%	12.15%	10.96%	10.02%	9.27%	8.64%	8.11%	7.67%	6.00%	4.68%	3.44%	2.22%
6/15/10	0.00%	0.00%	3.08%	8.18%	9.26%	7.98%	6.56%	5.48%	4.65%	4.01%	3.48%	3.06%	1.48%	0.22%	0.00%	0.00%
6/15/11	0.00%	0.00%	0.00%	3.71%	4.64%	2.92%	1.21%	0.04%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
6/15/12	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

THIS MATERIAL IS CONFIDENTIAL AND IS FOR YOUR INFORMATION ONLY AND IS NOT INTENDED TO BE USED BY ANYONE OTHER THAN YOU. THIS INFORMATION DOES NOT PURPORT TO BE A COMPLETE DESCRIPTION OF THESE DEBENTURES OR THE OFFERING. PLEASE REFER TO THE FINAL OFFERING MEMORANDUM FOR A COMPLETE DESCRIPTION.

THIS COMMUNICATION IS BEING DISTRIBUTED IN THE UNITED STATES SOLELY TO QUALIFIED INSTITUTIONAL BUYERS, AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT OF 1933, AND OUTSIDE THE UNITED STATES SOLELY TO NON-U.S. PERSONS AS DEFINED UNDER REGULATION S.

THIS COMMUNICATION DOES NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY ANY SECURITIES IN ANY JURISDICTION TO ANY PERSON TO WHOM IT IS UNLAWFUL TO MAKE SUCH OFFER OR SOLICITATION IN SUCH JURISDICTION.

ANY DISCLAIMERS OR OTHER NOTICES THAT MAY APPEAR BELOW OR ELSEWHERE WITHIN THE EMAIL ARE NOT APPLICABLE TO THIS COMMUNICATION AND SHOULD BE DISREGARDED. SUCH DISCLAIMERS OR OTHER NOTICES WERE AUTOMATICALLY GENERATED AS A RESULT OF THIS COMMUNICATION BEING SENT VIA BLOOMBERG OR ANOTHER EMAIL SYSTEM.

## FORM OF LOCK-UP AGREEMENT

June \_\_, 2006

Jefferies & Company, Inc.  
11100 Santa Monica Boulevard, 10th Floor  
Los Angeles, California 90025

Ladies and Gentlemen:

The undersigned understands that Jefferies & Company, Inc. (the “**Initial Purchaser**”) has entered into a purchase agreement (the “**Purchase Agreement**”) with Vector Group Ltd., a Delaware corporation (the “**Company**”), providing for the offering (the “**Offering**”) by the Initial Purchaser of the Company’s 3 % Variable Interest Senior Convertible Debentures due 2026 (the “**Debentures**”). The Debentures will be convertible into shares of the Common Stock, par value \$0.10, of the Company (the “**Common Stock**”).

In consideration of the agreement by the Initial Purchaser to offer and sell the Debentures, and of other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, [except for any margin accounts maintained with the Initial Purchaser in order for customers of the Initial Purchaser to borrow shares of Common Stock in connection with hedging transactions entered into by such customers,] the undersigned agrees that, without the prior written consent of the Initial Purchaser, the undersigned will not, directly or indirectly, (i) (A) offer, pledge, sell, contract to sell (including making any short sale or covering any short position), sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock (including, without limitation, shares of Common Stock which may be deemed to be beneficially owned by the undersigned on the date hereof in accordance with the rules and regulations of the Securities and Exchange Commission, shares of Common Stock which may be issued upon exercise of a stock option or warrant and any other security convertible into or exchangeable for Common Stock), or any securities convertible into or exercisable or exchangeable for Common Stock or (B) enter into any swap or other arrangement (including, without limitation, any put or call option) that transfers all or a portion of the economic consequences associated with the ownership of any shares of Common Stock (regardless of whether any of the transactions described in clause (A) or (B) is to be settled by the delivery of Common Stock, or such other securities, in cash or otherwise), or (ii) make any request or demand for the registration of any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock, in each case for a period of 30 days after the date of the final offering circular relating to the Offering.

Notwithstanding the foregoing, the undersigned may transfer (a) shares of Common Stock acquired in open market transactions by the undersigned after the completion of the Offering, (b) shares of Common Stock pursuant to requirements of the undersigned’s broker-dealer with respect to the undersigned’s shares of Common Stock held in margin accounts, and (c) any or all of the



shares of Common Stock or other Company securities if the transfer is (i) by gift, will or intestacy, (ii) to a member or members of his or her immediate family or to a trust the beneficiaries of which are exclusively the undersigned and/or a member or members of his or her immediate family (for purposes of this paragraph, "immediate family") shall mean a spouse, lineal descendent, father, mother, brother or sister, niece, nephew, mother-in-law, father-in-law, sister-in-law, or brother-in-law of the transferor, in each case whether by birth or adoption and including stepchildren) or (iii) by distribution to partners, members or shareholders of the undersigned; *provided, however*, that in the case of a transfer pursuant to clause (c) above, it shall be a condition to the transfer that the transferee execute an agreement stating that the transferee is receiving and holding the securities subject to the provisions of this letter agreement.

In furtherance of the foregoing, the Company, and any duly appointed transfer agent for the registration or transfer of Common Stock or other Company securities for which the undersigned is the record holder, are hereby authorized to decline to make any transfer of such Common Stock or such other Company securities if such transfer would constitute a violation or breach of this lock-up agreement.

The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this lock-up agreement. All authority herein conferred or agreed to be conferred any obligations of the undersigned shall be binding upon the successors, assigns, heirs or personal representatives of the undersigned.

The undersigned understands that, if the Purchase Agreement does not become effective, or if the Purchase Agreement (other than the provisions thereof which survive termination) shall terminate or be terminated prior to payment for and delivery of the Debentures to be sold thereunder, the undersigned shall be released from all obligations under this lock-up agreement. This lock-up agreement shall terminate and be of no further force and effect in the event that the Offering has not been consummated by July 30, 2006.

The undersigned understands that the Initial Purchaser is entering into the Purchase Agreement and proceeding with the Offering in reliance upon this lock-up agreement.

This lock-up agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to the conflict of laws principles thereof.

Very truly yours,

\_\_\_\_\_  
(Signature)

\_\_\_\_\_

\_\_\_\_\_  
(Address)

**[FORM OF]  
OPINIONS OF  
McDERMOTT, WILL & EMERY**

(i) The Issuer has been duly incorporated and is validly existing in Delaware and is in good standing under the laws of the State of Delaware and is qualified to do business and is in good standing as a foreign corporation under the laws of the State of Florida. The Issuer has the corporate power and corporate authority to carry on its business as described in the Preliminary Offering Circular and the Final Offering Circular.

(ii) The authorized and outstanding capital stock of the Issuer conforms in all material respects as to legal matters to the description thereof set forth in the Preliminary Offering Circular and the Final Offering Circular under the caption "Description of Capital Stock" as of the date stated therein.

(iii) The Purchase Agreement has been duly authorized by the requisite corporate action on the part of the Issuer and has been duly executed and delivered by the Issuer.

(iv) The execution and delivery of the Debentures has been duly authorized by requisite corporate action on the part of the Issuer. When executed and authenticated in accordance with the provisions of the Indenture and delivered to and paid for by the Initial Purchaser in accordance with the terms of the Purchase Agreement, the Debentures will constitute legally valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their terms, subject to the following qualifications:

(A) enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in equity or at law);

(B) we express no opinion as to the enforceability of any rights to contribution or indemnification provided for in the Debentures or the Indenture which are violative of the public policy underlying any law, rule or regulation (including any federal or state securities law, rule or regulation); and

(C) we express no opinion with respect to the enforceability of (a) any provision in the Debentures to the extent it provides that recovery of attorney's fees is limited to reasonable attorney's fees, (b) any provision in any of the Debentures to the extent that it provides that the provisions of the Debentures are severable, or (c) any provision in any of the Debentures to the extent it provides for rights of acceleration.

(v) The shares of Common Stock initially issuable upon conversion of the Debentures have been duly authorized and reserved and, when issued upon conversion of the Debentures in accordance with the terms of the Debentures and the Indenture, will be validly issued and fully paid and nonassessable, and will not be subject to any preemptive rights under the General

Corporation Law of the State of Delaware or the Certificate of Incorporation or Bylaws of the Issuer, or, to our knowledge, similar rights under the Applicable Contracts.

(vi) Each of the Indenture and the Registration Rights Agreement has been duly authorized by requisite corporate action on the part of the Issuer and has been duly executed and delivered by the Issuer and, (assuming due authorization, execution and delivery by you and the Trustee, as applicable), constitutes the legally valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms, subject to the following qualifications:

(A) enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in equity or at law);

(B) we express no opinion as to the enforceability of any rights to contribution or indemnification provided for in the Registration Rights Agreement or the Indenture which are violative of the public policy underlying any law, rule or regulation (including any federal or state securities law, rule or regulation); and

(C) we express no opinion with respect to the enforceability of (a) any provision in the Registration Rights Agreement or the Indenture to the extent it provides that recovery of attorney's fees is limited to reasonable attorney's fees, or (b) any provision in the Registration Rights Agreement or the Indenture to the extent that it provides that the provisions of the Rights Agreement or Indenture, as the case may be, are severable, or (c) any provision in the Registration Rights Agreement or the Indenture to the extent it provides for rights of acceleration.

(vii) The statements in the (a) Final Offering Circular under the captions "Description of Capital Stock," "Description of Debentures," "Description of Certain Other Indebtedness—5% Variable Interest Senior Convertible Notes Due November 2011 — Vector:" "Description of Certain Other Indebtedness — 6.25% Convertible Subordinated Notes Due July 2008 — Vector:" and "Description of Certain Other Indebtedness—Revolving Credit Facility — Liggett:" insofar as such statements constitute summaries of the legal matters, documents or proceedings referred to therein, fairly summarize in all material respects such legal matters, documents or proceedings, as the case may be.

(viii) The statements in the Preliminary Offering Circular and the Final Offering Circular under the caption "Certain United States Federal Income Tax Consequences," insofar as such statements constitute a summary of the United States federal tax laws referred to therein, fairly summarize such laws in all material respects.

(ix) The execution and delivery by the Issuer of each of the Operative Documents and performance by the Issuer of its obligations under each of the Operative Documents, each in accordance with its terms, do not (i) conflict with the Certificate of Incorporation or Bylaws of the Issuer, (ii) constitute a violation of or a default under any Applicable Contracts or (iii) cause

the creation of any security interest or lien upon any of the property of the Issuer pursuant to any Applicable Contract.

(x) Neither the execution, delivery or performance by the Issuer of the Operative Documents nor the compliance by the Issuer with the terms and provisions thereof will contravene any Applicable Law or any provision of any Applicable Order of any Governmental Authority against the Issuer.

(xi) No Governmental Approval which has not been obtained or taken and is not in full force and effect, is required to authorize or is required in connection with the consummation by the Issuer of the transactions contemplated by the Purchase Agreement, the Indenture, the Registration Rights Agreement and the Notes, and the Conversion Stock, except such as may be required under state securities or Blue Sky laws.

(xii) Except as otherwise indicated on the attached schedule, to such counsel's knowledge without any independent inquiry except review of the Public Documents and a certificate of an officer of the Issuer, there are no contracts, agreements between the Issuer and any person granting such person the right to require the Issuer to file a registration statement under the Act with respect to any securities of the Issuer or to require the Issuer to include such securities with the Debentures registered pursuant to any registration statement, except for any such rights which have been waived by the holder thereof.

(xiii) The Issuer is not required to register under the Investment Company Act of 1940, as amended (the "Investment Company Act"), as an "investment company" (as such term is defined in the Investment Company Act).

(xiv) The Firm Debentures or the Option Debentures, as the case may be, satisfy the requirements set forth in Rule 144A(d)(3) under the Securities Act for securities to be eligible for trading pursuant to Rule 144A.

(xv) Assuming the Initial Purchaser is a "Qualified Institutional Buyer" within the meaning of Rule 144A of the Securities Act and assuming the accuracy of the representations and warranties and compliance with the agreements of the Issuer set forth in Section 5 of the Purchase Agreement and the representations, warranties and compliance with the agreements of the Initial Purchaser set forth in Section 7 of the Purchase Agreement, it is not necessary in connection with the offer, sale and delivery of the Debentures to the Initial Purchaser in the manner contemplated by the Purchase Agreement or in connection with the initial Exempt Resales of the Debentures by the Initial Purchaser in accordance with Section 7 of the Purchase Agreement and the Preliminary Offering Circular to (A) qualify the Indenture under the Trust Indenture Act of 1939, as amended, and (B) register the Debentures under the Securities Act (it being understood that no opinion is expressed as to any subsequent resale of any Debentures or the Common Stock issuable upon conversion thereof).

In addition, we have participated in conferences with officers and other representatives of the Issuer, counsel for the Initial Purchaser, representatives of the independent accountants of the Issuer and your representatives, at which the contents of the Preliminary Offering Circular and the Final Offering Circular and related matters were discussed, and have reviewed certain

documents referred to herein. Although we have not made an independent check or verified and are not passing upon, and do not assume any responsibility for, the accuracy, completeness or fairness of the statements contained in the Preliminary Offering Circular and the Final Offering Circular, in the course of these discussions and this review, no facts have come to our attention which lead us to believe that the Preliminary Offering Circular, as of its date, together with the final term sheet attached to the Purchase Agreement as Schedule III thereto, or the Final Offering Circular as of its date or the Closing Date, contained an untrue statement of a material fact or omitted to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading (except that we express no opinion or belief with respect to the financial statements, financial and other schedules and other financial data included in or omitted or derived therefrom).



# NEWS

FOR IMMEDIATE RELEASE

Contact: Paul Caminiti/Brandy Bergman/Carrie Bloom  
Citigate Sard Verbinen  
212/687-8080

## VECTOR GROUP LTD. TO SELL UP TO \$110 MILLION SENIOR CONVERTIBLE DEBENTURES

---

**MIAMI, FL, June 28, 2006** — Vector Group Ltd. (NYSE: VGR) announced today the pricing of \$85 million of its 3 7/8% Variable Interest Senior Convertible Debentures due 2026 (the “Debentures”) through a private offering pursuant to Rule 144A of the Securities Act of 1933, as amended. The initial purchaser also has an option to purchase an additional \$25 million of Debentures. The offering is anticipated to close on July 12, 2006.

The Debentures mature on June 15, 2026, but the Company must redeem a minimum of 10% of the total aggregate principal amount of the Debentures outstanding on June 15, 2011. The holders of the Debentures will also have an option to require the Company to repurchase some or all of their Debentures on June 15, 2012, June 15, 2016 and June 15, 2021. Beginning on June 15, 2012, the Company may redeem some or all of the Debentures. The Debentures are convertible into the Company’s common stock, at the option of the holder, at an initial conversion price of \$21.50 per share, subject to anti-dilution adjustments. Interest on the Debentures is payable quarterly commencing on September 15, 2006. The Debentures accrue interest at 3 7/8% per annum, with an additional amount of interest payable on each interest payment date based upon the amount of cash dividends per share paid by the Company on its common stock during the prior three-month period ending on the record date (together, the “Total Interest”). Notwithstanding the foregoing, however, the interest payable on each interest payment date shall be the higher of (i) the Total Interest and (ii) 5 3/4% per annum.

The Company intends to use the net proceeds of the issuance to redeem the remaining \$62.5 million principal amount of its 6.25% Convertible Subordinated Notes due July 15, 2008

---

and for general corporate purposes. The closing of the offering is subject to customary closing conditions.

The Company has agreed to register the Debentures and the shares of common stock issuable upon conversion thereof for resale under the Securities Act of 1933, as amended.

This press release does not constitute an offer to sell or a solicitation of an offer to buy the Debentures. The Debentures and the common stock issuable upon conversion thereof have not been registered under the Securities Act of 1933, as amended, or any state securities laws. Unless so registered, the Debentures and the common stock issuable upon conversion of the Debentures may not be offered or sold in the United States except pursuant to an exemption from the registration requirements of the Securities Act of 1933, as amended, and applicable state securities laws.

This press release contains certain forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. The Company has tried, whenever possible, to identify these forward-looking statements using words such as “anticipates”, “believes”, “estimates”, “expects”, “plans”, “intends” and similar expressions. These statements reflect the Company’s current beliefs and are based upon information currently available to it. Accordingly, such forward-looking statements involve known and unknown risks, uncertainties and other factors which could cause the Company’s actual results, performance or achievements to differ materially from those expressed in, or implied by, such statements.

Vector Group is a holding company that indirectly owns Liggett Group LLC, Vector Tobacco Inc. and New Valley LLC. Additional information concerning the Company is available on the Company’s website, [www.VectorGroupLtd.com](http://www.VectorGroupLtd.com).

###

- 2 -





# NEWS

FOR IMMEDIATE RELEASE

Contact: Paul Caminiti/Brandy Bergman/Carrie Bloom  
Citigate Sard Verbinen  
212/687-8080

**VECTOR GROUP LTD. ANNOUNCES EXERCISE OF OPTION  
TO PURCHASE AN ADDITIONAL  
\$25 MILLION OF SENIOR CONVERTIBLE DEBENTURES**

---

**MIAMI, FL, June 30, 2006** — Vector Group Ltd. (NYSE: VGR) announced today that the initial purchaser of its private offering of 3 7/8% Variable Interest Senior Convertible Debentures due 2026 exercised its right in full to purchase an additional \$25 million of debentures, bringing the total amount sold to \$110 million. As previously announced, on June 27, 2006, the Company agreed to sell an aggregate principal amount of \$85 million of 3 7/8% Variable Interest Senior Convertible Debentures due 2026, with an option to purchase an additional \$25 million aggregate principal amount of the debentures.

The Company intends to use the net proceeds of the issuance to redeem the remaining \$62.5 million principal amount of its 6.25% Convertible Subordinated Notes due July 15, 2008 and for general corporate purposes. The offering, which is anticipated to close on July 12, 2006, is subject to customary closing conditions.

This press release does not constitute an offer to sell or a solicitation of an offer to buy the Debentures. The Debentures and the common stock issuable upon conversion thereof have not been registered under the Securities Act of 1933, as amended, or any state securities laws. Unless so registered, the Debentures and the common stock issuable upon conversion of the Debentures may not be offered or sold in the United States except pursuant to an exemption from the registration requirements of the Securities Act of 1933, as amended, and applicable state securities laws.

This press release contains certain forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. The Company has tried, whenever

---

possible, to identify these forward-looking statements using words such as “anticipates”, “believes”, “estimates”, “expects”, “plans”, “intends” and similar expressions. These statements reflect the Company’s current beliefs and are based upon information currently available to it. Accordingly, such forward-looking statements involve known and unknown risks, uncertainties and other factors which could cause the Company’s actual results, performance or achievements to differ materially from those expressed in, or implied by, such statements.

Vector Group is a holding company that indirectly owns Liggett Group LLC, Vector Tobacco Inc. and New Valley LLC. Additional information concerning the Company is available on the Company’s website, [www.VectorGroupLtd.com](http://www.VectorGroupLtd.com).

# # #

- 2 -